Title: abc

2024 New York LawsABC - Alcoholic Beverage ControlArticle 1 - Short Title; Policy of State and Purpose of Chapter; Definitions1 - Short Title.

§ 1. Short title. This chapter shall be known and may be cited and referred to as the "alcoholic beverage control law."

2024 New York LawsABC - Alcoholic Beverage ControlArticle 1 - Short Title; Policy of State and Purpose of Chapter; Definitions2 - Policy of State and Purpose of Chapter.

§ 2. Policy of state and purpose of chapter. It is hereby declared as the policy of the state that it is necessary to regulate and control the manufacture, sale and distribution within the state of alcoholic beverages for the purpose of fostering and promoting temperance in their consumption and respect for and obedience to law; for the primary purpose of promoting the health, welfare and safety of the people of the state, promoting temperance in the consumption of alcoholic beverages; and, to the extent possible, supporting economic growth, job development, and the state's alcoholic beverage production industries and its tourism and recreation industry; and which promotes the conservation and enhancement of state agricultural lands; provided that such activities do not conflict with the primary regulatory objectives of this chapter. It is hereby declared that such policies will best be carried out by empowering the liquor authority of the state to determine whether public convenience and advantage will be promoted by the issuance of licenses to traffic in alcoholic beverages, the increase or decrease in the number thereof and the location of premises licensed thereby, subject only to the right of judicial review provided for in this chapter. It is the purpose of this chapter to carry out these policies in the public interest.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 1 - Short Title; Policy of State and Purpose of Chapter; Definitions3 - Definitions.

1. "Alcoholic beverage" or "beverage" mean and include alcohol, spirits, liquor, wine, beer, cider and every liquid, solid, powder or crystal, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being, and any warehouse receipt, certificate, contract or other document pertaining thereto; except that confectionery containing alcohol as provided by subdivision twelve of section two hundred of the agriculture and markets law and ice cream and other frozen desserts made with liquor, wine, beer or cider as provided in subdivision fifteen of section two hundred of the agriculture and markets law shall not be regulated as an "alcoholic beverage" or "beverage" within the meaning of this section where the sale, delivery or giving away is to a person aged twenty-one years or older. The sale, delivery or giving away of ice cream or other frozen desserts made with liquor, wine, beer or cider to a person under the age of twenty-one years may be prosecuted administratively and/or criminally in accordance with the provisions of this chapter. 2. "Alcohol" means ethyl alcohol, hydrated oxide of ethyl or spirit of wine from whatever source or by whatever processes produced. 3. "Beer" means and includes any fermented beverages of any name or description manufactured from malt, wholly or in part, or from any substitute therefor. 3-a. "Biomass feedstock" shall mean any substance, other than oil, natural gas, coal, shale or products derived from any of these which is capable of being converted into alcohol, including but not be limited to wood and other forest materials, animal manure, municipal wastes, food crops and other agricultural materials. 3-b. "Bona fide retailer association" shall mean an association of retailers holding licenses under this chapter, organized under the non-profit or not-for-profit laws of this state, and possessing a federal tax exemption under section 501(c) of the Internal Revenue Code of the United States. 3-c. "Braggot" shall mean a malt alcoholic beverage made primarily from honey, water, and malt and/or hops; it may also contain fruits, spices, herbs, grain or other agricultural products. Honey shall represent at least fifty-one percent of the starting fermentable sugars by weight of the finished product. For the purposes of this chapter, braggot shall be designated and sold as a beer. 4. "Brewery" means and includes any place or premises where beer is manufactured for sale; and all offices, granaries, mashrooms, cooling-rooms, vaults, yards, and storerooms connected therewith or where any part of the process of manufacture of beer is carried on, or where any apparatus connected with such manufacture is kept or used, or where any of the products of brewing or fermentation are stored or kept, shall be deemed to be included in and to form part of the brewery to which they are attached or are appurtenant. 5. "Brewer" means any person who owns, occupies, carries on, works, or conducts any brewery, either by himself or by his agent. 6. "Board" or "local board" or "appropriate board" or "board having jurisdiction" shall mean the state liquor authority. 7. "Building containing licensed premises" shall include the licensed premises and also any part of a building in which such premises is contained and any part of any other building connected with such building by direct access or by a common entrance. 7-a. (a) "Catering establishment" means and includes any premises owned or operated by any person, firm, association, partnership or corporation who or which regularly and in a bona fide manner furnishes for hire therein one or more ballrooms, reception rooms, dining rooms, banquet halls, dancing halls or similar places of assemblage for a particular function, occasion or event and/or who or which furnishes provisions and service for consumption or use at such function, occasion or event. Such premises must have suitable and adequate facilities and accommodations to provide food and service for not less than fifty persons at any one function, occasion or event and shall in no event be deemed to include any taxi dance hall or any other premises at which public dances are regularly scheduled to be held daily, weekly or monthly and to which the general public is invited.(b) "Off-premises catering establishment" means and includes any premises owned or operated by any person, firm, association, partnership or corporation who or which regularly and in a bona fide manner furnishes for hire at a site remote from the premises for a particular function, occasion, or event provisions and service for consumption or use at such function, occasion or event. Such premises must have suitable and adequate facilities to provide food for not less than fifty persons. On-premises consumption shall

not be allowed at such premises.7-b. (a) "Cider" means the partially or fully fermented juice of fresh, whole apples or other pome fruits, containing more than three and two-tenths per centum but not more than eight and one-half per centum alcohol by volume: (i) to which nothing has been added to increase the alcoholic content produced by natural fermentation; and (ii) with the usual cellar treatments and necessary additions to correct defects due to climate, saccharine levels and seasonal conditions. Nothing contained in this subdivision shall be deemed to preclude the use of such methods or materials as may be necessary to encourage a normal alcoholic fermentation and to make a product that is free of microbiological activity at the time of sale. Cider may be sweetened or flavored after fermentation with fruit juice, fruit juice concentrate, sugar, maple syrup, honey, spices or other agricultural products, separately or in combination. Cider may contain retained or added carbon dioxide.(b) In the event that an alcoholic beverage meets the definition of both a cider, as defined in this subdivision, and a wine, as defined in subdivision thirty-six of this section, the brand or trade name label owner of such alcoholic beverage shall designate whether such alcoholic beverage shall be sold as a cider or a wine for all purposes under this chapter.7-c. "Cidery" means and includes any place or premises wherein cider is manufactured for sale.7-d. "Farm cidery" means and includes any place or premises, located on a farm in New York state, in which New York state labelled cider is manufactured, stored and sold, or any other place or premises in New York state in which New York state labelled cider is manufactured, stored and sold.8. "Convicted" and "conviction" include and mean a finding of guilt resulting from a plea of guilty, the decision of a court or magistrate or the verdict of a jury, irrespective of the pronouncement of judgment or the suspension thereof.9. "Club" shall mean an organization of persons incorporated pursuant to the provisions of the not-for-profit corporation law or the benevolent orders law, which is the owner, lessee or occupant of a building used exclusively for club purposes, and which does not traffic in alcoholic beverages for profit and is operated solely for a recreational, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain; except that where such club is located in an office or business building, or state armory, it may be licensed as such provided it otherwise qualifies as a "club" within the meaning of this subdivision. A "luncheon club" shall mean a club which is open only on week days during the hours between eleven o'clock in the morning and three o'clock in the afternoon. A "member" of a club shall mean a person who whether a charter member or admitted in agreement with the by-laws of the club, has become a bona fide member thereof, who maintains his or her membership by the payment of his or her annual dues in a bona fide manner in accordance with the by-laws and whose name and address is entered on the list of members; or in the case of a veterans club where a person has in his or her possession an identification card indicating his or her membership in the national veterans' organization with which the club at which he or she is present is affiliated. For the purposes of this section a veterans club shall include but not be limited to the Grand Army of the Republic, the United Spanish War Veterans, the Veterans of Foreign Wars, the Jewish War Veterans of the United States, Inc., the Catholic War Veterans, Inc., the Italian American War Veterans of the United States, Incorporated, the Polish Legion of American Veterans, Inc., the Marine Corps League, the Military Order of the Purple Heart, Inc., the American Legion, the Disabled American Veterans, AMVETS, American Veterans of World War II, Masonic War Veterans of the State of New York, Inc., Veterans of World War I of the United States of America Department of New York, Inc., China-Burma-India Veterans Association, Inc., Polish-American Veterans of World War II, the Sons of Union Veterans, Vietnam Veterans of America, the Eastern Paralyzed Veterans Association, the Sons of the American Legion, or the American Legion Auxiliary. In the case of a chapter or lodge of a not-for-profit corporation or a benevolent order qualifying as an organization described in section 501(c)(8) or 501(c)(10) of the United States internal revenue code, a member of another chapter or lodge of such not-for-profit corporation or benevolent order who has in his or her possession an identification card or other proof of membership shall be deemed to be a member. A club and a luncheon club shall appoint an alcoholic beverage officer from among its members who shall be responsible for filing all applications and other documents required to be submitted to the authority. The person appointed alcoholic beverage officer shall be subject to approval by the authority.9-a. "Custom crush facility" means a licensed winery or farm winery which obtains grapes, fruits and other plants grown exclusively in New York state from, or on behalf of, other licensed wineries or farm wineries and crushes, processes, ferments, bottles or conducts any combination of such services for such other licensed wineries or farm wineries.10. "Distiller" means any person who owns, occupies, carries on, works, conducts or operates any distillery either by himself or by his agent.11. "Distillery" means and includes any place or premises wherein any liquors are manufactured for sale.11-a. "Farm distillery" means and includes any place or premises located on a farm in New York state in which liquor is manufactured and sold, or any other place or premises in New York state in which liquor is manufactured primarily from farm and food products, as defined in subdivision two of section two hundred eighty-two of the agriculture and markets law, and such liquor is sold.12. "Drug store" means a place registered by the New York state board of pharmacy for the sale of drugs.12-a. "Farm winery" means and includes any place or premises, located on a farm in New York state, in which wine is manufactured and sold.12-aa. "Farm" means the land, buildings and equipment used to produce, prepare and market crops, livestock and livestock products as a commercial enterprise. For the purposes of a farm meadery, farm means the land, buildings and equipment used to prepare and market honey and apiary products as a commercial enterprise. A farm may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other.12-aaa. "Farm brewery" means and includes any place or premises, located on a farm in New York state, in which New York state labelled beer is manufactured, stored and sold, or any other place or premises in New York state in which New York state labelled beer is manufactured, stored and sold.12-aaaa. "Farm meadery" means and includes any place or premises, located on a farm in New York state, in which New York state labelled mead or New York state labelled braggot is manufactured, stored and sold, or any other place or premises in New York state in which New York state labelled mead or New York state labelled braggot is manufactured, stored and sold.12-b. "Felony" shall mean any criminal offense classified as a felony under the laws of this state or any criminal offense committed in any other state, district, or territory of the United States and classified as a felony therein which if committed within this state, would

constitute a felony in this state.12-c. "Government agency" means any department, division, board, bureau, commission, office, agency, authority or public corporation of the state or federal government or a county, city, town or village government within the state.13. "Grocery store" means any retail establishment where foodstuffs are regularly and customarily sold in a bona fide manner for the consumption off the premises.14. "Hotel" shall mean a building which is regularly used and kept open as such in bona fide manner for the feeding and lodging of guests, where all who conduct themselves properly and who are able and ready to pay for such services are received if there be accommodations for them. The term "hotel" shall also include an apartment hotel wherein apartments are rented for fixed periods of time, either furnished or unfurnished, where the keeper of such hotel regularly supplies food to the occupants thereof in a premises which serves food in compliance with section sixty-four-a of this chapter, or a restaurant located in such hotel. "Hotel" shall also mean and include buildings (commonly called a motel) upon the same lot of land and owned or in possession under a lease in writing by the same person or firm who maintains such buildings for the lodging of guests and supplies them with food from a premises which serves food in compliance with section sixty-four-a of this chapter, or restaurant located upon the same premises.14-a. "Custom beermakers' center" means a facility that provides one or more individuals with rental space, the use of equipment and storage facilities, and/or beer making supplies to manufacture beer for personal household use and not for resale in accordance with state and federal laws, rules, and regulations.14-b. "Custom cidermakers' center" means a facility that provides one or more individuals with rental space, the use of equipment and storage facilities, and/or fruit to manufacture cider for personal household use and not for resale in accordance with state and federal laws, rules and regulations.14-c. "Custom winemakers' center" means a facility that provides one or more individuals with rental space, the use of equipment and storage facilities, and/or fruit to manufacture wine for personal household use and not for resale in accordance with state and federal laws, rules and regulations.15. "Liquor authority" and "authority" mean the state liquor authority provided for in this chapter.17. "License" means a license issued pursuant to this chapter.17-a. "Seven day license" means a license issued pursuant to this chapter and where the off premise retail license holder may remain open to the consumer all seven days of the week.18. "Licensee" means any person to whom a license has been issued pursuant to this chapter.19. "Liquor" means and includes any and all distilled or rectified spirits, brandy, whiskey, rum, gin, cordials or similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing.19-a. "Mead" shall mean a wine made primarily from honey and water; it may also contain hops, fruits, spices, herbs, grain, or other agricultural products. Honey shall represent at least fifty-one percent of the starting fermentable sugars by weight of the finished product. The brand or trade label owner of such alcoholic beverage shall designate whether such alcoholic beverage shall be sold as and treated in the same manner as wine or mead for all purposes under this chapter. Provided, however, any mead containing more than eight and one-half per centum alcohol by volume shall be designated, sold as, and treated in the same manner as wine.20. "Manufacturer" means and includes a distiller, brewer, vintner and rectifier; "Manufacture" means and includes distilling, rectifying, brewing and operating a winery.20-a. "New York state labelled wine" means wine made from grapes or other fruits, at least seventy-five percent the volume of which were grown in New York state.20-b. "Micro-winery" means and includes any place or premises located on a farm in New York state in which wine or cider is manufactured and sold.20-c. "New York state labelled liquor" means liquors made from fruit, vegetables, grain and grain products, honey, maple sap or other agricultural products, at least seventy-five percent the volume of which were grown or produced in New York state.20-d. "New York state labelled beer" means:(a) from the effective date of this subdivision until December thirty-first, two thousand eighteen, beer made with no less than twenty percent, by weight, of its hops grown in New York state and no less than twenty percent, by weight, of all of its other ingredients, excluding water, grown in New York state;(b) from January first, two thousand nineteen until December thirty-first, two thousand twenty-eight, beer made with no less than sixty percent, by weight, of its hops grown in New York state and no less than sixty percent, by weight, of all of its other ingredients, excluding water, grown in New York state; and(c) from January first, two thousand twenty-nine and thereafter, beer made with no less than ninety percent, by weight, of its hops grown in New York state and no less than ninety percent, by weight, of all of its other ingredients, excluding water, grown in New York state.20-e. "New York state labelled cider" means cider made exclusively from apples or other pome fruits grown in New York state.20-f. "New York state labelled braggot" means braggot made exclusively from honey produced in New York state.20-g. "New York state labelled mead" means mead made exclusively from honey produced in New York state.21. "Permittee" means any person to whom a permit has been issued pursuant to this chapter.22. "Person" includes an individual, copartnership, corporations, society, joint stock company, alcoholic beverage officer appointed by a club or a luncheon club or limited liability company.23. "Population" means the number of inhabitants as determined by the last preceding federal census.24. "Rectifier" means and includes any person who rectifies, purifies or refines distilled spirits or wines by any process other than as provided for on distillery premises and every person who, without rectifying, purifying or refining distilled spirits, shall, by mixing such spirits, wine or other liquor with water or any materials, manufactures any imitation of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters or any other name.25. "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale.26. "Retailer" means any person who sells at retail any beverage for the sale of which a license is required under the provisions of this chapter.27. "Restaurant" shall mean a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods, which may be required for ordinary meals, the kitchen of which must, at all times, be in charge of a chef with the necessary help, and kept in a sanitary condition with the proper amount of refrigeration for keeping of food on said premises and must comply with all the regulations of the local department of health. Restaurant shall include a motion picture theatre, movie theatre or other venue that shows motion pictures that meet the definitions of restaurant and meals, and all seating is at tables where meals are served. "Meals" shall mean the usual

assortment of foods commonly ordered at various hours of the day; the service of such food and victuals only as sandwiches or salads shall not be deemed a compliance with this requirement. "Guests" shall mean persons who, during the hours when meals are regularly served therein, come to a restaurant for the purpose of obtaining, and actually order and obtain at such time, in good faith, a meal therein. Nothing in this subdivision contained, however, shall be construed to require that any food be sold or purchased with any beverage.27-a. "Roadside farm market" means any retailer authorized to sell New York state labelled wine pursuant to section seventy-six-f of this chapter.28. "Sale" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee of any alcoholic beverage and/or a warehouse receipt pertaining thereto. "To sell" includes to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell and shall include the delivery of any alcoholic beverage in the state.29. "Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution.30. "Traffic in" includes to manufacture and sell any alcoholic beverage at wholesale or retail.30-a. "Transfer" means the administrative processes involved in issuing a license to a new applicant for an existing licensed business. Transfer applicants shall be under contract with the existing licensee for purchase of the existing licensed business.31. "Vehicle" shall include any device in, upon or by which any person or property is or may be transported or drawn upon a public highway, road, street or public place.32. "Vessel" includes any ship or boat of any kind whatsoever, whether propelled by steam or otherwise and whether used as a sea-going vessel or on inland waters which is properly equipped for the service of alcoholic beverages.33. "Vintner" means any person who owns, occupies, carries on, works, conducts or operates any winery either by himself or by his agent.34. "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale.35. "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of this chapter.36. "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, or other fruits or plants with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-four per centum by volume. Wine produced from fruits or plants other than grapes shall include appropriate prefixes descriptive of the fruit or the product from which such wine was predominantly produced, and no other product shall be called "wine" unless designated as artificial or imitation wine.36-a. "Wine product" means a beverage containing wine to which is added concentrated or unconcentrated juice, flavoring material, water, citric acid, sugar and carbon dioxide and containing not more than six per centum alcohol by volume, to which nothing other than such wine has been added to increase the alcoholic content of such beverage.37. "Winery" means and includes any place or premises wherein wines are manufactured from any fruit or brandies distilled as the by-product of wine or other fruit or cordials compounded and also includes a winery for the manufacture of wine in any state other than New York state and which has and maintains a branch factory, office or storeroom within the state of New York and receives wine in this state consigned to a United States government bonded winery, warehouse or storeroom located within the state.38. "Warehouse" means and includes a place in which alcoholic beverages are housed or stored. (b) "Off-premises catering establishment" means and includes any premises owned or operated by any person, firm, association, partnership or corporation who or which regularly and in a bona fide manner furnishes for hire at a site remote from the premises for a particular function, occasion, or event provisions and service for consumption or use at such function, occasion or event. Such premises must have suitable and adequate facilities to provide food for not less than fifty persons. On-premises consumption shall not be allowed at such premises. 7-b. (a) "Cider" means the partially or fully fermented juice of fresh, whole apples or other pome fruits, containing more than three and two-tenths per centum but not more than eight and one-half per centum alcohol by volume: (i) to which nothing has been added to increase the alcoholic content produced by natural fermentation; and (ii) with the usual cellar treatments and necessary additions to correct defects due to climate, saccharine levels and seasonal conditions. Nothing contained in this subdivision shall be deemed to preclude the use of such methods or materials as may be necessary to encourage a normal alcoholic fermentation and to make a product that is free of microbiological activity at the time of sale. Cider may be sweetened or flavored after fermentation with fruit juice, fruit juice concentrate, sugar, maple syrup, honey, spices or other agricultural products, separately or in combination. Cider may contain retained or added carbon dioxide. (b) In the event that an alcoholic beverage meets the definition of both a cider, as defined in this subdivision, and a wine, as defined in subdivision thirty-six of this section, the brand or trade name label owner of such alcoholic beverage shall designate whether such alcoholic beverage shall be sold as a cider or a wine for all purposes under this chapter. 7-c. "Cidery" means and includes any place or premises wherein cider is manufactured for sale. 7-d. "Farm cidery" means and includes any place or premises, located on a farm in New York state, in which New York state labelled cider is manufactured, stored and sold, or any other place or premises in New York state in which New York state labelled cider is manufactured, stored and sold. 8. "Convicted" and "conviction" include and mean a finding of guilt resulting from a plea of guilty, the decision of a court or magistrate or the verdict of a jury, irrespective of the pronouncement of judgment or the suspension thereof. 9. "Club" shall mean an organization of persons incorporated pursuant to the provisions of the not-for-profit corporation law or the benevolent orders law, which is the owner, lessee or occupant of a building used exclusively for club purposes, and which does not traffic in alcoholic beverages for profit and is operated solely for a recreational, social, patriotic, political, benevolent or athletic purpose but not for pecuniary gain; except that where such club is located in an office or business building, or state armory, it may be licensed as such provided it otherwise qualifies as a "club" within the meaning of this subdivision. A "luncheon club" shall mean a club which is open only on week days during the hours between eleven o'clock in the morning and three o'clock in the afternoon. A "member" of a club shall mean a person who whether a charter member or admitted in agreement with the by-laws of the club, has become a bona fide member thereof, who maintains his or her membership by the payment of his or her annual dues in a bona fide manner in accordance with the by-laws and whose name and address is entered on the list of members; or in the case of a

veterans club where a person has in his or her possession an identification card indicating his or her membership in the national veterans' organization with which the club at which he or she is present is affiliated. For the purposes of this section a veterans club shall include but not be limited to the Grand Army of the Republic, the United Spanish War Veterans, the Veterans of Foreign Wars, the Jewish War Veterans of the United States, Inc., the Catholic War Veterans, Inc., the Italian American War Veterans of the United States, Incorporated, the Polish Legion of American Veterans, Inc., the Marine Corps League, the Military Order of the Purple Heart, Inc., the American Legion, the Disabled American Veterans, AMVETS, American Veterans of World War II, Masonic War Veterans of the State of New York, Inc., Veterans of World War I of the United States of America Department of New York, Inc., China-Burma-India Veterans Association, Inc., Polish-American Veterans of World War II, the Sons of Union Veterans, Vietnam Veterans of America, the Eastern Paralyzed Veterans Association, the Sons of the American Legion, or the American Legion Auxiliary. In the case of a chapter or lodge of a not-for-profit corporation or a benevolent order qualifying as an organization described in section 501(c)(8) or 501(c)(10) of the United States internal revenue code, a member of another chapter or lodge of such not-for-profit corporation or benevolent order who has in his or her possession an identification card or other proof of membership shall be deemed to be a member. A club and a luncheon club shall appoint an alcoholic beverage officer from among its members who shall be responsible for filing all applications and other documents required to be submitted to the authority. The person appointed alcoholic beverage officer shall be subject to approval by the authority. 9-a. "Custom crush facility" means a licensed winery or farm winery which obtains grapes, fruits and other plants grown exclusively in New York state from, or on behalf of, other licensed wineries or farm wineries and crushes, processes, ferments, bottles or conducts any combination of such services for such other licensed wineries or farm wineries. 10. "Distiller" means any person who owns, occupies, carries on, works, conducts or operates any distillery either by himself or by his agent. 11. "Distillery" means and includes any place or premises wherein any liquors are manufactured for sale. 11-a. "Farm distillery" means and includes any place or premises located on a farm in New York state in which liquor is manufactured and sold, or any other place or premises in New York state in which liquor is manufactured primarily from farm and food products, as defined in subdivision two of section two hundred eighty-two of the agriculture and markets law, and such liquor is sold. 12. "Drug store" means a place registered by the New York state board of pharmacy for the sale of drugs. 12-a. "Farm winery" means and includes any place or premises, located on a farm in New York state, in which wine is manufactured and sold. 12-aa. "Farm" means the land, buildings and equipment used to produce, prepare and market crops, livestock and livestock products as a commercial enterprise. For the purposes of a farm meadery, farm means the land, buildings and equipment used to prepare and market honey and apiary products as a commercial enterprise. A farm may consist of one or more parcels of owned or rented land, which parcels may be contiguous or noncontiguous to each other. 12-aaa. "Farm brewery" means and includes any place or premises, located on a farm in New York state, in which New York state labelled beer is manufactured, stored and sold, or any other place or premises in New York state in which New York state labelled beer is manufactured, stored and sold. 12-aaaa. "Farm meadery" means and includes any place or premises, located on a farm in New York state, in which New York state labelled mead or New York state labelled braggot is manufactured, stored and sold, or any other place or premises in New York state in which New York state labelled mead or New York state labelled braggot is manufactured, stored and sold. 12-b. "Felony" shall mean any criminal offense classified as a felony under the laws of this state or any criminal offense committed in any other state, district, or territory of the United States and classified as a felony therein which if committed within this state, would constitute a felony in this state. 12-c. "Government agency" means any department, division, board, bureau, commission, office, agency, authority or public corporation of the state or federal government or a county, city, town or village government within the state. 13. "Grocery store" means any retail establishment where foodstuffs are regularly and customarily sold in a bona fide manner for the consumption off the premises. 14. "Hotel" shall mean a building which is regularly used and kept open as such in bona fide manner for the feeding and lodging of guests, where all who conduct themselves properly and who are able and ready to pay for such services are received if there be accommodations for them. The term "hotel" shall also include an apartment hotel wherein apartments are rented for fixed periods of time, either furnished or unfurnished, where the keeper of such hotel regularly supplies food to the occupants thereof in a premises which serves food in compliance with section sixty-four-a of this chapter, or a restaurant located in such hotel. "Hotel" shall also mean and include buildings (commonly called a motel) upon the same lot of land and owned or in possession under a lease in writing by the same person or firm who maintains such buildings for the lodging of guests and supplies them with food from a premises which serves food in compliance with section sixty-four-a of this chapter, or restaurant located upon the same premises. 14-a. "Custom beermakers' center" means a facility that provides one or more individuals with rental space, the use of equipment and storage facilities, and/or beer making supplies to manufacture beer for personal household use and not for resale in accordance with state and federal laws, rules, and regulations. 14-b. "Custom cidermakers' center" means a facility that provides one or more individuals with rental space, the use of equipment and storage facilities, and/or fruit to manufacture cider for personal household use and not for resale in accordance with state and federal laws, rules and regulations. 14-c. "Custom winemakers' center" means a facility that provides one or more individuals with rental space, the use of equipment and storage facilities, and/or fruit to manufacture wine for personal household use and not for resale in accordance with state and federal laws, rules and regulations. 15. "Liquor authority" and "authority" mean the state liquor authority provided for in this chapter. 17. "License" means a license issued pursuant to this chapter. 17-a. "Seven day license" means a license issued pursuant to this chapter and where the off premise retail license holder may remain open to the consumer all seven days of the week. 18. "Licensee" means any person to whom a license has been issued pursuant to this chapter. 19. "Liquor" means and includes any and all distilled or rectified spirits, brandy, whiskey, rum, gin, cordials or similar distilled alcoholic beverages, including all dilutions and mixtures of one or more of the foregoing. 19-a. "Mead" shall mean a wine made primarily from honey and water; it may also

contain hops, fruits, spices, herbs, grain, or other agricultural products. Honey shall represent at least fifty-one percent of the starting fermentable sugars by weight of the finished product. The brand or trade label owner of such alcoholic beverage shall designate whether such alcoholic beverage shall be sold as and treated in the same manner as wine or mead for all purposes under this chapter. Provided, however, any mead containing more than eight and one-half per centum alcohol by volume shall be designated, sold as, and treated in the same manner as wine. 20. "Manufacturer" means and includes a distiller, brewer, vintner and rectifier; "Manufacture" means and includes distilling, rectifying, brewing and operating a winery. 20-a. "New York state labelled wine" means wine made from grapes or other fruits, at least seventy-five percent the volume of which were grown in New York state. 20-b. "Micro-winery" means and includes any place or premises located on a farm in New York state in which wine or cider is manufactured and sold. 20-c. "New York state labelled liquor" means liquors made from fruit, vegetables, grain and grain products, honey, maple sap or other agricultural products, at least seventy-five percent the volume of which were grown or produced in New York state. 20-d. "New York state labelled beer" means: (a) from the effective date of this subdivision until December thirty-first, two thousand eighteen, beer made with no less than twenty percent, by weight, of its hops grown in New York state and no less than twenty percent, by weight, of all of its other ingredients, excluding water, grown in New York state; (b) from January first, two thousand nineteen until December thirty-first, two thousand twenty-eight, beer made with no less than sixty percent, by weight, of its hops grown in New York state and no less than sixty percent, by weight, of all of its other ingredients, excluding water, grown in New York state; and (c) from January first, two thousand twenty-nine and thereafter, beer made with no less than ninety percent, by weight, of its hops grown in New York state and no less than ninety percent, by weight, of all of its other ingredients, excluding water, grown in New York state. 20-e. "New York state labelled cider" means cider made exclusively from apples or other pome fruits grown in New York state. 20-f. "New York state labelled braggot" means braggot made exclusively from honey produced in New York state. 20-g. "New York state labelled mead" means mead made exclusively from honey produced in New York state. 21. "Permittee" means any person to whom a permit has been issued pursuant to this chapter. 22. "Person" includes an individual, copartnership, corporations, society, joint stock company, alcoholic beverage officer appointed by a club or a luncheon club or limited liability company. 23. "Population" means the number of inhabitants as determined by the last preceding federal census. 24. "Rectifier" means and includes any person who rectifies, purifies or refines distilled spirits or wines by any process other than as provided for on distillery premises and every person who, without rectifying, purifying or refining distilled spirits, shall, by mixing such spirits, wine or other liquor with water or any materials, manufactures any imitation of or compounds liquors for sale under the name of whiskey, brandy, gin, rum, wine, spirits, cordials, bitters or any other name. 25. "Retail sale" or "sale at retail" means a sale to a consumer or to any person for any purpose other than for resale. 26. "Retailer" means any person who sells at retail any beverage for the sale of which a license is required under the provisions of this chapter. 27. "Restaurant" shall mean a place which is regularly and in a bona fide manner used and kept open for the serving of meals to guests for compensation and which has suitable kitchen facilities connected therewith, containing conveniences for cooking an assortment of foods, which may be required for ordinary meals, the kitchen of which must, at all times, be in charge of a chef with the necessary help, and kept in a sanitary condition with the proper amount of refrigeration for keeping of food on said premises and must comply with all the regulations of the local department of health. Restaurant shall include a motion picture theatre, movie theatre or other venue that shows motion pictures that meet the definitions of restaurant and meals, and all seating is at tables where meals are served. "Meals" shall mean the usual assortment of foods commonly ordered at various hours of the day; the service of such food and victuals only as sandwiches or salads shall not be deemed a compliance with this requirement. "Guests" shall mean persons who, during the hours when meals are regularly served therein, come to a restaurant for the purpose of obtaining, and actually order and obtain at such time, in good faith, a meal therein. Nothing in this subdivision contained, however, shall be construed to require that any food be sold or purchased with any beverage. 27-a. "Roadside farm market" means any retailer authorized to sell New York state labelled wine pursuant to section seventy-six-f of this chapter. 28. "Sale" means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration, and includes and means all sales made by any person, whether principal, proprietor, agent, servant or employee of any alcoholic beverage and/or a warehouse receipt pertaining thereto. "To sell" includes to solicit or receive an order for, to keep or expose for sale, and to keep with intent to sell and shall include the delivery of any alcoholic beverage in the state. 29. "Spirits" means any beverage which contains alcohol obtained by distillation mixed with drinkable water and other substances in solution. 30. "Traffic in" includes to manufacture and sell any alcoholic beverage at wholesale or retail. 30-a. "Transfer" means the administrative processes involved in issuing a license to a new applicant for an existing licensed business. Transfer applicants shall be under contract with the existing licensee for purchase of the existing licensed business. 31. "Vehicle" shall include any device in, upon or by which any person or property is or may be transported or drawn upon a public highway, road, street or public place. 32. "Vessel" includes any ship or boat of any kind whatsoever, whether propelled by steam or otherwise and whether used as a sea-going vessel or on inland waters which is properly equipped for the service of alcoholic beverages. 33. "Vintner" means any person who owns, occupies, carries on, works, conducts or operates any winery either by himself or by his agent. 34. "Wholesale sale" or "sale at wholesale" means a sale to any person for purposes of resale. 35. "Wholesaler" means any person who sells at wholesale any beverage for the sale of which a license is required under the provisions of this chapter. 36. "Wine" means the product of the normal alcoholic fermentation of the juice of fresh, sound, ripe grapes, or other fruits or plants with the usual cellar treatment and necessary additions to correct defects due to climatic, saccharine and seasonal conditions, including champagne, sparkling and fortified wine of an alcoholic content not to exceed twenty-four per centum by volume. Wine produced from fruits or plants other than grapes shall include appropriate prefixes descriptive of the fruit or the product from which such wine was predominantly produced, and no other product shall be called "wine" unless designated as artificial or imitation wine. 36-a. "Wine product" means a beverage containing

wine to which is added concentrated or unconcentrated juice, flavoring material, water, citric acid, sugar and carbon dioxide and containing not more than six per centum alcohol by volume, to which nothing other than such wine has been added to increase the alcoholic content of such beverage. 37. "Winery" means and includes any place or premises wherein wines are manufactured from any fruit or brandies distilled as the by-product of wine or other fruit or cordials compounded and also includes a winery for the manufacture of wine in any state other than New York state and which has and maintains a branch factory, office or storeroom within the state of New York and receives wine in this state consigned to a United States government bonded winery, warehouse or storeroom located within the state. 38. "Warehouse" means and includes a place in which alcoholic beverages are housed or stored.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 10 - Special Provisions Relating to Illicit Alcoholic Beverages and Stills150 - Definitions.

§ 150. Definitions. Whenever used in this article only, unless the context requires otherwise: 1. "Illicit alcoholic beverage" means and includes any alcohol or distilled spirits owned, manufactured, distributed, bought, sold, bottled, rectified, blended, treated, fortified, mixed, processed, warehoused, possessed or transported on which any tax required to have been paid under any applicable federal law has not been paid.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 10 - Special Provisions Relating to Illicit Alcoholic Beverages and Stills151 - Possession of Illicit Alcoholic Beverages.

§ 151. Possession of illicit alcoholic beverages. Any person who shall knowingly possess or have under his control any illicit alcoholic beverages is guilty of a misdemeanor.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 10 - Special Provisions Relating to Illicit Alcoholic Beverages and Stills152 - Sale of Illicit Alcoholic Beverages.

(b) Any person who shall possess or have under his control or transport any illicit alcoholic beverage with intent to barter or exchange with, or to sell or give to another the same or any part thereof is guilty of a misdemeanor. Such intent is presumptively established by proof that the person knowingly possessed or had under his control one or more gallons of illicit alcoholic beverages. This presumption may be rebutted.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 10 - Special Provisions Relating to Illicit Alcoholic Beverages and Stills153 - Stills and Distilling Apparatus.

§ 153. Stills and distilling apparatus. Any person who shall manufacture any illicit alcoholic beverage or who, not being duly licensed as a distiller under the provisions of the alcoholic beverage control law, shall own, operate, possesses or have under his control any still or distilling apparatus is guilty of a felony. "Still" or " distilling apparatus" shall mean any apparatus designed, intended, actually used, or capable of being used for or in connection with the separating of alcoholic or spirituous vapors, or alcohol or spirituous solutions, or alcohol or spirits, from alcohol or spirituous solutions or mixtures, but shall not include stills used for laboratory purposes or stills used for distilling water or other nonalcoholic materials where the cubic capacity of such stills is one gallon or less. Provided, however, that it shall not be unlawful for any person to own, possess or have under his control any still or distilling apparatus (a) where the same has been duly registered in compliance with or has otherwise complied with the provisions of federal law and regulations issued pursuant thereto, or (b) where the same is not required to be registered under federal law, or (c) where the same is in the possession of a duly qualified manufacturer of stills under federal law. The unlawful ownership, operation, possession, control or use of any still or distilling apparatus or illicit alcoholic beverage is a nuisance, and each such still and distilling apparatus and illicit alcoholic beverage is hereby declared to be a nuisance, and when any such still or distilling apparatus or illicit alcoholic beverage shall be taken from the possession of any person, the same shall be surrendered and forfeited to the sheriff of the county wherein the same shall be taken, except that in a city having a population of seventy-five thousand or more, the same shall be surrendered and forfeited to the police commissioner or other head of the police force or department of said city and except that in the county of Nassau, the same shall be surrendered and forfeited to the commissioner of the county police department.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 10 - Special Provisions Relating to Illicit Alcoholic Beverages and Stills154 - Premises Used for Manufacture or Storage of Illicit Alcoholic Beverages.

§ 154. Premises used for manufacture or storage of illicit alcoholic beverages. Any person who, being the owner, lessee, or occupant of any room, shed, tenement, booth or building, float or vessel, or part thereof, knowingly permits the same to be used for the manufacture, distribution, purchase, sale, bottling, rectifying, blending, treating, fortifying, mixing, processing, warehousing, transportation, distilling, or storage of an illicit alcoholic beverage, is guilty of a misdemeanor.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 10 - Special Provisions Relating to Illicit Alcoholic Beverages and Stills155 - Punishment for Second Offenders.

§ 155. Punishment for second offenders. Any person who is convicted of violating section one hundred fifty-two or section one hundred fifty-four of this chapter and who has been previously convicted of a violation of either of these said sections or after the

effective date of this article has been convicted in any other state or federal court of a crime which if committed in this state would constitute a violation of either of said sections, is guilty of a felony and shall be punishable for a felony.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 2 - Liquor Authority10 - State Liquor Authority.

§ 10. State liquor authority. There shall continue to be in the executive department an alcoholic beverage control division, the head of which shall be the state liquor authority whose members shall consist of a chairman and two commissioners, all of whom shall be citizens and residents of the state. The terms "state alcoholic beverage control board", "state board", "liquor authority", or "authority", wherever occurring in any of the provisions of this chapter or of any other law, or in any official books, records, instruments, rules or papers, shall hereafter mean and refer to the state liquor authority provided for in this section.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 2 - Liquor Authority11 - Appointment of Authority.

§ 11. Appointment of authority. The members of the authority shall be appointed by the governor by and with the advice and consent of the senate. Not more than two members of the authority shall belong to the same political party. The chairman of the state alcoholic beverage control board heretofore appointed and designated by the governor and the remaining members of such board heretofore appointed by the governor shall continue to serve as chairman and members of the authority until the expiration of the respective terms for which they were appointed. Upon the expiration of such respective terms the successors of such chairman and members shall be appointed to serve for a term of three years each and until their successors have been appointed and qualified. The commissioners, other than the chairman shall, when performing the work of the authority, be compensated at a rate of two hundred sixty dollars per day, together with an allowance for actual and necessary expenses incurred in the discharge of their duties. The chairman shall receive an annual salary established in section one hundred sixty-nine of the executive law.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 2 - Liquor Authority12 - Expenses.

§ 12. Expenses. Each member of the authority shall be entitled to his expenses actually and necessarily incurred by him in the performance of his duties.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 2 - Liquor Authority13 - Removal.

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

2024 New York LawsABC - Alcoholic Beverage ControlArticle 2 - Liquor Authority14 - Vacancies; Quorum.

2. (a) In the event of a vacancy caused by the death, resignation, removal, or disability of the chairman, the vacancy shall be filled by the governor by and with the advice and consent of the senate for the unexpired term. Notwithstanding any other provision of law to the contrary, the governor shall designate one of the commissioners to serve as acting chairman for a period not to exceed six months or until a successor chairman has been confirmed by the senate, whichever comes first. Upon the expiration of the six month term, if the governor has nominated a successor chairman, but the senate has not acted upon the nomination, the acting chairman can continue to serve as acting chairman for an additional ninety days or until the governor's successor chairman nomination is confirmed by the senate, whichever comes first.(b) The governor shall provide immediate written notice to the temporary president of the senate of the designation of a commissioner as acting chairman.(c) If (i) the governor has not nominated a successor chairman upon the expiration of the six month term or (ii) the senate does not confirm the governor's successor nomination within the additional ninety days, the commissioner designated as acting chairman shall no longer be able to serve as acting chairman and the governor is prohibited from extending the powers of that acting chairman or from designating another commissioner to serve as acting chairman.(d) A commissioner serving as the acting chairman of the authority shall be deemed a state officer for purposes of section seventy-three of the public officers law.3. A majority of the members of the authority shall constitute a quorum for the purpose of conducting the business thereof and a majority vote of all the members in office shall be necessary for action. Provided, however, that a commissioner designated as an acting chairman pursuant to subdivision two of section fourteen of this chapter shall have only one vote for purposes of conducting the business of the authority. (b) The governor shall provide immediate written notice to the temporary president of the senate of the designation of a commissioner as acting chairman. (c) If (i) the governor has not nominated a successor chairman upon the expiration of the six month term or (ii) the senate does not confirm the governor's successor nomination within the additional ninety days, the commissioner designated as acting chairman shall no longer be able to serve as acting chairman and the governor is prohibited from extending the powers of that acting chairman or from designating another commissioner to serve as acting chairman. (d) A commissioner serving as the acting chairman of the authority shall be deemed a state officer for purposes of section seventy-three of the public officers law. 3. A majority of the members of the authority shall constitute a quorum for the purpose of conducting the business thereof and a majority vote of all the members in office shall be necessary for action. Provided, however, that a commissioner designated as an acting chairman pursuant to subdivision two of section fourteen of this chapter shall have only one vote for purposes of conducting the business of the authority.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 2 - Liquor Authority15 - Officers; Employees; Offices.

* § 15. Officers; employees; offices. Investigators employed by the authority shall be deemed to be peace officers for the purpose of

enforcing the provisions of this chapter or judgements or orders obtained for violation thereof, with all the powers set forth in section 2.20 of the criminal procedure law. The counsel, secretary, chief executive officer, assistant chief executive officers, confidential secretaries to commissioners and deputies shall be in the exempt class of the civil service. The other assistants, investigators and employees of the authority shall all be in the competitive class of the civil service. The authority shall continue to have its principal office in the city of Albany, and may maintain a branch office in the cities of New York and Buffalo and such other places as the chairman may deem necessary. * NB Effective until July 18, 2027 * § 15. Officers; employees; offices. The authority shall have power to appoint any necessary deputies, counsels, assistants, investigators, and other employees within the limits provided by appropriation. Investigators so employed by the Authority shall be deemed to be peace officers for the purpose of enforcing the provisions of the alcoholic beverage control law or judgements or orders obtained for violation thereof, with all the powers set forth in section 2.20 of the criminal procedure law. The counsel, secretary, chief executive officer, assistant chief executive officers, confidential secretaries to commissioners and deputies shall be in the exempt class of the civil service. The other assistants, investigators and employees of the authority shall all be in the competitive class of the civil service. The authority shall continue to have its principal office in the city of Albany, and may maintain a branch office in the cities of New York and Buffalo and such other places as it may deem necessary. The authority shall establish appropriate procedures to insure that hearing officers are shielded from ex parte communications with alleged violators and their attorneys and from other employees of the authority and shall take such other steps as it shall deem necessary and proper to shield its judicial processes from unwarranted and inappropriate communications and attempts to influence. * NB Effective July 18, 2027

2024 New York LawsABC - Alcoholic Beverage ControlArticle 2 - Liquor Authority16 - Disqualification of Members and Employees of Authority.

§ 16. Disqualification of members and employees of authority. No member of the authority or any officer, deputy, assistant, inspector or employee thereof shall have any interest, direct or indirect, either proprietary or by means of any loan, mortgage or lien, or in any other manner, in or on any premises where alcoholic beverages are manufactured or sold; nor shall he have any interest, direct or indirect, in any business wholly or partially devoted to the manufacture, sale, transportation or storage of alcoholic beverages, or own any stock in any corporation which has any interest, proprietary or otherwise, direct or indirect, in any premises where alcoholic beverages are manufactured or sold, or in any business wholly or partially devoted to the manufacture, sale, transportation or storage of alcoholic beverages, or receive any commission or profit whatsoever, direct or indirect, from any person applying for or receiving any license or permit provided for in this chapter, or hold any other public office in the state or in any political subdivision except upon the written permission of the liquor authority, such member of the authority or officer, deputy, assistant, inspector or employee thereof may hold the public office of notary public or member of a community board of education in the city school district of the city of New York. Any one who violates any of the provisions of this section shall be removed.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 2 - Liquor Authority17 - Powers of the Authority.

2. To limit in its discretion the number of licenses of each class to be issued within the state or any political subdivision thereof, and in connection therewith to prohibit the acceptance of applications for such class or classes of licenses which have been so limited. 3. To revoke, cancel or suspend for cause any license or permit issued under this chapter and/or to impose a civil penalty for cause against any holder of a license or permit issued pursuant to this chapter. Any civil penalty so imposed shall not exceed the sum of ten thousand dollars as against the holder of any retail permit issued pursuant to sections ninety-five, ninety-seven, ninety-eight, ninety-nine-d, and paragraph f of subdivision one of section ninety-nine-b of this chapter, and as against the holder of any retail license issued pursuant to sections fifty-three-a, fifty-four, fifty-four-a, fifty-five, fifty-five-a, sixty-three, sixty-four, sixty-four-a, sixty-four-b, sixty-four-c, seventy-six-f, seventy-nine, eighty-one and eighty-one-a of this chapter, and the sum of thirty thousand dollars as against the holder of a license issued pursuant to sections thirty, thirty-one, fifty-three, sixty-one-a, sixty-one-b, seventy-six, seventy-six-a, and seventy-eight of this chapter, provided that the civil penalty against the holder of a wholesale license issued pursuant to section fifty-three of this chapter shall not exceed the sum of ten thousand dollars where that licensee violates provisions of this chapter during the course of the sale of beer at retail to a person for consumption at home, and the sum of one hundred thousand dollars as against the holder of any license issued pursuant to sections fifty-one, sixty-one, and sixty-two of this chapter. Any civil penalty so imposed shall be in addition to and separate and apart from the terms and provisions of the bond required pursuant to section one hundred twelve of this chapter. Provided that no appeal is pending on the imposition of such civil penalty, in the event such civil penalty imposed by the division remains unpaid, in whole or in part, more than forty-five days after written demand for payment has been sent by first class mail to the address of the licensed premises, a notice of impending default judgment shall be sent by first class mail to the licensed premises and by first class mail to the last known home address of the person who signed the most recent license application. The notice of impending default judgment shall advise the licensee: (a) that a civil penalty was imposed on the licensee; (b) the date the penalty was imposed; (c) the amount of the civil penalty; (d) the amount of the civil penalty that remains unpaid as of the date of the notice; (e) the violations for which the civil penalty was imposed; and (f) that a judgment by default will be entered in the supreme court of the county in which the licensed premises are located, or other court of civil jurisdiction or any other place provided for the entry of civil judgments within the state of New York unless the division receives full payment of all civil penalties due within twenty days of the date of the notice of impending default judgment. If full payment shall not have been received by the division within thirty days of mailing of the notice of impending default judgment, the division shall proceed to enter with such court a statement of the default judgment containing the amount of the

penalty or penalties remaining due and unpaid, along with proof of mailing of the notice of impending default judgment. The filing of such judgment shall have the full force and effect of a default judgment duly docketed with such court pursuant to the civil practice law and rules and shall in all respects be governed by that chapter and may be enforced in the same manner and with the same effect as that provided by law in respect to execution issued against property upon judgments of a court of record. A judgment entered pursuant to this subdivision shall remain in full force and effect for eight years notwithstanding any other provision of law. 4. To fix by rule the standards of manufacture and fermentation in order to insure the use of proper ingredients and methods in the manufacture of alcoholic beverages to be sold or consumed in the state. 5. To hold hearings, subpoena witnesses, compel their attendance, administer oaths, to examine any person under oath and in connection therewith to require the production of any books or papers relative to the inquiry. A subpoena issued under this section shall be regulated by the civil practice law and rules. 6. To prohibit, at any time of public emergency, without previous notice or advertisement, the sale of any or all alcoholic beverages for and during the period of such emergency. 7. To delegate the powers provided in this section to the chairman, or to such other officers or employees as may be designated by the chairman. 8. To appoint such advisory groups and committees as it deems necessary to provide assistance to the authority to carry out the purposes and objectives of this chapter. 9. Upon receipt of a resolution adopted by a board of supervisors or a county legislative body requesting further restriction of hours of sale of alcoholic beverages within such county, and upon notice and hearing within such county, to approve or disapprove such hours within such county. * NB Effective until July 18, 2027 * § 17. Powers of the authority. The authority shall have the following functions, powers and duties: 1. To issue or refuse to issue any license or permit provided for in this chapter. 2. To limit in its discretion the number of licenses of each class to be issued within the state or any political subdivision thereof, and in connection therewith to prohibit the acceptance of applications for such class or classes of licenses which have been so limited. 3. To revoke, cancel or suspend for cause any license or permit issued under this chapter and/or to impose a civil penalty for cause against any holder of a license or permit issued pursuant to this chapter. Any civil penalty so imposed shall not exceed the sum of ten thousand dollars as against the holder of any retail permit issued pursuant to sections ninety-five, ninety-seven, ninety-eight, ninety-nine-d, and paragraph f of subdivision one of section ninety-nine-b of this chapter, and as against the holder of any retail license issued pursuant to sections fifty-three-a, fifty-four, fifty-four-a, fifty-five, fifty-five-a, sixty-three, sixty-four, sixty-four-a, sixty-four-b, sixty-four-c, seventy-six-f, seventy-nine, eighty-one, and eighty-one-a of this chapter, and the sum of thirty thousand dollars as against the holder of a license issued pursuant to sections thirty, thirty-one, fifty-three, sixty-one-a, sixty-one-b, seventy-six, seventy-six-a and seventy-eight of this chapter, provided that the civil penalty against the holder of a wholesale license issued pursuant to section fifty-three of this chapter shall not exceed the sum of ten thousand dollars where that licensee violates provisions of this chapter during the course of the sale of beer at retail to a person for consumption at home, and the sum of one hundred thousand dollars as against the holder of any license issued pursuant to sections fifty-one, sixty-one and sixty-two of this chapter. Any civil penalty so imposed shall be in addition to and separate and apart from the terms and provisions of the bond required pursuant to section one hundred twelve of this chapter. Provided that no appeal is pending on the imposition of such civil penalty, in the event such civil penalty imposed by the division remains unpaid, in whole or in part, more than forty-five days after written demand for payment has been sent by first class mail to the address of the licensed premises, a notice of impending default judgment shall be sent by first class mail to the licensed premises and by first class mail to the last known home address of the person who signed the most recent license application. The notice of impending default judgment shall advise the licensee: (a) that a civil penalty was imposed on the licensee; (b) the date the penalty was imposed; (c) the amount of the civil penalty; (d) the amount of the civil penalty that remains unpaid as of the date of the notice; (e) the violations for which the civil penalty was imposed; and (f) that a judgment by default will be entered in the supreme court of the county in which the licensed premises are located, or other court of civil jurisdiction, or any other place provided for the entry of civil judgments within the state of New York unless the division receives full payment of all civil penalties due within twenty days of the date of the notice of impending default judgment. If full payment shall not have been received by the division within thirty days of mailing of the notice of impending default judgment, the division shall proceed to enter with such court a statement of the default judgment containing the amount of the penalty or penalties remaining due and unpaid, along with proof of mailing of the notice of impending default judgment. The filing of such judgment shall have the full force and effect of a default judgment duly docketed with such court pursuant to the civil practice law and rules and shall in all respects be governed by that chapter and may be enforced in the same manner and with the same effect as that provided by law in respect to execution issued against property upon judgments of a court of record. A judgment entered pursuant to this subdivision shall remain in full force and effect for eight years notwithstanding any other provision of law. 4. To remove any employee of the authority for cause, after giving such employee a copy of the charges against him in writing, and an opportunity to be heard thereon. Any action taken under this subdivision shall be subject to and in accordance with the civil service law. 5. To fix by rule the standards of manufacture and fermentation in order to insure the use of proper ingredients and methods in the manufacture of alcoholic beverages to be sold or consumed in the state. 6. To hold hearings, subpoena witnesses, compel their attendance, administer oaths, to examine any person under oath and in connection therewith to require the production of any books or papers relative to the inquiry. A subpoena issued under this section shall be regulated by the civil practice law and rules. 7. To prohibit, at any time of public emergency, without previous notice or advertisement, the sale of any or all alcoholic beverages for and during the period of such emergency. 8. To make an annual report to the governor and the legislature of its activities for the preceding year. 8-a. On and after January first, two thousand the report provided for in subdivision eight of this section shall include an evaluation of the effectiveness of the prohibition on the sale of alcohol to persons under the age of twenty-one as provided in section sixty-five-b of this chapter with particular emphasis on the provisions of subdivisions one, two, three, four and five of section sixty-five-b, subdivision five of section one

hundred nineteen and subdivision six of section sixty-five of this chapter, paragraph (b) of subdivision seven of section 170.55 of the criminal procedure law and subdivision (f) of section 19.07 of the mental hygiene law. 8-b. On and after January first, two thousand eleven, the report provided for in subdivision eight of this section shall include information related to the number of licenses applied for and the length of time required for the approval or denial of such retail license applied for pursuant to subdivision two-c of section sixty-one, section sixty-four, section seventy-six, section seventy-six-a, section seventy-six-c, section seventy-six-d, and section seventy-six-f of this chapter. 9. The powers provided in this section may be delegated by the authority to the chairman, or to such other officers or employees as may be designated by the chairman. 10. To appoint such advisory groups and committees as it deems necessary to provide assistance to the authority to carry out the purposes and objectives of this chapter. 11. Upon receipt of a resolution adopted by a board of supervisors or a county legislative body requesting further restriction of hours of sale of alcoholic beverages within such county, and upon notice and hearing within such county, to approve or disapprove such hours within such county. 12. (a) To develop and establish minimum criteria for alcohol training awareness programs which may be given and administered by schools; other entities including trade associations whose members are engaged in or involved in the retail sale of alcoholic beverages; national and regional franchisors who have granted at least five franchises in the state which are licensed to sell beer at retail for off-premises consumption; licensees authorized to sell alcoholic beverages at retail for off-premises consumption operating five or more licensed premises; and persons interested, whether as an individual proprietor or partner or officer or member of a limited liability company, in five or more licensees authorized to sell alcoholic beverages at retail for off-premises consumption. The authority shall provide for the issuance of certificates of approval to all certified alcohol training awareness programs. Certificates of approval may be revoked by the authority for failure to adhere to the authority's rules and regulations. Such rules and regulations shall afford those who have been issued a certificate of approval an opportunity for a hearing prior to any determination of whether such certificate should be revoked.(b) No licensee shall be required to apply for any such certificate or renewal certificate and the licensee may voluntarily surrender such a certificate or renewal certificate at any time. A fee in the amount of nine hundred dollars shall be paid to the authority with each application for a certificate of approval or renewal certificate. The authority shall promptly refund such fee to an applicant whose application was denied. Each certificate of approval and renewal thereof shall be issued for a period of three years. To effectuate the provisions of this subdivision, the authority is empowered to require in connection with an application the submission of such information as the authority may direct; to prescribe forms of applications and of all reports which it deems necessary to be made by any applicant or certificate holder; to conduct investigations; to require the maintenance of such books and records as the authority may direct; to revoke, cancel, or suspend for cause any certificate provided for in this subdivision. Each entity authorized to give and administer an alcohol training awareness program shall issue certificates of completion to all licensees and employees who successfully complete such an approved alcohol training awareness program. Such entity shall regularly transmit to the authority the names, addresses and dates of attendance of all the licensees and employees of licensees who successfully complete an approved alcohol training awareness program. Such transmittal shall be in a form and manner prescribed by the authority. The authority shall adopt rules and regulations to effectuate the provisions of this subdivision, including the minimum requirements for the curriculum of each such training program and the regular ongoing training of employees holding certificates of completion or renewal certificates. Such rules and regulations shall include the minimum requirements for a separate curriculum for licensees and their employees authorized to sell alcoholic beverages at retail for off-premises consumption, minimum requirements for a separate curriculum for licensees and their employees authorized to sell alcoholic beverages at retail for on-premises consumption, and the form of a certificate of completion or renewal thereof to be issued in respect to each such type of program. Such rules and regulations shall include a requirement that all curriculums include training related to human trafficking awareness. Such human trafficking awareness training curriculum shall be developed in conjunction with, and approved by, the New York state interagency task force on human trafficking. Such human trafficking awareness training program shall be implemented by each entity authorized to give and administer an alcohol training awareness program. Any such entity that does not implement a human trafficking awareness program as part of its curriculum shall no longer be authorized to administer any alcohol training awareness program and shall not be eligible to be certified as a state liquor authority school. Any alcohol training awareness program that is currently certified by the state liquor authority shall lose its certification if such program fails to include human trafficking awareness training as part of its curriculum.(c) A certificate of completion or renewal thereof issued by an entity authorized to give and administer an alcohol training awareness program pursuant to this subdivision to licensees and their employees authorized to sell alcoholic beverages at retail for off-premises consumption shall not be invalidated by a change of employment to another such licensee. A certificate of completion or renewal thereof issued by an entity authorized to give and administer an alcohol training awareness program pursuant to this subdivision to licensees and their employees authorized to sell alcoholic beverages at retail for on-premises consumption shall not be invalidated by a change of employment to another such licensee. Attendance at any course established pursuant to this section shall be in person, through distance learning methods, or through an internet based online program.13. To study and report to the governor and the legislature bi-ennially on or before February first of each year concerning:(a) recommendations to reduce the number and type of licenses, and to establish a uniform, statewide schedule of fees, such recommendations to include the development of a master application form for all licenses, with specific exhibits required for specific licenses, as appropriate, as well as recommendations on a non-refundable application fee set at a level which will cover the cost of the review and which would be applied against the first year license fee if the application is granted;(b) recommendations to simplify license renewal procedures;(c) recommendations to streamline the processing of applications and to eliminate duplication of reviews, such recommendations to include uniform standards for application review and decision which shall seek to assure that the review is as objective as possible and to narrow the discretion of

the authority or of any reviewer employed by the authority;(d) the extent to which quality of life issues, such as noise level, vehicular traffic and parking are considered in licensing decisions, particularly as such issues pertain to proceedings pursuant to subdivision seven of section sixty-four of this chapter;(e) recommendations to improve enforcement methodologies in order to protect the health and safety of residents of communities experiencing persistent problems in the operation of retail establishments;(f) recommendations concerning the addition of field enforcement personnel and the ratios of such field enforcement personnel to the total numbers of licensees that in the view of the authority would be appropriate to insure compliance with the law. Such study shall provide a detailed analysis of the costs and projected revenues to be obtained from the addition of such field enforcement personnel;(g) such other observations and recommendations concerning the activities of the authority as will improve its effectiveness and efficiency including the utilization of on-line services to provide information on a fee-for-service basis; and(h) provide information concerning the name, total quantity and total price of wine purchased from New York state and out-of-state wineries and farm wineries, and such other information on and recommendations concerning interstate wine shipment.14. For state fiscal year two thousand nine--two thousand ten, the authority shall, within amounts appropriated therefore, improve and update their information technology in order to meet federal security requirements and to assist in the processing of license and/or permit applications and renewals.* NB Effective July 18, 2027 (b) No licensee shall be required to apply for any such certificate or renewal certificate and the licensee may voluntarily surrender such a certificate or renewal certificate at any time. A fee in the amount of nine hundred dollars shall be paid to the authority with each application for a certificate of approval or renewal certificate. The authority shall promptly refund such fee to an applicant whose application was denied. Each certificate of approval and renewal thereof shall be issued for a period of three years. To effectuate the provisions of this subdivision, the authority is empowered to require in connection with an application the submission of such information as the authority may direct; to prescribe forms of applications and of all reports which it deems necessary to be made by any applicant or certificate holder; to conduct investigations; to require the maintenance of such books and records as the authority may direct; to revoke, cancel, or suspend for cause any certificate provided for in this subdivision. Each entity authorized to give and administer an alcohol training awareness program shall issue certificates of completion to all licensees and employees who successfully complete such an approved alcohol training awareness program. Such entity shall regularly transmit to the authority the names, addresses and dates of attendance of all the licensees and employees of licensees who successfully complete an approved alcohol training awareness program. Such transmittal shall be in a form and manner prescribed by the authority. The authority shall adopt rules and regulations to effectuate the provisions of this subdivision, including the minimum requirements for the curriculum of each such training program and the regular ongoing training of employees holding certificates of completion or renewal certificates. Such rules and regulations shall include the minimum requirements for a separate curriculum for licensees and their employees authorized to sell alcoholic beverages at retail for off-premises consumption, minimum requirements for a separate curriculum for licensees and their employees authorized to sell alcoholic beverages at retail for on-premises consumption, and the form of a certificate of completion or renewal thereof to be issued in respect to each such type of program. Such rules and regulations shall include a requirement that all curriculums include training related to human trafficking awareness. Such human trafficking awareness training curriculum shall be developed in conjunction with, and approved by, the New York state interagency task force on human trafficking. Such human trafficking awareness training program shall be implemented by each entity authorized to give and administer an alcohol training awareness program. Any such entity that does not implement a human trafficking awareness program as part of its curriculum shall no longer be authorized to administer any alcohol training awareness program and shall not be eligible to be certified as a state liquor authority school. Any alcohol training awareness program that is currently certified by the state liquor authority shall lose its certification if such program fails to include human trafficking awareness training as part of its curriculum. (c) A certificate of completion or renewal thereof issued by an entity authorized to give and administer an alcohol training awareness program pursuant to this subdivision to licensees and their employees authorized to sell alcoholic beverages at retail for off-premises consumption shall not be invalidated by a change of employment to another such licensee. A certificate of completion or renewal thereof issued by an entity authorized to give and administer an alcohol training awareness program pursuant to this subdivision to licensees and their employees authorized to sell alcoholic beverages at retail for on-premises consumption shall not be invalidated by a change of employment to another such licensee. Attendance at any course established pursuant to this section shall be in person, through distance learning methods, or through an internet based online program. 13. To study and report to the governor and the legislature bi-ennially on or before February first of each year concerning: (a) recommendations to reduce the number and type of licenses, and to establish a uniform, statewide schedule of fees, such recommendations to include the development of a master application form for all licenses, with specific exhibits required for specific licenses, as appropriate, as well as recommendations on a non-refundable application fee set at a level which will cover the cost of the review and which would be applied against the first year license fee if the application is granted; (b) recommendations to simplify license renewal procedures; (c) recommendations to streamline the processing of applications and to eliminate duplication of reviews, such recommendations to include uniform standards for application review and decision which shall seek to assure that the review is as objective as possible and to narrow the discretion of the authority or of any reviewer employed by the authority; (d) the extent to which quality of life issues, such as noise level, vehicular traffic and parking are considered in licensing decisions, particularly as such issues pertain to proceedings pursuant to subdivision seven of section sixty-four of this chapter; (e) recommendations to improve enforcement methodologies in order to protect the health and safety of residents of communities experiencing persistent problems in the operation of retail establishments; (f) recommendations concerning the addition of field enforcement personnel and the ratios of such field enforcement personnel to the total numbers of licensees that in the view of the authority would be appropriate to insure compliance with the law. Such study shall provide a detailed analysis of

the costs and projected revenues to be obtained from the addition of such field enforcement personnel; (g) such other observations and recommendations concerning the activities of the authority as will improve its effectiveness and efficiency including the utilization of on-line services to provide information on a fee-for-service basis; and (h) provide information concerning the name, total quantity and total price of wine purchased from New York state and out-of-state wineries and farm wineries, and such other information on and recommendations concerning interstate wine shipment. 14. For state fiscal year two thousand nine--two thousand ten, the authority shall, within amounts appropriated therefore, improve and update their information technology in order to meet federal security requirements and to assist in the processing of license and/or permit applications and renewals. * NB Effective July 18, 2027

2024 New York LawsABC - Alcoholic Beverage ControlArticle 2 - Liquor Authority18 - Powers and Duties of the Chairman.

1. To exercise the powers and perform the duties in relation to the administration of the division of alcoholic beverage control as are not specifically vested by this chapter in the state liquor authority, including but not limited to budgetary and fiscal matters. 2. To preside at all meetings of the authority and perform the administrative functions of the authority. 3. To appoint any necessary deputies, counsels, assistants, investigators, and other employees within the limits provided by appropriation. 4. To remove any employee of the authority for cause, after giving such employee a copy of the charges against him or her in writing, and an opportunity to be heard thereon. Any action taken under this subdivision shall be subject to and in accordance with the civil service law. 5. To keep records in such form as he or she may prescribe of all licenses and permits issued and revoked within the state; such records shall be so kept as to provide ready information as to the identity of all licensees including the names of the officers and directors of corporate licensees and the location of all licensed premises. The chairman may, with the approval of the commissioner of taxation and finance, contract to furnish copies of the records of licenses and permits of each class and type issued within the state or any political subdivision thereof, for any license or permit year or term of years not exceeding five years. 6. To inspect or provide for the inspection of any premises where alcoholic beverages are manufactured or sold. 7. To prescribe forms of applications for licenses and permits under this chapter and of all reports deemed necessary by the authority. 8. To delegate to the officers and employees of the authority such of his or her powers and duties as he or she may determine. 9. To establish appropriate procedures to insure that hearing officers are shielded from ex parte communications with alleged violators and their attorneys and from other employees of the authority and shall take such other steps as it shall deem necessary and proper to shield its judicial processes from unwarranted and inappropriate communications and attempts to influence. 10. (a) To develop and establish minimum criteria for alcohol training awareness programs which may be given and administered by schools; other entities including trade associations whose members are engaged in or involved in the retail sale of alcoholic beverages; national and regional franchisors who have granted at least five franchises in the state which are licensed to sell beer at retail for off-premises consumption; licensees authorized to sell alcoholic beverages at retail for off-premises consumption operating five or more licensed premises; and persons interested, whether as an individual proprietor or partner or officer or member of a limited liability company, in five or more licensees authorized to sell alcoholic beverages at retail for off-premises consumption. The authority shall provide for the issuance of certificates of approval to all certified alcohol training awareness programs. Certificates of approval may be revoked by the authority for failure to adhere to the authority's rules and regulations. Such rules and regulations shall afford those who have been issued a certificate of approval an opportunity for a hearing prior to any determination of whether such certificate should be revoked.(b) No licensee shall be required to apply for any such certificate or renewal certificate and the licensee may voluntarily surrender such a certificate or renewal certificate at any time. A fee in the amount of nine hundred dollars shall be paid to the authority with each application for a certificate of approval or renewal certificate. The authority shall promptly refund such fee to an applicant whose application was denied. Each certificate of approval and renewal thereof shall be issued for a period of three years. To effectuate the provisions of this subdivision, the authority is empowered to require in connection with an application the submission of such information as the authority may direct; to prescribe forms of applications and of all reports which it deems necessary to be made by any applicant or certificate holder; to conduct investigations; to require the maintenance of such books and records as the authority may direct; to revoke, cancel, or suspend for cause any certificate provided for in this subdivision. Each entity authorized to give and administer an alcohol training awareness program shall issue certificates of completion to all licensees and employees who successfully complete such an approved alcohol training awareness program. Such entity shall regularly transmit to the authority the names, addresses and dates of attendance of all the licensees and employees of licensees who successfully complete an approved alcohol training awareness program. Such transmittal shall be in a form and manner prescribed by the authority. The authority shall adopt rules and regulations to effectuate the provisions of this subdivision, including the minimum requirements for the curriculum of each such training program and the regular ongoing training of employees holding certificates of completion or renewal certificates. Such rules and regulations shall include the minimum requirements for a separate curriculum for licensees and their employees authorized to sell alcoholic beverages at retail for off-premises consumption, minimum requirements for a separate curriculum for licensees and their employees authorized to sell alcoholic beverages at retail for on-premises consumption, and the form of a certificate of completion or renewal thereof to be issued in respect to each such type of program. Such rules and regulations shall include a requirement that all curriculums include training related to human trafficking awareness. Such human trafficking awareness training curriculum shall be developed in conjunction with, and approved by, the New York state interagency task force on human trafficking. Such human trafficking awareness training program shall be implemented by each entity authorized to give and administer an alcohol training awareness program. Any such entity that does not implement a human trafficking awareness program as part of its curriculum shall no longer be authorized to administer any alcohol training awareness program and

shall not be eligible to be certified as a state liquor authority school. Any alcohol training awareness program that is currently certified by the state liquor authority shall lose its certification if such program fails to include human trafficking awareness training as part of its curriculum.(c) A certificate of completion or renewal thereof issued by an entity authorized to give and administer an alcohol training awareness program pursuant to this subdivision to licensees and their employees authorized to sell alcoholic beverages at retail for off-premises consumption shall not be invalidated by a change of employment to another such licensee. A certificate of completion or renewal thereof issued by an entity authorized to give and administer an alcohol training awareness program pursuant to this subdivision to licensees and their employees authorized to sell alcoholic beverages at retail for on-premises consumption shall not be invalidated by a change of employment to another such licensee. Attendance at any course established pursuant to this section shall be in person, through distance learning methods, or through an internet based online program.11. To make an annual report to the governor and the legislature of its activities for the preceding year.12. On and after January first, two thousand twelve, the report provided for in subdivision eleven of this section shall include an evaluation of the effectiveness of the prohibition on the sale of alcohol to persons under the age of twenty-one as provided in section sixty-five-b of this chapter with particular emphasis on the provisions of subdivisions one, two, three, four and five of section sixty-five-b, subdivision five of section one hundred nineteen and subdivision six of section sixty-five of this chapter, paragraph (b) of subdivision seven of section 170.55 of the criminal procedure law and subdivision (f) of section 19.07 of the mental hygiene law.13. On and after January first, two thousand twelve, the report provided for in subdivision eleven of this section shall include information related to the number of licenses applied for and the length of time required for the approval or denial of such retail license applied for pursuant to subdivision two-c of section sixty-one, section sixty-four, section seventy-six, section seventy-six-a, section seventy-six-c, and section seventy-six-d of this chapter.14. To study and report to the governor and the legislature biennially on or before February first of each year concerning:(a) recommendations to reduce the number and type of licenses, and to establish a uniform, statewide schedule of fees, such recommendations to include the development of a master application form for all licenses, with specific exhibits required for specific licenses, as appropriate, as well as recommendations on a non-refundable application fee set at a level which will cover the cost of the review and which would be applied against the first year license fee if the application is granted;(b) recommendations to simplify license renewal procedures;(c) recommendations to streamline the processing of applications and to eliminate duplication of reviews, such recommendations to include uniform standards for application review and decision which shall seek to assure that the review is as objective as possible and to narrow the discretion of the authority or of any reviewer employed by the authority;(d) the extent to which quality of life issues, such as noise level, vehicular traffic and parking are considered in licensing decisions, particularly as such issues pertain to proceedings pursuant to subdivision seven of section sixty-four of this chapter;(e) recommendations to improve enforcement methodologies in order to protect the health and safety of residents of communities experiencing persistent problems in the operation of retail establishments;(f) recommendations concerning the addition of field enforcement personnel and the ratios of such field enforcement personnel to the total numbers of licensees that in the view of the authority would be appropriate to insure compliance with the law. Such study shall provide a detailed analysis of the costs and projected revenues to be obtained from the addition of such field enforcement personnel;(g) such other observations and recommendations concerning the activities of the authority as will improve its effectiveness and efficiency including the utilization of on-line services to provide information on a fee-for-service basis; and(h) provide information concerning the name, total quantity and total price of wine purchased from New York state and out-of-state wineries and farm wineries, and such other information on and recommendations concerning interstate wine shipment.15. For state fiscal year two thousand twelve--two thousand thirteen, the authority shall, within amounts appropriated therefor, improve and update their information technology in order to meet federal security requirements and to assist in the processing of license and/or permit applications and renewals.* NB Effective until July 18, 2027* § 18. Powers and duties of the chairman. The chairman shall have the following functions, powers and duties:1. To exercise the powers and perform the duties in relation to the administration of the division of alcoholic beverage control as are not specifically vested by this chapter in the state liquor authority.2. To preside at all meetings of the authority and perform the administrative functions of the authority.3. To keep records in such form as he may prescribe of all licenses and permits issued and revoked within the state; such records shall be so kept as to provide ready information as to the identity of all licensees including the names of the officers and directors of corporate licensees and the location of all licensed premises. The chairman may, with the approval of the commissioner of taxation and finance, contract to furnish copies of the records of licenses and permits of each class and type issued within the state or any political subdivision thereof, for any license or permit year or term of years not exceeding five years.4. To inspect or provide for the inspection of any premises where alcoholic beverages are manufactured or sold.5. To prescribe forms of applications for licenses and permits under this chapter and of all reports deemed necessary by the authority.6. To delegate to the officers and employees of the division such of his powers and duties as he may determine.* NB Effective July 18, 2027 (b) No licensee shall be required to apply for any such certificate or renewal certificate and the licensee may voluntarily surrender such a certificate or renewal certificate at any time. A fee in the amount of nine hundred dollars shall be paid to the authority with each application for a certificate of approval or renewal certificate. The authority shall promptly refund such fee to an applicant whose application was denied. Each certificate of approval and renewal thereof shall be issued for a period of three years. To effectuate the provisions of this subdivision, the authority is empowered to require in connection with an application the submission of such information as the authority may direct; to prescribe forms of applications and of all reports which it deems necessary to be made by any applicant or certificate holder; to conduct investigations; to require the maintenance of such books and records as the authority may direct; to revoke, cancel, or suspend for cause any certificate provided for in this subdivision. Each entity authorized to give and administer an alcohol training awareness program shall issue certificates of completion to all licensees

and employees who successfully complete such an approved alcohol training awareness program. Such entity shall regularly transmit to the authority the names, addresses and dates of attendance of all the licensees and employees of licensees who successfully complete an approved alcohol training awareness program. Such transmittal shall be in a form and manner prescribed by the authority. The authority shall adopt rules and regulations to effectuate the provisions of this subdivision, including the minimum requirements for the curriculum of each such training program and the regular ongoing training of employees holding certificates of completion or renewal certificates. Such rules and regulations shall include the minimum requirements for a separate curriculum for licensees and their employees authorized to sell alcoholic beverages at retail for off-premises consumption, minimum requirements for a separate curriculum for licensees and their employees authorized to sell alcoholic beverages at retail for on-premises consumption, and the form of a certificate of completion or renewal thereof to be issued in respect to each such type of program. Such rules and regulations shall include a requirement that all curriculums include training related to human trafficking awareness. Such human trafficking awareness training curriculum shall be developed in conjunction with, and approved by, the New York state interagency task force on human trafficking. Such human trafficking awareness training program shall be implemented by each entity authorized to give and administer an alcohol training awareness program. Any such entity that does not implement a human trafficking awareness program as part of its curriculum shall no longer be authorized to administer any alcohol training awareness program and shall not be eligible to be certified as a state liquor authority school. Any alcohol training awareness program that is currently certified by the state liquor authority shall lose its certification if such program fails to include human trafficking awareness training as part of its curriculum. (c) A certificate of completion or renewal thereof issued by an entity authorized to give and administer an alcohol training awareness program pursuant to this subdivision to licensees and their employees authorized to sell alcoholic beverages at retail for off-premises consumption shall not be invalidated by a change of employment to another such licensee. A certificate of completion or renewal thereof issued by an entity authorized to give and administer an alcohol training awareness program pursuant to this subdivision to licensees and their employees authorized to sell alcoholic beverages at retail for on-premises consumption shall not be invalidated by a change of employment to another such licensee. Attendance at any course established pursuant to this section shall be in person, through distance learning methods, or through an internet based online program. 11. To make an annual report to the governor and the legislature of its activities for the preceding year. 12. On and after January first, two thousand twelve, the report provided for in subdivision eleven of this section shall include an evaluation of the effectiveness of the prohibition on the sale of alcohol to persons under the age of twenty-one as provided in section sixty-five-b of this chapter with particular emphasis on the provisions of subdivisions one, two, three, four and five of section sixty-five-b, subdivision five of section one hundred nineteen and subdivision six of section sixty-five of this chapter, paragraph (b) of subdivision seven of section 170.55 of the criminal procedure law and subdivision (f) of section 19.07 of the mental hygiene law. 13. On and after January first, two thousand twelve, the report provided for in subdivision eleven of this section shall include information related to the number of licenses applied for and the length of time required for the approval or denial of such retail license applied for pursuant to subdivision two-c of section sixty-one, section sixty-four, section seventy-six, section seventy-six-a, section seventy-six-c, and section seventy-six-d of this chapter. 14. To study and report to the governor and the legislature biennially on or before February first of each year concerning: (a) recommendations to reduce the number and type of licenses, and to establish a uniform, statewide schedule of fees, such recommendations to include the development of a master application form for all licenses, with specific exhibits required for specific licenses, as appropriate, as well as recommendations on a non-refundable application fee set at a level which will cover the cost of the review and which would be applied against the first year license fee if the application is granted; (b) recommendations to simplify license renewal procedures; (c) recommendations to streamline the processing of applications and to eliminate duplication of reviews, such recommendations to include uniform standards for application review and decision which shall seek to assure that the review is as objective as possible and to narrow the discretion of the authority or of any reviewer employed by the authority; (d) the extent to which quality of life issues, such as noise level, vehicular traffic and parking are considered in licensing decisions, particularly as such issues pertain to proceedings pursuant to subdivision seven of section sixty-four of this chapter; (e) recommendations to improve enforcement methodologies in order to protect the health and safety of residents of communities experiencing persistent problems in the operation of retail establishments; (f) recommendations concerning the addition of field enforcement personnel and the ratios of such field enforcement personnel to the total numbers of licensees that in the view of the authority would be appropriate to insure compliance with the law. Such study shall provide a detailed analysis of the costs and projected revenues to be obtained from the addition of such field enforcement personnel; (g) such other observations and recommendations concerning the activities of the authority as will improve its effectiveness and efficiency including the utilization of on-line services to provide information on a fee-for-service basis; and (h) provide information concerning the name, total quantity and total price of wine purchased from New York state and out-of-state wineries and farm wineries, and such other information on and recommendations concerning interstate wine shipment. 15. For state fiscal year two thousand twelve--two thousand thirteen, the authority shall, within amounts appropriated therefor, improve and update their information technology in order to meet federal security requirements and to assist in the processing of license and/or permit applications and renewals. * NB Effective until July 18, 2027 * § 18. Powers and duties of the chairman. The chairman shall have the following functions, powers and duties: 1. To exercise the powers and perform the duties in relation to the administration of the division of alcoholic beverage control as are not specifically vested by this chapter in the state liquor authority. 2. To preside at all meetings of the authority and perform the administrative functions of the authority. 3. To keep records in such form as he may prescribe of all licenses and permits issued and revoked within the state; such records shall be so kept as to provide ready information as to the identity of all licensees including the names of the officers and directors of corporate licensees and the location

of all licensed premises. The chairman may, with the approval of the commissioner of taxation and finance, contract to furnish copies of the records of licenses and permits of each class and type issued within the state or any political subdivision thereof, for any license or permit year or term of years not exceeding five years. 4. To inspect or provide for the inspection of any premises where alcoholic beverages are manufactured or sold. 5. To prescribe forms of applications for licenses and permits under this chapter and of all reports deemed necessary by the authority. 6. To delegate to the officers and employees of the division such of his powers and duties as he may determine. * NB Effective July 18, 2027

2024 New York LawsABC - Alcoholic Beverage ControlArticle 2 - Liquor Authority19 - Oath of Office.

§ 19. Oath of office. Each member of the authority shall, before entering upon his duties, take and file an oath of office as prescribed by section ten of the public officers law.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 3 - Special Provisions Relating to Mead and Braggot30 - Mead Producers' License.

2. (a) Any person licensed pursuant to subdivision one of this section may conduct mead tastings of New York state labelled meads in establishments licensed pursuant to section sixty-three of this chapter to sell alcoholic beverages for off-premises consumption. Such mead producer or wholesaler may charge a fee of not more than twenty-five cents for each mead sample tasted. The liquor authority shall promulgate rules and regulations relating to the conduct of such tastings.(b) Any person licensed pursuant to subdivision one of this section may conduct tastings of New York state labelled mead and New York state labeled braggot and apply to the liquor authority for a permit to sell mead and braggot produced by such mead producer or wholesaler, by the bottle, during such tastings in establishments licensed pursuant to section sixty-four of this chapter to sell alcoholic beverages for consumption on the premises. Such mead producer may charge a fee of not more than twenty-five cents for each mead or braggot sample tasted. The liquor authority shall promulgate rules and regulations relating to the conduct of tastings.(c) Mead and braggot tastings shall be conducted subject to the following limitations:(i) mead and braggot tastings shall be conducted by an official agent, representative or solicitor of one or more mead producers or wholesalers. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and(ii) any liability stemming from a right of action resulting from a mead and/or braggot tasting as authorized pursuant to this subdivision and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the mead producer or wholesaler licensee.3. A licensed mead producer producing New York state labelled mead and/or New York state labelled braggot may:(a) sell such mead and braggot to licensed farm distillers, farm wineries, farm cideries and farm breweries. All such mead and braggot sold by the licensee shall be securely sealed and have attached thereto a label as shall be required by section one hundred seven-a of this chapter;(b) conduct tastings at the licensed premises of such mead and braggot or any other New York state labeled mead or braggot;(c) sell such mead and braggot at retail for consumption off the premises at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis;(d) sell and conduct tastings of such mead and braggot at retail for consumption on the premises of a restaurant, conference center, inn, bed and breakfast or hotel business owned and operated by the licensee in or adjacent to its meadery. A licensee who operates a restaurant, conference center, inn, bed and breakfast or hotel pursuant to such authority shall comply with all applicable provisions of this chapter which relate to licenses to sell mead at retail for consumption on the premises;(e) apply for a permit to conduct tastings away from the licensed premises of such mead and braggot. Such permit shall be valid throughout the state and may be issued on an annual basis or for individual events. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary. Tastings shall be conducted subject to the following conditions:(i) tastings shall be conducted by an official agent, representative or solicitor of the licensee. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and(ii) any liability stemming from a right of action resulting from a tasting of mead or braggot as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the licensee.(f) if it holds a tasting permit issued pursuant to paragraph (e) of this subdivision, apply to the authority for a permit to sell such mead, for consumption off the premises, during such tastings in premises licensed under section sixty-four or sixty-four-a of this chapter; or apply to the authority for a permit to sell such mead and/or braggot at a premises licensed under section eighty-one or eighty-one-a of this chapter. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary.4. A mead producer shall manufacture at least fifty gallons of mead and/or braggot annually. (b) Any person licensed pursuant to subdivision one of this section may conduct tastings of New York state labelled mead and New York state labeled braggot and apply to the liquor authority for a permit to sell mead and braggot produced by such mead producer or wholesaler, by the bottle, during such tastings in establishments licensed pursuant to section sixty-four of this chapter to sell alcoholic beverages for consumption on the premises. Such mead producer may charge a fee of not more than twenty-five cents for each mead or braggot sample tasted. The liquor authority shall promulgate rules and regulations relating to the conduct of tastings. (c) Mead and braggot tastings shall be conducted subject to the following limitations: (i) mead and braggot tastings shall be conducted by an official agent, representative or solicitor of one or more mead producers or wholesalers. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and (ii) any liability stemming from a right of action resulting from a mead and/or braggot tasting as authorized pursuant to this subdivision and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the mead producer or wholesaler licensee. 3. A licensed mead producer producing New York state labelled mead and/or New York state labelled braggot may: (a) sell such mead and braggot to licensed farm distillers, farm wineries, farm cideries and farm breweries. All

such mead and braggot sold by the licensee shall be securely sealed and have attached thereto a label as shall be required by section one hundred seven-a of this chapter; (b) conduct tastings at the licensed premises of such mead and braggot or any other New York state labeled mead or braggot; (c) sell such mead and braggot at retail for consumption off the premises at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis; (d) sell and conduct tastings of such mead and braggot at retail for consumption on the premises of a restaurant, conference center, inn, bed and breakfast or hotel business owned and operated by the licensee in or adjacent to its meadery. A licensee who operates a restaurant, conference center, inn, bed and breakfast or hotel pursuant to such authority shall comply with all applicable provisions of this chapter which relate to licenses to sell mead at retail for consumption on the premises; (e) apply for a permit to conduct tastings away from the licensed premises of such mead and braggot. Such permit shall be valid throughout the state and may be issued on an annual basis or for individual events. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary. Tastings shall be conducted subject to the following conditions: (i) tastings shall be conducted by an official agent, representative or solicitor of the licensee. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and (ii) any liability stemming from a right of action resulting from a tasting of mead or braggot as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the licensee. (f) if it holds a tasting permit issued pursuant to paragraph (e) of this subdivision, apply to the authority for a permit to sell such mead, for consumption off the premises, during such tastings in premises licensed under section sixty-four or sixty-four-a of this chapter; or apply to the authority for a permit to sell such mead and/or braggot at a premises licensed under section eighty-one or eighty-one-a of this chapter. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary. 4. A mead producer shall manufacture at least fifty gallons of mead and/or braggot annually.

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2. A farm meadery license shall authorize the holder thereof to operate a meadery for the manufacture of New York state labelled mead and New York state labelled braggot. Such a license shall also authorize the licensee to:(a) sell in bulk mead and braggot manufactured by the licensee to any person licensed to manufacture alcoholic beverages in this state or to a permittee engaged in the manufacture of products which are unfit for beverage use;(b) sell or deliver mead and braggot manufactured by the licensee to persons outside the state pursuant to the laws of the place of such delivery;(c) sell mead and braggot manufactured by the licensee to wholesalers and retailers licensed in this state to sell such mead and braggot pursuant to section thirty-three of this article, licensed farm distillers, licensed farm wineries, licensed wineries, licensed farm breweries and any other licensed farm meadery. All such mead and braggot sold by the licensee shall be securely sealed and have attached thereto a label as shall be required by section one hundred seven-a of this chapter;(d) (i) at the licensed premises, conduct tastings of, and sell at retail for consumption on or off the licensed premises, any mead and braggot manufactured by the licensee or any New York state labelled mead or New York state labelled braggot. Provided, however, for tastings and sales for on-premises consumption, the licensee shall regularly keep food available for sale or service to its retail customers for consumption on the premises. A licensee providing the following shall be deemed in compliance with this provision: (A) sandwiches, soups or other such foods, whether fresh, processed, pre-cooked or frozen; and/or (B) food items intended to complement the tasting of alcoholic beverages, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking, including but not limited to: cheeses, fruits, vegetables, chocolates, breads, mustards and crackers. All of the provisions of this chapter relative to licensees selling mead and braggot at retail shall apply; and(ii) operate a restaurant, hotel, catering establishment, or other food and drinking establishment in or adjacent to the licensed premises and sell at such place, at retail for consumption on the premises, mead and braggot manufactured by the licensee and any New York state labelled mead or New York state labeled braggot. All of the provisions of this chapter relative to licensees to selling mead and braggot at retail shall apply. Notwithstanding any other provision of law, the licensed farm meadery may apply to the authority for a license under this chapter to sell other alcoholic beverages at retail for consumption on the premises at such establishment;(e) sell mead and braggot manufactured by the licensee or any other licensed farm meadery at retail for consumption off the premises, at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis;(f) conduct tastings of and sell at retail for consumption on or off the premises New York state labeled beer manufactured by a licensed brewery or licensed farm brewery;(g) conduct tastings of and sell at retail for consumption on or off the premises New York state labelled wine manufactured by a licensed winery or licensed farm winery;(h) conduct tastings of and sell at retail for consumption on or off the premises New York state labelled liquor manufactured by a licensed distiller or licensed farm distiller; provided, however, that no consumer may be provided, directly or indirectly: (i) with more than three samples of liquor for tasting in one calendar day; or (ii) with a sample of liquor for tasting equal to more than one-quarter fluid ounce; and(i) engage in any other business on the licensed premises subject to such rules and regulations as the authority may prescribe. Such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the farm meadery licensee.3. (a) A farm meadery licensee may apply for a permit to conduct tastings away from the licensed premises of mead and braggot produced by the licensee. Such permit shall be valid throughout the state and may be issued on an annual basis or for individual events. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary.(b) Tastings shall be conducted subject to the following limitations:(i) tastings shall be

conducted by an official agent, representative or solicitor of one or more farm meaderies. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and(ii) any liability stemming from a right of action resulting from a tasting of mead or braggot as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the farm meadery.4. A licensed farm meadery holding a tasting permit issued pursuant to subdivision three of this section may apply to the authority for a permit to sell mead produced by such farm meadery, by the bottle, during such tastings in premises licensed under section sixty-four or sixty-four-a of this chapter; or apply to the authority for a permit to sell such mead and/or braggot at a premises licensed under section eighty-one or eighty-one-a of this chapter. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary.5. A licensed farm meadery may, under such rules as may be adopted by the authority, sell mead and braggot manufactured by the licensee or any other licensed farm meadery at retail in bulk by the keg, cask or barrel for consumption and not for resale at a clam-bake, barbeque, picnic, outing or other similar outdoor gathering at which more than fifty persons are assembled.6. A licensed farm meadery may apply to the authority for a license to sell beer, liquor and/or wine at retail for consumption on the premises in a restaurant owned, conducted, and operated by the licensee in or adjacent to its farm meadery. All of the provisions of this chapter relative to licenses to sell beer, liquor or wine at retail or consumption on the premises shall apply so far as applicable.7. A farm meadery license shall authorize the holder thereof to manufacture, bottle and sell food condiments and products such as honey, mustards, sauces, jams, jellies, mulling spices and other mead related foods in addition to other such food and crafts on and from the licensed premises. Such license shall authorize the holder thereof to store and sell gift items in a tax-paid room upon the licensed premises incidental to the sale of mead and braggot. These gift items shall be limited to the following categories:(a) non-alcoholic beverages for consumption on or off premises, including but not limited to bottled water, juice and soda beverages;(b) food items for the purpose of complementing mead and braggot tastings, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking. Such food items shall include but not be limited to: cheeses, fruits, vegetables, chocolates, breads, baked goods, mustards and crackers;(c) food items, which shall include locally produced farm products and any food or food product not specifically prepared for immediate consumption upon the premises. Such food items may be combined into a package containing mead and/or braggot related products;(d) mead and braggot supplies and accessories, which shall include any item utilized for the storage, serving or consumption of mead or braggot or for decorative purposes. These supplies may be sold as single items or may be combined into a package containing mead and/or braggot;(e) mead-making and braggot-making equipment and supplies including, but not limited to, honey, home mead-making kits, braggot-making kits, pumps, filters, yeasts, chemicals and other mead and braggot additives, bottling equipment, bottles, mead and braggot storage and fermenting vessels, barrels, and books or other written material to assist mead-makers and braggot-makers and home mead-makers and braggot-makers to produce and bottle mead and braggot;(f) souvenir items, which shall include, but not be limited to artwork, crafts, clothing, agricultural products and any other articles which can be construed to propagate tourism within the region.8. Notwithstanding any provision of this chapter to the contrary, any farm meadery licensee may charge for tours of its premises.9. The holder of a license issued under this section may operate up to five branch offices located away from the licensed farm meadery. Such locations shall be considered part of the licensed premises and all activities allowed at and limited to the farm meadery may be conducted at the branch offices. Such branch offices shall not be located within, share a common entrance and exit with, or have any interior access to any other business, including premises licensed to sell alcoholic beverages at retail. Prior to commencing operation of any such branch office, the licensee shall notify the authority of the location of such branch office and the authority may issue a permit for the operation of same.10. (a) No farm meadery shall manufacture in excess of two hundred fifty thousand gallons of mead and/or braggot annually.(b) A licensed farm meadery shall produce at least fifty gallons of mead and/or braggot annually.11. Notwithstanding any contrary provision of law or of any rule or regulation promulgated pursuant thereto, and in addition to the activities which may otherwise be carried out by any person licensed under this section, such person may, on the premises designated in such license:(a) produce, package, bottle, sell and deliver soft drinks and other non-alcoholic beverages, vitamins, and other by-products;(b) recover carbon dioxide and yeast;(c) store bottles, packages and supplies necessary or incidental to all such operations;(d) package, bottle, sell and deliver wine products;(e) allow for the premises including space and equipment to be rented by a licensed tenant mead producer for the purposes of alternation.12. Notwithstanding any other provision of this chapter, the authority may issue a farm meadery license to the holder of a farm meadery, farm brewery, farm winery or farm distiller's license for use at such licensee's existing licensed premises. The holder of a farm meadery, farm brewery, farm winery or farm distiller's license that simultaneously holds a farm meadery license on an adjacent premises may share and use the same tasting room facilities to conduct any tastings that such licensee is otherwise authorized to conduct.13. The authority is hereby authorized to promulgate rules and regulations to effectuate the purposes of this section. In prescribing such rules and regulations, the authority shall promote the expansion and profitability of mead and braggot production and of tourism in New York, thereby promoting the conservation, production and enhancement of New York state agricultural lands.14. Notwithstanding any provision of law to the contrary, another business or other businesses may operate on the licensed premises subject to such rules and regulations as the liquor authority may prescribe. Such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the farm meadery premises, provided however that a retailer business licensed under this chapter shall not be permitted to operate at a licensed manufacturing premises. (a) sell in bulk mead and braggot manufactured by the licensee to any person licensed to manufacture alcoholic beverages in this state or to a permittee engaged in the manufacture of products which are unfit for beverage use; (b) sell or deliver mead and braggot manufactured by the

licensee to persons outside the state pursuant to the laws of the place of such delivery; (c) sell mead and braggot manufactured by the licensee to wholesalers and retailers licensed in this state to sell such mead and braggot pursuant to section thirty-three of this article, licensed farm distillers, licensed farm wineries, licensed wineries, licensed farm breweries and any other licensed farm meadery. All such mead and braggot sold by the licensee shall be securely sealed and have attached thereto a label as shall be required by section one hundred seven-a of this chapter; (d) (i) at the licensed premises, conduct tastings of, and sell at retail for consumption on or off the licensed premises, any mead and braggot manufactured by the licensee or any New York state labelled mead or New York state labelled braggot. Provided, however, for tastings and sales for on-premises consumption, the licensee shall regularly keep food available for sale or service to its retail customers for consumption on the premises. A licensee providing the following shall be deemed in compliance with this provision: (A) sandwiches, soups or other such foods, whether fresh, processed, pre-cooked or frozen; and/or (B) food items intended to complement the tasting of alcoholic beverages, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking, including but not limited to: cheeses, fruits, vegetables, chocolates, breads, mustards and crackers. All of the provisions of this chapter relative to licensees selling mead and braggot at retail shall apply; and (ii) operate a restaurant, hotel, catering establishment, or other food and drinking establishment in or adjacent to the licensed premises and sell at such place, at retail for consumption on the premises, mead and braggot manufactured by the licensee and any New York state labelled mead or New York state labeled braggot. All of the provisions of this chapter relative to licensees to selling mead and braggot at retail shall apply. Notwithstanding any other provision of law, the licensed farm meadery may apply to the authority for a license under this chapter to sell other alcoholic beverages at retail for consumption on the premises at such establishment; (e) sell mead and braggot manufactured by the licensee or any other licensed farm meadery at retail for consumption off the premises, at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis; (f) conduct tastings of and sell at retail for consumption on or off the premises New York state labeled beer manufactured by a licensed brewery or licensed farm brewery; (g) conduct tastings of and sell at retail for consumption on or off the premises New York state labelled wine manufactured by a licensed winery or licensed farm winery; (h) conduct tastings of and sell at retail for consumption on or off the premises New York state labelled liquor manufactured by a licensed distiller or licensed farm distiller; provided, however, that no consumer may be provided, directly or indirectly: (i) with more than three samples of liquor for tasting in one calendar day; or (ii) with a sample of liquor for tasting equal to more than one-quarter fluid ounce; and (i) engage in any other business on the licensed premises subject to such rules and regulations as the authority may prescribe. Such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the farm meadery licensee. 3. (a) A farm meadery licensee may apply for a permit to conduct tastings away from the licensed premises of mead and braggot produced by the licensee. Such permit shall be valid throughout the state and may be issued on an annual basis or for individual events. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary. (b) Tastings shall be conducted subject to the following limitations: (i) tastings shall be conducted by an official agent, representative or solicitor of one or more farm meaderies. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and (ii) any liability stemming from a right of action resulting from a tasting of mead or braggot as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the farm meadery. 4. A licensed farm meadery holding a tasting permit issued pursuant to subdivision three of this section may apply to the authority for a permit to sell mead produced by such farm meadery, by the bottle, during such tastings in premises licensed under section sixty-four or sixty-four-a of this chapter; or apply to the authority for a permit to sell such mead and/or braggot at a premises licensed under section eighty-one or eighty-one-a of this chapter. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary. 5. A licensed farm meadery may, under such rules as may be adopted by the authority, sell mead and braggot manufactured by the licensee or any other licensed farm meadery at retail in bulk by the keg, cask or barrel for consumption and not for resale at a clam-bake, barbeque, picnic, outing or other similar outdoor gathering at which more than fifty persons are assembled. 6. A licensed farm meadery may apply to the authority for a license to sell beer, liquor and/or wine at retail for consumption on the premises in a restaurant owned, conducted, and operated by the licensee in or adjacent to its farm meadery. All of the provisions of this chapter relative to licenses to sell beer, liquor or wine at retail or consumption on the premises shall apply so far as applicable. 7. A farm meadery license shall authorize the holder thereof to manufacture, bottle and sell food condiments and products such as honey, mustards, sauces, jams, jellies, mulling spices and other mead related foods in addition to other such food and crafts on and from the licensed premises. Such license shall authorize the holder thereof to store and sell gift items in a tax-paid room upon the licensed premises incidental to the sale of mead and braggot. These gift items shall be limited to the following categories: (a) non-alcoholic beverages for consumption on or off premises, including but not limited to bottled water, juice and soda beverages; (b) food items for the purpose of complementing mead and braggot tastings, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking. Such food items shall include but not be limited to: cheeses, fruits, vegetables, chocolates, breads, baked goods, mustards and crackers; (c) food items, which shall include locally produced farm products and any food or food product not specifically prepared for immediate consumption upon the premises. Such food items may be combined into a package containing mead and/or braggot related products; (d) mead and braggot supplies and accessories, which shall include any item utilized for the storage, serving or consumption of mead or braggot or for decorative purposes. These supplies may be sold as single items or may be combined into a package containing mead and/or braggot; (e) mead-making and braggot-making

equipment and supplies including, but not limited to, honey, home mead-making kits, braggot-making kits, pumps, filters, yeasts, chemicals and other mead and braggot additives, bottling equipment, bottles, mead and braggot storage and fermenting vessels, barrels, and books or other written material to assist mead-makers and braggot-makers and home mead-makers and braggot-makers to produce and bottle mead and braggot; (f) souvenir items, which shall include, but not be limited to artwork, crafts, clothing, agricultural products and any other articles which can be construed to propagate tourism within the region. 8. Notwithstanding any provision of this chapter to the contrary, any farm meadery licensee may charge for tours of its premises. 9. The holder of a license issued under this section may operate up to five branch offices located away from the licensed farm meadery. Such locations shall be considered part of the licensed premises and all activities allowed at and limited to the farm meadery may be conducted at the branch offices. Such branch offices shall not be located within, share a common entrance and exit with, or have any interior access to any other business, including premises licensed to sell alcoholic beverages at retail. Prior to commencing operation of any such branch office, the licensee shall notify the authority of the location of such branch office and the authority may issue a permit for the operation of same. 10. (a) No farm meadery shall manufacture in excess of two hundred fifty thousand gallons of mead and/or braggot annually. (b) A licensed farm meadery shall produce at least fifty gallons of mead and/or braggot annually. 11. Notwithstanding any contrary provision of law or of any rule or regulation promulgated pursuant thereto, and in addition to the activities which may otherwise be carried out by any person licensed under this section, such person may, on the premises designated in such license: (a) produce, package, bottle, sell and deliver soft drinks and other non-alcoholic beverages, vitamins, and other by-products; (b) recover carbon dioxide and yeast; (c) store bottles, packages and supplies necessary or incidental to all such operations; (d) package, bottle, sell and deliver wine products; (e) allow for the premises including space and equipment to be rented by a licensed tenant mead producer for the purposes of alternation. 12. Notwithstanding any other provision of this chapter, the authority may issue a farm meadery license to the holder of a farm meadery, farm brewery, farm winery or farm distiller's license for use at such licensee's existing licensed premises. The holder of a farm meadery, farm brewery, farm winery or farm distiller's license that simultaneously holds a farm meadery license on an adjacent premises may share and use the same tasting room facilities to conduct any tastings that such licensee is otherwise authorized to conduct. 13. The authority is hereby authorized to promulgate rules and regulations to effectuate the purposes of this section. In prescribing such rules and regulations, the authority shall promote the expansion and profitability of mead and braggot production and of tourism in New York, thereby promoting the conservation, production and enhancement of New York state agricultural lands. 14. Notwithstanding any provision of law to the contrary, another business or other businesses may operate on the licensed premises subject to such rules and regulations as the liquor authority may prescribe. Such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the farm meadery premises, provided however that a retailer business licensed under this chapter shall not be permitted to operate at a licensed manufacturing premises.

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§ 32. Authorization for sale of mead and braggot by retail licensees. 1. Each retail licensee under this chapter shall have the right, by virtue of his or her license and without being required to pay any additional fee for the privilege, to sell at retail for consumption on or off the premises, as the case may be, mead which has not been designated as a wine pursuant to subdivision nineteen-a of section three of this chapter and has been purchased from a person licensed to produce or sell mead at wholesale under this chapter. 2. Each retail licensee authorized to sell wine under this chapter shall have the right, by virtue of his or her license and without being required to pay any additional fee for the privilege, to sell at retail for consumption on or off the premises, as the case may be, mead which has been designated as a wine pursuant to subdivision nineteen-a of section three of this chapter and which has been purchased from a person licensed to produce or sell mead at wholesale under this chapter. 3. Each retail licensee authorized to sell beer under this chapter shall have the right, by virtue of his or her license and without being required to pay any additional fee for the privilege, to sell at retail for consumption on or off the premises, as the case may be, braggot which has been purchased from a person licensed to produce or sell braggot at wholesale under this chapter.

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(a) braggot purchased from a person licensed to produce braggot under this chapter. Such braggot shall be subject to the provisions of this chapter regarding the tasting and sale of beer at wholesale and retail; or (b) mead purchased from a person licensed to produce mead and which has not been designated as wine pursuant to subdivision nineteen-a of section three of this chapter. Such mead shall be subject to the provisions of this chapter regarding the tasting and sale of beer at wholesale and retail. 2. Each wholesale licensee authorized to sell wine under this chapter shall have the right, by virtue or its license and without being required to pay any additional fee for the privilege, to sell at wholesale mead purchased from a person licensed to produce mead and which has been designated as wine pursuant to subdivision nineteen-a of section three of this chapter. Such mead shall be subject to the provisions of this chapter regarding the tasting and sale or wine at wholesale and retail.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 3 - Special Provisions Relating to Mead and Braggot34 - Mead and Braggot Tasting.

§ 34. Mead and braggot tasting. Any person holding a retail license under this chapter shall be permitted to conduct consumer tastings of mead and braggot upon such person's licensed premises. All such tastings shall be subject to the following limitations: 1. Tastings of mead and braggot shall be conducted by the licensee or an authorized agent of the licensee. Provided, however, a licensed wholesaler shall not serve as the authorized agent for another entity, nor shall a licensed wholesaler be involved in any manner with a mead or braggot tasting conducted by another entity. 2. No more than three samples of mead and/or braggot may be provided to a person in one calendar day. 3. No sample may exceed three fluid ounces. 4. No tasting shall be held during the hours prohibited by the provisions of section one hundred five of this chapter. 5. Any liability stemming from a right of action resulting from a tasting authorized by this section and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law shall accrue to the licensee. 6. No person under the age of twenty-one shall be permitted to serve a sample or handle an open container of mead or braggot.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 3 - Special Provisions Relating to Mead and Braggot35 - Direct Interstate Mead and Braggot Shipments.

2. License. Before sending any shipment hereunder to a resident in this state, the out-of-state shipper shall first obtain a license from the authority under procedures prescribed by rules and regulations of the authority and after providing the authority with a true copy of its current license to manufacture mead and/or braggot in the applicant's state of domicile along with a copy of the applicant's federal basic permit and/or brewer's notice after payment of an annual fee of one hundred twenty-five dollars. Notwithstanding the provisions of section one hundred ten of this chapter, the authority in its discretion, may excuse an out-of-state manufacturer of mead and/or braggot from the submission of such information. 3. Licensee's responsibilities. The holder of an out-of-state direct shipper's license:(a) shall ship no more than thirty-six cases (no more than nine liters per case) per year of mead and/or braggot produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale;(b) may ship within the same packaging any and all alcoholic beverages it lawfully produces and which it sells in accordance with its shipping privileges and responsibilities pursuant to the provisions of this section and sections fifty-nine-b, sixty-eight, and seventy-nine-c of this chapter, as applicable;(c) shall ensure that the outside of each shipping container used to ship mead and/or braggot directly to a New York resident is conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language specifically approved by the New York state liquor authority;(d) shall maintain records in such manner and form as the authority may direct, showing the total amount of mead and/or braggot shipped into the state each calendar year; the names and addresses of the purchasers to whom the mead and/or braggot was shipped, the date purchased, the name of the common carrier used to deliver the mead and/or braggot, and the quantity and value of each shipment;(e) shall in connection with the acceptance of an order for a delivery of mead and/or braggot to a New York resident, require the prospective customer to represent that he or she has attained the age of twenty-one years or more and that the mead and/or braggot being purchased will not be resold or introduced into commerce;(f) shall require common carriers to:(i) require a recipient, at the delivery address, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section sixty-five-b of this article;(ii) require a recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the authority; and(iii) refuse delivery when the proposed recipient appears to be under twenty-one years of age and refuses to present valid identification as required by subparagraph (i) of this paragraph;(g) shall file returns with and pay to the New York state department of taxation and finance all state and local sales taxes and excise taxes due on sales into this state in accordance with the applicable provisions of the tax law relating to such taxes, the amount of such taxes to be determined on the basis that each sale in this state was at the location where delivery is made;(h) shall keep all records required by this section for three years and provide copies of such records, upon written request, to the authority or the department of taxation and finance;(i) shall permit the authority or the department of taxation and finance to perform an audit of such out-of-state shipper upon request;(j) shall execute a written consent to the jurisdiction of this state, its agencies and instrumentalities and the courts of this state concerning enforcement of this section and any related laws, rules, or regulations, including tax laws, rules or regulations; and(k) shall prior to obtaining an out-of-state direct shipper's license, obtain a certificate of authority pursuant to section eleven hundred thirty-four of the tax law and a registration as a distributor pursuant to sections four hundred twenty-one and four hundred twenty-two of the tax law.4. Situs. Delivery of a shipment in this state by the holder of an out-of-state direct shipper's license shall be deemed to constitute a sale in this state at the place of delivery and shall be subject to all excise taxes levied pursuant to section four hundred twenty-four of the tax law and all sales taxes levied pursuant to articles twenty-eight and twenty-nine of such law.5. Renewal. The out-of-state shipper may annually renew its license with the authority by paying a one hundred twenty-five dollar renewal fee, providing the authority with a true copy of its current license in such other state as an alcoholic beverage manufacturer and by complying with such other procedures as are prescribed by rule of the authority.6. Rules and regulations. The authority and the department of taxation and finance may promulgate rules and regulations to effectuate the purposes of this section.7. Enforcement. The authority may enforce the requirements of this section including the requirements imposed on the common carrier, by administrative proceedings to suspend or revoke an out-of-state shipper's license and the authority may accept payment of an administrative fine in lieu of suspension, such payments to be determined by rules or regulations promulgated by the authority. In addition, the authority or the attorney general of the state of New York shall report violations of this section, where appropriate, to the United States department of treasury, tax and trade bureau, for administrative action to suspend or revoke the federal basic permit.8. Violations. In any action brought under this section, the common carrier and the licensee shall only be held liable for their independent acts. (a)

shall ship no more than thirty-six cases (no more than nine liters per case) per year of mead and/or braggot produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale; (b) may ship within the same packaging any and all alcoholic beverages it lawfully produces and which it sells in accordance with its shipping privileges and responsibilities pursuant to the provisions of this section and sections fifty-nine-b, sixty-eight, and seventy-nine-c of this chapter, as applicable; (c) shall ensure that the outside of each shipping container used to ship mead and/or braggot directly to a New York resident is conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language specifically approved by the New York state liquor authority; (d) shall maintain records in such manner and form as the authority may direct, showing the total amount of mead and/or braggot shipped into the state each calendar year; the names and addresses of the purchasers to whom the mead and/or braggot was shipped, the date purchased, the name of the common carrier used to deliver the mead and/or braggot, and the quantity and value of each shipment; (e) shall in connection with the acceptance of an order for a delivery of mead and/or braggot to a New York resident, require the prospective customer to represent that he or she has attained the age of twenty-one years or more and that the mead and/or braggot being purchased will not be resold or introduced into commerce; (f) shall require common carriers to: (i) require a recipient, at the delivery address, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section sixty-five-b of this article; (ii) require a recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the authority; and (iii) refuse delivery when the proposed recipient appears to be under twenty-one years of age and refuses to present valid identification as required by subparagraph (i) of this paragraph; (g) shall file returns with and pay to the New York state department of taxation and finance all state and local sales taxes and excise taxes due on sales into this state in accordance with the applicable provisions of the tax law relating to such taxes, the amount of such taxes to be determined on the basis that each sale in this state was at the location where delivery is made; (h) shall keep all records required by this section for three years and provide copies of such records, upon written request, to the authority or the department of taxation and finance; (i) shall permit the authority or the department of taxation and finance to perform an audit of such out-of-state shipper upon request; (j) shall execute a written consent to the jurisdiction of this state, its agencies and instrumentalities and the courts of this state concerning enforcement of this section and any related laws, rules, or regulations, including tax laws, rules or regulations; and (k) shall prior to obtaining an out-of-state direct shipper's license, obtain a certificate of authority pursuant to section eleven hundred thirty-four of the tax law and a registration as a distributor pursuant to sections four hundred twenty-one and four hundred twenty-two of the tax law. 4. Situs. Delivery of a shipment in this state by the holder of an out-of-state direct shipper's license shall be deemed to constitute a sale in this state at the place of delivery and shall be subject to all excise taxes levied pursuant to section four hundred twenty-four of the tax law and all sales taxes levied pursuant to articles twenty-eight and twenty-nine of such law. 5. Renewal. The out-of-state shipper may annually renew its license with the authority by paying a one hundred twenty-five dollar renewal fee, providing the authority with a true copy of its current license in such other state as an alcoholic beverage manufacturer and by complying with such other procedures as are prescribed by rule of the authority. 6. Rules and regulations. The authority and the department of taxation and finance may promulgate rules and regulations to effectuate the purposes of this section. 7. Enforcement. The authority may enforce the requirements of this section including the requirements imposed on the common carrier, by administrative proceedings to suspend or revoke an out-of-state shipper's license and the authority may accept payment of an administrative fine in lieu of suspension, such payments to be determined by rules or regulations promulgated by the authority. In addition, the authority or the attorney general of the state of New York shall report violations of this section, where appropriate, to the United States department of treasury, tax and trade bureau, for administrative action to suspend or revoke the federal basic permit. 8. Violations. In any action brought under this section, the common carrier and the licensee shall only be held liable for their independent acts.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 3 - Special Provisions Relating to Mead and Braggot36 - Direct Intrastate Mead and Braggot Shipments.

1. Licensee's shipping responsibilities. Notwithstanding any provision to the contrary contained in this chapter, any above referred licensee:(a) shall ship no more than thirty-six cases (no more than nine liters per case) per year of mead and/or braggot produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale;(b) may ship within the same packaging any and all alcoholic beverages it lawfully produces and which it sells in accordance with its shipping privileges and responsibilities pursuant to the provisions of this section and sections fifty-nine-c, sixty-nine, and seventy-nine-d of this chapter, as applicable;(c) shall ensure that the outside of each shipping container used to ship mead and/or braggot directly to a New York state resident is conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language specifically approved by the New York state liquor authority;(d) shall maintain records in such manner and form as the authority may direct showing the total amount of mead and/or braggot shipped in the state each calendar year, the names and addresses of the purchasers to whom the mead and/or braggot was shipped, the date purchased, the name of the common carrier used to deliver the mead and/or braggot, and the quantity and value of each shipment. Such records shall be kept for three years and, upon written request, be provided to the authority or the department of taxation and finance;(e) shall in connection with the acceptance of an order for a delivery of mead and/or braggot to a New York resident, require the prospective customer to represent that he or she has attained the age of twenty-one years or more and that the mead and/or braggot being purchased will not be resold or introduced into commerce; and(f) shall require common carriers to:(i) require a recipient, at the delivery address, upon delivery, to demonstrate

that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section sixty-five-b of this article;(ii) require a recipient to sign an electronic or paper form or other acknowledgment of receipt as approved by the authority; and(iii) refuse delivery when the proposed recipient appears to be under twenty-one years of age and refuses to present valid identification as required by paragraph (a) of this subdivision.2. Violations. In any action brought under this section, the common carrier and the licensee shall only be held liable for their independent acts. (a) shall ship no more than thirty-six cases (no more than nine liters per case) per year of mead and/or braggot produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale; (b) may ship within the same packaging any and all alcoholic beverages it lawfully produces and which it sells in accordance with its shipping privileges and responsibilities pursuant to the provisions of this section and sections fifty-nine-c, sixty-nine, and seventy-nine-d of this chapter, as applicable; (c) shall ensure that the outside of each shipping container used to ship mead and/or braggot directly to a New York state resident is conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language specifically approved by the New York state liquor authority; (d) shall maintain records in such manner and form as the authority may direct showing the total amount of mead and/or braggot shipped in the state each calendar year, the names and addresses of the purchasers to whom the mead and/or braggot was shipped, the date purchased, the name of the common carrier used to deliver the mead and/or braggot, and the quantity and value of each shipment. Such records shall be kept for three years and, upon written request, be provided to the authority or the department of taxation and finance; (e) shall in connection with the acceptance of an order for a delivery of mead and/or braggot to a New York resident, require the prospective customer to represent that he or she has attained the age of twenty-one years or more and that the mead and/or braggot being purchased will not be resold or introduced into commerce; and (f) shall require common carriers to: (i) require a recipient, at the delivery address, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section sixty-five-b of this article; (ii) require a recipient to sign an electronic or paper form or other acknowledgment of receipt as approved by the authority; and (iii) refuse delivery when the proposed recipient appears to be under twenty-one years of age and refuses to present valid identification as required by paragraph (a) of this subdivision. 2. Violations. In any action brought under this section, the common carrier and the licensee shall only be held liable for their independent acts.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4-A - Special Provisions Relating to Cider58-A - Sale of Cider by Wholesale Beer Licensees.

§ 58-a. Sale of cider by wholesale beer licensees. A wholesale beer licensee, as defined under this chapter shall, upon the payment of an additional annual license fee of one hundred twenty-five dollars, be permitted to sell cider as defined under this chapter at wholesale from duly licensed premises, to duly licensed beer, wine and liquor retailers and to other holders of licenses under this chapter, in bottles, barrels or casks, and to sell and deliver cider to persons outside the state pursuant to the laws of the place of such delivery. The provisions of section fifty-seven shall apply to licenses issued hereunder to sell cider at wholesale pursuant to the provisions of this section.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4-A - Special Provisions Relating to Cider58-B - Retail Sale of Cider by Wholesale Licensees.

§ 58-b. Retail sale of cider by wholesale licensees. 1. Notwithstanding any other law upon payment to the liquor authority of an additional annual fee of one hundred twenty-five dollars, the liquor authority may in its discretion and upon such terms and conditions as it may prescribe, issue to a licensed cider producer upon application therefor a certificate authorizing such producer to sell cider at retail in sealed containers to a householder for consumption in his home, but no sale to such householder shall be in quantities aggregating more than fifteen gallons. Revenues received by any such licensed cider producer from the sale of cider at retail to householders under such a certificate during the term thereof shall not exceed five per centum of all the revenues derived by such licensee from the sale of apples and cider during such term. 2. No retail licensee of cider authorized by this section shall keep or permit to be kept upon the licensed premises, any cider in any unsealed bottle or other unsealed container, except for the purpose of cider tasting or sampling by any person pursuant to authorization to conduct such a sampling or tasting pursuant to subdivision two of section fifty-eight of this article, except to those persons to whom sales are prohibited in section sixty-five of this chapter.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4-A - Special Provisions Relating to Cider58-C - Farm Cidery License.

2. A farm cidery license shall authorize the holder thereof to operate a cidery for the manufacture of New York state labelled cider. Such a license shall also authorize the licensee to:(a) sell in bulk cider manufactured by the licensee to any person licensed to manufacture alcoholic beverages in this state or to a permittee engaged in the manufacture of products which are unfit for beverage use;(b) sell or deliver cider manufactured by the licensee to persons outside the state pursuant to the laws of the place of such delivery;(c) sell cider manufactured by the licensee to wholesalers and retailers licensed in this state to sell such cider, licensed farm distillers, licensed farm wineries, licensed wineries, licensed farm breweries and any other licensed farm cidery. All such cider sold by the licensee shall be securely sealed and have attached thereto a label as shall be required by section one hundred seven-a of this chapter;(f) (i) at the licensed premises, conduct tastings of, and sell at retail for consumption on or off the licensed premises, any cider manufactured by the licensee or any New York state labeled cider. Provided, however, for tastings and sales for on-premises

consumption, the licensee shall regularly keep food available for sale or service to its retail customers for consumption on the premises. A licensee providing the following shall be deemed in compliance with this provision: (A) sandwiches, soups or other such foods, whether fresh, processed, pre-cooked or frozen; and/or (B) food items intended to complement the tasting of alcoholic beverages, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking, including but not limited to: cheeses, fruits, vegetables, chocolates, breads, mustards and crackers. All of the provisions of this chapter relative to licensees selling cider at retail shall apply; and (ii) operate a restaurant, hotel, catering establishment, or other food and drinking establishment in or adjacent to the licensed premises and sell at such place, at retail for consumption on the premises, cider manufactured by the licensee and any New York state labeled cider. All of the provisions of this chapter relative to licensees to selling cider at retail shall apply. Notwithstanding any other provision of law, the licensed farm cidery may apply to the authority for a license under this chapter to sell other alcoholic beverages at retail for consumption on the premises at such establishment;(g) sell cider manufactured by the licensee or any other licensed farm cidery at retail for consumption off the premises, at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis;(h) conduct tastings of and sell at retail for consumption on or off the premises New York state labeled beer manufactured by a licensed brewery or licensed farm brewery;(i) conduct tastings of and sell at retail for consumption on or off the premises New York state labelled wine manufactured by a licensed winery or licensed farm winery;(j) conduct tastings of and sell at retail for consumption on or off the premises New York state labelled liquor manufactured by a licensed distiller or licensed farm distiller; provided, however, that no consumer may be provided, directly or indirectly: (i) with more than three samples of liquor for tasting in one calendar day; or (ii) with a sample of liquor for tasting equal to more than one-quarter fluid ounce;(j-1) conduct tastings of and sell at retail for consumption on or off the premises New York state labelled mead manufactured by a person licensed to produce mead under this chapter;(j-2) conduct tastings of and sell at retail for consumption on or off the premises New York state labelled braggot manufactured by a person licensed to produce braggot under this chapter; and(k) engage in any other business on the licensed premises subject to such rules and regulations as the authority may prescribe. Such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the farm cidery licensee.3. (a) A farm cidery licensee may apply for a permit to conduct tastings away from the licensed premises of cider produced by the licensee. Such permit shall be valid throughout the state and may be issued on an annual basis or for individual events. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary.(b) Tastings shall be conducted subject to the following limitations:(i) tastings shall be conducted by an official agent, representative or solicitor of one or more farm cideries. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and(ii) any liability stemming from a right of action resulting from a tasting of cider as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the farm cidery.4. A licensed farm cidery holding a tasting permit issued pursuant to subdivision three of this section may apply to the authority for a permit to sell cider produced by such farm cidery, by the bottle, during such tastings in premises licensed under sections sixty-four, sixty-four-a, eighty-one and eighty-one-a of this chapter. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary.5. A licensed farm cidery may, under such rules as may be adopted by the authority, sell cider manufactured by the licensee or any other licensed farm cidery at retail in bulk by the keg, cask or barrel for consumption and not for resale at a clam-bake, barbeque, picnic, outing or other similar outdoor gathering at which more than fifty persons are assembled.6. A licensed farm cidery may apply to the authority for a license to sell beer, liquor and/or wine at retail for consumption on the premises in a restaurant owned by him and conducted and operated by the licensee in or adjacent to its farm cidery. All of the provisions of this chapter relative to licenses to sell beer, liquor or wine at retail or consumption on the premises shall apply so far as applicable.7. A farm cidery license shall authorize the holder thereof to manufacture, bottle and sell food condiments and products such as mustards, sauces, jams, jellies, mulling spices and other cider related foods in addition to other such food and crafts on and from the licensed premises. Such license shall authorize the holder thereof to store and sell gift items in a tax-paid room upon the licensed premises incidental to the sale of cider. These gift items shall be limited to the following categories:(a) non-alcoholic beverages for consumption on or off premises, including but not limited to bottled water, juice and soda beverages;(b) food items for the purpose of complementing cider tastings, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking. Such food items shall include but not be limited to: cheeses, fruits, vegetables, chocolates, breads, baked goods, mustards and crackers;(c) food items, which shall include locally produced farm products and any food or food product not specifically prepared for immediate consumption upon the premises. Such food items may be combined into a package containing cider related products;(d) cider supplies and accessories, which shall include any item utilized for the storage, serving or consumption of cider or for decorative purposes. These supplies may be sold as single items or may be combined into a package containing cider;(e) cider-making equipment and supplies including, but not limited to, apples, apple juice, other pome fruits, other pome fruit juices, home cider-making kits, presses, pumps, filters, yeasts, chemicals and other cider additives, bottling equipment, bottles, cider storage and fermenting vessels, barrels, and books or other written material to assist cider-makers and home cider-makers to produce and bottle cider;(f) souvenir items, which shall include, but not be limited to artwork, crafts, clothing, agricultural products and any other articles which can be construed to propagate tourism within the region.8. Notwithstanding any provision of this chapter to the contrary, any farm cidery licensee may charge for tours of its premises.9. The holder of a license issued under this section may operate up to five branch offices located away from the licensed farm cidery. Such locations shall be considered part of the licensed premises and all activities allowed at and limited to the farm

cidery may be conducted at the branch offices. Such branch offices shall not be located within, share a common entrance and exit with, or have any interior access to any other business, including premises licensed to sell alcoholic beverages at retail. Prior to commencing operation of any such branch office, the licensee shall notify the authority of the location of such branch office and the authority may issue a permit for the operation of same.10. (a) No farm cidery shall manufacture in excess of two hundred fifty thousand gallons of cider annually.(b) A licensed farm cidery shall produce at least fifty gallons of cider annually.11. (a) Except as provided in paragraph (b) of this subdivision, no licensed farm cidery shall manufacture or sell any cider other than New York state labelled cider.(b) In the event that the commissioner of agriculture and markets, after investigating and compiling information pursuant to subdivision forty-two of section sixteen of the agriculture and markets law, determines that a natural disaster, act of God, or continued adverse weather condition has destroyed at least thirty percent of the apple crop necessary for producing cider, such commissioner, in consultation with the chairman of the authority, may give authorization to a duly licensed farm cidery to manufacture or sell cider produced from such apples designated as necessary for producing cider and grown outside this state. No such authorization shall be granted to a farm cidery licensee unless such licensee certifies to such commissioner the quantity of such New York grown apples designated as necessary for producing cider unavailable to such licensee due to such natural disaster, act of God, or continuing adverse weather condition and satisfies such commissioner that reasonable efforts were made to obtain such apples from a New York state source for such cider making purpose. No farm cidery shall utilize an amount of out-of-state grown apples exceeding the amount of New York grown apples that such cidery is unable to obtain due to the destruction of New York grown apples by a natural disaster, act of God, or continuing adverse weather condition as determined by the commissioner of agriculture and markets pursuant to this subdivision. For purposes of this subdivision, the department of agriculture and markets and the authority are authorized to adopt rules and regulations as they may deem necessary to carry out the provisions of this subdivision which shall include ensuring that in manufacturing cider farm cideries utilize apples grown in New York state to the extent they are reasonably available, prior to utilizing apples from an out-of-state source for such purpose.(c) The commissioner of agriculture and markets shall make available to farm cideries and to the public each specific apple loss determination issued pursuant to paragraph (b) of this subdivision on or after August twentieth of each year.(d) In the event that the continuing effects of a natural disaster, act of God, or adverse weather condition which occurred prior to August twentieth of each year or the effects of a natural disaster, act of God, or adverse weather condition which occurs subsequent to August twentieth of each year results in any apple crop loss which meets the standards provided in paragraph (b) of this subdivision, the commissioner of agriculture and markets, in consultation with the chairman of the authority, may issue additional apple crop loss determinations and shall expeditiously make available to farm cideries and to the public the loss determination issued pursuant to this paragraph prior to October tenth of each year.12. Notwithstanding any contrary provision of law or of any rule or regulation promulgated pursuant thereto, and in addition to the activities which may otherwise be carried out by any person licensed under this section, such person may, on the premises designated in such license:(a) produce, package, bottle, sell and deliver soft drinks and other non-alcoholic beverages, vitamins, and other by-products;(b) recover carbon dioxide and yeast;(c) store bottles, packages and supplies necessary or incidental to all such operations;(d) package, bottle, sell and deliver wine products;(e) allow for the premises including space and equipment to be rented by a licensed tenant cider producer for the purposes of alternation.13. Notwithstanding any other provision of this chapter, the authority may issue a farm cidery license to the holder of a farm brewery, farm winery or farm distiller's license for use at such licensee's existing licensed premises. The holder of a farm brewery, farm winery or farm distiller's license that simultaneously holds a farm cidery license on an adjacent premises may share and use the same tasting room facilities to conduct any tastings that such licensee is otherwise authorized to conduct.14. The authority is hereby authorized to promulgate rules and regulations to effectuate the purposes of this section. In prescribing such rules and regulations, the authority shall promote the expansion and profitability of cider production and of tourism in New York, thereby promoting the conservation, production and enhancement of New York state agricultural lands.15. Notwithstanding any provision of law to the contrary, another business or other businesses may operate on the licensed premises subject to such rules and regulations as the liquor authority may prescribe. Such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the farm cidery premises, provided however that a retailer business licensed under this chapter shall not be permitted to operate at a licensed manufacturing premises. (a) sell in bulk cider manufactured by the licensee to any person licensed to manufacture alcoholic beverages in this state or to a permittee engaged in the manufacture of products which are unfit for beverage use; (b) sell or deliver cider manufactured by the licensee to persons outside the state pursuant to the laws of the place of such delivery; (c) sell cider manufactured by the licensee to wholesalers and retailers licensed in this state to sell such cider, licensed farm distillers, licensed farm wineries, licensed wineries, licensed farm breweries and any other licensed farm cidery. All such cider sold by the licensee shall be securely sealed and have attached thereto a label as shall be required by section one hundred seven-a of this chapter; (f) (i) at the licensed premises, conduct tastings of, and sell at retail for consumption on or off the licensed premises, any cider manufactured by the licensee or any New York state labeled cider. Provided, however, for tastings and sales for on-premises consumption, the licensee shall regularly keep food available for sale or service to its retail customers for consumption on the premises. A licensee providing the following shall be deemed in compliance with this provision: (A) sandwiches, soups or other such foods, whether fresh, processed, pre-cooked or frozen; and/or (B) food items intended to complement the tasting of alcoholic beverages, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking, including but not limited to: cheeses, fruits, vegetables, chocolates, breads, mustards and crackers. All of the provisions of this chapter relative to licensees selling cider at retail shall apply; and (ii) operate a restaurant, hotel, catering establishment, or other food and drinking establishment

in or adjacent to the licensed premises and sell at such place, at retail for consumption on the premises, cider manufactured by the licensee and any New York state labeled cider. All of the provisions of this chapter relative to licensees to selling cider at retail shall apply. Notwithstanding any other provision of law, the licensed farm cidery may apply to the authority for a license under this chapter to sell other alcoholic beverages at retail for consumption on the premises at such establishment; (g) sell cider manufactured by the licensee or any other licensed farm cidery at retail for consumption off the premises, at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis; (h) conduct tastings of and sell at retail for consumption on or off the premises New York state labeled beer manufactured by a licensed brewery or licensed farm brewery; (i) conduct tastings of and sell at retail for consumption on or off the premises New York state labelled wine manufactured by a licensed winery or licensed farm winery; (j) conduct tastings of and sell at retail for consumption on or off the premises New York state labelled liquor manufactured by a licensed distiller or licensed farm distiller; provided, however, that no consumer may be provided, directly or indirectly: (i) with more than three samples of liquor for tasting in one calendar day; or (ii) with a sample of liquor for tasting equal to more than one-quarter fluid ounce; (j-1) conduct tastings of and sell at retail for consumption on or off the premises New York state labelled mead manufactured by a person licensed to produce mead under this chapter; (j-2) conduct tastings of and sell at retail for consumption on or off the premises New York state labelled braggot manufactured by a person licensed to produce braggot under this chapter; and (k) engage in any other business on the licensed premises subject to such rules and regulations as the authority may prescribe. Such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the farm cidery licensee. 3. (a) A farm cidery licensee may apply for a permit to conduct tastings away from the licensed premises of cider produced by the licensee. Such permit shall be valid throughout the state and may be issued on an annual basis or for individual events. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary. (b) Tastings shall be conducted subject to the following limitations: (i) tastings shall be conducted by an official agent, representative or solicitor of one or more farm cideries. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and (ii) any liability stemming from a right of action resulting from a tasting of cider as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the farm cidery. 4. A licensed farm cidery holding a tasting permit issued pursuant to subdivision three of this section may apply to the authority for a permit to sell cider produced by such farm cidery, by the bottle, during such tastings in premises licensed under sections sixty-four, sixty-four-a, eighty-one and eighty-one-a of this chapter. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary. 5. A licensed farm cidery may, under such rules as may be adopted by the authority, sell cider manufactured by the licensee or any other licensed farm cidery at retail in bulk by the keg, cask or barrel for consumption and not for resale at a clam-bake, barbeque, picnic, outing or other similar outdoor gathering at which more than fifty persons are assembled. 6. A licensed farm cidery may apply to the authority for a license to sell beer, liquor and/or wine at retail for consumption on the premises in a restaurant owned by him and conducted and operated by the licensee in or adjacent to its farm cidery. All of the provisions of this chapter relative to licenses to sell beer, liquor or wine at retail or consumption on the premises shall apply so far as applicable. 7. A farm cidery license shall authorize the holder thereof to manufacture, bottle and sell food condiments and products such as mustards, sauces, jams, jellies, mulling spices and other cider related foods in addition to other such food and crafts on and from the licensed premises. Such license shall authorize the holder thereof to store and sell gift items in a tax-paid room upon the licensed premises incidental to the sale of cider. These gift items shall be limited to the following categories: (a) non-alcoholic beverages for consumption on or off premises, including but not limited to bottled water, juice and soda beverages; (b) food items for the purpose of complementing cider tastings, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking. Such food items shall include but not be limited to: cheeses, fruits, vegetables, chocolates, breads, baked goods, mustards and crackers; (c) food items, which shall include locally produced farm products and any food or food product not specifically prepared for immediate consumption upon the premises. Such food items may be combined into a package containing cider related products; (d) cider supplies and accessories, which shall include any item utilized for the storage, serving or consumption of cider or for decorative purposes. These supplies may be sold as single items or may be combined into a package containing cider; (e) cider-making equipment and supplies including, but not limited to, apples, apple juice, other pome fruits, other pome fruit juices, home cider-making kits, presses, pumps, filters, yeasts, chemicals and other cider additives, bottling equipment, bottles, cider storage and fermenting vessels, barrels, and books or other written material to assist cider-makers and home cider-makers to produce and bottle cider; (f) souvenir items, which shall include, but not be limited to artwork, crafts, clothing, agricultural products and any other articles which can be construed to propagate tourism within the region. 8. Notwithstanding any provision of this chapter to the contrary, any farm cidery licensee may charge for tours of its premises. 9. The holder of a license issued under this section may operate up to five branch offices located away from the licensed farm cidery. Such locations shall be considered part of the licensed premises and all activities allowed at and limited to the farm cidery may be conducted at the branch offices. Such branch offices shall not be located within, share a common entrance and exit with, or have any interior access to any other business, including premises licensed to sell alcoholic beverages at retail. Prior to commencing operation of any such branch office, the licensee shall notify the authority of the location of such branch office and the authority may issue a permit for the operation of same. 10. (a) No farm cidery shall manufacture in excess of two hundred fifty thousand gallons of cider annually. (b) A licensed farm cidery shall produce at least fifty gallons of cider annually. 11. (a) Except as provided in paragraph (b) of this subdivision, no licensed farm cidery shall manufacture or sell any cider other than New York state labelled cider. (b) In the event

that the commissioner of agriculture and markets, after investigating and compiling information pursuant to subdivision forty-two of section sixteen of the agriculture and markets law, determines that a natural disaster, act of God, or continued adverse weather condition has destroyed at least thirty percent of the apple crop necessary for producing cider, such commissioner, in consultation with the chairman of the authority, may give authorization to a duly licensed farm cidery to manufacture or sell cider produced from such apples designated as necessary for producing cider and grown outside this state. No such authorization shall be granted to a farm cidery licensee unless such licensee certifies to such commissioner the quantity of such New York grown apples designated as necessary for producing cider unavailable to such licensee due to such natural disaster, act of God, or continuing adverse weather condition and satisfies such commissioner that reasonable efforts were made to obtain such apples from a New York state source for such cider making purpose. No farm cidery shall utilize an amount of out-of-state grown apples exceeding the amount of New York grown apples that such cidery is unable to obtain due to the destruction of New York grown apples by a natural disaster, act of God, or continuing adverse weather condition as determined by the commissioner of agriculture and markets pursuant to this subdivision. For purposes of this subdivision, the department of agriculture and markets and the authority are authorized to adopt rules and regulations as they may deem necessary to carry out the provisions of this subdivision which shall include ensuring that in manufacturing cider farm cideries utilize apples grown in New York state to the extent they are reasonably available, prior to utilizing apples from an out-of-state source for such purpose. (c) The commissioner of agriculture and markets shall make available to farm cideries and to the public each specific apple loss determination issued pursuant to paragraph (b) of this subdivision on or after August twentieth of each year. (d) In the event that the continuing effects of a natural disaster, act of God, or adverse weather condition which occurred prior to August twentieth of each year or the effects of a natural disaster, act of God, or adverse weather condition which occurs subsequent to August twentieth of each year results in any apple crop loss which meets the standards provided in paragraph (b) of this subdivision, the commissioner of agriculture and markets, in consultation with the chairman of the authority, may issue additional apple crop loss determinations and shall expeditiously make available to farm cideries and to the public the loss determination issued pursuant to this paragraph prior to October tenth of each year. 12. Notwithstanding any contrary provision of law or of any rule or regulation promulgated pursuant thereto, and in addition to the activities which may otherwise be carried out by any person licensed under this section, such person may, on the premises designated in such license: (a) produce, package, bottle, sell and deliver soft drinks and other non-alcoholic beverages, vitamins, and other by-products; (b) recover carbon dioxide and yeast; (c) store bottles, packages and supplies necessary or incidental to all such operations; (d) package, bottle, sell and deliver wine products; (e) allow for the premises including space and equipment to be rented by a licensed tenant cider producer for the purposes of alternation. 13. Notwithstanding any other provision of this chapter, the authority may issue a farm cidery license to the holder of a farm brewery, farm winery or farm distiller's license for use at such licensee's existing licensed premises. The holder of a farm brewery, farm winery or farm distiller's license that simultaneously holds a farm cidery license on an adjacent premises may share and use the same tasting room facilities to conduct any tastings that such licensee is otherwise authorized to conduct. 14. The authority is hereby authorized to promulgate rules and regulations to effectuate the purposes of this section. In prescribing such rules and regulations, the authority shall promote the expansion and profitability of cider production and of tourism in New York, thereby promoting the conservation, production and enhancement of New York state agricultural lands. 15. Notwithstanding any provision of law to the contrary, another business or other businesses may operate on the licensed premises subject to such rules and regulations as the liquor authority may prescribe. Such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the farm cidery premises, provided however that a retailer business licensed under this chapter shall not be permitted to operate at a licensed manufacturing premises.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4-A - Special Provisions Relating to Cider58-D - Custom Cidermakers' Center.

2. For the purposes of this section, "fruit" shall mean fresh, whole apples or other pome fruits that are grown or produced in the state of New York. 3. A custom cidermakers' center license shall authorize the holder thereof to operate a facility for individuals to rent space, equipment, and storage facilities and, if necessary, to purchase fruit to manufacture cider for personal household use provided that the manufacture and production of cider for personal household consumption and use is done in accordance with state and federal laws and regulations. Such a license shall also authorize the licensee, provided such activities are permitted by the federal Alcohol and Tobacco Tax and Trade Bureau for the manufacture of tax exempt cider for personal household use, to:(a) conduct training classes on how to manufacture cider; and(b) conduct cider tastings for those individuals taking such classes and/or using such facility for the production of cider at the licensed facility provided that the tastings shall be subject to the following limitations:(i) tastings shall be conducted by the licensee or by an official agent of the licensee. Such licensee or agent shall be physically present at all times during the conduct of the tastings; and(ii) any liability stemming from a right of action resulting from a tasting of cider as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to such center.4. The custom cidermakers' center licensee shall be subject to the supervision of the authority to ensure that the licensee and the individuals utilizing such center are in compliance with the provisions of this chapter, state laws, rules, and regulations, and the laws, rules, and regulations of the federal Alcohol and Tobacco Tax and Trade Bureau.5. The licensee or an official agent of the licensee shall be physically present at all times during the facility's hours of operations.6. The annual aggregate production of cider at any such center for all individuals making cider at such premises, pursuant to a custom cidermakers' center license, shall not exceed the production limits set forth by the authority that are commensurate with a

non-commercial production facility. Provided that such aggregate production limit shall not be offset by cider produced at such facility under a cidery license or farm cidery license.7. Notwithstanding any other provision of this chapter, the authority may issue a custom cidermakers' center license to the holder of a farm cidery or cidery license or farm winery or winery license for use at such licensee's existing licensed premises.8. The authority is hereby authorized to promulgate rules and regulations to effectuate the purposes of this section.9. The licensee must maintain a record of the name, address, and contact information of the individuals that have used such facility and the annual amount of cider produced by each individual at the facility pursuant to the rules of the authority.10. The annual fee for a license to operate a custom cidermakers' center shall be three hundred twenty dollars. (a) conduct training classes on how to manufacture cider; and (b) conduct cider tastings for those individuals taking such classes and/or using such facility for the production of cider at the licensed facility provided that the tastings shall be subject to the following limitations: (i) tastings shall be conducted by the licensee or by an official agent of the licensee. Such licensee or agent shall be physically present at all times during the conduct of the tastings; and (ii) any liability stemming from a right of action resulting from a tasting of cider as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to such center. 4. The custom cidermakers' center licensee shall be subject to the supervision of the authority to ensure that the licensee and the individuals utilizing such center are in compliance with the provisions of this chapter, state laws, rules, and regulations, and the laws, rules, and regulations of the federal Alcohol and Tobacco Tax and Trade Bureau. 5. The licensee or an official agent of the licensee shall be physically present at all times during the facility's hours of operations. 6. The annual aggregate production of cider at any such center for all individuals making cider at such premises, pursuant to a custom cidermakers' center license, shall not exceed the production limits set forth by the authority that are commensurate with a non-commercial production facility. Provided that such aggregate production limit shall not be offset by cider produced at such facility under a cidery license or farm cidery license. 7. Notwithstanding any other provision of this chapter, the authority may issue a custom cidermakers' center license to the holder of a farm cidery or cidery license or farm winery or winery license for use at such licensee's existing licensed premises. 8. The authority is hereby authorized to promulgate rules and regulations to effectuate the purposes of this section. 9. The licensee must maintain a record of the name, address, and contact information of the individuals that have used such facility and the annual amount of cider produced by each individual at the facility pursuant to the rules of the authority. 10. The annual fee for a license to operate a custom cidermakers' center shall be three hundred twenty dollars.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4-A - Special Provisions Relating to Cider58 - Cider Producers' or Wholesalers' License.

2. (a) Any person licensed pursuant to subdivision one of this section may conduct cider tastings of New York state labelled ciders in establishments licensed pursuant to section sixty-three of this chapter to sell alcoholic beverages for off-premises consumption. Such cider producer or wholesaler may charge a fee of not more than twenty-five cents for each cider sample tasted. The liquor authority shall promulgate rules and regulations relating to the conduct of such tastings.(b) Any person licensed pursuant to subdivision one of this section may conduct cider tastings of New York state labelled ciders and apply to the liquor authority for a permit to sell cider produced by such cider producer or wholesaler, by the bottle, during such tastings in establishments licensed pursuant to section sixty-four of this chapter to sell alcoholic beverages for consumption on the premises. Such cider producer or wholesaler may charge a fee of not more than twenty-five cents for each cider sample tasted. The liquor authority shall promulgate rules and regulations relating to the conduct of tastings.(c) Cider tastings shall be conducted subject to the following limitations:(i) cider tastings shall be conducted by an official agent, representative or solicitor of one or more cider producers or wholesalers. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and(ii) any liability stemming from a right of action resulting from a cider tasting as authorized pursuant to this subdivision and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the cider producer or wholesaler licensee.3. Notwithstanding any provision of this chapter to the contrary, a licensed cider wholesaler may apply to the liquor authority for a permit to sell New York state labelled cider by the bottle and conduct cider tastings at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis. As a condition of such permit, an agent, representative or solicitor from the cider wholesaler shall be present at the time of sale or tastings.3-a. A licensed cider producer producing New York state labelled cider may:(a) sell such cider to licensed farm distillers, farm wineries, farm cideries and farm breweries. All such cider sold by the licensee shall be securely sealed and have attached thereto a label as shall be required by section one hundred seven-a of this chapter;(b) conduct tastings at the licensed premises of such cider or any other New York state labeled cider;(c) sell such cider at retail for consumption off the premises at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis;(d) sell and conduct tastings of such cider at retail for consumption on the premises of a restaurant, conference center, inn, bed and breakfast or hotel business owned and operated by the licensee in or adjacent to its farm cidery. A licensee who operates a restaurant, conference center, inn, bed and breakfast or hotel pursuant to such authority shall comply with all applicable provisions of this chapter which relate to licenses to sell cider at retail for consumption on the premises;(e) apply for a permit to conduct tastings away from the licensed premises of such cider. Such permit shall be valid throughout the state and may be issued on an annual basis or for individual events. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary. Tastings shall be conducted subject to the following conditions:(i) tastings shall be conducted by an official agent, representative or solicitor of the licensee. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and(ii) any liability stemming from a right of action resulting from a tasting of cider as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the

general obligations law, shall accrue to the licensee.(f) if it holds a tasting permit issued pursuant to paragraph (e) of this subdivision, apply to the authority for a permit to sell such cider, for consumption off the premises, during such tastings in premises licensed under sections sixty-four, sixty-four-a, eighty-one and eighty-one-a of this chapter. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary.4. Notwithstanding any provision of this chapter to the contrary, any one or more cider producer or wholesaler licensee, singly or jointly, may apply to the liquor authority for a license or licenses to sell cider at retail for consumption off the premises. The duration of such license shall be coextensive with the duration of such licensee's cider producer or wholesaler license, and the fee therefor shall be six hundred forty dollars if such retail premises is located in cities having a population of one million or more; in cities having less than one million population and more than one hundred thousand, three hundred twenty dollars; and elsewhere, the sum of one hundred sixty dollars. Such license shall entitle the holder thereof to sell at retail for consumption off the premises any New York state labelled cider. Such license shall also entitle the holder thereof to conduct cider tastings on such licensed premises and charge for such tastings. Not more than five such licenses shall be issued to any licensed cider producer or wholesaler. All other provisions of this chapter relative to licenses to sell cider at retail for consumption off the premises shall apply so far as applicable to such application. The liquor authority is hereby authorized to adopt such rules as it may deem necessary to carry out the purpose of this subdivision, provided that all licenses issued pursuant to this subdivision shall be subject to the same rules and regulations as are applicable to the sale of cider at retail for consumption off the premises of the cider producer or wholesaler licensee.5. A cider producer shall manufacture at least fifty gallons of cider annually. (b) Any person licensed pursuant to subdivision one of this section may conduct cider tastings of New York state labelled ciders and apply to the liquor authority for a permit to sell cider produced by such cider producer or wholesaler, by the bottle, during such tastings in establishments licensed pursuant to section sixty-four of this chapter to sell alcoholic beverages for consumption on the premises. Such cider producer or wholesaler may charge a fee of not more than twenty-five cents for each cider sample tasted. The liquor authority shall promulgate rules and regulations relating to the conduct of tastings. (c) Cider tastings shall be conducted subject to the following limitations: (i) cider tastings shall be conducted by an official agent, representative or solicitor of one or more cider producers or wholesalers. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and (ii) any liability stemming from a right of action resulting from a cider tasting as authorized pursuant to this subdivision and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the cider producer or wholesaler licensee. 3. Notwithstanding any provision of this chapter to the contrary, a licensed cider wholesaler may apply to the liquor authority for a permit to sell New York state labelled cider by the bottle and conduct cider tastings at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis. As a condition of such permit, an agent, representative or solicitor from the cider wholesaler shall be present at the time of sale or tastings. 3-a. A licensed cider producer producing New York state labelled cider may: (a) sell such cider to licensed farm distillers, farm wineries, farm cideries and farm breweries. All such cider sold by the licensee shall be securely sealed and have attached thereto a label as shall be required by section one hundred seven-a of this chapter; (b) conduct tastings at the licensed premises of such cider or any other New York state labeled cider; (c) sell such cider at retail for consumption off the premises at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis; (d) sell and conduct tastings of such cider at retail for consumption on the premises of a restaurant, conference center, inn, bed and breakfast or hotel business owned and operated by the licensee in or adjacent to its farm cidery. A licensee who operates a restaurant, conference center, inn, bed and breakfast or hotel pursuant to such authority shall comply with all applicable provisions of this chapter which relate to licenses to sell cider at retail for consumption on the premises; (e) apply for a permit to conduct tastings away from the licensed premises of such cider. Such permit shall be valid throughout the state and may be issued on an annual basis or for individual events. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary. Tastings shall be conducted subject to the following conditions: (i) tastings shall be conducted by an official agent, representative or solicitor of the licensee. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and (ii) any liability stemming from a right of action resulting from a tasting of cider as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the licensee. (f) if it holds a tasting permit issued pursuant to paragraph (e) of this subdivision, apply to the authority for a permit to sell such cider, for consumption off the premises, during such tastings in premises licensed under sections sixty-four, sixty-four-a, eighty-one and eighty-one-a of this chapter. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary. 4. Notwithstanding any provision of this chapter to the contrary, any one or more cider producer or wholesaler licensee, singly or jointly, may apply to the liquor authority for a license or licenses to sell cider at retail for consumption off the premises. The duration of such license shall be coextensive with the duration of such licensee's cider producer or wholesaler license, and the fee therefor shall be six hundred forty dollars if such retail premises is located in cities having a population of one million or more; in cities having less than one million population and more than one hundred thousand, three hundred twenty dollars; and elsewhere, the sum of one hundred sixty dollars. Such license shall entitle the holder thereof to sell at retail for consumption off the premises any New York state labelled cider. Such license shall also entitle the holder thereof to conduct cider tastings on such licensed premises and charge for such tastings. Not more than five such licenses shall be issued to any licensed cider producer or wholesaler. All other provisions of this chapter relative to licenses to sell cider at retail for consumption off the premises shall apply so far as applicable to such application. The liquor authority is hereby authorized to adopt such rules as it may deem necessary to carry out the purpose of this subdivision, provided that all licenses issued pursuant to this subdivision shall be subject to the same rules and regulations as are applicable to the sale of cider at retail for consumption off the premises of the cider producer or wholesaler

licensee. 5. A cider producer shall manufacture at least fifty gallons of cider annually.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4-A - Special Provisions Relating to Cider59-A - Cider Tasting.

(a) Tastings of cider shall be conducted by the licensee or an authorized agent of the licensee. Provided, however, a licensed beer or cider wholesaler shall not serve as the authorized agent for another entity, nor shall a licensed beer or cider wholesaler be involved in any manner with a cider tasting conducted by another entity. (b) No more than three samples of cider may be provided to a person in one calendar day. (c) No sample may exceed three fluid ounces. (d) No tasting shall be held during the hours prohibited by the provisions of section one hundred five of this chapter. (e) Any liability stemming from a right of action resulting from a tasting authorized by this section and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law shall accrue to the licensee. (f) No person under the age of twenty-one shall be permitted to serve a sample or handle an open container of cider.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4-A - Special Provisions Relating to Cider59-B - Direct Interstate Cider Shipments.

2. License. Before sending any shipment hereunder to a resident in this state, the out-of-state shipper shall first obtain a license from the authority under procedures prescribed by rules and regulations of the authority and after providing the authority with a true copy of its current license to manufacture cider in the applicant's state of domicile along with a copy of the applicant's federal basic permit after payment of an annual fee of one hundred twenty-five dollars. Notwithstanding the provisions of section one hundred ten of this chapter, the authority in its discretion, may excuse an out-of-state cider producer from the submission of such information. 3. Licensee's responsibilities. The holder of an out-of-state direct shipper's license:(a) shall ship no more than thirty-six cases (no more than nine liters each case) per year of cider produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale;(b) may ship within the same packaging any and all alcoholic beverages it lawfully produces and which it sells in accordance with its shipping privileges and responsibilities pursuant to the provisions of this section and sections thirty-five, sixty-eight, and seventy-nine-c of this chapter, as applicable;(c) shall ensure that the outside of each shipping container used to ship cider directly to a New York resident is conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language specifically approved by the New York state liquor authority;(d) shall maintain records in such manner and form as the authority may direct, showing the total amount of cider shipped into the state each calendar year; the names and addresses of the purchasers to whom the cider was shipped, the date purchased, the name of the common carrier used to deliver the cider, and the quantity and value of each shipment;(e) shall in connection with the acceptance of an order for a delivery of cider to a New York resident, require the prospective customer to represent that he or she has attained the age of twenty-one years or more and that the cider being purchased will not be resold or introduced into commerce;(f) shall require common carriers to:(i) require a recipient, at the delivery address, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section sixty-five-b of this chapter;(ii) require a recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the authority; and(iii) refuse delivery when the proposed recipient appears to be under twenty-one years of age and refuses to present valid identification as required by subparagraph (i) of this paragraph;(g) shall file returns with and pay to the New York state department of taxation and finance all state and local sales taxes and excise taxes due on sales into this state in accordance with the applicable provisions of the tax law relating to such taxes, the amount of such taxes to be determined on the basis that each sale in this state was at the location where delivery is made;(h) shall keep all records required by this section for three years and provide copies of such records, upon written request, to the authority or the department of taxation and finance;(i) shall permit the authority or the department of taxation and finance to perform an audit of such out-of-state shipper upon request;(j) shall execute a written consent to the jurisdiction of this state, its agencies and instrumentalities and the courts of this state concerning enforcement of this section and any related laws, rules, or regulations, including tax laws, rules or regulations; and(k) shall prior to obtaining an out-of-state direct shipper's license, obtain a certificate of authority pursuant to section eleven hundred thirty-four of the tax law and a registration as a distributor pursuant to sections four hundred twenty-one and four hundred twenty-two of the tax law.4. Situs. Delivery of a shipment in this state by the holder of an out-of-state direct shipper's license shall be deemed to constitute a sale in this state at the place of delivery and shall be subject to all excise taxes levied pursuant to section four hundred twenty-four of the tax law and all sales taxes levied pursuant to articles twenty-eight and twenty-nine of such law.5. Renewal. The out-of-state shipper may annually renew its license with the authority by paying a one hundred twenty-five dollar renewal fee, providing the authority with a true copy of its current license in such other state as an alcoholic beverage manufacturer and by complying with such other procedures as are prescribed by rule of the authority.6. Rules and regulations. The authority and the department of taxation and finance may promulgate rules and regulations to effectuate the purposes of this section.7. Enforcement. The authority may enforce the requirements of this section including the requirements imposed on the common carrier, by administrative proceedings to suspend or revoke an out-of-state shipper's license and the authority may accept payment of an administrative fine in lieu of suspension, such payments to be determined by rules or regulations promulgated by the authority. In addition, the authority or the attorney general of the state of New York shall report violations of this section, where appropriate, to the United States department of treasury, tax and trade bureau, for administrative action to suspend or revoke the federal basic permit.8. Violations. In any action

brought under this section, the common carrier and the licensee shall only be held liable for their independent acts. (a) shall ship no more than thirty-six cases (no more than nine liters each case) per year of cider produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale; (b) may ship within the same packaging any and all alcoholic beverages it lawfully produces and which it sells in accordance with its shipping privileges and responsibilities pursuant to the provisions of this section and sections thirty-five, sixty-eight, and seventy-nine-c of this chapter, as applicable; (c) shall ensure that the outside of each shipping container used to ship cider directly to a New York resident is conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language specifically approved by the New York state liquor authority; (d) shall maintain records in such manner and form as the authority may direct, showing the total amount of cider shipped into the state each calendar year; the names and addresses of the purchasers to whom the cider was shipped, the date purchased, the name of the common carrier used to deliver the cider, and the quantity and value of each shipment; (e) shall in connection with the acceptance of an order for a delivery of cider to a New York resident, require the prospective customer to represent that he or she has attained the age of twenty-one years or more and that the cider being purchased will not be resold or introduced into commerce; (f) shall require common carriers to: (i) require a recipient, at the delivery address, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section sixty-five-b of this chapter; (ii) require a recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the authority; and (iii) refuse delivery when the proposed recipient appears to be under twenty-one years of age and refuses to present valid identification as required by subparagraph (i) of this paragraph; (g) shall file returns with and pay to the New York state department of taxation and finance all state and local sales taxes and excise taxes due on sales into this state in accordance with the applicable provisions of the tax law relating to such taxes, the amount of such taxes to be determined on the basis that each sale in this state was at the location where delivery is made; (h) shall keep all records required by this section for three years and provide copies of such records, upon written request, to the authority or the department of taxation and finance; (i) shall permit the authority or the department of taxation and finance to perform an audit of such out-of-state shipper upon request; (j) shall execute a written consent to the jurisdiction of this state, its agencies and instrumentalities and the courts of this state concerning enforcement of this section and any related laws, rules, or regulations, including tax laws, rules or regulations; and (k) shall prior to obtaining an out-of-state direct shipper's license, obtain a certificate of authority pursuant to section eleven hundred thirty-four of the tax law and a registration as a distributor pursuant to sections four hundred twenty-one and four hundred twenty-two of the tax law. 4. Situs. Delivery of a shipment in this state by the holder of an out-of-state direct shipper's license shall be deemed to constitute a sale in this state at the place of delivery and shall be subject to all excise taxes levied pursuant to section four hundred twenty-four of the tax law and all sales taxes levied pursuant to articles twenty-eight and twenty-nine of such law. 5. Renewal. The out-of-state shipper may annually renew its license with the authority by paying a one hundred twenty-five dollar renewal fee, providing the authority with a true copy of its current license in such other state as an alcoholic beverage manufacturer and by complying with such other procedures as are prescribed by rule of the authority. 6. Rules and regulations. The authority and the department of taxation and finance may promulgate rules and regulations to effectuate the purposes of this section. 7. Enforcement. The authority may enforce the requirements of this section including the requirements imposed on the common carrier, by administrative proceedings to suspend or revoke an out-of-state shipper's license and the authority may accept payment of an administrative fine in lieu of suspension, such payments to be determined by rules or regulations promulgated by the authority. In addition, the authority or the attorney general of the state of New York shall report violations of this section, where appropriate, to the United States department of treasury, tax and trade bureau, for administrative action to suspend or revoke the federal basic permit. 8. Violations. In any action brought under this section, the common carrier and the licensee shall only be held liable for their independent acts.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4-A - Special Provisions Relating to Cider59-C - Direct Intrastate Cider Shipments.

1. Licensee's shipping responsibilities. Notwithstanding any provision to the contrary contained in this chapter, any above referred licensee:(a) shall ship no more than thirty-six cases (no more than nine liters) per year of cider produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale;(b) may ship within the same packaging any and all alcoholic beverages it lawfully produces and which it sells in accordance with its shipping privileges and responsibilities pursuant to the provisions of this section and sections thirty-six, sixty-nine, and seventy-nine-d of this chapter, as applicable;(c) shall ensure that the outside of each shipping container used to ship cider directly to a New York state resident is conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language specifically approved by the New York state liquor authority;(d) shall maintain records in such manner and form as the authority may direct showing the total amount of cider shipped in the state each calendar year, the names and addresses of the purchasers to whom the cider was shipped, the date purchased, the name of the common carrier used to deliver the cider, and the quantity and value of each shipment. Such records shall be kept for three years and, upon written request, be provided to the authority or the department of taxation and finance;(e) shall in connection with the acceptance of an order for a delivery of cider to a New York resident, require the prospective customer to represent that he or she has attained the age of twenty-one years or more and that the cider being purchased will not be resold or introduced into commerce; and(f) shall require common carriers to:(i) require a recipient, at the

delivery address, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section sixty-five-b of this chapter;(ii) require a recipient to sign an electronic or paper form or other acknowledgment of receipt as approved by the authority; and(iii) refuse delivery when the proposed recipient appears to be under twenty-one years of age and refuses to present valid identification as required by paragraph (a) of this subdivision.2. Violations. In any action brought under this section, the common carrier and the licensee shall only be held liable for their independent acts. (a) shall ship no more than thirty-six cases (no more than nine liters) per year of cider produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale; (b) may ship within the same packaging any and all alcoholic beverages it lawfully produces and which it sells in accordance with its shipping privileges and responsibilities pursuant to the provisions of this section and sections thirty-six, sixty-nine, and seventy-nine-d of this chapter, as applicable; (c) shall ensure that the outside of each shipping container used to ship cider directly to a New York state resident is conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language specifically approved by the New York state liquor authority; (d) shall maintain records in such manner and form as the authority may direct showing the total amount of cider shipped in the state each calendar year, the names and addresses of the purchasers to whom the cider was shipped, the date purchased, the name of the common carrier used to deliver the cider, and the quantity and value of each shipment. Such records shall be kept for three years and, upon written request, be provided to the authority or the department of taxation and finance; (e) shall in connection with the acceptance of an order for a delivery of cider to a New York resident, require the prospective customer to represent that he or she has attained the age of twenty-one years or more and that the cider being purchased will not be resold or introduced into commerce; and (f) shall require common carriers to: (i) require a recipient, at the delivery address, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section sixty-five-b of this chapter; (ii) require a recipient to sign an electronic or paper form or other acknowledgment of receipt as approved by the authority; and (iii) refuse delivery when the proposed recipient appears to be under twenty-one years of age and refuses to present valid identification as required by paragraph (a) of this subdivision. 2. Violations. In any action brought under this section, the common carrier and the licensee shall only be held liable for their independent acts.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4-A - Special Provisions Relating to Cider59 - Authorization for Sale of Cider by Retail Licensees.

§ 59. Authorization for sale of cider by retail licensees. Each retail licensee under this chapter shall have the right, by virtue of his license and without being required to pay any additional fee for the privilege, to sell at retail for consumption on or off the premises, as the case may be, cider purchased from a person licensed to produce or sell cider at wholesale under this chapter.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4 - Special Provisions Relating to Beer50 - Kinds of Licenses.

§ 50. Kinds of licenses. The following kinds of licenses may be issued for the brewing and sale of beer: 1. Brewer's licenses; 2. Brewer's retail licenses; 3. Wholesaler's licenses; 4. Vendor's licenses; 5. Licenses to sell beer at retail for consumption off the premises; and 6. Licenses to sell beer at retail for consumption on the premises.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4 - Special Provisions Relating to Beer51-A - Farm Brewery License.

2. A farm brewery license shall authorize the holder thereof to operate a brewery for the manufacture of New York state labelled beer. Such a license shall also authorize the licensee to:(a) manufacture New York state labelled cider and New York state labeled braggot;(b) sell in bulk beer, cider, and braggot manufactured by the licensee to any person licensed to manufacture alcoholic beverages in this state or to a permittee engaged in the manufacture of products which are unfit for beverage use;(c) sell or deliver beer, cider, and braggot manufactured by the licensee to persons outside the state pursuant to the laws of the place of such delivery;(d) sell beer, cider, and braggot manufactured by the licensee to wholesalers and retailers licensed in this state to sell such beer, cider, and braggot, licensed farm distillers, licensed farm wineries, licensed farm cideries, licensed farm meaderies and any other licensed farm brewery. All such beer, cider, and braggot sold by the licensee shall be securely sealed and have attached thereto a label as shall be required by section one hundred seven-a of this chapter;(e) sell at the licensed premises beer, cider, and braggot manufactured by the licensee or any other licensed farm brewery, and wine and spirits manufactured by any licensed farm winery or farm distillery, at retail for consumption on or off the licensed premises;(f) conduct tastings at the licensed premises of beer, cider, and braggot manufactured by the licensee or any other licensed farm brewery;(g) operate a restaurant, hotel, catering establishment, or other food and drinking establishment in or adjacent to the licensed premises and sell at such place, at retail for consumption on the premises, beer, cider, and braggot manufactured by the licensee and any New York state labeled beer, New York state labeled braggot or New York state labeled cider. All of the provisions of this chapter relative to licenses to sell beer, cider, and braggot at retail for consumption on and off the premises shall apply so far as applicable to such licensee. Notwithstanding any other provision of law, the licensed farm brewery may apply to the authority for a license under this chapter to sell other alcoholic beverages at retail for consumption on the premises at such establishment;(h) sell beer, cider, and braggot manufactured by the licensee or any other licensed farm brewery at retail for consumption off the premises, at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis;(i) conduct tastings of and sell at retail for consumption off the premises New York state

labelled wine and mead manufactured by a person licensed to produce wine or mead under this chapter;(j) conduct tastings of and sell at retail for consumption off the premises New York state labelled cider manufactured by a licensed cider producer or licensed farm cidery;(k) conduct tastings of and sell at retail for consumption off the premises New York state labelled liquor manufactured by a licensed distiller or licensed farm distiller; provided, however, that no consumer may be provided, directly or indirectly: (i) with more than three samples of liquor for tasting in one calendar day; or (ii) with a sample of liquor for tasting equal to more than one-quarter fluid ounce; and(l) conduct tastings of and sell at retail for consumption off the premises New York state labelled braggot manufactured by a person licensed to produce braggot under this chapter; and(m) engage in any other business on the licensed premises subject to such rules and regulations as the authority may prescribe. Such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the farm brewery licensee.3. (a) A farm brewery licensee may apply for a permit to conduct tastings away from the licensed premises of beer, cider, and braggot produced by the licensee. Such permit shall be valid throughout the state and may be issued on an annual basis or for individual events. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary.(b) Tastings shall be conducted subject to the following limitations:(i) tastings shall be conducted by an official agent, representative or solicitor of one or more farm breweries. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and(ii) any liability stemming from a right of action resulting from a tasting of beer, cider, or braggot as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the farm brewery.4. A licensed farm brewery holding a tasting permit issued pursuant to subdivision three of this section may apply to the authority for a permit to sell beer, cider, and braggot produced by such farm brewery, by the bottle, during such tastings in premises licensed under sections sixty-four, sixty-four-a, eighty-one and eighty-one-a of this chapter. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary.5. A licensed farm brewery may, under such rules as may be adopted by the authority, sell beer or cider manufactured by the licensee or any other licensed farm brewery at retail in bulk by the keg, cask or barrel for consumption and not for resale at a clam-bake, barbeque, picnic, outing or other similar outdoor gathering at which more than fifty persons are assembled.6. A licensed farm brewery may apply to the authority for a license to sell liquor and/or wine at retail for consumption on the premises in a restaurant owned by him and conducted and operated by the licensee in or adjacent to its farm brewery. All of the provisions of this chapter relative to licenses to sell liquor or wine at retail or consumption on the premises shall apply so far as applicable.7. A farm brewery license shall authorize the holder thereof to manufacture, bottle and sell food condiments and products such as mustards, sauces, hop seasonings, beer nuts, and other hops and beer related foods in addition to beer and hop soaps, hop pillows, hop wreaths and other such food and crafts on and from the licensed premises. Such license shall authorize the holder thereof to store and sell gift items in a tax-paid room upon the licensed premises incidental to the sale of beer. These gift items shall be limited to the following categories:(a) non-alcoholic beverages for consumption on or off premises, including but not limited to bottled water, juice and soda beverages;(b) food items for the purpose of complementing beer and cider tastings, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking. Such food items shall include but not be limited to: cheeses, fruits, vegetables, chocolates, breads, mustards and crackers;(c) food items, which shall include locally produced farm products and any food or food product not specifically prepared for immediate consumption upon the premises. Such food items may be combined into a package containing cider, beer and/or hop related products;(d) beer supplies and accessories, which shall include any item utilized for the storage, serving or consumption of beer or for decorative purposes. These supplies may be sold as single items or may be combined into a package containing beer;(e) beer-making equipment and supplies including, but not limited to, home beer-making or homebrewing kits, filters, bottling equipment, hops, barley, yeasts, chemicals and other beer additives, and books or other written material to assist beer-makers and home beer-makers or homebrewers to produce and bottle beer;(f) souvenir items, which shall include, but not be limited to artwork, crafts, clothing, agricultural products and any other articles which can be construed to propagate tourism within the region.8. Notwithstanding any provision of this chapter to the contrary, any farm brewery licensee may charge for tours of its premises.9. The holder of a license issued under this section may operate up to five branch offices located away from the licensed farm brewery. Such locations shall be considered part of the licensed premises and all activities allowed at and limited to the farm brewery may be conducted at the branch offices. Such branch offices shall not be located within, share a common entrance and exit with, or have any interior access to any other business, including premises licensed to sell alcoholic beverages at retail. Prior to commencing operation of any such branch office, the licensee shall notify the authority of the location of such branch office and the authority may issue a permit for the operation of same.10. (a) No farm brewery shall manufacture in excess of seventy-five thousand finished barrels of beer, cider, and braggot annually.(b) A farm brewery shall manufacture at least fifty barrels of beer, cider, and braggot annually.11. (a) Except as provided in paragraph (b) of this subdivision, no licensed farm brewery shall manufacture or sell any beer other than New York state labelled beer.(b) In the event that the commissioner of agriculture and markets, after investigating and compiling information pursuant to subdivision forty-two of section sixteen of the agriculture and markets law, determines that a natural disaster, act of God, or continued adverse weather condition has destroyed much of the necessary ingredients for brewing beer, such commissioner, in consultation with the chairman of the authority, may give authorization to a duly licensed farm brewery to manufacture or sell beer produced from ingredients grown or produced outside this state. No such authorization shall be granted to a farm brewery licensee unless such licensee certifies to such commissioner the quantity of New York grown ingredients unavailable to such licensee due to such natural disaster, act of God or continuing adverse weather condition and satisfies such commissioner that reasonable efforts

were made to obtain brewing ingredients from a New York state source for such beer making purpose. No farm brewery shall utilize an amount of out-of-state grown or produced ingredients exceeding the amount of New York grown ingredients that such brewery is unable to obtain due to the destruction of New York grown or produced ingredients by a natural disaster, act of God or continuing adverse weather condition as determined by the commissioner of agriculture and markets pursuant to this subdivision. For purposes of this subdivision, the department of agriculture and markets and the authority are authorized to adopt rules and regulations as they may deem necessary to carry out the provisions of this subdivision which shall include ensuring that in manufacturing beer farm breweries utilize ingredients grown or produced in New York state to the extent they are reasonably available, prior to utilizing ingredients from an out-of-state source for such purpose.(c) The commissioner of agriculture and markets shall make available to farm breweries and to the public each specific ingredient loss determination issued pursuant to paragraph (b) of this subdivision on or before August twentieth of each year.(d) In the event that the continuing effects of a natural disaster, act of God, or adverse weather condition which occurred prior to August twentieth of each year or the effects of a natural disaster, act of God, or adverse weather condition which occurs subsequent to August twentieth each year results in any ingredient loss which meets the standards provided in paragraph (b) of this subdivision, the commissioner of agriculture and markets, in consultation with the chairman of the authority, may issue additional ingredient loss determinations and shall expeditiously make available to farm breweries and to the public each specific ingredient loss determination issued pursuant to this paragraph prior to October tenth of each year.12. (a) Except as provided in paragraph (b) of this subdivision, no licensed farm brewery shall manufacture or sell any cider other than New York state labelled cider.(b) In the event that the commissioner of agriculture and markets, after investigating and compiling information pursuant to subdivision forty-two of section sixteen of the agriculture and markets law, determines that a natural disaster, act of God, or continued adverse weather condition has destroyed at least thirty percent of the apple crop necessary for producing cider, such commissioner, in consultation with the chairman of the authority, may give authorization to a duly licensed farm brewery to manufacture or sell cider produced from such apples designated as necessary for producing cider and grown outside this state. No such authorization shall be granted to a farm brewery licensee unless such licensee certifies to such commissioner the quantity of such New York grown apples designated as necessary for producing cider unavailable to such licensee due to such natural disaster, act of God, or continuing adverse weather condition and satisfies such commissioner that reasonable efforts were made to obtain such apples from a New York state source for such cider making purpose. No farm brewery shall utilize an amount of out-of-state grown apples exceeding the amount of such designated New York grown apples that such brewery is unable to obtain due to the destruction of New York grown apples by a natural disaster, act of God, or continuing adverse weather condition as determined by the commissioner of agriculture and markets pursuant to this subdivision. For purposes of this subdivision, the department of agriculture and markets and the authority are authorized to adopt rules and regulations as they may deem necessary to carry out the provisions of this subdivision which shall include ensuring that in manufacturing cider farm breweries utilize apples grown in New York state to the extent they are reasonably available, prior to utilizing apples from an out-of-state source for such purpose.(c) The commissioner of agriculture and markets shall make available to farm breweries and to the public each specific apple loss determination issued pursuant to paragraph (b) of this subdivision on or after August twentieth of each year.(d) In the event that the continuing effects of a natural disaster, act of God, or adverse weather condition which occurred prior to August twentieth of each year or the effects of a natural disaster, act of God, or adverse weather condition which occurs subsequent to August twentieth of each year results in any apple crop loss which meets the standards provided in paragraph (b) of this subdivision, the commissioner of agriculture and markets, in consultation with the chairman of the authority, may issue additional apple crop loss determinations and shall expeditiously make available to farm breweries and to the public the loss determination issued pursuant to this paragraph prior to October tenth of each year.13. Notwithstanding any contrary provision of law or of any rule or regulation promulgated pursuant thereto, and in addition to the activities which may otherwise be carried out by any person licensed under this section, such person may, on the premises designated in such license:(a) produce, package, bottle, sell and deliver soft drinks and other non-alcoholic beverages, vitamins, malt, malt syrup, and other by-products;(b) dry spent grain from the brewery;(c) recover carbon dioxide and yeast;(d) store bottles, packages and supplies necessary or incidental to all such operations;(e) package, bottle, sell and deliver wine products;(f) allow for the premises including space and equipment to be rented by a licensed tenant brewer for the purposes of alternation.14. Notwithstanding any other provision of this chapter, the authority may issue a farm brewery license to the holder of a farm winery or farm distiller's license for use at such licensee's existing licensed premises. The holder of a farm winery or farm distiller's license that simultaneously holds a farm brewery license on an adjacent premises may share and use the same tasting room facilities to conduct any tastings that such licensee is otherwise authorized to conduct.15. The authority is hereby authorized to promulgate rules and regulations to effectuate the purposes of this section. In prescribing such rules and regulations, the authority shall promote the expansion and profitability of beer and cider production and of tourism in New York, thereby promoting the conservation, production and enhancement of New York state agricultural lands.16. Notwithstanding any provision of law to the contrary, another business or other businesses may operate on the licensed premises subject to such rules and regulations as the liquor authority may prescribe. Such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the farm brewery premises, provided however that a retailer business licensed under this chapter shall not be permitted to operate at a licensed manufacturing premises. (a) manufacture New York state labelled cider and New York state labeled braggot; (b) sell in bulk beer, cider, and braggot manufactured by the licensee to any person licensed to manufacture alcoholic beverages in this state or to a permittee engaged in the manufacture of products which are unfit for beverage use; (c) sell or deliver beer, cider, and braggot manufactured by the licensee to persons outside the state pursuant to the laws of the place of such delivery; (d) sell beer, cider, and

braggot manufactured by the licensee to wholesalers and retailers licensed in this state to sell such beer, cider, and braggot, licensed farm distillers, licensed farm wineries, licensed farm cideries, licensed farm meaderies and any other licensed farm brewery. All such beer, cider, and braggot sold by the licensee shall be securely sealed and have attached thereto a label as shall be required by section one hundred seven-a of this chapter; (e) sell at the licensed premises beer, cider, and braggot manufactured by the licensee or any other licensed farm brewery, and wine and spirits manufactured by any licensed farm winery or farm distillery, at retail for consumption on or off the licensed premises; (f) conduct tastings at the licensed premises of beer, cider, and braggot manufactured by the licensee or any other licensed farm brewery; (g) operate a restaurant, hotel, catering establishment, or other food and drinking establishment in or adjacent to the licensed premises and sell at such place, at retail for consumption on the premises, beer, cider, and braggot manufactured by the licensee and any New York state labeled beer, New York state labeled braggot or New York state labeled cider. All of the provisions of this chapter relative to licenses to sell beer, cider, and braggot at retail for consumption on and off the premises shall apply so far as applicable to such licensee. Notwithstanding any other provision of law, the licensed farm brewery may apply to the authority for a license under this chapter to sell other alcoholic beverages at retail for consumption on the premises at such establishment; (h) sell beer, cider, and braggot manufactured by the licensee or any other licensed farm brewery at retail for consumption off the premises, at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis; (i) conduct tastings of and sell at retail for consumption off the premises New York state labelled wine and mead manufactured by a person licensed to produce wine or mead under this chapter; (j) conduct tastings of and sell at retail for consumption off the premises New York state labelled cider manufactured by a licensed cider producer or licensed farm cidery; (k) conduct tastings of and sell at retail for consumption off the premises New York state labelled liquor manufactured by a licensed distiller or licensed farm distiller; provided, however, that no consumer may be provided, directly or indirectly: (i) with more than three samples of liquor for tasting in one calendar day; or (ii) with a sample of liquor for tasting equal to more than one-quarter fluid ounce; and (l) conduct tastings of and sell at retail for consumption off the premises New York state labelled braggot manufactured by a person licensed to produce braggot under this chapter; and (m) engage in any other business on the licensed premises subject to such rules and regulations as the authority may prescribe. Such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the farm brewery licensee. 3. (a) A farm brewery licensee may apply for a permit to conduct tastings away from the licensed premises of beer, cider, and braggot produced by the licensee. Such permit shall be valid throughout the state and may be issued on an annual basis or for individual events. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary. (b) Tastings shall be conducted subject to the following limitations: (i) tastings shall be conducted by an official agent, representative or solicitor of one or more farm breweries. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and (ii) any liability stemming from a right of action resulting from a tasting of beer, cider, or braggot as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the farm brewery. 4. A licensed farm brewery holding a tasting permit issued pursuant to subdivision three of this section may apply to the authority for a permit to sell beer, cider, and braggot produced by such farm brewery, by the bottle, during such tastings in premises licensed under sections sixty-four, sixty-four-a, eighty-one and eighty-one-a of this chapter. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary. 5. A licensed farm brewery may, under such rules as may be adopted by the authority, sell beer or cider manufactured by the licensee or any other licensed farm brewery at retail in bulk by the keg, cask or barrel for consumption and not for resale at a clam-bake, barbeque, picnic, outing or other similar outdoor gathering at which more than fifty persons are assembled. 6. A licensed farm brewery may apply to the authority for a license to sell liquor and/or wine at retail for consumption on the premises in a restaurant owned by him and conducted and operated by the licensee in or adjacent to its farm brewery. All of the provisions of this chapter relative to licenses to sell liquor or wine at retail or consumption on the premises shall apply so far as applicable. 7. A farm brewery license shall authorize the holder thereof to manufacture, bottle and sell food condiments and products such as mustards, sauces, hop seasonings, beer nuts, and other hops and beer related foods in addition to beer and hop soaps, hop pillows, hop wreaths and other such food and crafts on and from the licensed premises. Such license shall authorize the holder thereof to store and sell gift items in a tax-paid room upon the licensed premises incidental to the sale of beer. These gift items shall be limited to the following categories: (a) non-alcoholic beverages for consumption on or off premises, including but not limited to bottled water, juice and soda beverages; (b) food items for the purpose of complementing beer and cider tastings, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking. Such food items shall include but not be limited to: cheeses, fruits, vegetables, chocolates, breads, mustards and crackers; (c) food items, which shall include locally produced farm products and any food or food product not specifically prepared for immediate consumption upon the premises. Such food items may be combined into a package containing cider, beer and/or hop related products; (d) beer supplies and accessories, which shall include any item utilized for the storage, serving or consumption of beer or for decorative purposes. These supplies may be sold as single items or may be combined into a package containing beer; (e) beer-making equipment and supplies including, but not limited to, home beer-making or homebrewing kits, filters, bottling equipment, hops, barley, yeasts, chemicals and other beer additives, and books or other written material to assist beer-makers and home beer-makers or homebrewers to produce and bottle beer; (f) souvenir items, which shall include, but not be limited to artwork, crafts, clothing, agricultural products and any other articles which can be construed to propagate tourism within the region. 8. Notwithstanding any provision of this chapter to the contrary, any farm brewery licensee may charge for tours of its premises. 9. The holder of a license issued under this section may operate up to five branch

offices located away from the licensed farm brewery. Such locations shall be considered part of the licensed premises and all activities allowed at and limited to the farm brewery may be conducted at the branch offices. Such branch offices shall not be located within, share a common entrance and exit with, or have any interior access to any other business, including premises licensed to sell alcoholic beverages at retail. Prior to commencing operation of any such branch office, the licensee shall notify the authority of the location of such branch office and the authority may issue a permit for the operation of same. 10. (a) No farm brewery shall manufacture in excess of seventy-five thousand finished barrels of beer, cider, and braggot annually. (b) A farm brewery shall manufacture at least fifty barrels of beer, cider, and braggot annually. 11. (a) Except as provided in paragraph (b) of this subdivision, no licensed farm brewery shall manufacture or sell any beer other than New York state labelled beer. (b) In the event that the commissioner of agriculture and markets, after investigating and compiling information pursuant to subdivision forty-two of section sixteen of the agriculture and markets law, determines that a natural disaster, act of God, or continued adverse weather condition has destroyed much of the necessary ingredients for brewing beer, such commissioner, in consultation with the chairman of the authority, may give authorization to a duly licensed farm brewery to manufacture or sell beer produced from ingredients grown or produced outside this state. No such authorization shall be granted to a farm brewery licensee unless such licensee certifies to such commissioner the quantity of New York grown ingredients unavailable to such licensee due to such natural disaster, act of God or continuing adverse weather condition and satisfies such commissioner that reasonable efforts were made to obtain brewing ingredients from a New York state source for such beer making purpose. No farm brewery shall utilize an amount of out-of-state grown or produced ingredients exceeding the amount of New York grown ingredients that such brewery is unable to obtain due to the destruction of New York grown or produced ingredients by a natural disaster, act of God or continuing adverse weather condition as determined by the commissioner of agriculture and markets pursuant to this subdivision. For purposes of this subdivision, the department of agriculture and markets and the authority are authorized to adopt rules and regulations as they may deem necessary to carry out the provisions of this subdivision which shall include ensuring that in manufacturing beer farm breweries utilize ingredients grown or produced in New York state to the extent they are reasonably available, prior to utilizing ingredients from an out-of-state source for such purpose. (c) The commissioner of agriculture and markets shall make available to farm breweries and to the public each specific ingredient loss determination issued pursuant to paragraph (b) of this subdivision on or before August twentieth of each year. (d) In the event that the continuing effects of a natural disaster, act of God, or adverse weather condition which occurred prior to August twentieth of each year or the effects of a natural disaster, act of God, or adverse weather condition which occurs subsequent to August twentieth each year results in any ingredient loss which meets the standards provided in paragraph (b) of this subdivision, the commissioner of agriculture and markets, in consultation with the chairman of the authority, may issue additional ingredient loss determinations and shall expeditiously make available to farm breweries and to the public each specific ingredient loss determination issued pursuant to this paragraph prior to October tenth of each year. 12. (a) Except as provided in paragraph (b) of this subdivision, no licensed farm brewery shall manufacture or sell any cider other than New York state labelled cider. (b) In the event that the commissioner of agriculture and markets, after investigating and compiling information pursuant to subdivision forty-two of section sixteen of the agriculture and markets law, determines that a natural disaster, act of God, or continued adverse weather condition has destroyed at least thirty percent of the apple crop necessary for producing cider, such commissioner, in consultation with the chairman of the authority, may give authorization to a duly licensed farm brewery to manufacture or sell cider produced from such apples designated as necessary for producing cider and grown outside this state. No such authorization shall be granted to a farm brewery licensee unless such licensee certifies to such commissioner the quantity of such New York grown apples designated as necessary for producing cider unavailable to such licensee due to such natural disaster, act of God, or continuing adverse weather condition and satisfies such commissioner that reasonable efforts were made to obtain such apples from a New York state source for such cider making purpose. No farm brewery shall utilize an amount of out-of-state grown apples exceeding the amount of such designated New York grown apples that such brewery is unable to obtain due to the destruction of New York grown apples by a natural disaster, act of God, or continuing adverse weather condition as determined by the commissioner of agriculture and markets pursuant to this subdivision. For purposes of this subdivision, the department of agriculture and markets and the authority are authorized to adopt rules and regulations as they may deem necessary to carry out the provisions of this subdivision which shall include ensuring that in manufacturing cider farm breweries utilize apples grown in New York state to the extent they are reasonably available, prior to utilizing apples from an out-of-state source for such purpose. (c) The commissioner of agriculture and markets shall make available to farm breweries and to the public each specific apple loss determination issued pursuant to paragraph (b) of this subdivision on or after August twentieth of each year. (d) In the event that the continuing effects of a natural disaster, act of God, or adverse weather condition which occurred prior to August twentieth of each year or the effects of a natural disaster, act of God, or adverse weather condition which occurs subsequent to August twentieth of each year results in any apple crop loss which meets the standards provided in paragraph (b) of this subdivision, the commissioner of agriculture and markets, in consultation with the chairman of the authority, may issue additional apple crop loss determinations and shall expeditiously make available to farm breweries and to the public the loss determination issued pursuant to this paragraph prior to October tenth of each year. 13. Notwithstanding any contrary provision of law or of any rule or regulation promulgated pursuant thereto, and in addition to the activities which may otherwise be carried out by any person licensed under this section, such person may, on the premises designated in such license: (a) produce, package, bottle, sell and deliver soft drinks and other non-alcoholic beverages, vitamins, malt, malt syrup, and other by-products; (b) dry spent grain from the brewery; (c) recover carbon dioxide and yeast; (d) store bottles, packages and supplies necessary or incidental to all such operations; (e) package, bottle, sell and deliver wine products; (f) allow for the premises including space and equipment to be rented by a licensed tenant brewer for

the purposes of alternation. 14. Notwithstanding any other provision of this chapter, the authority may issue a farm brewery license to the holder of a farm winery or farm distiller's license for use at such licensee's existing licensed premises. The holder of a farm winery or farm distiller's license that simultaneously holds a farm brewery license on an adjacent premises may share and use the same tasting room facilities to conduct any tastings that such licensee is otherwise authorized to conduct. 15. The authority is hereby authorized to promulgate rules and regulations to effectuate the purposes of this section. In prescribing such rules and regulations, the authority shall promote the expansion and profitability of beer and cider production and of tourism in New York, thereby promoting the conservation, production and enhancement of New York state agricultural lands. 16. Notwithstanding any provision of law to the contrary, another business or other businesses may operate on the licensed premises subject to such rules and regulations as the liquor authority may prescribe. Such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the farm brewery premises, provided however that a retailer business licensed under this chapter shall not be permitted to operate at a licensed manufacturing premises.

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2. Such a license shall authorize the sale from the licensed premises of the beer brewed by such licensee to duly licensed wholesalers, retailers and permittees in this state, and to sell or deliver such beer to persons outside the state pursuant to the laws of the place of such sale or delivery. A person holding a brewer's license may apply for a license to sell beer brewed by him at wholesale at premises other than those designated in the brewery license and the provisions of this article relative to wholesaler's licenses shall apply so far as applicable to such application. 3. A licensed brewer may, under such rules as may be adopted by the liquor authority, sell beer at retail in bulk by the keg, cask or barrel for consumption and not for resale at a clam-bake, barbeque, picnic, outing or other similar outdoor gathering at which more than fifty persons are assembled. 3-a. A licensed brewer may at the licensed premises conduct tastings of, and sell at retail for consumption on or off the licensed premises, any beer manufactured by the licensee or any New York state labeled beer. Provided, however, that for tastings and sales for on-premises consumption, the licensee shall regularly keep food available for sale or service to its retail customers for consumption on the premises. A licensee providing the following shall be deemed in compliance with this provision: (i) sandwiches, soups or other such foods, whether fresh, processed, pre-cooked or frozen; and/or (ii) food items intended to complement the tasting of alcoholic beverages, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking, including but not limited to: cheeses, fruits, vegetables, chocolates, breads, mustards and crackers. All of the provisions of this chapter relative to licenses to sell beer at retail for consumption on and off the premises shall apply so far as applicable to such licensee. 4. A licensed brewery may operate a restaurant, hotel, catering establishment, or other food and drinking establishment in or adjacent to the licensed premises and sell at such place, at retail for consumption on the premises, beer manufactured by the licensee and any New York state labeled beer. All of the provisions of this chapter relative to licenses to sell beer at retail for consumption on the premises shall apply so far as applicable to such licensee. Notwithstanding any other provision of law, the licensed brewer may apply to the liquor authority for a license to sell beer, wine or liquor at retail for consumption on the premises at such establishment. All of the provisions of this chapter relative to licenses to sell beer, wine or liquor at retail for consumption on the premises shall apply so far as applicable to such application. 5. A licensed brewer whose annual production is less than sixty thousand barrels may apply to the liquor authority for a permit to sell beer in a sealed container for off-premises consumption at the state fair, at recognized county fairs and at farmers' markets operated on a not-for-profit basis. As a condition of the permit a representative from the brewer must be present at the time of sale. 5-a. Except as otherwise provided in subdivisions three, four, five and six-a of this section and except as provided in section fifty-two of this article no brewer shall sell any beer, wine or liquor at retail. 6. Notwithstanding the provisions of subdivision one of section one hundred one of this chapter the authority may issue a brewer's license pursuant to this section for a premises which shall be located wholly within the town of Hyde Park, county of Dutchess, state of New York, known and designated as Lot No. 1 shown on a map entitled "Subdivision for Piney" filed in the Dutchess County Clerk's Office as Map No. 8764, being more particularly bounded and described as follows: BEGINNING at a point on the easterly line of State Highway Route 9 (also known as Albany Post Road) at the northwest corner of the herein described parcel and the southwest corner of the lands now or formerly of Friendly Ice Cream Corp.; thence along the division line between the herein described parcel and the last mentioned lands; South 77 deg 10' 10" East 310.17 feet to the northeast corner of the herein described parcel and the southeast corner of the last mentioned lands at a point on the westerly line of other lands of Fernando Piney which are designated as Lot No. 1 as shown of Filed Map 5678; thence along the division line between the herein described parcel and the last described lands of Piney. South 06 deg 34' 20" West 157.76 feet to the southeast corner of the herein described parcel and the northeast corner of Lot No. 2 as shown on Filed Map No. 8764; thence along the northerly line of Lot No. 2 as shown on the last mentioned filed map. North 81 deg 25' 42" West 155.26 feet and South 87 deg 45' 20" West 155.00 feet to the southwest corner of Lot No. 1 and the northwest corner of Lot No. 2 at a point on the easterly line of State Highway Route 9; thence along the easterly line of State Highway Route 9. North 06 deg 34' 20" East 210.00 feet to the point of beginning. Being the same premises as conveyed to Anthony Lobianco, Joseph Lobianco and Carmelo DeCicco by deed of Universal Land Abstract, as agent of the grantor, Fernando Piney, dated March 21, 1995 and recorded in the office of the Dutchess County Clerk on such date as Receipt no. R12437, Batch record no. A00209; Being the same premises as conveyed to Angela DeCicco by deed of Schirmer Hrdlicka & Strohsahl, as agent of the grantor, Carmelo DeCicco, dated November 17, 2003 and recorded in the office of the Dutchess County Clerk on December 9, 2004 as document no. 02 2004 12028, Receipt no. R98669, Batch record no. C00440. 6-a.

A licensed brewer producing New York state labelled beer may:(a) sell such beer to licensed farm distillers, farm wineries, farm cideries and farm breweries. All such beer sold by the licensee shall be securely sealed and have attached thereto a label as shall be required by section one hundred seven-a of this chapter;(c) sell such beer at retail for consumption off the premises at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis;(e) apply for a permit to conduct tastings away from the licensed premises of such beer. Such permit shall be valid throughout the state and may be issued on an annual basis or for individual events. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary. Tastings shall be conducted subject to the following conditions:(i) tastings shall be conducted by an official agent, representative or solicitor of the licensee. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and(ii) any liability stemming from a right of action resulting from a tasting of beer or cider as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the licensee.(f) if it holds a tasting permit issued pursuant to paragraph (e) of this subdivision, apply to the authority for a permit to sell such beer, for consumption off the premises, during such tastings in premises licensed under sections sixty-four, sixty-four-a, eighty-one and eighty-one-a of this chapter. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary.7. Notwithstanding any contrary provision of law or of any rule or regulation promulgated pursuant thereto, and in addition to the activities which may otherwise be carried on by any person licensed as a brewer under this chapter, such person may, on the premises designated in such license: (a) produce, package, bottle, sell and deliver soft drinks and other non-alcoholic beverages, vitamins, malt, malt sirup, and other by-products; (b) dry spent grain from the brewery; (c) recover carbon dioxide and yeast; (d) store bottles, packages and supplies necessary or incidental to all such operations; (e) package, bottle, sell and deliver wine products; (f) allow for the premises including space and equipment to be rented by a licensed tenant brewer for the purposes of alternation; and (g) manufacture, produce, blend, package, bottle, purchase, sell and deliver alcoholic beverages. If any licensed brewer desires to engage in any of the activities in paragraph (a), (b), (c), (d) or (e) of this subdivision which (a) require the use of by-products or wastage from the production of beer, or utilize buildings, room-areas or equipment not fully employed in the production of beer; or (b) are reasonably necessary to realize the maximum benefit from the premises and equipment and to reduce the overhead of the brewery; or (c) are in the public interest because of emergency conditions; or (d) involve experiments or research projects related to equipment, materials, processes, products, by-products or wastage of the brewery, he shall submit an application so to do to the liquor authority, on forms prescribed and furnished by it. If the authority determines that the activities specified in the application will not impede the effective administration of the alcoholic beverage control law, it may approve such application, subject to such restrictions or modifications, and in such manner and form as it may determine, and no brewer licensed under this chapter shall engage in any such activities without the prior approval of the authority. Provided, however, if the licensed brewer desires to engage in any activities identified in paragraph (f) or (g) of this subdivision the licensee shall submit an application to do so to the liquor authority, on forms prescribed and furnished by it. If the authority determines that the activities specified in the application will not impede the effective administration of this chapter, it may approve such application, subject to such restrictions or modifications, and in such manner and form as it may determine. The approval of such application shall be subject to the imposition of such additional license fees for such activities identified in paragraph (g) of this subdivision consistent with the manufacture of any alcoholic beverages under this article and articles five and six of this chapter. The liquor authority is hereby authorized to adopt such rules and regulations as it may determine necessary to effectuate the provisions of this subdivision.8. (a) A licensee or his or her employee, or a brewer or manufacturer as defined in section three of this chapter or its employee or representative, or an importer having a basic permit as required by section 1.20 of title 27 of the code of federal regulations or its employee or representative, may obtain a permit to serve small samples of beer or malt beverages he or she produces or imports at establishments licensed under section fifty-four or fifty-four-a of this article. Furthermore such permit may also be obtained for serving small samples of beer or malt beverages produced or imported by such licensee, brewer, manufacturer or importer at annual fairs sponsored by agricultural and horticultural societies as defined in section fourteen hundred nine of the not-for-profit corporation law, and for sampling at the licensed premises of the holder of a wholesaler's license under section fifty-three of this article issued or renewed prior to July first, nineteen hundred sixty, and thereafter renewed or transferred, which authorizes the holder thereof to sell beer at retail to a person for consumption in his or her home. For purposes of this paragraph, a representative shall not include a person licensed under section fifty-three of this article or his or her employees.(b) The fee for a temporary brewer tasting permit shall be twenty dollars and shall be issued by the authority and dated for its period of use, which shall not exceed three days. An applicant for such permit may also apply for an annual brewer tasting permit for a fee of one thousand dollars which shall be issued by the authority.(c) Tastings at such licensed establishments or annual fairs shall be conducted only within the hours fixed by or pursuant to this chapter, during which alcoholic beverages may be lawfully sold or permitted upon premises licensed to sell beer or malt beverages for off-premises consumption.(d) A licensee or his or her employee may provide small samples of beer or malt beverages he or she produces at their licensed establishment. No permit shall be required for a licensee or his or her employee to provide small samples of beer or malt beverages when served at his or her licensed establishment.(e) Each serving at tastings shall be served only by the brewer or importer or his or her employee and shall be limited to three ounces or less of a brand of beer or malt beverage produced by the brewer or by the importer and no consumer of legal age shall be provided or given more than two servings of such brands offered for tasting.(f) All beer or other malt beverages served pursuant to a permit issued under this subdivision shall have been purchased by the retail licensee upon whose premises the serving of samples is taking place.(g) A brewer or importer to whom a permit is issued pursuant to this subdivision may not be assessed a fee or charge by the retail licensee upon whose premises the serving is taking place for the privilege of serving such samples.(h) The

brewer or importer, or his or her employee serving such samples, shall be responsible for ensuring that such samples are only served to individuals legally eligible to consume alcoholic beverages in this state.(i) Any liability stemming from a right of action resulting from the sampling of beer or other malt beverages as authorized by this subdivision, and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the brewer or importer.(j) The authority is authorized and directed to provide such forms to a brewer or importer to obtain the necessary temporary brewer tasting permit and promulgate such rules and regulations, as it deems necessary or appropriate to implement the provisions of this subdivision to protect the health, safety and welfare of the people of this state.9. A brewery shall manufacture at least fifty barrels of beer annually. (a) sell such beer to licensed farm distillers, farm wineries, farm cideries and farm breweries. All such beer sold by the licensee shall be securely sealed and have attached thereto a label as shall be required by section one hundred seven-a of this chapter; (c) sell such beer at retail for consumption off the premises at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis; (e) apply for a permit to conduct tastings away from the licensed premises of such beer. Such permit shall be valid throughout the state and may be issued on an annual basis or for individual events. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary. Tastings shall be conducted subject to the following conditions: (i) tastings shall be conducted by an official agent, representative or solicitor of the licensee. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and (ii) any liability stemming from a right of action resulting from a tasting of beer or cider as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the licensee. (f) if it holds a tasting permit issued pursuant to paragraph (e) of this subdivision, apply to the authority for a permit to sell such beer, for consumption off the premises, during such tastings in premises licensed under sections sixty-four, sixty-four-a, eighty-one and eighty-one-a of this chapter. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules and conditions of the authority as it deems necessary. 7. Notwithstanding any contrary provision of law or of any rule or regulation promulgated pursuant thereto, and in addition to the activities which may otherwise be carried on by any person licensed as a brewer under this chapter, such person may, on the premises designated in such license: (a) produce, package, bottle, sell and deliver soft drinks and other non-alcoholic beverages, vitamins, malt, malt sirup, and other by-products; (b) dry spent grain from the brewery; (c) recover carbon dioxide and yeast; (d) store bottles, packages and supplies necessary or incidental to all such operations; (e) package, bottle, sell and deliver wine products; (f) allow for the premises including space and equipment to be rented by a licensed tenant brewer for the purposes of alternation; and (g) manufacture, produce, blend, package, bottle, purchase, sell and deliver alcoholic beverages. If any licensed brewer desires to engage in any of the activities in paragraph (a), (b), (c), (d) or (e) of this subdivision which (a) require the use of by-products or wastage from the production of beer, or utilize buildings, room-areas or equipment not fully employed in the production of beer; or (b) are reasonably necessary to realize the maximum benefit from the premises and equipment and to reduce the overhead of the brewery; or (c) are in the public interest because of emergency conditions; or (d) involve experiments or research projects related to equipment, materials, processes, products, by-products or wastage of the brewery, he shall submit an application so to do to the liquor authority, on forms prescribed and furnished by it. If the authority determines that the activities specified in the application will not impede the effective administration of the alcoholic beverage control law, it may approve such application, subject to such restrictions or modifications, and in such manner and form as it may determine, and no brewer licensed under this chapter shall engage in any such activities without the prior approval of the authority. Provided, however, if the licensed brewer desires to engage in any activities identified in paragraph (f) or (g) of this subdivision the licensee shall submit an application to do so to the liquor authority, on forms prescribed and furnished by it. If the authority determines that the activities specified in the application will not impede the effective administration of this chapter, it may approve such application, subject to such restrictions or modifications, and in such manner and form as it may determine. The approval of such application shall be subject to the imposition of such additional license fees for such activities identified in paragraph (g) of this subdivision consistent with the manufacture of any alcoholic beverages under this article and articles five and six of this chapter. The liquor authority is hereby authorized to adopt such rules and regulations as it may determine necessary to effectuate the provisions of this subdivision. 8. (a) A licensee or his or her employee, or a brewer or manufacturer as defined in section three of this chapter or its employee or representative, or an importer having a basic permit as required by section 1.20 of title 27 of the code of federal regulations or its employee or representative, may obtain a permit to serve small samples of beer or malt beverages he or she produces or imports at establishments licensed under section fifty-four or fifty-four-a of this article. Furthermore such permit may also be obtained for serving small samples of beer or malt beverages produced or imported by such licensee, brewer, manufacturer or importer at annual fairs sponsored by agricultural and horticultural societies as defined in section fourteen hundred nine of the not-for-profit corporation law, and for sampling at the licensed premises of the holder of a wholesaler's license under section fifty-three of this article issued or renewed prior to July first, nineteen hundred sixty, and thereafter renewed or transferred, which authorizes the holder thereof to sell beer at retail to a person for consumption in his or her home. For purposes of this paragraph, a representative shall not include a person licensed under section fifty-three of this article or his or her employees. (b) The fee for a temporary brewer tasting permit shall be twenty dollars and shall be issued by the authority and dated for its period of use, which shall not exceed three days. An applicant for such permit may also apply for an annual brewer tasting permit for a fee of one thousand dollars which shall be issued by the authority. (c) Tastings at such licensed establishments or annual fairs shall be conducted only within the hours fixed by or pursuant to this chapter, during which alcoholic beverages may be lawfully sold or permitted upon premises licensed to sell beer or malt beverages for off-premises consumption. (d) A licensee or his or her employee may provide small samples of beer or malt beverages he or she produces at their licensed establishment. No permit shall be required for a licensee or

his or her employee to provide small samples of beer or malt beverages when served at his or her licensed establishment. (e) Each serving at tastings shall be served only by the brewer or importer or his or her employee and shall be limited to three ounces or less of a brand of beer or malt beverage produced by the brewer or by the importer and no consumer of legal age shall be provided or given more than two servings of such brands offered for tasting. (f) All beer or other malt beverages served pursuant to a permit issued under this subdivision shall have been purchased by the retail licensee upon whose premises the serving of samples is taking place. (g) A brewer or importer to whom a permit is issued pursuant to this subdivision may not be assessed a fee or charge by the retail licensee upon whose premises the serving is taking place for the privilege of serving such samples. (h) The brewer or importer, or his or her employee serving such samples, shall be responsible for ensuring that such samples are only served to individuals legally eligible to consume alcoholic beverages in this state. (i) Any liability stemming from a right of action resulting from the sampling of beer or other malt beverages as authorized by this subdivision, and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the brewer or importer. (j) The authority is authorized and directed to provide such forms to a brewer or importer to obtain the necessary temporary brewer tasting permit and promulgate such rules and regulations, as it deems necessary or appropriate to implement the provisions of this subdivision to protect the health, safety and welfare of the people of this state. 9. A brewery shall manufacture at least fifty barrels of beer annually.

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2. For the purposes of this section, "beer making supplies" shall mean hops, grains, malted grains, wort, sugars, yeasts, water, fruits, fruit juices, and other agricultural products including, but not limited to, honey and flowers, that are grown or produced in the state of New York, in quantity amounts as determined by the authority and shall be governed by paragraph (b) of subdivision eleven of section fifty-one-a of this article. 3. A custom beermakers' center license shall authorize the holder thereof to operate a facility for individuals to rent space, equipment, and storage facilities and, if necessary, to purchase beer making supplies to manufacture beer for personal household use provided that the manufacture and production of beer for personal household consumption and use is done in accordance with state and federal laws and regulations. Such a license shall also authorize the licensee, provided such activities are permitted by the federal Alcohol and Tobacco Tax and Trade Bureau for the manufacture of tax exempt beer for personal household use, to:(a) conduct training classes on how to manufacture beer; and(b) conduct beer tastings for those individuals taking such classes and/or using such facility for brewing purposes at the licensed facility provided that the tastings shall be subject to the following limitations:(i) tastings shall be conducted by the licensee or by an official agent of the licensee. Such licensee or agent shall be physically present at all times during the conduct of the tastings; and(ii) any liability stemming from a right of action resulting from a tasting of beer as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the custom beermakers' center.4. The custom beermakers' center licensee shall be subject to the supervision of the authority to ensure that the licensee and the individuals utilizing such center are in compliance with the provisions of this chapter, state laws, rules, and regulations, and the laws, rules, and regulations of the federal Alcohol and Tobacco Tax and Trade Bureau.5. The licensee or an official agent of the licensee shall be physically present at all times during the facility's hours of operations.6. The annual aggregate production of beer at any such center for all individuals making beer at such premises, pursuant to a custom beermakers' center license, shall not exceed the production limits set by the authority that are commensurate with a non-commercial production facility. Provided that such aggregate production limit shall not be offset by beer produced at such facility under a brewer's license or farm brewery license.7. Notwithstanding any other provision of this chapter, the authority may issue a custom beermakers' center license to the holder of a farm brewery or brewery license for use at such licensee's existing licensed premises.8. The authority is hereby authorized to promulgate rules and regulations to effectuate the purposes of this section.9. The licensee must maintain a record of the name, address, and contact information of the individuals that have used such facility and the annual amount of beer produced by each individual at the facility pursuant to the rules of the authority. (a) conduct training classes on how to manufacture beer; and (b) conduct beer tastings for those individuals taking such classes and/or using such facility for brewing purposes at the licensed facility provided that the tastings shall be subject to the following limitations: (i) tastings shall be conducted by the licensee or by an official agent of the licensee. Such licensee or agent shall be physically present at all times during the conduct of the tastings; and (ii) any liability stemming from a right of action resulting from a tasting of beer as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the custom beermakers' center. 4. The custom beermakers' center licensee shall be subject to the supervision of the authority to ensure that the licensee and the individuals utilizing such center are in compliance with the provisions of this chapter, state laws, rules, and regulations, and the laws, rules, and regulations of the federal Alcohol and Tobacco Tax and Trade Bureau. 5. The licensee or an official agent of the licensee shall be physically present at all times during the facility's hours of operations. 6. The annual aggregate production of beer at any such center for all individuals making beer at such premises, pursuant to a custom beermakers' center license, shall not exceed the production limits set by the authority that are commensurate with a non-commercial production facility. Provided that such aggregate production limit shall not be offset by beer produced at such facility under a brewer's license or farm brewery license. 7. Notwithstanding any other provision of this chapter, the authority may issue a custom beermakers' center license to the holder of a farm brewery or brewery license for use at such licensee's existing licensed premises. 8. The authority is hereby authorized to promulgate rules and regulations to effectuate the purposes of this section. 9. The licensee must maintain a record of the name, address, and contact information of the individuals that have used such facility and the annual amount of beer produced by each individual at the facility pursuant to the rules of the authority.

Title: abc

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4 - Special Provisions Relating to Beer53-A - Vendor's License.

§ 53-a. Vendor's license. In cities having a population of one million or more, any individual person may apply for a license to sell beer as a vendor. Such application shall be in writing, and verified, and shall contain such information as the liquor authority shall require. Such application shall be accompanied by a check or draft for the amount required by this article for such license. If the liquor authority shall grant the application it shall issue a license in such form as shall be determined by its rules. Such a license shall contain a description of the licensed premises and in form and in substance shall be a license to the person therein specifically designated to sell beer as a vendor in cities having a population of one million or more only, from the premises therein specifically licensed. A vendor's license shall authorize the holder thereof to sell beer at retail to be delivered by such vendor to a person for consumption in his home and shall authorize the holder thereof to operate one vehicle for the delivery of beer, but shall not authorize the sale to any person or licensee for resale.

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§ 53. Wholesaler's license. Any person may apply to the liquor authority for a license to sell beer at wholesale. Such application shall be in writing and verified and shall contain such information as the liquor authority shall require. Such application shall be accompanied by a check or draft for the amount required by this article for such license. If the liquor authority shall grant the application it shall issue a license in such form as shall be determined by its rules. Such a license shall contain a description of the licensed premises and in form and in substance shall be a license to the person therein specifically designated to sell beer at wholesale in the premises therein specifically licensed to duly licensed wholesalers, retailers and permittees in this state, and to sell or deliver beer to persons outside the state pursuant to the laws of the place of such sale or delivery. A wholesaler's license issued or renewed prior to July first, nineteen hundred sixty, and thereafter renewed or transferred, shall authorize the holder thereof to sell beer at retail to a person for consumption in his home; provided, however, that regardless of the date issued, renewed or transferred, a wholesaler's license issued to a brewer or to the wholly-owned subsidiary of a brewer, shall authorize the holder thereof to sell beer at retail to a person for consumption in his home.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4 - Special Provisions Relating to Beer54-A - License to Sell Beer and Wine Products at Retail for Consumption Off the Premises.

§ 54-a. License to sell beer and wine products at retail for consumption off the premises. 1. Any person may apply to the appropriate board for a license to sell beer and wine products at retail not to be consumed upon the premises where sold. Such application shall be in writing and verified and shall contain such information as the liquor authority shall require. Such application shall be accompanied by a check or draft for the amount required by section fifty-six of this article for such license. The term "premises" shall include any duly licensed supply ship operating in harbors in Lake Erie. All the provisions contained in subdivisions two and three of section fifty-four of this article shall apply to the procedure relative to an application for a license under this section. 2. No such license shall be issued, however, to any person for any premises other than a grocery store, drug store, or duly licensed supply ship operating in harbors in Lake Erie. 3. Such license shall contain a description of the licensed premises and in form and in substance shall be a license to the person specifically designated therein to sell beer and wine products at retail in the premises specifically licensed, not to be consumed upon said premises.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4 - Special Provisions Relating to Beer54-B - Beer Tasting.

(a) Tastings of beer shall be conducted by the licensee or an authorized agent of the licensee. Provided, however, a licensed beer or cider wholesaler shall not serve as the authorized agent for another entity, nor shall a licensed beer or cider wholesaler be involved in any manner with a beer tasting conducted by another entity. (b) No more than three samples of beer may be provided to a person in one calendar day. (c) No sample may exceed three fluid ounces. (d) No tasting shall be held during the hours prohibited by the provisions of section one hundred five of this chapter. (e) Any liability stemming from a right of action resulting from a tasting authorized by this section and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law shall accrue to the licensee. (f) No person under the age of twenty-one shall be permitted to serve a sample or handle an open container of beer.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4 - Special Provisions Relating to Beer54 - License to Sell Beer at Retail for Consumption Off the Premises.

§ 54. License to sell beer at retail for consumption off the premises. 1. Any person may apply to the appropriate board for a license to sell beer at retail not to be consumed upon the premises where sold. Such application shall be in writing and verified and shall contain such information as the liquor authority shall require. Such application shall be accompanied by a check or draft for the amount required by this article for such license. The term "premises" shall include any duly licensed supply ship operating in harbors in Lake Erie. 2. In the event that the liquor authority issues such license it shall forward the same to the applicant. 3. If the

authority shall disapprove an application for a license or permit, it shall state and file in its offices the reasons therefor and shall notify the applicant thereof. Such applicant may thereupon apply to the liquor authority for a review of such action in a manner to be prescribed by the rules of the liquor authority. A hearing upon notice to the applicant shall thereupon be held by the liquor authority or by one of its members at its office most conveniently situated to the office of its duly authorized representative in a manner to be prescribed in its rules; and on such hearing proof may be taken by oral testimony or by affidavit relative thereto. After such hearing, if the liquor authority confirms such disapproval, it shall endorse such application accordingly and shall send notice to the applicant of its action in such form as the liquor authority may prescribe. If the liquor authority does not confirm the disapproval action it may grant such application and issue such license. 4. No such license shall be issued, however, to any person for any premises other than a grocery store, drug store, or duly licensed supply ship operating in harbors in Lake Erie. 5. Such license shall contain a description of the licensed premises and in form and in substance shall be a license to the person specifically designated therein to sell beer at retail in the premises specifically licensed, not to be consumed upon said premises.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4 - Special Provisions Relating to Beer55-A - License to Sell Beer at Retail, in Certain Counties, for Consumption at Baseball Parks, Race Tracks and Outdoor Athletic Fields and Stadia Where Admis

§ 55-a. License to sell beer at retail, in certain counties, for consumption at baseball parks, race tracks and outdoor athletic fields and stadia where admission fees are charged, in operation for certain periods of the year. 1. Any person may make an application to the appropriate board for a license to sell beer to be consumed at baseball parks, race tracks, and other athletic fields and stadia where admission fees are charged, other than such parks, fields and stadia as are operated and maintained by educational institutions, to be consumed on the premises. Such application shall be in writing and verified and shall contain such information as the liquor authority shall require. Such application shall be accompanied by a check or draft for the amount required by this article for such license. All of the provisions contained in subdivisions two and three of section fifty-four shall apply to the procedure relative to an application for a license under this section. 2. Such a license shall contain a description of the licensed premises and in form and substance shall be a license to the person therein specifically designated to sell beer on the premises therein specifically licensed, at retail, to be consumed upon such premises.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4 - Special Provisions Relating to Beer55-B - Manner of Changing Beer Prices to Wholesalers and Retail Licensees.

2. No brewer or beer wholesaler may increase the price per case, draft package or special package of beer sold to beer wholesalers or retail licensees until at least one hundred eighty days have elapsed since his last price decrease on such case, draft package or special package, provided, however, that the brewer or beer wholesaler may increase any price established by him at any time in the amount of any direct tax increase on beer or three percent of the final cash invoice amount to reasonably remunerate such wholesaler for surcharges and fees incurred for business payment card payments, as provided for by paragraph j of subdivision one of section one hundred one-aaa of this chapter, or on containers thereof, actually paid by such brewer or beer wholesaler, and provided further, however, that if a brewer or beer wholesaler has increased his price to beer wholesalers at any time pursuant to the provisions hereof, the beer wholesaler may increase the price established by him on such package in an amount equal to the direct price increase to the beer wholesaler. The price per case, draft package or special package of beer sold to beer wholesalers or retail licensees on the first day of the month following the effective date of this act shall be deemed the base price, to or from which price increases or decreases may be made in accordance with the provisions of this section. 3. The authority is authorized and empowered to do such acts, prescribe such forms and adopt rules and regulations as it may deem necessary or proper to carry into effect the purpose and provisions of this section and to prevent circumvention or evasion thereof. Without limiting the generality of the foregoing, and in addition to its other powers, the authority may, in its discretion, adopt rules or regulations: a. Particularizing the standards of packaging which constitute a case, special package and draft package of beer. b. Defining the guidelines relating to "price" within the purview of this section which guidelines may provide, without limitation thereto, that,(1) Whenever a brewer or beer wholesaler decreases his price per case, draft package or special package of beer to beer wholesalers, the beer wholesaler may decrease his price to retail licensees on such reduced item or items by no more than the amount in dollars and cents by which the brewer or beer wholesaler has decreased the price per case, draft package or special package to the beer wholesaler.(2) Whenever the price per case, draft package or special package of beer is increased to retail licensees by action of the brewer or beer wholesaler following a price decrease, the brewer or beer wholesaler may not increase its price to retailers on any item or items more than one-half of the price decrease previously granted, nor may the brewer or beer wholesaler selling such item or items to the beer wholesaler increase its price to such beer wholesaler more than one-half of the price decrease previously granted, provided, however, such restrictions on price increases by both brewers and beer wholesalers shall remain in effect for the period of one hundred eighty days.(3) Whenever a brewer or beer wholesaler lowers its price per case, draft package or special package of beer to any beer wholesaler in New York state it must lower its price on each item or items by the same amount to all beer wholesalers throughout New York state to whom such item or items is offered for sale.(4) Whenever a brewer or beer wholesaler, following a price decrease, raises its price per case, draft package or special package of beer to any beer wholesaler in New York state it must raise its price on each item or items by the same amount to all beer wholesalers throughout New York state to whom such item or items are offered for sale.c. Providing that for good cause shown to its satisfaction, the authority may grant waivers to licensees adversely affected by this section, under such terms and conditions as the authority deems appropriate.d. Requiring licensees to file

with the authority reports certifying their prices of beer, the dates of any changes in the price of any item of beer, and such other matters as the authority may determine from time to time to be necessary to disclose accurately the price of beer during the previous twelve months and requiring licensees to keep forms, records and memoranda prescribed by the authority.4. For the purpose of defraying the expenses incurred in the administration of this section, there shall be paid to the authority by each person hereafter applying for a license as brewer or beer wholesaler the following sums: brewer whose annual production is sixty thousand barrels per year or more, one thousand dollars; brewer whose annual production is less than sixty thousand barrels per year, one hundred dollars; beer wholesaler, one hundred dollars. A like sum shall be paid by each person hereafter applying for the issuance or renewal of any such license and such sum shall accompany the application and the license fee prescribed by this chapter for such license or renewal thereof, as the case may be. The sums prescribed by this subdivision shall not be pro-rated for any portion of the license fee and shall have no refund value.5. For any violation of any provision of this section or of any rule or regulation duly promulgated under this section the authority may revoke, cancel or suspend a license or recover, as provided in section one hundred twelve of this chapter, the penal sum of the bond filed by the licensee. (1) Whenever a brewer or beer wholesaler decreases his price per case, draft package or special package of beer to beer wholesalers, the beer wholesaler may decrease his price to retail licensees on such reduced item or items by no more than the amount in dollars and cents by which the brewer or beer wholesaler has decreased the price per case, draft package or special package to the beer wholesaler. (2) Whenever the price per case, draft package or special package of beer is increased to retail licensees by action of the brewer or beer wholesaler following a price decrease, the brewer or beer wholesaler may not increase its price to retailers on any item or items more than one-half of the price decrease previously granted, nor may the brewer or beer wholesaler selling such item or items to the beer wholesaler increase its price to such beer wholesaler more than one-half of the price decrease previously granted, provided, however, such restrictions on price increases by both brewers and beer wholesalers shall remain in effect for the period of one hundred eighty days. (3) Whenever a brewer or beer wholesaler lowers its price per case, draft package or special package of beer to any beer wholesaler in New York state it must lower its price on each item or items by the same amount to all beer wholesalers throughout New York state to whom such item or items is offered for sale. (4) Whenever a brewer or beer wholesaler, following a price decrease, raises its price per case, draft package or special package of beer to any beer wholesaler in New York state it must raise its price on each item or items by the same amount to all beer wholesalers throughout New York state to whom such item or items are offered for sale. c. Providing that for good cause shown to its satisfaction, the authority may grant waivers to licensees adversely affected by this section, under such terms and conditions as the authority deems appropriate. d. Requiring licensees to file with the authority reports certifying their prices of beer, the dates of any changes in the price of any item of beer, and such other matters as the authority may determine from time to time to be necessary to disclose accurately the price of beer during the previous twelve months and requiring licensees to keep forms, records and memoranda prescribed by the authority. 4. For the purpose of defraying the expenses incurred in the administration of this section, there shall be paid to the authority by each person hereafter applying for a license as brewer or beer wholesaler the following sums: brewer whose annual production is sixty thousand barrels per year or more, one thousand dollars; brewer whose annual production is less than sixty thousand barrels per year, one hundred dollars; beer wholesaler, one hundred dollars. A like sum shall be paid by each person hereafter applying for the issuance or renewal of any such license and such sum shall accompany the application and the license fee prescribed by this chapter for such license or renewal thereof, as the case may be. The sums prescribed by this subdivision shall not be pro-rated for any portion of the license fee and shall have no refund value. 5. For any violation of any provision of this section or of any rule or regulation duly promulgated under this section the authority may revoke, cancel or suspend a license or recover, as provided in section one hundred twelve of this chapter, the penal sum of the bond filed by the licensee.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4 - Special Provisions Relating to Beer55-C - Agreements Between Brewers and Beer Wholesalers.

2. Definitions. As used in this section, the following words shall have the following meanings:(a) "Agreement" means any contract, agreement, arrangement, course of dealing or commercial relationship between a brewer and a beer wholesaler pursuant to which a beer wholesaler is granted the right to purchase, offer for sale, resell, warehouse or physically deliver beer sold by a brewer.(b) "Brewer" means any person or entity engaged primarily in business as a brewer, manufacturer of alcoholic beverages, importer, marketer, broker or agent of any of the foregoing who sells or offers to sell beer to a beer wholesaler in this state or any successor to a brewer.(c) "Successor to a brewer" means any person or entity which acquires the business or beer brands of a brewer, without limitation, by way of the purchase, assignment, transfer, lease, or license or disposition of all or a portion of the assets, business or equity of a brewer in any transaction, including merger, corporate reorganization or consolidation or the formation of a partnership, joint venture or other joint marketing alliance.(d) "Beer wholesaler" and "wholesaler" means the holder of a wholesaler's license pursuant to section fifty-three of this article who purchases, offers to sell, resells, markets, promotes, warehouses or physically distributes beer sold by a brewer.(e) "Good cause" means and shall be limited to:(i) (A) The implementation by a brewer of a national or regional policy of consolidation which is reasonable, nondiscriminatory and essential. Such policy shall have been previously disclosed, in writing, in reasonable detail to the brewer's wholesalers, and shall result in a contemporaneous reduction in the number of a brewer's wholesalers not only for a brand in this state, but also for a brand in contiguous states or in a majority of the states in which the brewer sells the brand. All affected wholesalers and affected brewers shall be afforded ninety days prior notice of the implementation of such policy, and such notice shall be provided by the brewer implementing said policy. Further, an affected wholesaler who has actual knowledge of the intended implementation of such policy shall also notify each affected brewer.

The term "affected brewers" means all other brewers with an agreement with an affected wholesaler who is a multiple brands wholesaler. The term "affected wholesalers" means wholesalers who may reasonably be expected to experience a loss or diminishment of a right to distribute a brand, in whole or in part, as a consequence of a proposed consolidation policy.(B) An affected brewer receiving notice pursuant to this paragraph may, within one hundred twenty days after receiving such notice, terminate an agreement with a multiple brands wholesaler in the event: (1) the total case purchases computed in twenty-four twelve ounce equivalence units by the wholesaler of the products of the affected brewer amounted to two percent or less of the multiple brands wholesaler's total sales volume during the twelve month period preceding the notice; and (2) the affected brewer, prior to such termination, pays compensation to the multiple brands wholesaler.(ii) There is a failure by the beer wholesaler to comply with a material term of an agreement required by subdivision three of this section between the brewer and beer wholesaler, provided that: (A) the wholesaler was given written notice by the brewer of the failure to comply with the agreement as provided for in subdivision five of this section and in which the brewer states with particularity the basis for the brewer's determination of non-compliance, and upon the wholesaler's written request within ten days of receipt of the notice, the brewer has supplemented such notice by submitting to the wholesaler in writing the brewer's recommended plan of corrective action to cure the claimed defaults or deficiencies in a manner satisfactory to it; (B) the wholesaler was afforded a reasonable opportunity to assert good faith efforts to comply with the agreement by curing the claimed defaults or deficiencies specified in said notice within the time provided for in clause (C) of this subparagraph; and (C) the wholesaler was afforded fifteen days after receipt of such notice to submit a written plan of corrective action to comply with the agreement by curing the claimed non-compliance and seventy-five days to cure such non-compliance in accordance with the plan. Provided, however, that such period for cure may be increased or reduced to a commercially reasonable period by an order of a court in this state entered after a hearing at which the brewer has the burden to demonstrate that the claimed defaults or deficiencies can be substantially rectified in the period of time afforded the wholesaler or that, after receipt of notice of default or deficiency as provided for in subdivision five of this section, the wholesaler has intentionally engaged in an affirmative course of conduct in which the brewer's current marketing plans and other trade secrets are disclosed to a third party without the prior consent of the brewer or in which the wholesaler acts or threatens to act to significantly impair, harm or dilute the reputation or competitive position of the brewer or otherwise irreparably injure the brewer, its brands or trademarks. Provided, further however: (1) that such period for cure need not exceed forty-five days if within the twelve months immediately following a cure, the wholesaler intentionally engages in conduct which repeats the same specified default and deficiency which the brewer had deemed cured; and (2) that such period for cure need not exceed sixty days in the event that during the twelve month period preceding the notice, the total case purchases by the wholesaler of the affected products of the brewer account for less than one-half of one percent of the wholesaler's aggregate case purchases from all sources or one thousand cases. For purposes of this subdivision, case purchases of affected products whether package or draught shall be computed in twenty-four twelve ounce equivalence units.(f) "Good faith" means honesty in fact and the observance of reasonable commercial standards in the trade.(g) "Material modification" of an agreement or to "materially modify" means and includes a substantial and significant change in the competitive circumstances under which the agreement was entered into and is performed which is caused by a brewer without fault on the part of the wholesaler.(h) "Multiple brands wholesaler" means a wholesaler which pursuant to agreements with different brewers holds the rights to purchase, resell, warehouse or physically deliver two or more competing products in substantially the same geographic area or to the same customer class.(i) "Fair market value of distribution rights" means the amount a willing seller, under no compulsion to sell, would be willing to accept and a willing buyer, under no compulsion to purchase, would be willing to pay for the distribution rights.3. Written agreement required. Except as provided for in subdivision ten of this section, beer offered for sale in this state by a brewer to a beer wholesaler shall be sold and delivered pursuant to a written agreement which conforms to the provisions of this section and which sets forth all essential and material terms, requirements, standards of performance and conditions of the business relationship between a brewer and a beer wholesaler. Such agreement may be cancelled, terminated, materially modified or not renewed for good cause as defined in this section, provided the brewer has acted in good faith.4. Termination for cause and opportunity to cure. (a) No brewer may cancel, fail to renew, or terminate an agreement unless the party intending such action has good cause for such cancellation, failure to renew, or termination and in any case in which prior notification is required under this section, the party intending to act has furnished said prior notification as provided for in subdivision five of this section and the wholesaler has failed to cure such defaults or deficiencies after a period for cure, as provided for in clause (C) of subparagraph (ii) of paragraph (e) of subdivision two of this section.(b) No brewer shall amend or materially modify or otherwise terminate any essential and material term or requirement of an agreement unless the brewer has good cause therefor and has furnished the affected party with at least fifteen days prior notification as required by subdivision five of this section.(c) Notwithstanding any provision of this subdivision to the contrary:(i) Any brewer with an annual volume as defined in subparagraph (iv) of this paragraph of less than three hundred thousand barrels of beer and whose sales to an affected beer wholesaler are three percent or less of the beer wholesaler's total annual brand sales measured in case equivalent sales of twenty-four--twelve ounce units may terminate an agreement with any beer wholesaler without having good cause for such termination, as defined in paragraph (e) of subdivision two of this section, and shall not be subject to liability to the beer wholesaler under paragraph (b) of subdivision seven of this section provided that, prior to the effective date of the termination, the brewer pays the beer wholesaler the fair market value of the distribution rights which will be lost or diminished by reason of the termination. If such brewer and beer wholesaler cannot mutually agree to the fair market value of the applicable distribution rights lost or diminished by reason of the termination, then the brewer shall pay the beer wholesaler a good faith estimate of the fair market value of the applicable distribution rights.(ii) If the beer wholesaler being terminated under subparagraph (i) of this paragraph disputes that the payment made by the brewer was less than the fair market value of the

distribution rights, then the beer wholesaler may within forty-five days of termination submit the question of fair market value of the applicable distribution rights lost or diminished by reason of the termination to binding arbitration before a panel of three neutral arbitrators appointed in accordance with the commercial arbitration rules of the American Arbitration Association, which panel shall determine by majority decision whether the brewer's payment meets the requirements of subparagraph (i) of this paragraph. If the arbitration panel rules that the payment made by the brewer to the beer wholesaler upon termination was less than the fair market value of distribution rights lost or diminished by reason of the termination, then the brewer must pay the beer wholesaler the difference between the payment made to the beer wholesaler and the determined fair market value plus interest. If the arbitration panel rules that the payment made by the brewer to the beer wholesaler upon termination was more than the fair market value of distribution rights lost or diminished by reason of the termination, then the beer wholesaler must pay the brewer the difference between the payment made to the beer wholesaler and the determined fair market value plus interest. All arbitration fees and expenses shall be equally divided among the parties to the arbitration except if the arbitration panel determines that the brewer's payment upon termination was not a good faith estimate of the fair market value, then the panel may award up to one hundred percent of the arbitration costs to the brewer.(iii) Notwithstanding any provision of this section to the contrary, for purposes of this paragraph, the term "brewer" shall mean any person or entity engaged primarily in business as a brewer or manufacturer of beer.(iv) For the purpose of this paragraph, the term "annual volume" shall mean: (1) the aggregate number of barrels of beer, under trademarks owned by that brewery and brewed, directly or indirectly, by or on behalf of the brewer during the measuring period, on a worldwide basis, plus (2) the aggregate number of barrels of beer brewed, during the measuring period, directly or indirectly, by or on behalf of any person or entity which, at any time during the measuring period, controlled, was controlled by or was under common control with the brewer, on a worldwide basis. Annual volume shall not include beer brewed under contract for any other brewer. There shall be no double counting of the same barrels of beer under clauses one and two of this subparagraph.(v) For the purposes of this paragraph, the term "measuring period" shall mean the twelve month calendar period immediately preceding the date notice of termination, as required under subparagraph (i) of this paragraph, was given by a brewer to the beer wholesaler.5. Notice of default or deficiency. (a) Except as provided in paragraph (d) of this subdivision, no brewer may cancel, fail to renew or terminate an agreement unless the brewer or beer wholesaler furnished prior notification in accordance with paragraph (c) of this subdivision.(b) Notwithstanding any agreement, no brewer or beer wholesaler may materially amend or modify an essential and material term or requirement unless the brewer or beer wholesaler furnished prior notification in accordance with paragraph (c) of this subdivision.(c) The notification required under paragraphs (a) and (b) of this subdivision shall be in writing and sent to the affected party by certified mail. Such notification shall contain:(i) a statement of intent to cancel, not renew, otherwise terminate, materially amend or modify an agreement;(ii) a statement of all reasons therefor, stated with particularity; and(iii) the date on which such action shall take effect.(d) A brewer or beer wholesaler may cancel, fail to renew or otherwise terminate an agreement without furnishing the prior notification required under this section only:(i) in the event the affected party has made an assignment for the benefit of creditors or similar disposition of all or substantially all of the assets of such party's business;(ii) in the event of a conviction or plea of guilty or no contest to a felony which in the reasonable judgment of the brewer may adversely affect the goodwill or interests of the wholesaler or brewer;(iii) in the event of the revocation or suspension for thirty-one days or more of any license or permit required of the wholesaler for the normal operation of its business;(iv) in the event there was fraudulent conduct on the part of the brewer or beer wholesaler in its dealings with the other party;(v) in the event of the failure by either party to pay sums of money to the other party when due or if either the wholesaler or brewer takes any action which would provide grounds for immediate termination pursuant to the reasonable terms of a written enforceable agreement between them, which was freely entered into without threat of termination or other coercion or compulsion and was in full force and effect sixty days from the effective date of the chapter of the laws of nineteen hundred ninety-seven which amended this subparagraph;(vi) in the event the brewer and beer wholesaler voluntarily agree in writing to terminate the agreement.6. Right of action. If a brewer fails to comply with the provisions of this section, a beer wholesaler may maintain a civil action in a court of competent jurisdiction within this state for damages sustained in accordance with the laws of this state which shall govern all disputes arising under an agreement or by reason of its making and performance. In any such action the court may grant such equitable relief as is necessary or appropriate, considering the purposes of this section, to remedy the effects of any failure to comply with the provisions of this section or the effects of conduct prohibited hereunder, including declaratory judgment, mandatory or prohibitive injunctive relief, or preliminary or other interim equitable relief; provided, however, that permanent injunctive relief shall not be granted to prohibit the effectiveness of a termination or non-renewal of an agreement in furtherance of a policy of consolidation that is in compliance with subparagraph (i) of paragraph (e) of subdivision two of this section. In any legal action challenging any cancellation, termination or failure to renew, or where an issue is the brewer's compliance with the provisions of subparagraph (i) of paragraph (e) of subdivision two of this section, the brewer shall have the burden of proof that its action was based upon good cause, provided however, the wholesaler shall retain the burden of proof in all other respects. The rights and remedies provided in this section to a beer wholesaler with respect to an agreement with a brewer and to an affected wholesaler or an affected brewer shall be intended to supplement and not be exclusive of any rights and remedies otherwise available pursuant to any other statute, or at law or equity.7. Reasonable compensation. (a) Any brewer who shall implement a national or regional consolidation policy, pursuant to this section, shall not terminate its relationship with an affected wholesaler until compensation as provided for in this subdivision has been paid. Such brewer shall pay the affected beer wholesaler the fair market value of the distribution rights which will be lost or diminished by reason of the implementation of such policy, together with fair and reasonable compensation for other damages sustained.(b) Every brewer who without good cause amends, cancels, terminates, materially modifies or fails to renew any agreement, or who in

violation of this section causes a beer wholesaler to resign from an agreement or denies or withholds consent to any assignment, transfer or sale of a beer wholesaler's business assets or capital stock or other equity or debt securities, shall pay the affected beer wholesaler the fair market value of the beer wholesaler's business, including distribution rights, which have been lost or diminished as the result of the brewer's actions.(c) In the event that the brewer and the beer wholesaler are unable to agree on the compensation to be paid for the value of the beer wholesaler's business and assets, the matter may with the consent of both the brewer and the beer wholesaler, be submitted to a neutral arbitrator to be selected by the parties; if they cannot agree on such an arbitrator, the same shall be selected by a judge of a court of competent jurisdiction. No brewer or beer wholesaler may impose binding arbitration of any issue as a term or condition of an agreement. Arbitration costs shall be equally divided by the beer wholesaler and the brewer. The award of the arbitrator shall be confirmed by a court of competent jurisdiction in this state, the judgment of which shall be binding.8. Sale and transfer of beer wholesaler's business. No brewer shall unreasonably withhold or delay its approval of any assignment, sale or transfer of all or any portion of beer wholesaler's corporate equity or debt or assets, including the beer wholesaler's rights and obligations under the terms of an agreement, whenever the person or persons to be substituted meet objectively reasonable standards imposed by the brewer. A wholesaler who sells, assigns or transfers an agreement made pursuant to this section shall provide written notice of such sale, assignment or transfer to all other brewers with whom it has entered agreements.9. (a) A brewer qualified to do business in the state of New York may hold an interest in a limited partnership licensed by the authority as a wholesaler, when the brewer or its affiliate is a limited partner and the beer wholesaler is the general partner. Notwithstanding any other provision of law, such brewer may loan money to a general partner of an aforementioned limited partnership. Provided, however, any brewer or its affiliate who holds an interest in a limited partnership licensed by the authority as a wholesaler or who loans money to a general partner of such limited partnership may only exercise such control of the business as permitted by section 121-303 of the partnership law.(b) Notwithstanding subdivision (a) of this subdivision, no brewer or its affiliate may acquire or hold an interest in or loan money to a general partner of a multiple brands wholesaler unless and until all other brewers having agreements with said multiple brands wholesaler have been afforded sixty days prior written notice of the particular terms and conditions of the limited partnership or loan agreement or of any change therein. A "loan" for purposes of this subdivision shall not include bona fide credit terms for product purchases customarily extended by a brewer to wholesalers in the normal course of business.(c) For one hundred twenty days after the formation, licensing and commencement of operations as a beer wholesaler of a limited partnership or the making of a loan, and upon at least fifteen days prior notification as required by subdivision five of this section, a brewer may terminate an agreement with a multiple brands wholesaler in the event: (i) a competing brewer or its affiliate becomes a limited partner with or loans money to a general partner of a multiple brands wholesaler, (ii) by reason of said loan, the performance of a loan agreement, or the terms or conduct of the limited partnership, there is a reasonable likelihood that competition between brands of the competing brewers has been or may be significantly reduced in a relevant geographic area or market, and (iii) in lieu of other rights and remedies it might have under this chapter to terminate for good cause, the terminating brewer pays compensation to the multiple brands wholesaler.10. Coverage. (a) This section shall not apply to written agreements that were in effect prior to the effective date of this section which set forth all terms and conditions of material significance governing the relationship between the brewer and beer wholesaler, including but not limited to the grounds and procedures which govern: (i) termination of the relationship; (ii) approval and disapproval of managers; (iii) change in ownership; and (iv) whether or not the wholesaler is entitled to compensation in the event the wholesaler is terminated for deficient performance under such agreement or without good cause. Provided, however, that this section shall apply to any agreement entered into, and renewals, extensions, amendments or conduct constituting a material modification of an agreement on or after the effective date of this section.(b) Where an agreement between a brewer and beer wholesaler in effect prior to the effective date of this section is continuous in nature or has no specific duration or has no renewal provision and fails to set forth all terms and conditions of material significance governing the relationship between the brewer and beer wholesaler, including but not limited to the grounds and procedures which govern: (i) termination of the relationship; (ii) approval and disapproval of managers; (iii) change in ownership; and (iv) whether or not the wholesaler is entitled to compensation in the event the wholesaler is terminated for deficient performance under such agreement or without good cause; such agreement shall be considered for purposes of this section to have been renewed sixty days after the effective date of this section.11. The requirements of this section may not be altered, waived or modified by written or oral agreement in advance of a bona fide case and controversy arising under a written agreement complying with this section. (a) "Agreement" means any contract, agreement, arrangement, course of dealing or commercial relationship between a brewer and a beer wholesaler pursuant to which a beer wholesaler is granted the right to purchase, offer for sale, resell, warehouse or physically deliver beer sold by a brewer. (b) "Brewer" means any person or entity engaged primarily in business as a brewer, manufacturer of alcoholic beverages, importer, marketer, broker or agent of any of the foregoing who sells or offers to sell beer to a beer wholesaler in this state or any successor to a brewer. (c) "Successor to a brewer" means any person or entity which acquires the business or beer brands of a brewer, without limitation, by way of the purchase, assignment, transfer, lease, or license or disposition of all or a portion of the assets, business or equity of a brewer in any transaction, including merger, corporate reorganization or consolidation or the formation of a partnership, joint venture or other joint marketing alliance. (d) "Beer wholesaler" and "wholesaler" means the holder of a wholesaler's license pursuant to section fifty-three of this article who purchases, offers to sell, resells, markets, promotes, warehouses or physically distributes beer sold by a brewer. (e) "Good cause" means and shall be limited to: (i) (A) The implementation by a brewer of a national or regional policy of consolidation which is reasonable, nondiscriminatory and essential. Such policy shall have been previously disclosed, in writing, in reasonable detail to the brewer's wholesalers, and shall result in a contemporaneous reduction in the number of a brewer's wholesalers not only for a brand in this state, but also for a brand in contiguous states or in a majority of the states in

which the brewer sells the brand. All affected wholesalers and affected brewers shall be afforded ninety days prior notice of the implementation of such policy, and such notice shall be provided by the brewer implementing said policy. Further, an affected wholesaler who has actual knowledge of the intended implementation of such policy shall also notify each affected brewer. The term "affected brewers" means all other brewers with an agreement with an affected wholesaler who is a multiple brands wholesaler. The term "affected wholesalers" means wholesalers who may reasonably be expected to experience a loss or diminishment of a right to distribute a brand, in whole or in part, as a consequence of a proposed consolidation policy. (B) An affected brewer receiving notice pursuant to this paragraph may, within one hundred twenty days after receiving such notice, terminate an agreement with a multiple brands wholesaler in the event: (1) the total case purchases computed in twenty-four twelve ounce equivalence units by the wholesaler of the products of the affected brewer amounted to two percent or less of the multiple brands wholesaler's total sales volume during the twelve month period preceding the notice; and (2) the affected brewer, prior to such termination, pays compensation to the multiple brands wholesaler. (ii) There is a failure by the beer wholesaler to comply with a material term of an agreement required by subdivision three of this section between the brewer and beer wholesaler, provided that: (A) the wholesaler was given written notice by the brewer of the failure to comply with the agreement as provided for in subdivision five of this section and in which the brewer states with particularity the basis for the brewer's determination of non-compliance, and upon the wholesaler's written request within ten days of receipt of the notice, the brewer has supplemented such notice by submitting to the wholesaler in writing the brewer's recommended plan of corrective action to cure the claimed defaults or deficiencies in a manner satisfactory to it; (B) the wholesaler was afforded a reasonable opportunity to assert good faith efforts to comply with the agreement by curing the claimed defaults or deficiencies specified in said notice within the time provided for in clause (C) of this subparagraph; and (C) the wholesaler was afforded fifteen days after receipt of such notice to submit a written plan of corrective action to comply with the agreement by curing the claimed non-compliance and seventy-five days to cure such non-compliance in accordance with the plan. Provided, however, that such period for cure may be increased or reduced to a commercially reasonable period by an order of a court in this state entered after a hearing at which the brewer has the burden to demonstrate that the claimed defaults or deficiencies can be substantially rectified in the period of time afforded the wholesaler or that, after receipt of notice of default or deficiency as provided for in subdivision five of this section, the wholesaler has intentionally engaged in an affirmative course of conduct in which the brewer's current marketing plans and other trade secrets are disclosed to a third party without the prior consent of the brewer or in which the wholesaler acts or threatens to act to significantly impair, harm or dilute the reputation or competitive position of the brewer or otherwise irreparably injure the brewer, its brands or trademarks. Provided, further however: (1) that such period for cure need not exceed forty-five days if within the twelve months immediately following a cure, the wholesaler intentionally engages in conduct which repeats the same specified default and deficiency which the brewer had deemed cured; and (2) that such period for cure need not exceed sixty days in the event that during the twelve month period preceding the notice, the total case purchases by the wholesaler of the affected products of the brewer account for less than one-half of one percent of the wholesaler's aggregate case purchases from all sources or one thousand cases. For purposes of this subdivision, case purchases of affected products whether package or draught shall be computed in twenty-four twelve ounce equivalence units. (f) "Good faith" means honesty in fact and the observance of reasonable commercial standards in the trade. (g) "Material modification" of an agreement or to "materially modify" means and includes a substantial and significant change in the competitive circumstances under which the agreement was entered into and is performed which is caused by a brewer without fault on the part of the wholesaler. (h) "Multiple brands wholesaler" means a wholesaler which pursuant to agreements with different brewers holds the rights to purchase, resell, warehouse or physically deliver two or more competing products in substantially the same geographic area or to the same customer class. (i) "Fair market value of distribution rights" means the amount a willing seller, under no compulsion to sell, would be willing to accept and a willing buyer, under no compulsion to purchase, would be willing to pay for the distribution rights. 3. Written agreement required. Except as provided for in subdivision ten of this section, beer offered for sale in this state by a brewer to a beer wholesaler shall be sold and delivered pursuant to a written agreement which conforms to the provisions of this section and which sets forth all essential and material terms, requirements, standards of performance and conditions of the business relationship between a brewer and a beer wholesaler. Such agreement may be cancelled, terminated, materially modified or not renewed for good cause as defined in this section, provided the brewer has acted in good faith. 4. Termination for cause and opportunity to cure. (a) No brewer may cancel, fail to renew, or terminate an agreement unless the party intending such action has good cause for such cancellation, failure to renew, or termination and in any case in which prior notification is required under this section, the party intending to act has furnished said prior notification as provided for in subdivision five of this section and the wholesaler has failed to cure such defaults or deficiencies after a period for cure, as provided for in clause (C) of subparagraph (ii) of paragraph (e) of subdivision two of this section. (b) No brewer shall amend or materially modify or otherwise terminate any essential and material term or requirement of an agreement unless the brewer has good cause therefor and has furnished the affected party with at least fifteen days prior notification as required by subdivision five of this section. (c) Notwithstanding any provision of this subdivision to the contrary: (i) Any brewer with an annual volume as defined in subparagraph (iv) of this paragraph of less than three hundred thousand barrels of beer and whose sales to an affected beer wholesaler are three percent or less of the beer wholesaler's total annual brand sales measured in case equivalent sales of twenty-four--twelve ounce units may terminate an agreement with any beer wholesaler without having good cause for such termination, as defined in paragraph (e) of subdivision two of this section, and shall not be subject to liability to the beer wholesaler under paragraph (b) of subdivision seven of this section provided that, prior to the effective date of the termination, the brewer pays the beer wholesaler the fair market value of the distribution rights which will be lost or diminished by reason of the termination. If such brewer and beer wholesaler cannot mutually agree to the fair market value of

the applicable distribution rights lost or diminished by reason of the termination, then the brewer shall pay the beer wholesaler a good faith estimate of the fair market value of the applicable distribution rights. (ii) If the beer wholesaler being terminated under subparagraph (i) of this paragraph disputes that the payment made by the brewer was less than the fair market value of the distribution rights, then the beer wholesaler may within forty-five days of termination submit the question of fair market value of the applicable distribution rights lost or diminished by reason of the termination to binding arbitration before a panel of three neutral arbitrators appointed in accordance with the commercial arbitration rules of the American Arbitration Association, which panel shall determine by majority decision whether the brewer's payment meets the requirements of subparagraph (i) of this paragraph. If the arbitration panel rules that the payment made by the brewer to the beer wholesaler upon termination was less than the fair market value of distribution rights lost or diminished by reason of the termination, then the brewer must pay the beer wholesaler the difference between the payment made to the beer wholesaler and the determined fair market value plus interest. If the arbitration panel rules that the payment made by the brewer to the beer wholesaler upon termination was more than the fair market value of distribution rights lost or diminished by reason of the termination, then the beer wholesaler must pay the brewer the difference between the payment made to the beer wholesaler and the determined fair market value plus interest. All arbitration fees and expenses shall be equally divided among the parties to the arbitration except if the arbitration panel determines that the brewer's payment upon termination was not a good faith estimate of the fair market value, then the panel may award up to one hundred percent of the arbitration costs to the brewer. (iii) Notwithstanding any provision of this section to the contrary, for purposes of this paragraph, the term "brewer" shall mean any person or entity engaged primarily in business as a brewer or manufacturer of beer. (iv) For the purpose of this paragraph, the term "annual volume" shall mean: (1) the aggregate number of barrels of beer, under trademarks owned by that brewery and brewed, directly or indirectly, by or on behalf of the brewer during the measuring period, on a worldwide basis, plus (2) the aggregate number of barrels of beer brewed, during the measuring period, directly or indirectly, by or on behalf of any person or entity which, at any time during the measuring period, controlled, was controlled by or was under common control with the brewer, on a worldwide basis. Annual volume shall not include beer brewed under contract for any other brewer. There shall be no double counting of the same barrels of beer under clauses one and two of this subparagraph. (v) For the purposes of this paragraph, the term "measuring period" shall mean the twelve month calendar period immediately preceding the date notice of termination, as required under subparagraph (i) of this paragraph, was given by a brewer to the beer wholesaler. 5. Notice of default or deficiency. (a) Except as provided in paragraph (d) of this subdivision, no brewer may cancel, fail to renew or terminate an agreement unless the brewer or beer wholesaler furnished prior notification in accordance with paragraph (c) of this subdivision. (b) Notwithstanding any agreement, no brewer or beer wholesaler may materially amend or modify an essential and material term or requirement unless the brewer or beer wholesaler furnished prior notification in accordance with paragraph (c) of this subdivision. (c) The notification required under paragraphs (a) and (b) of this subdivision shall be in writing and sent to the affected party by certified mail. Such notification shall contain: (i) a statement of intent to cancel, not renew, otherwise terminate, materially amend or modify an agreement; (ii) a statement of all reasons therefor, stated with particularity; and (iii) the date on which such action shall take effect. (d) A brewer or beer wholesaler may cancel, fail to renew or otherwise terminate an agreement without furnishing the prior notification required under this section only: (i) in the event the affected party has made an assignment for the benefit of creditors or similar disposition of all or substantially all of the assets of such party's business; (ii) in the event of a conviction or plea of guilty or no contest to a felony which in the reasonable judgment of the brewer may adversely affect the goodwill or interests of the wholesaler or brewer; (iii) in the event of the revocation or suspension for thirty-one days or more of any license or permit required of the wholesaler for the normal operation of its business; (iv) in the event there was fraudulent conduct on the part of the brewer or beer wholesaler in its dealings with the other party; (v) in the event of the failure by either party to pay sums of money to the other party when due or if either the wholesaler or brewer takes any action which would provide grounds for immediate termination pursuant to the reasonable terms of a written enforceable agreement between them, which was freely entered into without threat of termination or other coercion or compulsion and was in full force and effect sixty days from the effective date of the chapter of the laws of nineteen hundred ninety-seven which amended this subparagraph; (vi) in the event the brewer and beer wholesaler voluntarily agree in writing to terminate the agreement. 6. Right of action. If a brewer fails to comply with the provisions of this section, a beer wholesaler may maintain a civil action in a court of competent jurisdiction within this state for damages sustained in accordance with the laws of this state which shall govern all disputes arising under an agreement or by reason of its making and performance. In any such action the court may grant such equitable relief as is necessary or appropriate, considering the purposes of this section, to remedy the effects of any failure to comply with the provisions of this section or the effects of conduct prohibited hereunder, including declaratory judgment, mandatory or prohibitive injunctive relief, or preliminary or other interim equitable relief; provided, however, that permanent injunctive relief shall not be granted to prohibit the effectiveness of a termination or non-renewal of an agreement in furtherance of a policy of consolidation that is in compliance with subparagraph (i) of paragraph (e) of subdivision two of this section. In any legal action challenging any cancellation, termination or failure to renew, or where an issue is the brewer's compliance with the provisions of subparagraph (i) of paragraph (e) of subdivision two of this section, the brewer shall have the burden of proof that its action was based upon good cause, provided however, the wholesaler shall retain the burden of proof in all other respects. The rights and remedies provided in this section to a beer wholesaler with respect to an agreement with a brewer and to an affected wholesaler or an affected brewer shall be intended to supplement and not be exclusive of any rights and remedies otherwise available pursuant to any other statute, or at law or equity. 7. Reasonable compensation. (a) Any brewer who shall implement a national or regional consolidation policy, pursuant to this section, shall not terminate its relationship with an affected wholesaler until compensation as provided for in this subdivision has been paid. Such

brewer shall pay the affected beer wholesaler the fair market value of the distribution rights which will be lost or diminished by reason of the implementation of such policy, together with fair and reasonable compensation for other damages sustained. (b) Every brewer who without good cause amends, cancels, terminates, materially modifies or fails to renew any agreement, or who in violation of this section causes a beer wholesaler to resign from an agreement or denies or withholds consent to any assignment, transfer or sale of a beer wholesaler's business assets or capital stock or other equity or debt securities, shall pay the affected beer wholesaler the fair market value of the beer wholesaler's business, including distribution rights, which have been lost or diminished as the result of the brewer's actions. (c) In the event that the brewer and the beer wholesaler are unable to agree on the compensation to be paid for the value of the beer wholesaler's business and assets, the matter may with the consent of both the brewer and the beer wholesaler, be submitted to a neutral arbitrator to be selected by the parties; if they cannot agree on such an arbitrator, the same shall be selected by a judge of a court of competent jurisdiction. No brewer or beer wholesaler may impose binding arbitration of any issue as a term or condition of an agreement. Arbitration costs shall be equally divided by the beer wholesaler and the brewer. The award of the arbitrator shall be confirmed by a court of competent jurisdiction in this state, the judgment of which shall be binding. 8. Sale and transfer of beer wholesaler's business. No brewer shall unreasonably withhold or delay its approval of any assignment, sale or transfer of all or any portion of beer wholesaler's corporate equity or debt or assets, including the beer wholesaler's rights and obligations under the terms of an agreement, whenever the person or persons to be substituted meet objectively reasonable standards imposed by the brewer. A wholesaler who sells, assigns or transfers an agreement made pursuant to this section shall provide written notice of such sale, assignment or transfer to all other brewers with whom it has entered agreements. 9. (a) A brewer qualified to do business in the state of New York may hold an interest in a limited partnership licensed by the authority as a wholesaler, when the brewer or its affiliate is a limited partner and the beer wholesaler is the general partner. Notwithstanding any other provision of law, such brewer may loan money to a general partner of an aforementioned limited partnership. Provided, however, any brewer or its affiliate who holds an interest in a limited partnership licensed by the authority as a wholesaler or who loans money to a general partner of such limited partnership may only exercise such control of the business as permitted by section 121-303 of the partnership law. (b) Notwithstanding subdivision (a) of this subdivision, no brewer or its affiliate may acquire or hold an interest in or loan money to a general partner of a multiple brands wholesaler unless and until all other brewers having agreements with said multiple brands wholesaler have been afforded sixty days prior written notice of the particular terms and conditions of the limited partnership or loan agreement or of any change therein. A "loan" for purposes of this subdivision shall not include bona fide credit terms for product purchases customarily extended by a brewer to wholesalers in the normal course of business. (c) For one hundred twenty days after the formation, licensing and commencement of operations as a beer wholesaler of a limited partnership or the making of a loan, and upon at least fifteen days prior notification as required by subdivision five of this section, a brewer may terminate an agreement with a multiple brands wholesaler in the event: (i) a competing brewer or its affiliate becomes a limited partner with or loans money to a general partner of a multiple brands wholesaler, (ii) by reason of said loan, the performance of a loan agreement, or the terms or conduct of the limited partnership, there is a reasonable likelihood that competition between brands of the competing brewers has been or may be significantly reduced in a relevant geographic area or market, and (iii) in lieu of other rights and remedies it might have under this chapter to terminate for good cause, the terminating brewer pays compensation to the multiple brands wholesaler. 10. Coverage. (a) This section shall not apply to written agreements that were in effect prior to the effective date of this section which set forth all terms and conditions of material significance governing the relationship between the brewer and beer wholesaler, including but not limited to the grounds and procedures which govern: (i) termination of the relationship; (ii) approval and disapproval of managers; (iii) change in ownership; and (iv) whether or not the wholesaler is entitled to compensation in the event the wholesaler is terminated for deficient performance under such agreement or without good cause. Provided, however, that this section shall apply to any agreement entered into, and renewals, extensions, amendments or conduct constituting a material modification of an agreement on or after the effective date of this section. (b) Where an agreement between a brewer and beer wholesaler in effect prior to the effective date of this section is continuous in nature or has no specific duration or has no renewal provision and fails to set forth all terms and conditions of material significance governing the relationship between the brewer and beer wholesaler, including but not limited to the grounds and procedures which govern: (i) termination of the relationship; (ii) approval and disapproval of managers; (iii) change in ownership; and (iv) whether or not the wholesaler is entitled to compensation in the event the wholesaler is terminated for deficient performance under such agreement or without good cause; such agreement shall be considered for purposes of this section to have been renewed sixty days after the effective date of this section. 11. The requirements of this section may not be altered, waived or modified by written or oral agreement in advance of a bona fide case and controversy arising under a written agreement complying with this section.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4 - Special Provisions Relating to Beer55 - License to Sell Beer at Retail for Consumption on the Premises.

§ 55. License to sell beer at retail for consumption on the premises. 1. Any person may make an application to the appropriate board for a license to sell beer at retail to be consumed upon the premises. Such application shall be in writing and verified and shall contain such information as the liquor authority shall require. Such application shall be accompanied by a check or draft for the amount required by this article for such license. All of the provisions contained in subdivisions two and three of the preceding section shall apply to the procedure relative to an application for a license under this section. 2. Such a license shall contain a description of the licensed premises and in form and in substance shall be a license to the person therein specifically designated to sell beer in the premises therein specifically licensed, at retail, to be consumed upon such premises. Such license shall also include

the privilege of selling beer at retail to be consumed off the premises. 3. No such license shall be issued, however, to any person for any premises other than premises for which a license may be issued under section sixty-four or sixty-four-a of this chapter or a hotel or premises which are kept, used, maintained, advertised or held out to the public to be a place where food is prepared and served for consumption on the premises in such quantities as to satisfy the liquor authority that the sale of beer intended is incidental to and not the prime source of revenue from the operation of such premises. The foregoing provisions of this subdivision shall not apply to any premises located at, in, or on the area leased by the city of New York to New York World's Fair 1964 Corporation pursuant to the provisions of chapter four hundred twenty-eight of the laws of nineteen hundred sixty, as amended by a chapter of the laws of nineteen hundred sixty-one, during the term or duration of such lease. Such license may also include such suitable space outside of the licensed premises and adjoining it as may be approved by the liquor authority.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4 - Special Provisions Relating to Beer56-A - Filing Fees and Refunds.

§ 56-a. Filing fees and refunds. 1. In addition to the annual fees provided for in this chapter, there shall be paid to the authority with each initial application for a license filed pursuant to section thirty, thirty-one, fifty-one, fifty-one-a, fifty-two, fifty-three, fifty-eight, fifty-eight-c, fifty-eight-d, sixty-one, sixty-two, seventy-six, seventy-seven or seventy-eight of this chapter, a filing fee of four hundred dollars; with each initial application for a license filed pursuant to section sixty-three, sixty-four, sixty-four-a or sixty-four-b of this chapter, a filing fee of two hundred dollars; with each initial application for a license filed pursuant to section fifty-three-a, fifty-four, fifty-five, fifty-five-a, seventy-nine, eighty-one or eighty-one-a of this chapter, a filing fee of one hundred dollars; with each initial application for a permit filed pursuant to section ninety-one, ninety-one-a, ninety-two, ninety-two-a, ninety-three, ninety-three-a, if such permit is to be issued on a calendar year basis, ninety-four, ninety-five, ninety-six or ninety-six-a, or pursuant to paragraph b, c, e or j of subdivision one of section ninety-nine-b of this chapter if such permit is to be issued on a calendar year basis, or for an additional bar pursuant to subdivision four of section one hundred of this chapter, a filing fee of twenty dollars; and with each application for a permit under section ninety-three-a of this chapter, other than a permit to be issued on a calendar year basis, section ninety-seven, ninety-eight, ninety-nine, or ninety-nine-b of this chapter, other than a permit to be issued pursuant to paragraph b, c, e or j of subdivision one of section ninety-nine-b of this chapter on a calendar year basis, a filing fee of ten dollars. 2. In addition to the annual fees provided for in this chapter, there shall be paid to the authority with each renewal application for a license filed pursuant to section thirty, thirty-one, fifty-one, fifty-one-a, fifty-two, fifty-three, fifty-eight, fifty-eight-c, fifty-eight-d, sixty-one, sixty-two, seventy-six, seventy-seven or seventy-eight of this chapter, a filing fee of one hundred dollars; with each renewal application for a license filed pursuant to section sixty-three, sixty-four, sixty-four-a or sixty-four-b of this chapter, a filing fee of ninety dollars; with each renewal application for a license filed pursuant to section seventy-nine, eighty-one or eighty-one-a of this chapter, a filing fee of twenty-five dollars; and with each renewal application for a license or permit filed pursuant to section fifty-three-a, fifty-four, fifty-five, fifty-five-a, ninety-one, ninety-one-a, ninety-two, ninety-two-a, ninety-three, ninety-three-a, if such permit is issued on a calendar year basis, ninety-four, ninety-five, ninety-six or ninety-six-a of this chapter or pursuant to paragraph b, c, e or j of subdivision one of section ninety-nine-b, if such permit is issued on a calendar year basis, or with each renewal application for an additional bar pursuant to subdivision four of section one hundred of this chapter, a filing fee of thirty dollars. 3. If the authority shall deny an application filed pursuant to this chapter it shall return the annual fee to the applicant and retain the filing fee.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4 - Special Provisions Relating to Beer56 - License Fees.

(a) four thousand dollars for a brewer's license, unless the annual production of the brewer is less than seventy-five thousand barrels per year, in which case the annual fee shall be three hundred twenty dollars; (b) three hundred twenty dollars for a farm brewery license. 2. The annual fee for a wholesaler's beer license shall be eight hundred dollars. 3. The annual fee for a vendor's license shall be one hundred forty-four dollars. 4. The annual fee for a license to sell beer at retail not to be consumed on the premises where sold shall be one hundred ten dollars. Where, however, the applicant is the holder of two such licenses, the annual fee for each additional license thereafter issued to such licensee shall be double the amount hereinabove set forth. 5. The annual fee for a license to sell beer at retail to be consumed on the premises where sold shall be three hundred twenty dollars in cities having a population of one hundred thousand or over, and one hundred sixty dollars elsewhere; provided, however, that where the premises to be licensed remain open only within the period commencing April first and ending October thirty-first of any one year or only within the period commencing October first and ending the following April thirtieth, the liquor authority, in its discretion, may grant a summer or winter license effective only for such appropriate period of time, for which an annual fee of one hundred sixty dollars shall be paid where the premises are located in cities having a population of one hundred thousand or over, and eighty dollars where such premises are located elsewhere. 6. The annual fee for selling beer upon any railroad car to be consumed on such car or any car connected therewith shall be ninety-six dollars for each railroad car licensed. 7. The annual fee for selling beer upon any vessel in this state, other than one regularly and exclusively engaged in the business of carrying passengers for hire, by charter or otherwise, for fishing purposes, to be consumed on such vessel, shall be one hundred sixty dollars for each vessel licensed. The annual fee for selling beer upon a vessel regularly and exclusively engaged in the business of carrying passengers for hire, by charter or otherwise, for fishing purposes, to be consumed on such vessel, shall be forty dollars for each vessel licensed. The annual fee for selling beer for off-premise consumption upon a vessel regularly and exclusively engaged, as a duly licensed supply ship, in furnishing supplies to other vessels, shall be eighty dollars. 8. The annual fee for selling beer at any baseball park, race track or outdoor athletic field or

stadium, to be consumed in any such baseball park, race track, or outdoor athletic field or stadium, shall be one hundred ninety-two dollars. 9. The annual fee for a license to sell beer and wine products at retail not to be consumed on the premises where sold shall be one hundred ninety-eight dollars. 10. The annual fee for a license to sell beer and wine products at retail not to be consumed on the premises where sold, when the applicant is the holder of two such licenses, the annual fee for each additional license thereafter issued to such licensee shall be three hundred fifty-two dollars. 11. The annual fee for a license to operate a custom beermakers' center shall be three hundred twenty dollars.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4 - Special Provisions Relating to Beer57-A - Change in Duration of Licenses.

§ 57-a. Change in duration of licenses. The liquor authority is authorized to change the periods during which the licenses authorized by sections fifty-one, fifty-one-a, fifty-three-a, fifty-four, fifty-five and fifty-five-a shall be effective and to establish the commencement dates, duration and expiration dates thereof, provided that no such license shall be effective for a period in excess of three years. When any change or changes are made in the duration of any such license, the license fee shall be equal to the annual license fee specified in this article multiplied by the number of years for which such license is issued. The liquor authority may make such rules as shall be appropriate to carry out the purpose of this section.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 4 - Special Provisions Relating to Beer57 - License Fees; When Due and Payable; Fee for Part of Year.

(b) Each license issued pursuant to section fifty-five-a of this article shall be effective for a license year expiring on the thirty-first day of March following the date of its issuance and the license fee prescribed therefor shall be the license fee due and payable therefor and shall be paid in advance of the time of the application as provided for in this article. 2. When application for any license under this article is made after the commencement of the license year hereinbefore provided the license fee therefor shall, for the balance of the license year, be in proportion as the remainder of such year shall bear to the whole year, except that it shall in no case be for less than one-half of such year.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor60 - Kinds of Licenses.

§ 60. Kinds of licenses. The following kinds of licenses may be issued for the manufacture and sale of liquor, alcohol and spirits, to wit: 1. Distiller's license, class A. 1-a. Distiller's license, class A-1. 2. Distiller's license, class B. 2-a. Distiller's license, class C. 2-b. Distiller's license, class B-1. 2-c. Distiller's license, class D. 3. Wholesaler's license. 4. Seven day license to sell liquor at retail for consumption off the premises subject to paragraph (a) of subdivision fourteen of section one hundred five of this chapter. 5. License to sell liquor at retail for consumption on the premises. 6. Special license to sell liquor at retail for consumption on the premises

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor61-A - Combined Craft Manufacturing License.

§ 61-a. Combined craft manufacturing license. 1. The authority may issue a combined craft manufacturer's license to a person for the purposes of articles four, four-a, five and six of this chapter, combining the privileges of two or more farm or micro manufacturing licenses for use at one premises. 2. The license fee for the combined license shall equal the sum of the license fees for each of the licenses included in the combined license. Provided, however, that only one filing fee shall be required for any combined license. 3. The license certificate of the combined license shall set forth the licenses that are included under the combined license. 4. A combined farm manufacturer's license may combine two or more of the following licenses: farm meadery; farm brewery; micro-brewery; farm cidery; farm winery; micro-distillery; micro-rectifier; and farm distillery. Provided, however, that the licensed premises for a combined farm manufacturer's license that includes a farm winery license must be located on a farm.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor61-B - Importer's License.

§ 61-b. Importer's license. An importer's license shall authorize the holder thereof to import alcoholic beverages into this state and sell such alcoholic beverages to licensed wholesalers authorized to sell such alcoholic beverages.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor61 - Distiller's Licenses.

1-a. A class A-1 distiller's license shall authorize the holder thereof to operate a distillery which has a production capacity of no more than seventy-five thousand gallons per year for the manufacture of liquors by distillation or redistillation at the premises specifically designated in the license. Such a license shall also authorize the sale in bulk by such licensee from the licensed premises of the products manufactured under such license to any person holding a winery license, farm winery license, distiller's class A license, a distiller's class B license or a permittee engaged in the manufacture of products which are unfit for beverage use. It shall also authorize the sale from the licensed premises and from one other location in the state of New York of liquors manufactured by such licensee to a wholesale or retail liquor licensee or permittee in sealed containers of not more than one quart each. In addition, it

shall authorize such licensee to sell from the licensed premises New York state labelled liquors to licensed farm wineries, farm breweries, farm distilleries and farm cideries in sealed containers of not more than one quart for retail sale for off-premises consumption. Such license shall also include the privilege to operate a rectifying plant under the same terms and conditions as the holder of a class B-1 distiller's license without the payment of any additional fee. 2. A class B distiller's license shall authorize the holder thereof to operate a rectifying plant for the manufacture of the products of rectification by purifying or combining alcohol, spirits, wine or beer and the manufacture of gin and cordials by the redistillation of alcohol or spirits over or with any materials. Such a license shall also authorize the holder thereof to blend, reduce proof and bottle on his licensed premises or in a United States customs bonded warehouse for which a warehouse permit has been issued under this chapter for wholesale liquor licensees or for persons authorized to sell liquor at wholesale pursuant to the laws and regulation of any other state, territorial possession of the United States or foreign country liquor received in bulk by such wholesalers from other states, territorial possessions of the United States or a foreign country, and to rebottle or recondition for wholesale liquor or wine licensees or for persons authorized to sell liquor or wine at wholesale pursuant to the laws and regulations of any other state, territorial possession of the United States or foreign country, liquor or wine manufactured outside the state, which was purchased and received by such wholesalers in sealed containers not exceeding one quart each of liquor or fifteen gallons each of wine. Such a license shall also authorize the sale from the licensed premises of the products manufactured by such licensee to a wholesale or retail licensee in sealed containers of not more than one quart each. 2-a. A class C distiller's license shall authorize the holder thereof to operate a distillery for the manufacture only of fruit brandy and the sale of such product by such licensee to a wholesale or retail licensee in sealed containers of not more than one quart each. Such a license shall also authorize the sale in bulk of fruit brandy to a winery licensee, to a farm winery licensee, to the holder of a class B distiller's license or to a permittee engaged in the manufacture of products which are unfit for beverage use. It shall also authorize the sale from the licensed premises and from one other location in the state of any fruit brandy whether or not manufactured by such licensee to a wholesale or retail liquor licensee or permittee in sealed containers of not more than one quart each. In addition, it shall authorize such licensee to sell from the licensed premises New York state labelled liquors to a farm winery licensee in sealed containers of not more than one quart for retail sale for off-premises consumption. 2-b. A class B-1 distiller's license shall authorize the holder thereof to operate a rectifying plant which has a production capacity of no more than seventy-five thousand gallons per year for the manufacture of the products of rectification by purifying or combining alcohol, spirits, wine, or beer and the manufacture of cordials by the redistillation of alcohol or spirits over or with any materials. Such a license shall also authorize the holder thereof to blend, reduce proof and bottle on his licensed premises or in a United States customs bonded warehouse for which a warehouse permit has been issued under this chapter for wholesale liquor licensees or for persons authorized to sell liquor at wholesale pursuant to the laws and regulation of any other state, territorial possession of the United States or foreign country liquor received in bulk by such wholesalers from other states, territorial possessions of the United States or a foreign country, and to rebottle or recondition for wholesale liquor or wine licensees or for persons authorized to sell liquor or wine at wholesale pursuant to the laws and regulations of any other state, territorial possession of the United States or foreign country, liquor or wine manufactured outside the state, which was purchased and received by such wholesalers in sealed containers not exceeding one quart each of liquor or fifteen gallons each of wine. Such a license shall also authorize the sale from the licensed premises of the products manufactured by such licensee to a wholesale or retail licensee in sealed containers of not more than one quart each. In addition, it shall authorize such licensee to sell from the licensed premises New York state labelled liquors to a farm winery licensee in sealed containers of not more than one quart for retail sale for off-premises consumption. 2-c. (a) A class D distiller's license, otherwise known as a farm distillery license, shall authorize the holder of such a license to operate a farm distillery at the premises specifically designated in the license:(i) To manufacture liquor primarily from farm and food products, as defined in subdivision two of section two hundred eighty-two of the agriculture and markets law;(ii) To put such liquor into containers of not more than one quart each, which containers shall then be sealed and to sell such liquor at wholesale, for resale, and to licensed farm wineries, farm cideries, farm breweries and other farm distilleries, wholesale and retail licensees, and permittees;(iii) To sell at retail, for personal use, in such sealed containers;(iv) To sell in bulk, liquor manufactured by the licensee to a winery or farm winery licensee, or to the holder of a class A, A-1, B, B-1 or C distiller's license, or to the holder of a permit issued pursuant to paragraph c of subdivision one of section ninety-nine-b of this chapter;(v) To conduct tastings of and sell at retail for consumption on or off the premises New York state labelled beer manufactured by a licensed brewer or licensed farm brewery;(vi) To conduct tastings of and sell at retail for consumption on or off the premises New York state labelled cider manufactured by a licensed brewer, licensed farm brewery, licensed farm winery, licensed cider producer or licensed farm cidery;(vii) To conduct tastings of and sell at retail for consumption on or off the premises New York state labelled wine manufactured by a licensed winery or licensed farm winery;(viii) To conduct tastings of and sell at retail for consumption on or off the premises New York state labelled mead manufactured by a person licensed to produce mead under this chapter; and(ix) To conduct tastings of and sell at retail for consumption on or off the premises New York state labelled braggot manufactured by a person licensed to produce braggot under this chapter.(b)(i) Retail sales by a licensed farm distillery may be made only to customers who are physically present upon the licensed premises and such sale shall be concluded by the customer's taking, with him or her, of the sealed containers purchased by the customer at the time the customer leaves the licensed premises except as provided for in subparagraph (iv) of this paragraph;(ii) Such retail sales shall not be made where the order is placed by letter, telephone, fax or e-mail, or where the customer otherwise does not place the order while the customer is physically present upon the premises of the licensed premises except as provided for in subparagraph (iv) of this paragraph;(iii) Such retail sales shall not be made where the contemplated sale requires the licensee to transport or ship by common carrier, sealed containers of liquor to a customer;(iv) A

licensed farm distillery may apply to the liquor authority for a permit to sell liquor in a sealed container for off-premises consumption at the state fair, at recognized county fairs and at farmers' markets operated on a not-for-profit basis. As a condition of the permit a representative from the distillery must be present at the time of sale.(c) A licensed farm distillery may conduct upon the licensed premises, or at approved locations as permitted in subdivision six of this section, consumer tastings of liquor manufactured by the licensee and from no more than three other class A, A-1, B, B-1, C or D distilleries, subject to the following limitations:(i) Only liquor manufactured primarily from farm and food products, as defined in subdivision two of section two hundred eighty-two of the agriculture and markets law, shall be used in the tastings;(ii) An official agent, servant or employee of the licensee shall be physically present at all times during the conduct of the consumer tasting of liquor;(iii) No consumer may be provided, directly or indirectly: (A) more than three samples of liquor for tasting in one calendar day; or (B) with a sample of liquor for tasting equal to more than one-quarter fluid ounce;(iv) Any liability stemming from a right of action resulting from a consumer tasting of liquor authorized by this paragraph and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the licensee.(d) Notwithstanding any other provision of this chapter, the authority may issue a farm distillery license to the holder of a class A, A-1, B, B-1 or C distiller's license, a winery license or a farm winery license for use at such licensee's existing licensed premises. For the purposes of this chapter, the premises of the class A, A-1, B, B-1 or C distillery, winery or farm winery shall be considered the premises of the farm distillery. The holder of a farm distillery license that simultaneously holds a winery, farm winery or any class of a distiller's license on the same premises may share and use the same tasting room facilities to conduct wine and liquor tastings that such licensee is otherwise authorized to conduct.(e) Notwithstanding any other provision of law to the contrary, the holder of a farm distillery license may (i) sell at retail for consumption on the licensed premises, any liquor manufactured by the licensee or any New York state labeled liquor. Provided, however, the licensee shall regularly keep food available for sale or service to its retail customers for consumption on the premises. A licensee providing the following shall be deemed in compliance with this provision: sandwiches, soups or other such foods, whether fresh, processed, pre-cooked or frozen; and/or food items intended to compliment the tasting of alcoholic beverages, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking, including but not limited to: cheese, fruits, vegetables, chocolates, breads, mustards and crackers. All of the provisions of this chapter relative to licenses to sell liquor at retail for consumption on the premises shall apply so far as applicable to such licensee; and(ii) operate a restaurant, hotel, catering establishment, or other food and drinking establishment in or adjacent to the licensed premises and sell at such place, at retail for consumption on the premises, liquor manufactured by the licensee and any New York state labeled liquor. All of the provisions of this chapter relative to licenses to sell liquor at retail for consumption on the premises shall apply so far as applicable to such licensee. Notwithstanding any other provision of law, the licensee may apply to the authority for a license under this chapter to sell other alcoholic beverages at retail for consumption on the premises at such establishment.(f) No holder of a farm distillery license shall manufacture in excess of seventy-five thousand gallons of liquor annually. In the case of the holder of a class A, A-1, B, B-1 or C distiller's license who operates a farm distillery on the same premises, the liquor manufactured pursuant to the farm distillery license shall not be considered with respect to any limitation on the volume that may be manufactured by the class A, A-1, B, B-1 or C distillery.(g) The holder of a license issued under this subdivision may operate up to one branch office located away from the licensed farm distillery. Such location shall be considered part of the licensed premises and all activities allowed at and limited to the farm distillery may be conducted at the branch office. Such branch office shall not be located within, share a common entrance and exit with, or have any interior access to any other business, including premises licensed to sell alcoholic beverages at retail. Prior to commencing operation of any such branch office, the licensee shall notify the authority of the location of such branch office and the authority may issue a permit for the operation of same.(h) A farm distillery license shall authorize the holder thereof to manufacture, bottle and sell food condiments and products such as nuts, popcorn, mulling spices and other spirits related food in addition to other such food and crafts on and from the licensed premises. Such license shall authorize the holder thereof to store and sell gift items in a tax-paid room upon the licensed premises incidental to the sale of liquor. These gift items shall be limited to the following categories:(i) non-alcoholic beverages for consumption on or off premises, including but not limited to bottled water, juice and soda beverages;(ii) food items for the purpose of complementing liquor tastings, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking. Such food items shall include but not be limited to: cheeses, fruits, vegetables, chocolates, breads, mustards and crackers;(iii) food items, which shall include locally produced farm products and any food or food product not specifically prepared for immediate consumption upon the premises. Such food items may be combined into a package containing liquor related products;(iv) liquor supplies and accessories, which shall include any item utilized for the storage, serving or consumption of liquor or for decorative purposes. These supplies may be sold as single items or may be combined into a package containing liquor;(v) liquor-making equipment and supplies including, but not limited to, filters, bottling equipment, and books or other written material to assist spirits makers to produce and bottle liquor; and(vi) souvenir items, which shall include, but not be limited to artwork, crafts, clothing, agricultural products and any other articles which can be construed to propagate tourism within the region.(i) Notwithstanding any provision of law to the contrary, another business or other businesses may operate on the licensed premises subject to such rules and regulations as the liquor authority may prescribe. Such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the farm distillery premises, provided however that a retailer business licensed under this chapter shall not be permitted to operate at a licensed manufacturing premises.3. A distiller's license of any class shall not authorize more than one of said activities, namely, that of a distillery, a rectifying plant or a fruit brandy distillery, and a separate license shall

be required for each such activity, except as provided in subdivision one of this section.4. Any person may apply to the liquor authority for a distiller's license as provided for in this section. Such application shall be in writing and verified and shall contain such information as the liquor authority shall require. Such application shall be accompanied by a check or draft for the amount required by this article for such license. If the liquor authority shall grant the application it shall issue a license in such form as shall be determined by its rules.5. No distiller shall be engaged in any other business on the licensed premises. No distiller shall sell or agree to sell any liquor, alcohol or spirits to any wholesaler or any retailer who is not duly licensed under this article to sell liquor, alcohol or spirits at wholesale or retail at the time of such agreement and sale or sell or agree to sell any liquor, alcohol or spirits to persons outside the state except pursuant to the laws of the place of such sale or delivery.6. Any person having applied for and received a license as a farm distillery under this section may conduct consumer tastings of liquor pursuant to rules or regulations promulgated by the liquor authority, and subject to the limitations set forth in paragraph c of subdivision two-c of this section at the state fair, at recognized county fairs and at farmers' markets operated on a not-for-profit basis.7. Any person licensed under this section shall manufacture at least fifty gallons of liquor per year.8. Notwithstanding any other provision of law to the contrary, a farm distillery licensed under subdivision two-c of this section may engage in custom liquor production for a non-licensed individual under the following conditions:(a) the licensee may allow such non-licensed individual to assist in the production of such custom liquors;(b) the licensee shall only sell such custom liquor to such non-licensed individual for that individual's personal or family use, and not for resale;(c) the brand label of such custom liquor shall clearly state that the product is not for resale;(d) such custom liquor shall not be offered for sale pursuant to section ninety-nine-g of this chapter;(e) any tastings conducted pursuant to this subdivision shall be subject to the provisions of paragraph (c) of subdivision two-c of this section;(f) the licensee or an employee or agent of the licensee shall be present at all times when the non-licensed individual is assisting in the production of the custom liquor;(g) the licensee shall be responsible for obtaining approval of the liquor's brand label pursuant to section one hundred seven-a of this chapter and the payment of all taxes due before the custom liquor is delivered to the non-licensed individual;(h) any custom liquor produced under this subdivision must be a New York labelled liquor as defined in subdivision twenty-c of section three of this chapter; and(i) any custom liquor produced under this subdivision shall be counted toward the maximum production limit set forth in paragraph (f) of subdivision two-c of this section.9. (a) The holder of a license issued under subdivision one, one-a, two, two-a or two-b of this section may, at the licensed premises, conduct tastings of, and sell at retail for consumption on or off the licensed premises, any liquor manufactured by the licensee or any New York state labeled liquor. Provided, however, that for tastings and sales for on-premises consumption, the licensee shall regularly keep food available for sale or service to its retail customers for consumption on the premises. A licensee providing the following shall be deemed in compliance with this subdivision: (i) sandwiches, soups or other such foods, whether fresh, processed, pre-cooked or frozen; and/or (ii) food items intended to complement the tasting of alcoholic beverages, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking, including but not limited to: cheeses, fruits, vegetables, chocolates, breads, mustards and crackers. All of the provisions of this chapter relative to licenses to sell liquor at retail for consumption on and off the premises shall apply so far as applicable to such licensee.(b)(i) Sales for off-premises consumption may be made only to customers who are physically present upon the licensed premises and such sale shall be concluded by the customer's taking, with him or her, of the sealed containers purchased by the customer at the time the customer leaves the licensed premises.(ii) Sales for off-premises consumption shall not be made where the order is placed by letter, telephone, fax or e-mail, or where the customer otherwise does not place the order while the customer is physically present upon the premises of the licensed premises.(iii) Sales for off-premises consumption shall not be made where the contemplated sale requires the licensee to transport or ship by common carrier, sealed containers of liquor to a customer. (i) To manufacture liquor primarily from farm and food products, as defined in subdivision two of section two hundred eighty-two of the agriculture and markets law; (ii) To put such liquor into containers of not more than one quart each, which containers shall then be sealed and to sell such liquor at wholesale, for resale, and to licensed farm wineries, farm cideries, farm breweries and other farm distilleries, wholesale and retail licensees, and permittees; (iii) To sell at retail, for personal use, in such sealed containers; (iv) To sell in bulk, liquor manufactured by the licensee to a winery or farm winery licensee, or to the holder of a class A, A-1, B, B-1 or C distiller's license, or to the holder of a permit issued pursuant to paragraph c of subdivision one of section ninety-nine-b of this chapter; (v) To conduct tastings of and sell at retail for consumption on or off the premises New York state labelled beer manufactured by a licensed brewer or licensed farm brewery; (vi) To conduct tastings of and sell at retail for consumption on or off the premises New York state labelled cider manufactured by a licensed brewer, licensed farm brewery, licensed farm winery, licensed cider producer or licensed farm cidery; (vii) To conduct tastings of and sell at retail for consumption on or off the premises New York state labelled wine manufactured by a licensed winery or licensed farm winery; (viii) To conduct tastings of and sell at retail for consumption on or off the premises New York state labelled mead manufactured by a person licensed to produce mead under this chapter; and (ix) To conduct tastings of and sell at retail for consumption on or off the premises New York state labelled braggot manufactured by a person licensed to produce braggot under this chapter. (b)(i) Retail sales by a licensed farm distillery may be made only to customers who are physically present upon the licensed premises and such sale shall be concluded by the customer's taking, with him or her, of the sealed containers purchased by the customer at the time the customer leaves the licensed premises except as provided for in subparagraph (iv) of this paragraph; (ii) Such retail sales shall not be made where the order is placed by letter, telephone, fax or e-mail, or where the customer otherwise does not place the order while the customer is physically present upon the premises of the licensed premises except as provided for in subparagraph (iv) of this paragraph; (iii) Such retail sales shall not be made where the contemplated sale requires the licensee to transport or ship by common carrier, sealed containers of liquor to a customer; (iv) A licensed farm distillery may apply to the liquor

authority for a permit to sell liquor in a sealed container for off-premises consumption at the state fair, at recognized county fairs and at farmers' markets operated on a not-for-profit basis. As a condition of the permit a representative from the distillery must be present at the time of sale. (c) A licensed farm distillery may conduct upon the licensed premises, or at approved locations as permitted in subdivision six of this section, consumer tastings of liquor manufactured by the licensee and from no more than three other class A, A-1, B, B-1, C or D distilleries, subject to the following limitations: (i) Only liquor manufactured primarily from farm and food products, as defined in subdivision two of section two hundred eighty-two of the agriculture and markets law, shall be used in the tastings; (ii) An official agent, servant or employee of the licensee shall be physically present at all times during the conduct of the consumer tasting of liquor; (iii) No consumer may be provided, directly or indirectly: (A) more than three samples of liquor for tasting in one calendar day; or (B) with a sample of liquor for tasting equal to more than one-quarter fluid ounce; (iv) Any liability stemming from a right of action resulting from a consumer tasting of liquor authorized by this paragraph and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the licensee. (d) Notwithstanding any other provision of this chapter, the authority may issue a farm distillery license to the holder of a class A, A-1, B, B-1 or C distiller's license, a winery license or a farm winery license for use at such licensee's existing licensed premises. For the purposes of this chapter, the premises of the class A, A-1, B, B-1 or C distillery, winery or farm winery shall be considered the premises of the farm distillery. The holder of a farm distillery license that simultaneously holds a winery, farm winery or any class of a distiller's license on the same premises may share and use the same tasting room facilities to conduct wine and liquor tastings that such licensee is otherwise authorized to conduct. (e) Notwithstanding any other provision of law to the contrary, the holder of a farm distillery license may (i) sell at retail for consumption on the licensed premises, any liquor manufactured by the licensee or any New York state labeled liquor. Provided, however, the licensee shall regularly keep food available for sale or service to its retail customers for consumption on the premises. A licensee providing the following shall be deemed in compliance with this provision: sandwiches, soups or other such foods, whether fresh, processed, pre-cooked or frozen; and/or food items intended to compliment the tasting of alcoholic beverages, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking, including but not limited to: cheese, fruits, vegetables, chocolates, breads, mustards and crackers. All of the provisions of this chapter relative to licenses to sell liquor at retail for consumption on the premises shall apply so far as applicable to such licensee; and (ii) operate a restaurant, hotel, catering establishment, or other food and drinking establishment in or adjacent to the licensed premises and sell at such place, at retail for consumption on the premises, liquor manufactured by the licensee and any New York state labeled liquor. All of the provisions of this chapter relative to licenses to sell liquor at retail for consumption on the premises shall apply so far as applicable to such licensee. Notwithstanding any other provision of law, the licensee may apply to the authority for a license under this chapter to sell other alcoholic beverages at retail for consumption on the premises at such establishment. (f) No holder of a farm distillery license shall manufacture in excess of seventy-five thousand gallons of liquor annually. In the case of the holder of a class A, A-1, B, B-1 or C distiller's license who operates a farm distillery on the same premises, the liquor manufactured pursuant to the farm distillery license shall not be considered with respect to any limitation on the volume that may be manufactured by the class A, A-1, B, B-1 or C distillery. (g) The holder of a license issued under this subdivision may operate up to one branch office located away from the licensed farm distillery. Such location shall be considered part of the licensed premises and all activities allowed at and limited to the farm distillery may be conducted at the branch office. Such branch office shall not be located within, share a common entrance and exit with, or have any interior access to any other business, including premises licensed to sell alcoholic beverages at retail. Prior to commencing operation of any such branch office, the licensee shall notify the authority of the location of such branch office and the authority may issue a permit for the operation of same. (h) A farm distillery license shall authorize the holder thereof to manufacture, bottle and sell food condiments and products such as nuts, popcorn, mulling spices and other spirits related food in addition to other such food and crafts on and from the licensed premises. Such license shall authorize the holder thereof to store and sell gift items in a tax-paid room upon the licensed premises incidental to the sale of liquor. These gift items shall be limited to the following categories: (i) non-alcoholic beverages for consumption on or off premises, including but not limited to bottled water, juice and soda beverages; (ii) food items for the purpose of complementing liquor tastings, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking. Such food items shall include but not be limited to: cheeses, fruits, vegetables, chocolates, breads, mustards and crackers; (iii) food items, which shall include locally produced farm products and any food or food product not specifically prepared for immediate consumption upon the premises. Such food items may be combined into a package containing liquor related products; (iv) liquor supplies and accessories, which shall include any item utilized for the storage, serving or consumption of liquor or for decorative purposes. These supplies may be sold as single items or may be combined into a package containing liquor; (v) liquor-making equipment and supplies including, but not limited to, filters, bottling equipment, and books or other written material to assist spirits makers to produce and bottle liquor; and (vi) souvenir items, which shall include, but not be limited to artwork, crafts, clothing, agricultural products and any other articles which can be construed to propagate tourism within the region. (i) Notwithstanding any provision of law to the contrary, another business or other businesses may operate on the licensed premises subject to such rules and regulations as the liquor authority may prescribe. Such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the farm distillery premises, provided however that a retailer business licensed under this chapter shall not be permitted to operate at a licensed manufacturing premises. 3. A distiller's license of any class shall not authorize more than one of said activities, namely, that of a distillery, a rectifying plant or a fruit brandy distillery, and a separate license shall be required for each such

activity, except as provided in subdivision one of this section. 4. Any person may apply to the liquor authority for a distiller's license as provided for in this section. Such application shall be in writing and verified and shall contain such information as the liquor authority shall require. Such application shall be accompanied by a check or draft for the amount required by this article for such license. If the liquor authority shall grant the application it shall issue a license in such form as shall be determined by its rules. 5. No distiller shall be engaged in any other business on the licensed premises. No distiller shall sell or agree to sell any liquor, alcohol or spirits to any wholesaler or any retailer who is not duly licensed under this article to sell liquor, alcohol or spirits at wholesale or retail at the time of such agreement and sale or sell or agree to sell any liquor, alcohol or spirits to persons outside the state except pursuant to the laws of the place of such sale or delivery. 6. Any person having applied for and received a license as a farm distillery under this section may conduct consumer tastings of liquor pursuant to rules or regulations promulgated by the liquor authority, and subject to the limitations set forth in paragraph c of subdivision two-c of this section at the state fair, at recognized county fairs and at farmers' markets operated on a not-for-profit basis. 7. Any person licensed under this section shall manufacture at least fifty gallons of liquor per year. 8. Notwithstanding any other provision of law to the contrary, a farm distillery licensed under subdivision two-c of this section may engage in custom liquor production for a non-licensed individual under the following conditions: (a) the licensee may allow such non-licensed individual to assist in the production of such custom liquors; (b) the licensee shall only sell such custom liquor to such non-licensed individual for that individual's personal or family use, and not for resale; (c) the brand label of such custom liquor shall clearly state that the product is not for resale; (d) such custom liquor shall not be offered for sale pursuant to section ninety-nine-g of this chapter; (e) any tastings conducted pursuant to this subdivision shall be subject to the provisions of paragraph (c) of subdivision two-c of this section; (f) the licensee or an employee or agent of the licensee shall be present at all times when the non-licensed individual is assisting in the production of the custom liquor; (g) the licensee shall be responsible for obtaining approval of the liquor's brand label pursuant to section one hundred seven-a of this chapter and the payment of all taxes due before the custom liquor is delivered to the non-licensed individual; (h) any custom liquor produced under this subdivision must be a New York labelled liquor as defined in subdivision twenty-c of section three of this chapter; and (i) any custom liquor produced under this subdivision shall be counted toward the maximum production limit set forth in paragraph (f) of subdivision two-c of this section. 9. (a) The holder of a license issued under subdivision one, one-a, two, two-a or two-b of this section may, at the licensed premises, conduct tastings of, and sell at retail for consumption on or off the licensed premises, any liquor manufactured by the licensee or any New York state labeled liquor. Provided, however, that for tastings and sales for on-premises consumption, the licensee shall regularly keep food available for sale or service to its retail customers for consumption on the premises. A licensee providing the following shall be deemed in compliance with this subdivision: (i) sandwiches, soups or other such foods, whether fresh, processed, pre-cooked or frozen; and/or (ii) food items intended to complement the tasting of alcoholic beverages, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking, including but not limited to: cheeses, fruits, vegetables, chocolates, breads, mustards and crackers. All of the provisions of this chapter relative to licenses to sell liquor at retail for consumption on and off the premises shall apply so far as applicable to such licensee. (b)(i) Sales for off-premises consumption may be made only to customers who are physically present upon the licensed premises and such sale shall be concluded by the customer's taking, with him or her, of the sealed containers purchased by the customer at the time the customer leaves the licensed premises. (ii) Sales for off-premises consumption shall not be made where the order is placed by letter, telephone, fax or e-mail, or where the customer otherwise does not place the order while the customer is physically present upon the premises of the licensed premises. (iii) Sales for off-premises consumption shall not be made where the contemplated sale requires the licensee to transport or ship by common carrier, sealed containers of liquor to a customer.

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§ 62. Wholesaler's liquor license. Any person may apply to the liquor authority for a license to sell liquor at wholesale. Such application shall be in writing and verified and shall contain such information as the liquor authority shall require. Such application shall be accompanied by a check or draft for the amount required by this article for such license. If the liquor authority shall grant the application it shall issue a license in such form as shall be determined by its rules. Such license shall contain a description of the licensed premises and in form and in substance shall be a license to the person therein specifically designated to sell liquors at wholesale in the premises therein specifically licensed to duly licensed wholesalers, retailers and permittees in this state, and to sell liquor in bulk to a licensed rectifier or to a permittee engaged in the manufacture of products which are unfit for beverage use, for use in the manufacture of products produced and sold by such rectifier or permittee, and to sell or deliver liquor to persons outside the state pursuant to the laws of the place of such sale or delivery. Such a license shall also include the privilege to sell wine at wholesale under the same terms and conditions without the payment of any additional fee.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor63-A - Liquor Tasting.

2. All consumer tastings of liquor shall be conducted subject to the following limitations:(a) tastings of liquor shall be conducted by the licensee or an authorized agent of the licensee. Such licensee or agent shall be physically present upon the premises at all times during the conducting of the consumer tasting of liquor.(b) no more than a total of three samples of liquor may be provided for tasting to a person in one calendar day.(c) no sample of liquor for tasting may exceed one-quarter fluid ounce.(d) any liability

stemming from a right of action resulting from a consumer tasting of liquor authorized by this section and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the licensee, who conducted such tasting.3. The state liquor authority shall promulgate rules and regulations regarding liquor tastings as provided for in this section. (a) tastings of liquor shall be conducted by the licensee or an authorized agent of the licensee. Such licensee or agent shall be physically present upon the premises at all times during the conducting of the consumer tasting of liquor. (b) no more than a total of three samples of liquor may be provided for tasting to a person in one calendar day. (c) no sample of liquor for tasting may exceed one-quarter fluid ounce. (d) any liability stemming from a right of action resulting from a consumer tasting of liquor authorized by this section and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the licensee, who conducted such tasting. 3. The state liquor authority shall promulgate rules and regulations regarding liquor tastings as provided for in this section.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor63 - Seven Day License to Sell Liquor at Retail for Consumption Off the Premises.

§ 63. Seven day license to sell liquor at retail for consumption off the premises. 1. Any person may make an application to the appropriate board for a seven day license to sell liquor at retail not to be consumed upon the premises where sold. Such application shall be in such form and shall contain such information as shall be required by the rules of the liquor authority and shall be accompanied by a check or draft in the amount required by this article for such license. 1-a. The liquor authority shall convert all current licenses to sell liquor at retail for consumption off the premises to seven day licenses to sell liquor at retail for consumption off the premises pursuant to subdivision four of section sixty of this article. 2. Section fifty-four shall control so far as is applicable the procedure in connection with such applications. 3. Such license shall in form and in substance be a license to the person specifically designated therein to sell liquor in the premises specifically licensed at retail for off-premise consumption and shall also include the privilege to sell wine under the same terms and conditions without the payment of any additional fee. 4. No licensee under this section shall be engaged in any other business on the licensed premises. The sale of lottery tickets, when duly authorized and lawfully conducted, the sale of reusable bags as defined in section 27-2801 of the environmental conservation law, the sale of corkscrews or the sale of ice or the sale of publications, including prerecorded video and/or audio cassette tapes, or educational seminars, designed to help educate consumers in their knowledge and appreciation of alcoholic beverages, as defined in section three of this chapter and allowed pursuant to their license, or the sale of non-carbonated, non-flavored mineral waters, spring waters and drinking waters or the sale of glasses designed for the consumption of wine or liquor, racks designed for the storage of wine, and devices designed to minimize oxidation in bottles of wine which have been uncorked, or the sale of gift bags, gift boxes, associated gift or promotional items, or wrapping, for alcoholic beverages purchased at the licensed premises shall not constitute engaging in another business within the meaning of this subdivision. Any fee obtained from the sale of an educational seminar shall not be considered as a fee for any tasting that may be offered during an educational seminar, provided that such tastings are available to persons who have not paid to attend the seminar and all tastings are conducted in accordance with section sixty-three-a of this article. For the purposes of this section, gift or promotional items shall only include those items that are complimentary and directly associated with the sale of wine or liquor they are promoting and shall mean: (i) items that are de minimis in value, but in no instance shall merchandise be valued at more than fifteen dollars in total; (ii) items that are imprinted with the wine or liquor brand logo on the gift or promotional item; and (iii) items that are included as part of a manufactured pre-sealed package with the wine or liquor that is being gifted or promoted. Further, for the purposes of this section, promotional items shall not include any food, non-alcoholic beverage, or other drink or food mix, nor shall these items be offered for sale to the general public as individual items. 5. Not more than one license shall be granted to any person under this section. 6. Determinations under this section with respect to the issuance of a new license or under section one hundred eleven with respect to the transfer to any other premises of a license issued hereunder, shall be made in accordance with public convenience and advantage.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor64-A - Special License to Sell Liquor at Retail for Consumption on the Premises.

2. On or after October first, nineteen hundred sixty-four, any person may make an application to the appropriate board for a special license to sell liquor at retail to be consumed on the premises where sold. 3. Such application shall be in such form and shall contain such information as shall be required by the rules of the liquor authority and shall be accompanied by a check or draft in the amount required by this article for such license. 4. Section fifty-four shall control so far as applicable the procedure in connection with such application. 5. Such special license shall in form and in substance be a license to the person specifically licensed to sell liquor at retail to be consumed on the premises specifically licensed. Such license shall also be deemed to include a license to sell wine and beer at retail to be consumed under the same terms and conditions, without the payment of any additional fee. * 6. No special on-premises license shall be granted except for premises in which the principal business shall be (a) the sale of food or beverages at retail for consumption on the premises or (b) the operation of a legitimate theatre, including a motion picture theatre that is a building or facility which is regularly used and kept open primarily for the exhibition of motion pictures for at least five out of seven days a week, or on a regular seasonal basis of no less than six contiguous weeks, to the general public where all auditorium seating is permanently affixed to the floor and at least sixty-five percent of the motion picture theatre's annual gross revenues is the combined result of admission revenue for the showing of motion pictures and the sale of food and non-alcoholic beverages, or such other lawful adult entertainment or recreational facility as the liquor authority, giving due regard to the convenience of the public

and the strict avoidance of sales prohibited by this chapter, shall by regulation classify for eligibility. * NB Effective until April 20, 2027 * 6. No special on-premises license shall be granted except for premises in which the principal business shall be (a) the sale of food or beverages at retail for consumption on the premises or (b) the operation of a legitimate theatre or such other lawful adult entertainment or recreational facility as the liquor authority, giving due regard to the convenience of the public and the strict avoidance of sales prohibited by this chapter, shall by regulation classify for eligibility. Nothing contained in this subdivision shall be deemed to authorize the issuance of a license to a motion picture theatre, except those meeting the definition of restaurant and meals, and where all seating is at tables where meals are served. * NB Effective April 20, 2027 7. (a) No special on-premises license shall be granted for any premises which shall be(i) on the same street or avenue and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship or(ii) in a city, town or village having a population of twenty thousand or more within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article;(iii) the measurements in subparagraphs (i) and (ii) of this paragraph are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of worship or to the center of the nearest entrance of each such premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article; except that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school, church, synagogue or other place of worship; and except that no license shall be denied to any premises, which is within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article, at which a license under this chapter has been in existence continuously on or prior to November first, nineteen hundred ninety-three. The liquor authority, in its discretion, may authorize the removal of any such licensed premises to a different location on the same street or avenue, within two hundred feet of said school, church, synagogue or other place of worship, provided that such new location is not within a closer distance to such school, church, synagogue or other place of worship.(b) Within the context of this subdivision, the word "entrance" shall mean a door of a school, of a house of worship, or of premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, and to patrons or guests of the premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article or of the premises sought to be licensed, except that where a school or house of worship or premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article or the premises sought to be licensed is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance".(c) Notwithstanding paragraph (a) of this subdivision, a special on-premises license for a premises in which the principal business shall be the operation of a legitimate theater by a corporation organized pursuant to the not-for-profit corporation law may be granted notwithstanding the proximity of such premises to any school, provided that the availability of alcoholic beverages on such premises shall not be advertised in any way at such premises in any manner visible from such street or avenue.(c-1) Notwithstanding the provisions of subparagraph (i) of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises and/or an overnight lodging facility located wholly within the boundaries of the borough of Manhattan in the city and county of New York, bounded and described as follows: BEGINNING at a point on the easterly side of 7th Avenue, distant 25 feet northerly from the northeasterly corner of 7th Avenue and 132nd Street; RUNNING THENCE easterly parallel with the northerly side of 132nd Street and part of the distance of the distance through a party wall, 75 feet; THENCE northerly parallel with 7th Avenue, 49 feet 11 inches; THENCE westerly parallel with 132nd Street 75 feet to the easterly side of 7th Avenue; THENCE southerly along the easterly side of 7th Avenue, 49 feet 11 inches to the point or place of BEGINNING, being the same premises located at 2247 Adam Clayton Powell, Jr. Boulevard (Seventh Avenue), block 1917, lot 2 described in deed made by 2247-49 ACP South realty LLC to AIMCO 2247-2253 ACP, LLC, dated June twenty-ninth, two thousand seven and recorded July seventh, two thousand seven in the Office of the City Register, New York County as document number 2007071001657001.(c-2) Notwithstanding the provisions of subparagraph (i) of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises located wholly within the boundaries of the town of Bainbridge, county of Chenango, bounded and described as follows:BEGINNING at an iron stake at the curb on the north side of North Main Street, which stake is in a line with the edge of the concrete sidewalk in front of the Ireland Hardware Block; thence to the joint corner of said hardware block and the concrete post at the southwest corner of the Central Hotel, twenty-seven (27) feet; thence along the foundation wall of said hotel forty (40) feet to an iron stake under a part of the Ireland Hardware Store Building six (6) feet from the corner of said foundation wall and on a continuation of said line along the Hotel foundation; thence at an approximate right angle in a northeasterly direction along a line parallel to and six (6) feet distant from the foundation wall on the "ell" of the Hotel to a point

six (6) feet distant from the foundation wall of the main building of the Hotel, fourteen (14) feet; thence again at a right angle in an approximately north-westerly direction on a line parallel to and six (6) feet distant from the foundation wall of said Hotel building forty-three (43) feet to an iron stake; thence in a northeasterly direction on a line from said stake touching the corner of the foundation wall to a point on the line of premises of the Vendor and premises now owned by Edward Danforth, known as the Danforth Block; thence in a southeasterly direction along said boundary line between said premises, which line is believed to be nine (9) feet distant southwesterly from the foundation wall of said Danforth Block, to the curb line; thence along said curb line in a southwesterly direction to the point or place of beginning.Being known and designated on the Chenango County Tax Map for the Village and Town of Bainbridge as parcel 265.11-2-15 as said tax map was on the 15th day of June 2010.(c-3) Notwithstanding the provisions of subparagraph (i) of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises and/or an overnight lodging facility located wholly within the boundaries of the borough of Manhattan in the city and county of New York, bounded and described as follows: BEGINNING at the intersection formed by the easterly side of Fifth Avenue and the southerly side of East 117th Street; and RUNNING THENCE easterly along the southerly side of East 117th Street, 110 feet 0 inches; THENCE southerly at right angles to the last mentioned course, 100 feet 11 inches; THENCE westerly at right angles to the last mentioned course, 110 feet 0 inches at right angles to the easterly side of Fifth Avenue; THENCE northerly along the easterly side of Fifth Avenue at right angles to the last mentioned course, 100 feet 11 inches to the point or place of BEGINNING. Being known and designated on the Tax Map of The City of New York, for the Borough of Manhattan, as Section 6, Block 1622 Lot 73 as said Tax Map was on the 26th day of November 1974.(c-4) Notwithstanding the provisions of subparagraph (i) of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises located wholly within the boundaries of the city of Binghamton, county of Broome, bounded and described as follows:ALL THAT TRACT OR PARCEL OF LAND situate in the City of Binghamton, County of Broome, State of New York, more particularly bounded and described as follows:BEGINNING at the intersection of the east line of Front Street and the south line of Main Street; thence easterly along the south line of Main Street making an interior angle of 100° 54' with the east line of Front Street a distance of 35.36 feet to a point in the center line of a former ten-foot right of way; thence southerly making an interior angle of 79° 15' with the last course a distance of 107 feet to a point in the north line of an alley; thence westerly along the north line of said alley and making an interior angle of 90° 07' with the last course a distance of 35 feet to a point in the east line of Front Street; thence northerly along said east line of Front Street and making an interior angle of 89° 44' with the last course a distance of 100.46 feet to the point of beginning. Hereby intending to describe the premises commonly known as 11 Main Street.(c-5) Notwithstanding the provisions of subparagraph (i) of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises located wholly within the boundaries of the city of Binghamton, county of Broome, bounded and described as follows:All that tract or parcel of land, situate in the City of Binghamton, County of Broome and State of New York, on the west side of the Chenango River at the west end of the Court Street Bridge, and bounded and described as follows: Commencing at the southeasterly corner of premises conveyed by Harry Smolensky and Anna Smolensky to Guilio Mattioli and Anthony F. Mattioli, Sr. by Full Covenant Deed dated February 28th, 1963 and recorded in the Broome County Clerk's office in Book 1063 of Deeds at page 731 and running thence northerly along the easterly line of premises so conveyed in a straight line to lands formerly the homestead property of Benjamin F. Sisson, the southerly part of which is the third parcel of land described in a Warranty Deed from Archie S. Beers by Roland F. Beers, his attorney in fact to Arthur Kradjian and Kenneth Kradjian dated April 18, 1967 and recorded in the Broome County Clerk's office in Book 1119 of Deeds at page 737; thence in an easterly direction along the south line of the said premises formerly of Arthur Kradjian and Kenneth Kradjian to the Chenango River; thence southerly along the westerly bank of the Chenango River as it winds and turns to the north side of Main Street; thence in a westerly direction along the north side of said Main Street to the point or place of beginning.(c-6) Notwithstanding the provisions of subparagraph (i) of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises located wholly within the boundaries of the city of Binghamton, county of Broome, bounded and described as follows:All that tract or parcel of land situate in the City of Binghamton, County of Broome and State of New York, being a strip of land twelve (12) feet wide, front and rear taken off the entire southerly side of premises described in 1936 as follows: All that tract or parcel of land situate in the City of Binghamton, County of Broome and State of New York, and being the homestead property of Benjamin F. Sisson, deceased, situate on the east side of Front Street in said city and being about eighty-seven (87) feet wide front on Front Street and extending to the Chenango River and bounded as follows: on the north by lands of Carrie M. Waldron (formerly owned by Charles D. Rogers), on the south by lands of Conine & Gleason, C. F. & W. W. Sisson, Ida R. Buckingham and James W. Lyon; on the east by the Chenango River and on the west by Front Street, and including all the lands conveyed to Benjamin F. Sisson by three deeds, to wit: one from the Village of Binghamton dated April 10, 1867 and recorded in the Broome County Clerk's office in Book 74 of Deeds at page 125; one from Sarah R. Graves and Herman W. Graves dated July 9, 1875 and recorded in the Broome County Clerk's office in Book 93 of Deeds

at page 174; and one from Charles D. Rogers and wife dated July 9, 1875 and recorded in the Broome County Clerk's office in Book 98 of Deed at page 369 and also includes the northerly part of lands conveyed to Benjamin F. Sisson by John S. Wells and wife by deed dated June 28, 1853 and recorded in the Broome County Clerk's office in Book 39 of Deeds at page 401 and 402 to all of which deed reference is had.(d) Notwithstanding the provisions of subparagraph (ii) of paragraph (a) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article if, after consultation with the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. The hearing may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued hearing. Before the authority issues any said license, the authority or one or more of the commissioners thereof may, in addition to the hearing required by this paragraph, also conduct a public meeting regarding said license, upon notice to the applicant and the municipality or community board. The public meeting may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued public meeting. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of a building or buildings wherein three or more premises are licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article.(e) Within the context of this subdivision, a building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship by incidental uses that are not of a nature to detract from the predominant character of the building as a place of worship, such uses which include, but which are not limited to: the conduct of legally authorized games of bingo or other games of chance held as a means of raising funds for the not-for-profit religious organization which conducts services at the place of worship or for other not-for-profit organizations or groups; use of the building for fund-raising performances by or benefitting the not-for-profit religious organization which conducts services at the place of worship or other not-for-profit organizations or groups; the use of the building by other religious organizations or groups for religious services or other purposes; the conduct of social activities by or for the benefit of the congregants; the use of the building for meetings held by organizations or groups providing bereavement counseling to persons having suffered the loss of a loved one, or providing advice or support for conditions or diseases including, but not limited to, alcoholism, drug addiction, cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the use of the building for blood drives, health screenings, health information meetings, yoga classes, exercise classes or other activities intended to promote the health of the congregants or other persons; and use of the building by non-congregant members of the community for private social functions. The building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship where the not-for-profit religious organization occupying the place of worship accepts the payment of funds to defray costs related to another party's use of the building.* 8. Every special on-premises licensee shall regularly keep food available for sale to its customers for consumption on the premises. The availability of sandwiches, soups or other foods, whether fresh, processed, pre-cooked or frozen, shall be deemed compliance with this requirement. For motion picture theatres licensed under paragraph (b) of subdivision six of this section, food that is typically found in a motion picture theatre, including but not limited to: popcorn, candy, and light snacks, shall be deemed to be in compliance with this requirement. The licensed premises shall comply at all times with all the regulations of the local department of health. Nothing contained in this subdivision, however, shall be construed to require that any food be sold or purchased with any liquor, nor shall any rule, regulation or standard be promulgated or enforced requiring that the sale of food be substantial or that the receipts of the business other than from the sale of liquor equal any set percentage of total receipts from sales made therein.* NB Effective until April 20, 2027* 8. Every special on-premises licensee shall regularly keep food available for sale to its customers for consumption on the premises. The availability of sandwiches, soups or other foods, whether fresh, processed, pre-cooked or frozen, shall be deemed compliance with this requirement. The licensed premises shall comply at all times with all the regulations of the local department of health. Nothing contained in this subdivision, however, shall be construed to require that any food be sold or purchased with any liquor, nor shall any rule, regulation or standard be promulgated or enforced requiring that the sale of food be substantial or that the receipts of the business other than from the sale of liquor equal any set percentage of total receipts from sales made therein.* NB Effective April 20, 2027* 9. In the case of a motion picture theatre applying for a license under this section, any municipality required to be notified under section one hundred ten-b of this chapter may express an opinion with respect to whether the application should be approved, and such opinion may be considered in determining whether good cause exists to deny any such application.* NB Effective until April 20, 2027* 9. The liquor authority may make such rules as it deems necessary to carry out the provisions of this section.* NB Effective April 20, 2027* 10. The liquor authority may make such rules as it deems necessary to carry out the provisions of this section.* NB Effective until April 20, 2027 (i) on the same street or avenue and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship or (ii) in a city, town or village having a population of twenty thousand or more within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article; (iii) the measurements in subparagraphs (i) and (ii) of this paragraph are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of

worship or to the center of the nearest entrance of each such premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article; except that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school, church, synagogue or other place of worship; and except that no license shall be denied to any premises, which is within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article, at which a license under this chapter has been in existence continuously on or prior to November first, nineteen hundred ninety-three. The liquor authority, in its discretion, may authorize the removal of any such licensed premises to a different location on the same street or avenue, within two hundred feet of said school, church, synagogue or other place of worship, provided that such new location is not within a closer distance to such school, church, synagogue or other place of worship. (b) Within the context of this subdivision, the word "entrance" shall mean a door of a school, of a house of worship, or of premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, and to patrons or guests of the premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article or of the premises sought to be licensed, except that where a school or house of worship or premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article or the premises sought to be licensed is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance". (c) Notwithstanding paragraph (a) of this subdivision, a special on-premises license for a premises in which the principal business shall be the operation of a legitimate theater by a corporation organized pursuant to the not-for-profit corporation law may be granted notwithstanding the proximity of such premises to any school, provided that the availability of alcoholic beverages on such premises shall not be advertised in any way at such premises in any manner visible from such street or avenue. (c-1) Notwithstanding the provisions of subparagraph (i) of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises and/or an overnight lodging facility located wholly within the boundaries of the borough of Manhattan in the city and county of New York, bounded and described as follows: BEGINNING at a point on the easterly side of 7th Avenue, distant 25 feet northerly from the northeasterly corner of 7th Avenue and 132nd Street; RUNNING THENCE easterly parallel with the northerly side of 132nd Street and part of the distance of the distance through a party wall, 75 feet; THENCE northerly parallel with 7th Avenue, 49 feet 11 inches; THENCE westerly parallel with 132nd Street 75 feet to the easterly side of 7th Avenue; THENCE southerly along the easterly side of 7th Avenue, 49 feet 11 inches to the point or place of BEGINNING, being the same premises located at 2247 Adam Clayton Powell, Jr. Boulevard (Seventh Avenue), block 1917, lot 2 described in deed made by 2247-49 ACP South realty LLC to AIMCO 2247-2253 ACP, LLC, dated June twenty-ninth, two thousand seven and recorded July seventh, two thousand seven in the Office of the City Register, New York County as document number 2007071001657001. (c-2) Notwithstanding the provisions of subparagraph (i) of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises located wholly within the boundaries of the town of Bainbridge, county of Chenango, bounded and described as follows: BEGINNING at an iron stake at the curb on the north side of North Main Street, which stake is in a line with the edge of the concrete sidewalk in front of the Ireland Hardware Block; thence to the joint corner of said hardware block and the concrete post at the southwest corner of the Central Hotel, twenty-seven (27) feet; thence along the foundation wall of said hotel forty (40) feet to an iron stake under a part of the Ireland Hardware Store Building six (6) feet from the corner of said foundation wall and on a continuation of said line along the Hotel foundation; thence at an approximate right angle in a northeasterly direction along a line parallel to and six (6) feet distant from the foundation wall on the "ell" of the Hotel to a point six (6) feet distant from the foundation wall of the main building of the Hotel, fourteen (14) feet; thence again at a right angle in an approximately north-westerly direction on a line parallel to and six (6) feet distant from the foundation wall of said Hotel building forty-three (43) feet to an iron stake; thence in a northeasterly direction on a line from said stake touching the corner of the foundation wall to a point on the line of premises of the Vendor and premises now owned by Edward Danforth, known as the Danforth Block; thence in a southeasterly direction along said boundary line between said premises, which line is believed to be nine (9) feet distant southwesterly from the foundation wall of said Danforth Block, to the curb line; thence along said curb line in a southwesterly direction to the point or place of beginning. Being known and designated on the Chenango County Tax Map for the Village and Town of Bainbridge as parcel 265.11-2-15 as said tax map was on the 15th day of June 2010. (c-3) Notwithstanding the provisions of subparagraph (i) of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises and/or an overnight lodging facility located wholly within the boundaries of the borough of Manhattan in the city and county of New York, bounded and described as follows: BEGINNING at the intersection formed by the

easterly side of Fifth Avenue and the southerly side of East 117th Street; and RUNNING THENCE easterly along the southerly side of East 117th Street, 110 feet 0 inches; THENCE southerly at right angles to the last mentioned course, 100 feet 11 inches; THENCE westerly at right angles to the last mentioned course, 110 feet 0 inches at right angles to the easterly side of Fifth Avenue; THENCE northerly along the easterly side of Fifth Avenue at right angles to the last mentioned course, 100 feet 11 inches to the point or place of BEGINNING. Being known and designated on the Tax Map of The City of New York, for the Borough of Manhattan, as Section 6, Block 1622 Lot 73 as said Tax Map was on the 26th day of November 1974. (c-4) Notwithstanding the provisions of subparagraph (i) of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises located wholly within the boundaries of the city of Binghamton, county of Broome, bounded and described as follows: ALL THAT TRACT OR PARCEL OF LAND situate in the City of Binghamton, County of Broome, State of New York, more particularly bounded and described as follows: BEGINNING at the intersection of the east line of Front Street and the south line of Main Street; thence easterly along the south line of Main Street making an interior angle of 100° 54' with the east line of Front Street a distance of 35.36 feet to a point in the center line of a former ten-foot right of way; thence southerly making an interior angle of 79° 15' with the last course a distance of 107 feet to a point in the north line of an alley; thence westerly along the north line of said alley and making an interior angle of 90° 07' with the last course a distance of 35 feet to a point in the east line of Front Street; thence northerly along said east line of Front Street and making an interior angle of 89° 44' with the last course a distance of 100.46 feet to the point of beginning. Hereby intending to describe the premises commonly known as 11 Main Street. (c-5) Notwithstanding the provisions of subparagraph (i) of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises located wholly within the boundaries of the city of Binghamton, county of Broome, bounded and described as follows: All that tract or parcel of land, situate in the City of Binghamton, County of Broome and State of New York, on the west side of the Chenango River at the west end of the Court Street Bridge, and bounded and described as follows: Commencing at the southeasterly corner of premises conveyed by Harry Smolensky and Anna Smolensky to Guilio Mattioli and Anthony F. Mattioli, Sr. by Full Covenant Deed dated February 28th, 1963 and recorded in the Broome County Clerk's office in Book 1063 of Deeds at page 731 and running thence northerly along the easterly line of premises so conveyed in a straight line to lands formerly the homestead property of Benjamin F. Sisson, the southerly part of which is the third parcel of land described in a Warranty Deed from Archie S. Beers by Roland F. Beers, his attorney in fact to Arthur Kradjian and Kenneth Kradjian dated April 18, 1967 and recorded in the Broome County Clerk's office in Book 1119 of Deeds at page 737; thence in an easterly direction along the south line of the said premises formerly of Arthur Kradjian and Kenneth Kradjian to the Chenango River; thence southerly along the westerly bank of the Chenango River as it winds and turns to the north side of Main Street; thence in a westerly direction along the north side of said Main Street to the point or place of beginning. (c-6) Notwithstanding the provisions of subparagraph (i) of paragraph (a) of this subdivision, the authority may issue a retail license for on-premises consumption for a premises which shall be within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship, provided such premises constitutes a premises for the sale of food or beverages at retail for consumption on the premises located wholly within the boundaries of the city of Binghamton, county of Broome, bounded and described as follows: All that tract or parcel of land situate in the City of Binghamton, County of Broome and State of New York, being a strip of land twelve (12) feet wide, front and rear taken off the entire southerly side of premises described in 1936 as follows: All that tract or parcel of land situate in the City of Binghamton, County of Broome and State of New York, and being the homestead property of Benjamin F. Sisson, deceased, situate on the east side of Front Street in said city and being about eighty-seven (87) feet wide front on Front Street and extending to the Chenango River and bounded as follows: on the north by lands of Carrie M. Waldron (formerly owned by Charles D. Rogers), on the south by lands of Conine & Gleason, C. F. & W. W. Sisson, Ida R. Buckingham and James W. Lyon; on the east by the Chenango River and on the west by Front Street, and including all the lands conveyed to Benjamin F. Sisson by three deeds, to wit: one from the Village of Binghamton dated April 10, 1867 and recorded in the Broome County Clerk's office in Book 74 of Deeds at page 125; one from Sarah R. Graves and Herman W. Graves dated July 9, 1875 and recorded in the Broome County Clerk's office in Book 93 of Deeds at page 174; and one from Charles D. Rogers and wife dated July 9, 1875 and recorded in the Broome County Clerk's office in Book 98 of Deed at page 369 and also includes the northerly part of lands conveyed to Benjamin F. Sisson by John S. Wells and wife by deed dated June 28, 1853 and recorded in the Broome County Clerk's office in Book 39 of Deeds at page 401 and 402 to all of which deed reference is had. (d) Notwithstanding the provisions of subparagraph (ii) of paragraph (a) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article if, after consultation with the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. The hearing may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled,

adjourned or continued hearing. Before the authority issues any said license, the authority or one or more of the commissioners thereof may, in addition to the hearing required by this paragraph, also conduct a public meeting regarding said license, upon notice to the applicant and the municipality or community board. The public meeting may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued public meeting. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of a building or buildings wherein three or more premises are licensed and operating pursuant to this section and sections sixty-four, sixty-four-b, sixty-four-c, and/or sixty-four-d of this article. (e) Within the context of this subdivision, a building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship by incidental uses that are not of a nature to detract from the predominant character of the building as a place of worship, such uses which include, but which are not limited to: the conduct of legally authorized games of bingo or other games of chance held as a means of raising funds for the not-for-profit religious organization which conducts services at the place of worship or for other not-for-profit organizations or groups; use of the building for fund-raising performances by or benefitting the not-for-profit religious organization which conducts services at the place of worship or other not-for-profit organizations or groups; the use of the building by other religious organizations or groups for religious services or other purposes; the conduct of social activities by or for the benefit of the congregants; the use of the building for meetings held by organizations or groups providing bereavement counseling to persons having suffered the loss of a loved one, or providing advice or support for conditions or diseases including, but not limited to, alcoholism, drug addiction, cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the use of the building for blood drives, health screenings, health information meetings, yoga classes, exercise classes or other activities intended to promote the health of the congregants or other persons; and use of the building by non-congregant members of the community for private social functions. The building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship where the not-for-profit religious organization occupying the place of worship accepts the payment of funds to defray costs related to another party's use of the building. * 8. Every special on-premises licensee shall regularly keep food available for sale to its customers for consumption on the premises. The availability of sandwiches, soups or other foods, whether fresh, processed, pre-cooked or frozen, shall be deemed compliance with this requirement. For motion picture theatres licensed under paragraph (b) of subdivision six of this section, food that is typically found in a motion picture theatre, including but not limited to: popcorn, candy, and light snacks, shall be deemed to be in compliance with this requirement. The licensed premises shall comply at all times with all the regulations of the local department of health. Nothing contained in this subdivision, however, shall be construed to require that any food be sold or purchased with any liquor, nor shall any rule, regulation or standard be promulgated or enforced requiring that the sale of food be substantial or that the receipts of the business other than from the sale of liquor equal any set percentage of total receipts from sales made therein. * NB Effective until April 20, 2027 * 8. Every special on-premises licensee shall regularly keep food available for sale to its customers for consumption on the premises. The availability of sandwiches, soups or other foods, whether fresh, processed, pre-cooked or frozen, shall be deemed compliance with this requirement. The licensed premises shall comply at all times with all the regulations of the local department of health. Nothing contained in this subdivision, however, shall be construed to require that any food be sold or purchased with any liquor, nor shall any rule, regulation or standard be promulgated or enforced requiring that the sale of food be substantial or that the receipts of the business other than from the sale of liquor equal any set percentage of total receipts from sales made therein. * NB Effective April 20, 2027 * 9. In the case of a motion picture theatre applying for a license under this section, any municipality required to be notified under section one hundred ten-b of this chapter may express an opinion with respect to whether the application should be approved, and such opinion may be considered in determining whether good cause exists to deny any such application. * NB Effective until April 20, 2027 * 9. The liquor authority may make such rules as it deems necessary to carry out the provisions of this section. * NB Effective April 20, 2027 * 10. The liquor authority may make such rules as it deems necessary to carry out the provisions of this section. * NB Effective until April 20, 2027

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor64-B - License to Sell Liquor on Premises Commonly Known as a Bottle Club.

2. Upon or after the effective date hereof any person may make an application to the appropriate board for a special license to operate a bottle club. 3. Such application shall be in such form and shall contain such information as shall be required by the rules of the liquor authority and shall be accompanied by a check or draft in the amount required by this article for such license. 4. Section fifty-four of this chapter shall control so far as applicable the procedure in connection with such application. 5. (a) No bottle club license shall be granted for any premises which shall be(i) on the same street or avenue and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship; or(ii) in a city, town or village having a population of twenty thousand or more within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article;(iii) the measurements in subparagraphs (i) and (ii) of this paragraph are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of worship or to the center of the nearest entrance of each such premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article; except that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school, church, synagogue or other place of worship; and except

that no license shall be denied to any premises, which is within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article, at which a license under this chapter has been in existence continuously on or prior to November first, nineteen hundred ninety-three. The liquor authority, in its discretion, may authorize the removal of any such licensed premises to a different location on the same street or avenue, within two hundred feet of said school, church, synagogue or other place of worship, provided that such new location is not within a closer distance to such school, church, synagogue or other place of worship.(b) Within the context of this subdivision, the word "entrance" shall mean a door of a school, of a house of worship, or of premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, and to patrons or guests of the premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article or of the premises sought to be licensed, except that where a school or house of worship or premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article or the premises sought to be licensed is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance".(c) Notwithstanding the provisions of subparagraph (ii) of paragraph (a) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article if, after consultation with the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. The hearing may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued hearing. Before the authority issues any said license, the authority or one or more of the commissioners thereof may, in addition to the hearing required by this paragraph, also conduct a public meeting regarding said license, upon notice to the applicant and the municipality or community board. The public meeting may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued public meeting. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of a building or buildings wherein three or more premises are licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article.(d) Within the context of this subdivision, a building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship by incidental uses that are not of a nature to detract from the predominant character of the building as a place of worship, such uses which include, but which are not limited to: the conduct of legally authorized games of bingo or other games of chance held as a means of raising funds for the not-for-profit religious organization which conducts services at the place of worship or for other not-for-profit organizations or groups; use of the building for fund-raising performances by or benefitting the not-for-profit religious organization which conducts services at the place of worship or other not-for-profit organizations or groups; the use of the building by other religious organizations or groups for religious services or other purposes; the conduct of social activities by or for the benefit of the congregants; the use of the building for meetings held by organizations or groups providing bereavement counseling to persons having suffered the loss of a loved one, or providing advice or support for conditions or diseases including, but not limited to, alcoholism, drug addiction, cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the use of the building for blood drives, health screenings, health information meetings, yoga classes, exercise classes or other activities intended to promote the health of the congregants or other persons; and use of the building by non-congregant members of the community for private social functions. The building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship where the not-for-profit religious organization occupying the place of worship accepts the payment of funds to defray costs related to another party's use of the building.6. The liquor authority may make such rules as it deems necessary to carry out the provisions of this section.7. This section shall not apply to any non-profit religious, charitable, or fraternal organization nor to a club as defined in section three, subdivision nine of this chapter, nor to a duly recognized political club, except that it shall be unlawful for any of the above to permit consumption of alcoholic beverages during the hours prohibited by or pursuant to section one hundred six of the alcoholic beverage control law. (i) on the same street or avenue and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship; or (ii) in a city, town or village having a population of twenty thousand or more within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article; (iii) the measurements in subparagraphs (i) and (ii) of this paragraph are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of worship or to the center of the nearest entrance of each such premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article; except that no license shall be denied to any premises at which a license under this chapter has been in existence

continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school, church, synagogue or other place of worship; and except that no license shall be denied to any premises, which is within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article, at which a license under this chapter has been in existence continuously on or prior to November first, nineteen hundred ninety-three. The liquor authority, in its discretion, may authorize the removal of any such licensed premises to a different location on the same street or avenue, within two hundred feet of said school, church, synagogue or other place of worship, provided that such new location is not within a closer distance to such school, church, synagogue or other place of worship. (b) Within the context of this subdivision, the word "entrance" shall mean a door of a school, of a house of worship, or of premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, and to patrons or guests of the premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article or of the premises sought to be licensed, except that where a school or house of worship or premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article or the premises sought to be licensed is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance". (c) Notwithstanding the provisions of subparagraph (ii) of paragraph (a) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article if, after consultation with the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. The hearing may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued hearing. Before the authority issues any said license, the authority or one or more of the commissioners thereof may, in addition to the hearing required by this paragraph, also conduct a public meeting regarding said license, upon notice to the applicant and the municipality or community board. The public meeting may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued public meeting. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of a building or buildings wherein three or more premises are licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-c, and/or sixty-four-d of this article. (d) Within the context of this subdivision, a building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship by incidental uses that are not of a nature to detract from the predominant character of the building as a place of worship, such uses which include, but which are not limited to: the conduct of legally authorized games of bingo or other games of chance held as a means of raising funds for the not-for-profit religious organization which conducts services at the place of worship or for other not-for-profit organizations or groups; use of the building for fund-raising performances by or benefitting the not-for-profit religious organization which conducts services at the place of worship or other not-for-profit organizations or groups; the use of the building by other religious organizations or groups for religious services or other purposes; the conduct of social activities by or for the benefit of the congregants; the use of the building for meetings held by organizations or groups providing bereavement counseling to persons having suffered the loss of a loved one, or providing advice or support for conditions or diseases including, but not limited to, alcoholism, drug addiction, cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the use of the building for blood drives, health screenings, health information meetings, yoga classes, exercise classes or other activities intended to promote the health of the congregants or other persons; and use of the building by non-congregant members of the community for private social functions. The building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship where the not-for-profit religious organization occupying the place of worship accepts the payment of funds to defray costs related to another party's use of the building. 6. The liquor authority may make such rules as it deems necessary to carry out the provisions of this section. 7. This section shall not apply to any non-profit religious, charitable, or fraternal organization nor to a club as defined in section three, subdivision nine of this chapter, nor to a duly recognized political club, except that it shall be unlawful for any of the above to permit consumption of alcoholic beverages during the hours prohibited by or pursuant to section one hundred six of the alcoholic beverage control law.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor64-C - License to Manufacture and Sell Alcoholic Beverages in a Premises Commonly Known as a Restaurant-Brewer.

2. Such application shall be in such form and shall contain such information as shall be required by the liquor authority and shall be accompanied by a check or draft in the amount required by this section for such license. 4. Section fifty-four of this chapter shall

control so far as applicable the procedure in connection with such application. 5. Such restaurant-brewer license shall in form and in substance be a license to the person specifically licensed to operate a restaurant and sell liquor at retail to be consumed on the premises specifically licensed. Such license shall also be deemed to include a license to:(a) sell wine and beer at retail to be consumed under the same terms and conditions, without the payment of any additional fee;(b) sell beer brewed on the premises to other retail licensees, where such other retail license is held by the same person holding the restaurant-brewer license, or such other retail license is a commonly owned affiliate license, provided that such beer is sold through a New York state licensed beer wholesaler;(c) sell no more than two thousand barrels of beer brewed on the premises to other retail licensees, where such other retail license is not held by the same person holding the restaurant-brewer license, and such other retail license is not a commonly owned affiliate license, provided that such beer is sold through a New York state licensed beer wholesaler; provided however such licensee may sell at wholesale without the use of a licensed beer wholesaler up to two hundred fifty barrels of those two thousand barrels to other retail licensees, where such other retail license is not held by the same person holding the restaurant-brewer license, and such other retail license is not a commonly owned affiliate license; and(d) sell no more than two thousand barrels of beer brewed on the licensed premises at retail to a person for consumption in their home and at retail in bulk by the keg, cask or barrel for consumption and not for resale.6. A license under this section may only be granted to a person who regularly and in a bona fide manner brews beer on the premises.7. Not more than five licenses shall be granted to any person under this section.8. A person holding one or more licenses under this section may brew, in the aggregate, no more than twenty thousand barrels of beer per year.9. On or within thirty days of the effective date of this section, any person who holds a brewer's license under section fifty-one of this chapter as well as a license to sell beer, wine and liquor at retail for consumption on the premises may file an application with the liquor authority to convert those licenses into a license under this section. Such an application shall be granted by the authority except for good cause shown. The granting of such an application shall constitute conversion of said license into a restaurant-brewer license subject to the provisions of this chapter applicable to restaurant-brewers licenses issued under this section.10. (a) For purposes of sections one hundred one and one hundred six of this chapter, a person licensed under this section shall be deemed a "retailer" as that term is defined within section three of this chapter. Notwithstanding any provision of this chapter to the contrary, a person licensed under this section may also be licensed (or interested directly or indirectly in a license) to sell liquor at retail to be consumed on or off the premises under section fifty-four, fifty-four-a, fifty-five, fifty-five-a, seventy-nine or eighty-one of this chapter or sections sixty-four, sixty-four-a, sixty-four-b and sixty-four-d of this article.(b) No manufacturer or wholesaler of alcoholic beverages may be granted a license to operate a restaurant-brewer pursuant to this section. Any person who has an interest in premises eligible for conversion under subdivision nine of this section shall not be issued any license under this section unless and until a conversion application has been filed with and approved by the authority.11. (a) No restaurant-brewer license shall be granted for any premises which shall be:(i) on the same street or avenue and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship; or(ii) in a city, town or village having a population of twenty thousand or more within five hundred feet of three or more existing premises licensed and operating pursuant to the provisions of this section or sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article; or(iii) the measurements in subparagraphs (i) and (ii) of this paragraph are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of worship or to the center of the nearest entrance of each such premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article; except that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school, church, synagogue or other place of worship and except that no license shall be denied to any premises, which is within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article, at which a license under this chapter has been in existence continuously on or prior to November first, nineteen hundred ninety-three.(b) Within the context of this subdivision, the word "entrance" shall mean a door of a school, of a house of worship, or premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, and to patrons or guests of the premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article or of the premises sought to be licensed, except that where a school or house of worship or premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance".(c) Notwithstanding the provisions of subparagraph (ii) of paragraph (a) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article if, after consultation with the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. The hearing may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or

continued hearing. Before the authority issues any said license, the authority or one or more of the commissioners thereof may, in addition to the hearing required by this paragraph, also conduct a public meeting regarding said license, upon notice to the applicant and the municipality or community board. The public meeting may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued public meeting. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of a building or buildings wherein three or more premises are operating and licensed pursuant to this section or sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article.(d) Within the context of this subdivision, a building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship by incidental uses that are not of a nature to detract from the predominant character of the building as a place of worship, such uses which include, but which are not limited to: the conduct of legally authorized games of bingo or other games of chance held as a means of raising funds for the not-for-profit religious organization which conducts services at the place of worship or for other not-for-profit organizations or groups; use of the building for fund-raising performances by or benefitting the not-for-profit religious organization which conducts services at the place of worship or other not-for-profit organizations or groups; the use of the building by other religious organizations or groups for religious services or other purposes; the conduct of social activities by or for the benefit of the congregants; the use of the building for meetings held by organizations or groups providing bereavement counseling to persons having suffered the loss of a loved one, or providing advice or support for conditions or diseases including, but not limited to, alcoholism, drug addiction, cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the use of the building for blood drives, health screenings, health information meetings, yoga classes, exercise classes or other activities intended to promote the health of the congregants or other persons; and use of the building by non-congregant members of the community for private social functions. The building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship where the not-for-profit religious organization occupying the place of worship accepts the payment of funds to defray costs related to another party's use of the building.12. The fee for an original and a renewal restaurant-brewer license shall be fifty-eight hundred fifty dollars in the counties of New York, Kings, Bronx and Queens; forty-three hundred fifty dollars in the county of Richmond and in cities having a population of more than one hundred thousand and less than one million; thirty-six hundred dollars in cities having a population of more than fifty thousand and less than one hundred thousand; and the sum of twenty-eight hundred fifty dollars elsewhere. Said license shall run for a period of three years. In addition to the license fees provided for in this subdivision, there shall be paid to the authority with each initial application a filing fee of two hundred dollars and with each renewal application a filing fee of one hundred dollars.13. (a) A licensee or his or her employee may serve small samples of beer or malt beverages he or she produces at their licensed establishments.(b) Each serving at such tasting shall be served only by the brewer or his or her employee and shall be limited to three ounces or less of a brand of beer or malt beverage produced by the brewer and no consumer of legal age shall be provided or given more than two servings of such brands offered for tasting.(c) The authority is authorized and directed to promulgate such rules and regulations, as it deems necessary or appropriate to implement the provisions of this subdivision to protect the health, safety and welfare of the people of this state.14. Notwithstanding the provisions of subdivision six of this section or of subdivision thirteen of section one hundred six of this chapter, the authority may issue a restaurant brewer's license pursuant to this section for a premises which shall be located wholly within the town of Ulster, county of Ulster, state of New York, bounded and described as follows:ALL that certain plot, piece or parcel of land with the buildings and improvements thereon erected, situate, lying and being in the Town of Ulster, County of Ulster and the State of New York, bounded and described as follows:BEGINNING at a point on the Northeasterly side of City View Terrace, said point being the Westerly corner of the lands of the State of New York and a Southwesterly corner of the herein described parcel; THENCE from said point of beginning along the Northeasterly side of City View Terrace, North 43 degrees 36 minutes 03 seconds West, 109.02 feet to a point on the Southeasterly side of Forest Hill Drive; THENCE along the Southeasterly side of Forest Hill Drive the following course and distances, North 16 degrees 32 minutes 34 seconds West, 92.62 feet to a point; THENCE North 10 degrees 38 minutes 26 seconds East, 70.45 feet to a point; THENCE North 35 degrees 53 minutes 26 seconds East, 122.45 feet to a point; THENCE North 46 degrees 30 minutes 26 seconds East, 203.40 feet to a point; THENCE North 62 degrees 37 minutes 26 seconds East; 115.94 feet to a point; THENCE North 79 degrees 39 minutes 26 seconds East, 47.82 feet to a point; THENCE North 45 degrees 16 minutes 41 seconds East, 63.33 feet to a recovered bar; THENCE along the bounds of lands of now or formerly Skytop Village Associates, L. 1916-P. 134, the following courses and distances, South 37 degrees 08 minutes 02 seconds East, 196.33 feet to a recovered bar; THENCE South 65 degrees 47 minutes 02 seconds East, 90.63 feet to a point; THENCE North 77 degrees 23 minutes 58 seconds East, 233.85 feet to a recovered bar; THENCE North 85 degrees 29 minutes 58 seconds East, 297.09 feet to a recovered bar; THENCE South 63 degrees 30 minutes 02 seconds East, 108.50 feet to a recovered bar; THENCE along the bounds of lands of now or formerly Robert D. Sabino, L. 1487-P. 397, and along a stone wall, South 32 degrees 24 minutes 04 seconds West, 353.51 feet to a point; THENCE leaving said stone and along the bounds of lands of now or formerly Stanley Amerling, L. 1440-P. 908, South 75 degrees 41 minutes 26 seconds West, 264.62 feet to a point; THENCE along the bounds of lands of Summit Properties, LLC, L. 2856-P. 82, the following courses and distances, North 41 degrees 29 minutes 34 seconds West, 50.00 feet to a point; THENCE South 71 degrees 10 minutes 26 seconds West, 89.84 feet to a point; THENCE South 59 degrees 51 minutes 26 seconds West, 251.72 feet to a point; THENCE South 13 degrees 15 minutes 34 seconds East, 90.20 feet to a point; THENCE along the bounds of lands of said State of New York, the

following courses and distances, North 56 degrees 41 minutes 34 seconds West, 168.79 feet to a point; THENCE North 75 degrees 51 minutes 34 seconds West, 254.10 feet to the point and place of beginning. Being the same premises as conveyed to Skytop Motel, LLC by deed of Stewart Title, as agent of the grantor, Skytop Motel, Inc., dated April 29, 2003 and recorded in the office of the Ulster County Clerk on June 10, 2003 as document no. 2003-00016207, Receipt no. 48178, Bk-D VI-3621, pg-171.15. Notwithstanding the provisions of subdivision six of this section or of subdivision thirteen of section one hundred six of this chapter, the authority may issue a restaurant brewer's license pursuant to this section for a premises which shall be located wholly within the city of Peekskill, county of Westchester, state of New York, bounded and described as follows:Any such premises or business located on all that certain parcel of land situate in the City of Peekskill, County of Westchester and State of New York, that is a portion of Parcel I as it is shown on that certain map entitled, "Survey . . at Charles Point . . " which was filed in the Westchester County Clerk's Office on October 23, 1980 as Map No. 20407 that is bounded and described as follows:BEGINNING at a point on the easterly shoreline of the Hudson River and within the bounds of the said Parcel I as it is shown on the said Filed Map NO. 20407, which point occupies coordinate position:North 464418.83 (y)East 607401.00 (x)of the New York State Coordinate System, East Zone and which point is distant, the following courses from the southerly corner of the Parcel shown on Map No. 20407 that occupies coordinate positionNorth 463520.804 (y)East 608470.681 (x)of the aforesaid New York State Coordinate System, East Zone:North 47 degrees 30' 36" West 856.60 feet,North 77 degrees 10' 53" West 488.18 feet,North 41 degrees 17' 53" West 113.32 feet andNorth 41 degrees 50' 16" East 169.08 feet;THENCE from the said point of beginning along the said easterly shoreline (high water mark) of the east bank of the Hudson River:Due North 16.17 feet,North 53 degrees 58' 22" West 13.60 feet,North 73 degrees 04' 21" West 24.04 feet,North 63 degrees 26' 06" West 22.36 feet,North 82 degrees 18' 14" West 37.34 feet,North 64 degrees 47' 56" West 37.58 feet,South 82 degrees 52' 30" West 16.12 feet,North 61 degrees 41' 57" West 14.76 feet andSouth 21 degrees 48' 05" West 9.71 feet;THENCE leaving the high water mark and running across a peninsula of land and along the division line between Parcel I and Parcel II as shown on said Filed Map No. 20407, North 65 degrees 32' 43" West 30.18 feet to another point on the said easterly shoreline (high water mark) of the East Bank of the Hudson River;THENCE northerly along the said high water mark, the following courses:North 3 degrees 00' 46" West 17.54 feet,North 13 degrees 45' 39" West 50.45 feet,North 10 degrees 49' 23" West 69.23 feet,North 0 degrees 47' 22" West 52.48 feet to a point which is the point of beginning of the hereinafter described 40 foot easement which point occupies coordinate positionNorth 464676.48 (y)East 607189.28 (x)of the New York State Coordinate System, East Zone;THENCE continuing along the aforesaid easterly shoreline (high water mark) of the East Bank of the Hudson, the following courses:North 10 degrees 18' 17" West 23.91 feet,North 39 degrees 04' 58" West 21.39 feet,North 20 degrees 13' 30" West 21.74 feet,North 39 degrees 02' 08" West 95.27 feet,North 13 degrees 08' 02" West 30.81 feet,North 18 degrees 26' 06" West 53.76 feet,North 28 degrees 10' 43" West 63.53 feet,North 18 degrees 26' 06" West 50.60 feet,North 37 degrees 14' 05" West 31.40 feet,North 21 degrees 15' 02" West 96.57 feet,North 32 degrees 00' 19" West 47.17 feet,North 1 degree 18' 07" West 44.01 feet andNorth 17 degrees 14' 29" East 29.32 feet to a point on the southerly line of lands under lease to the County of Westchester (Resco Site);THENCE along the said County of Westchester (Resco Site) lands: Due East 432.31 feet to a point on the westerly line of an easement and a right-of-way leading to Charles Point Avenue;THENCE along the said westerly and southwesterly line of the said right-of-way leading to Charles Point Avenue: Due South 241.16 feet and South 27 degrees 13' 00" East 406.90 feet to a point;THENCE leaving the said easement and running along other lands now or formerly of The City of Peekskill Industrial Development Agency, South 41 degrees 50' 16" West 270.01 feet to the aforementioned easterly shoreline (high water mark) of the East Bank of the Hudson River and the point or place of beginning.TOGETHER with an easement over all that parcel of land situate in the City of Peekskill, County of Westchester and State of New York that is more particularly bounded and described as follows:BEGINNING at a point on the westerly line of Charles Point Avenue with the said westerly line is intersected by the line dividing the easement herein described on the south from lands under lease to the County of Westchester (Resco Site) on the north which point occupies coordinate position:North 464719.99 (y)East 608004.15 (x)of the New York State Coordinate System, East Zone;THENCE from the said point of beginning southerly along the said westerly line of Charles Point Avenue, South 14 degrees 54' 00" West 103.48 feet to a point;THENCE westerly along other lands of the City of Peekskill Industrial Development Agency: Due West 396.44 feet to a point which is the easterly most corner of the lands of Point Associates, the grantee herein;THENCE along the northeasterly line of the said Point Associates' land, North 27 degrees 13' 00" West 406.90 feet and Due North 241.16 feet to a point on the southerly line of the aforementioned lands leased to the County of Westchester (Resco Site);THENCE easterly along the said southerly line Due East 75.00 feet to a point;THENCE southeasterly and easterly still along the said lands leased to the County of Westchester (Resco Site) the following courses:Due South 223.00 feet,South 27 degrees 13' 00" East 314.87 feet andDue East 390.14 feet to the aforementioned westerly line of Charles Point Avenue and the point or place of BEGINNING.TOGETHER WITH a non-exclusive easement for utilities, and ingress and egress over that certain right of way leading from Charles Point Avenue, now known as John E. Walsh Boulevard, in a westerly and northwesterly direction to the above described premises and as more fully described in the Declaration of Easement recorded in Liber 8888 cp 35. (a) sell wine and beer at retail to be consumed under the same terms and conditions, without the payment of any additional fee; (b) sell beer brewed on the premises to other retail licensees, where such other retail license is held by the same person holding the restaurant-brewer license, or such other retail license is a commonly owned affiliate license, provided that such beer is sold through a New York state licensed beer wholesaler; (c) sell no more than two thousand barrels of beer brewed on the premises to other retail licensees, where such other retail license is not held by the same person holding the restaurant-brewer license, and such other retail license is not a commonly owned affiliate license, provided that such beer is sold through a New York state licensed beer wholesaler; provided however such licensee may sell at wholesale without the use of a licensed beer wholesaler up to two hundred fifty barrels of those

two thousand barrels to other retail licensees, where such other retail license is not held by the same person holding the restaurant-brewer license, and such other retail license is not a commonly owned affiliate license; and (d) sell no more than two thousand barrels of beer brewed on the licensed premises at retail to a person for consumption in their home and at retail in bulk by the keg, cask or barrel for consumption and not for resale. 6. A license under this section may only be granted to a person who regularly and in a bona fide manner brews beer on the premises. 7. Not more than five licenses shall be granted to any person under this section. 8. A person holding one or more licenses under this section may brew, in the aggregate, no more than twenty thousand barrels of beer per year. 9. On or within thirty days of the effective date of this section, any person who holds a brewer's license under section fifty-one of this chapter as well as a license to sell beer, wine and liquor at retail for consumption on the premises may file an application with the liquor authority to convert those licenses into a license under this section. Such an application shall be granted by the authority except for good cause shown. The granting of such an application shall constitute conversion of said license into a restaurant-brewer license subject to the provisions of this chapter applicable to restaurant-brewers licenses issued under this section. 10. (a) For purposes of sections one hundred one and one hundred six of this chapter, a person licensed under this section shall be deemed a "retailer" as that term is defined within section three of this chapter. Notwithstanding any provision of this chapter to the contrary, a person licensed under this section may also be licensed (or interested directly or indirectly in a license) to sell liquor at retail to be consumed on or off the premises under section fifty-four, fifty-four-a, fifty-five, fifty-five-a, seventy-nine or eighty-one of this chapter or sections sixty-four, sixty-four-a, sixty-four-b and sixty-four-d of this article. (b) No manufacturer or wholesaler of alcoholic beverages may be granted a license to operate a restaurant-brewer pursuant to this section. Any person who has an interest in premises eligible for conversion under subdivision nine of this section shall not be issued any license under this section unless and until a conversion application has been filed with and approved by the authority. 11. (a) No restaurant-brewer license shall be granted for any premises which shall be: (i) on the same street or avenue and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship; or (ii) in a city, town or village having a population of twenty thousand or more within five hundred feet of three or more existing premises licensed and operating pursuant to the provisions of this section or sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article; or (iii) the measurements in subparagraphs (i) and (ii) of this paragraph are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of worship or to the center of the nearest entrance of each such premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article; except that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school, church, synagogue or other place of worship and except that no license shall be denied to any premises, which is within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article, at which a license under this chapter has been in existence continuously on or prior to November first, nineteen hundred ninety-three. (b) Within the context of this subdivision, the word "entrance" shall mean a door of a school, of a house of worship, or premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, and to patrons or guests of the premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article or of the premises sought to be licensed, except that where a school or house of worship or premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance". (c) Notwithstanding the provisions of subparagraph (ii) of paragraph (a) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article if, after consultation with the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. The hearing may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued hearing. Before the authority issues any said license, the authority or one or more of the commissioners thereof may, in addition to the hearing required by this paragraph, also conduct a public meeting regarding said license, upon notice to the applicant and the municipality or community board. The public meeting may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued public meeting. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of a building or buildings wherein three or more premises are operating and licensed pursuant to this section or sections sixty-four, sixty-four-a, sixty-four-b and/or sixty-four-d of this article. (d) Within the context of this subdivision, a building occupied

as a place of worship does not cease to be "exclusively" occupied as a place of worship by incidental uses that are not of a nature to detract from the predominant character of the building as a place of worship, such uses which include, but which are not limited to: the conduct of legally authorized games of bingo or other games of chance held as a means of raising funds for the not-for-profit religious organization which conducts services at the place of worship or for other not-for-profit organizations or groups; use of the building for fund-raising performances by or benefitting the not-for-profit religious organization which conducts services at the place of worship or other not-for-profit organizations or groups; the use of the building by other religious organizations or groups for religious services or other purposes; the conduct of social activities by or for the benefit of the congregants; the use of the building for meetings held by organizations or groups providing bereavement counseling to persons having suffered the loss of a loved one, or providing advice or support for conditions or diseases including, but not limited to, alcoholism, drug addiction, cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the use of the building for blood drives, health screenings, health information meetings, yoga classes, exercise classes or other activities intended to promote the health of the congregants or other persons; and use of the building by non-congregant members of the community for private social functions. The building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship where the not-for-profit religious organization occupying the place of worship accepts the payment of funds to defray costs related to another party's use of the building. 12. The fee for an original and a renewal restaurant-brewer license shall be fifty-eight hundred fifty dollars in the counties of New York, Kings, Bronx and Queens; forty-three hundred fifty dollars in the county of Richmond and in cities having a population of more than one hundred thousand and less than one million; thirty-six hundred dollars in cities having a population of more than fifty thousand and less than one hundred thousand; and the sum of twenty-eight hundred fifty dollars elsewhere. Said license shall run for a period of three years. In addition to the license fees provided for in this subdivision, there shall be paid to the authority with each initial application a filing fee of two hundred dollars and with each renewal application a filing fee of one hundred dollars. 13. (a) A licensee or his or her employee may serve small samples of beer or malt beverages he or she produces at their licensed establishments. (b) Each serving at such tasting shall be served only by the brewer or his or her employee and shall be limited to three ounces or less of a brand of beer or malt beverage produced by the brewer and no consumer of legal age shall be provided or given more than two servings of such brands offered for tasting. (c) The authority is authorized and directed to promulgate such rules and regulations, as it deems necessary or appropriate to implement the provisions of this subdivision to protect the health, safety and welfare of the people of this state. 14. Notwithstanding the provisions of subdivision six of this section or of subdivision thirteen of section one hundred six of this chapter, the authority may issue a restaurant brewer's license pursuant to this section for a premises which shall be located wholly within the town of Ulster, county of Ulster, state of New York, bounded and described as follows: ALL that certain plot, piece or parcel of land with the buildings and improvements thereon erected, situate, lying and being in the Town of Ulster, County of Ulster and the State of New York, bounded and described as follows: BEGINNING at a point on the Northeasterly side of City View Terrace, said point being the Westerly corner of the lands of the State of New York and a Southwesterly corner of the herein described parcel; THENCE from said point of beginning along the Northeasterly side of City View Terrace, North 43 degrees 36 minutes 03 seconds West, 109.02 feet to a point on the Southeasterly side of Forest Hill Drive; THENCE along the Southeasterly side of Forest Hill Drive the following course and distances, North 16 degrees 32 minutes 34 seconds West, 92.62 feet to a point; THENCE North 10 degrees 38 minutes 26 seconds East, 70.45 feet to a point; THENCE North 35 degrees 53 minutes 26 seconds East, 122.45 feet to a point; THENCE North 46 degrees 30 minutes 26 seconds East, 203.40 feet to a point; THENCE North 62 degrees 37 minutes 26 seconds East; 115.94 feet to a point; THENCE North 79 degrees 39 minutes 26 seconds East, 47.82 feet to a point; THENCE North 45 degrees 16 minutes 41 seconds East, 63.33 feet to a recovered bar; THENCE along the bounds of lands of now or formerly Skytop Village Associates, L. 1916-P. 134, the following courses and distances, South 37 degrees 08 minutes 02 seconds East, 196.33 feet to a recovered bar; THENCE South 65 degrees 47 minutes 02 seconds East, 90.63 feet to a point; THENCE North 77 degrees 23 minutes 58 seconds East, 233.85 feet to a recovered bar; THENCE North 85 degrees 29 minutes 58 seconds East, 297.09 feet to a recovered bar; THENCE South 63 degrees 30 minutes 02 seconds East, 108.50 feet to a recovered bar; THENCE along the bounds of lands of now or formerly Robert D. Sabino, L. 1487-P. 397, and along a stone wall, South 32 degrees 24 minutes 04 seconds West, 353.51 feet to a point; THENCE leaving said stone and along the bounds of lands of now or formerly Stanley Amerling, L. 1440-P. 908, South 75 degrees 41 minutes 26 seconds West, 264.62 feet to a point; THENCE along the bounds of lands of Summit Properties, LLC, L. 2856-P. 82, the following courses and distances, North 41 degrees 29 minutes 34 seconds West, 50.00 feet to a point; THENCE South 71 degrees 10 minutes 26 seconds West, 89.84 feet to a point; THENCE South 59 degrees 51 minutes 26 seconds West, 251.72 feet to a point; THENCE South 13 degrees 15 minutes 34 seconds East, 90.20 feet to a point; THENCE along the bounds of lands of said State of New York, the following courses and distances, North 56 degrees 41 minutes 34 seconds West, 168.79 feet to a point; THENCE North 75 degrees 51 minutes 34 seconds West, 254.10 feet to the point and place of beginning. Being the same premises as conveyed to Skytop Motel, LLC by deed of Stewart Title, as agent of the grantor, Skytop Motel, Inc., dated April 29, 2003 and recorded in the office of the Ulster County Clerk on June 10, 2003 as document no. 2003-00016207, Receipt no. 48178, Bk-D VI-3621, pg-171. 15. Notwithstanding the provisions of subdivision six of this section or of subdivision thirteen of section one hundred six of this chapter, the authority may issue a restaurant brewer's license pursuant to this section for a premises which shall be located wholly within the city of Peekskill, county of Westchester, state of New York, bounded and described as follows: Any such premises or business located on all that certain parcel of land situate in the City of Peekskill, County of Westchester and State of New York, that is a portion of Parcel I as it is shown on that certain map entitled, "Survey . . at Charles Point . . " which was filed in the Westchester County Clerk's Office on October 23, 1980 as Map No. 20407 that is bounded and described as follows: BEGINNING at a point on

the easterly shoreline of the Hudson River and within the bounds of the said Parcel I as it is shown on the said Filed Map NO. 20407, which point occupies coordinate position: North 464418.83 (y) East 607401.00 (x) of the New York State Coordinate System, East Zone and which point is distant, the following courses from the southerly corner of the Parcel shown on Map No. 20407 that occupies coordinate position North 463520.804 (y) East 608470.681 (x) of the aforesaid New York State Coordinate System, East Zone: North 47 degrees 30' 36" West 856.60 feet, North 77 degrees 10' 53" West 488.18 feet, North 41 degrees 17' 53" West 113.32 feet and North 41 degrees 50' 16" East 169.08 feet; THENCE from the said point of beginning along the said easterly shoreline (high water mark) of the east bank of the Hudson River: Due North 16.17 feet, North 53 degrees 58' 22" West 13.60 feet, North 73 degrees 04' 21" West 24.04 feet, North 63 degrees 26' 06" West 22.36 feet, North 82 degrees 18' 14" West 37.34 feet, North 64 degrees 47' 56" West 37.58 feet, South 82 degrees 52' 30" West 16.12 feet, North 61 degrees 41' 57" West 14.76 feet and South 21 degrees 48' 05" West 9.71 feet; THENCE leaving the high water mark and running across a peninsula of land and along the division line between Parcel I and Parcel II as shown on said Filed Map No. 20407, North 65 degrees 32' 43" West 30.18 feet to another point on the said easterly shoreline (high water mark) of the East Bank of the Hudson River; THENCE northerly along the said high water mark, the following courses: North 3 degrees 00' 46" West 17.54 feet, North 13 degrees 45' 39" West 50.45 feet, North 10 degrees 49' 23" West 69.23 feet, North 0 degrees 47' 22" West 52.48 feet to a point which is the point of beginning of the hereinafter described 40 foot easement which point occupies coordinate position North 464676.48 (y) East 607189.28 (x) of the New York State Coordinate System, East Zone; THENCE continuing along the aforesaid easterly shoreline (high water mark) of the East Bank of the Hudson, the following courses: North 10 degrees 18' 17" West 23.91 feet, North 39 degrees 04' 58" West 21.39 feet, North 20 degrees 13' 30" West 21.74 feet, North 39 degrees 02' 08" West 95.27 feet, North 13 degrees 08' 02" West 30.81 feet, North 18 degrees 26' 06" West 53.76 feet, North 28 degrees 10' 43" West 63.53 feet, North 18 degrees 26' 06" West 50.60 feet, North 37 degrees 14' 05" West 31.40 feet, North 21 degrees 15' 02" West 96.57 feet, North 32 degrees 00' 19" West 47.17 feet, North 1 degree 18' 07" West 44.01 feet and North 17 degrees 14' 29" East 29.32 feet to a point on the southerly line of lands under lease to the County of Westchester (Resco Site); THENCE along the said County of Westchester (Resco Site) lands: Due East 432.31 feet to a point on the westerly line of an easement and a right-of-way leading to Charles Point Avenue; THENCE along the said westerly and southwesterly line of the said right-of-way leading to Charles Point Avenue: Due South 241.16 feet and South 27 degrees 13' 00" East 406.90 feet to a point; THENCE leaving the said easement and running along other lands now or formerly of The City of Peekskill Industrial Development Agency, South 41 degrees 50' 16" West 270.01 feet to the aforementioned easterly shoreline (high water mark) of the East Bank of the Hudson River and the point or place of beginning. TOGETHER with an easement over all that parcel of land situate in the City of Peekskill, County of Westchester and State of New York that is more particularly bounded and described as follows: BEGINNING at a point on the westerly line of Charles Point Avenue with the said westerly line is intersected by the line dividing the easement herein described on the south from lands under lease to the County of Westchester (Resco Site) on the north which point occupies coordinate position: North 464719.99 (y) East 608004.15 (x) of the New York State Coordinate System, East Zone; THENCE from the said point of beginning southerly along the said westerly line of Charles Point Avenue, South 14 degrees 54' 00" West 103.48 feet to a point; THENCE westerly along other lands of the City of Peekskill Industrial Development Agency: Due West 396.44 feet to a point which is the easterly most corner of the lands of Point Associates, the grantee herein; THENCE along the northeasterly line of the said Point Associates' land, North 27 degrees 13' 00" West 406.90 feet and Due North 241.16 feet to a point on the southerly line of the aforementioned lands leased to the County of Westchester (Resco Site); THENCE easterly along the said southerly line Due East 75.00 feet to a point; THENCE southeasterly and easterly still along the said lands leased to the County of Westchester (Resco Site) the following courses: Due South 223.00 feet, South 27 degrees 13' 00" East 314.87 feet and Due East 390.14 feet to the aforementioned westerly line of Charles Point Avenue and the point or place of BEGINNING. TOGETHER WITH a non-exclusive easement for utilities, and ingress and egress over that certain right of way leading from Charles Point Avenue, now known as John E. Walsh Boulevard, in a westerly and northwesterly direction to the above described premises and as more fully described in the Declaration of Easement recorded in Liber 8888 cp 35.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor64-D - License to Sell Liquor on Premises Commonly Known as a Cabaret.

2. Such application shall be in such form and shall contain such information as shall be required by the liquor authority and shall be accompanied by a check or draft in the amount required by this article for such license. 4. Section fifty-four of this chapter shall control so far as applicable the procedure in connection with such application. 5. Such cabaret license shall in form and in substance be a license to the person specifically licensed to operate a cabaret and sell liquor at retail to be consumed on the premises specifically licensed. Such license shall also be deemed to include a license to sell wine and beer at retail to be consumed under the same terms and conditions, without the payment of any additional fee. 6. A license under this section shall be required of any licensee upon whose premises musical entertainment, singing, dancing or other forms of entertainment is permitted; provided, however, that this section shall only apply to licensees whose premises have a capacity for the assemblage of six hundred or more persons. Nothing contained in this subdivision shall be construed as requiring a license under this section by an establishment licensed under section sixty-four or paragraph (b) of subdivision six of section sixty-four-a of this article. 7. The authority shall consider all of the following in determining whether public convenience and advantage and the public interest will be promoted by the granting of a license pursuant to this section:(a) the number, classes and character of licenses in proximity to the location and in the particular municipality or subdivision thereof;(b) evidence that applicants have secured all necessary licenses and permits from the state and all other governing bodies;(c) the effect that the granting of the license will have on vehicular traffic and parking in the

proximity of the location;(d) the existing noise level at the location and any increase in noise level that would be generated by the proposed premises;(e) the history of liquor violations and reported criminal activity at the proposed premises; and(f) any other factors specified by law or regulation that are relevant to determine the public convenience or advantage and necessary to find that the granting of such license shall be in the public interest.8. No cabaret license shall be granted for any premises which shall be:(a) on the same street or avenue and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship or(b) in a city, town or village having a population of twenty thousand or more within five hundred feet of an existing premises licensed and operating pursuant to the provisions of this section, or within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article.(c) the measurements in paragraphs (a) and (b) of this subdivision are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of worship or to the center of the nearest entrance of each such premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article; except that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school, church, synagogue or other place of worship; and except that no license shall be denied to any premises, which is within five hundred feet of an existing premises licensed and operating pursuant to the provisions of this section or which is within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article, at which a license under this chapter has been in existence continuously on or prior to November first, nineteen hundred ninety-three. The liquor authority, in its discretion, may authorize the removal of any such licensed premises to a different location on the same street or avenue, within two hundred feet of said school, church, synagogue or other place of worship, provided that such new location is not within a closer distance to such school, church, synagogue or other place of worship.(d) within the context of this subdivision, the word "entrance" shall mean a door of a school, of a house of worship, or of premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, and to patrons or guests of the premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article or of the premises sought to be licensed, except that where a school or house of worship or premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article or the premises sought to be licensed is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance".(e) notwithstanding the provisions of paragraph (b) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of an existing premises licensed and operating pursuant to the provisions of this section or within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article if, after consultation with the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. The hearing may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued hearing. Before the authority issues any said license, the authority or one or more of the commissioners thereof may, in addition to the hearing required by this paragraph, also conduct a public meeting regarding said license, upon notice to the applicant and the municipality or community board. The public meeting may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued public meeting. Notice to the municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of an existing premises licensed and operating pursuant to the provisions of this section or within five hundred feet of a building or buildings wherein three or more premises are licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article.(f) Within the context of this subdivision, a building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship by incidental uses that are not of a nature to detract from the predominant character of the building as a place of worship, such uses which include, but which are not limited to: the conduct of legally authorized games of bingo or other games of chance held as a means of raising funds for the not-for-profit religious organization which conducts services at the place of worship or for other not-for-profit organizations or groups; use of the building for fund-raising performances by or benefitting the not-for-profit religious organization which conducts services at the place of worship or other not-for-profit organizations or groups; the use of the building by other religious organizations or groups for religious services or other purposes; the conduct of social activities by or for the benefit of the congregants; the use of the building for meetings held by organizations or groups providing bereavement counseling to persons having suffered the loss of a loved one, or providing advice or support for conditions or diseases including, but not limited to,

alcoholism, drug addiction, cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the use of the building for blood drives, health screenings, health information meetings, yoga classes, exercise classes or other activities intended to promote the health of the congregants or other persons; and use of the building by non-congregant members of the community for private social functions. The building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship where the not-for-profit religious organization occupying the place of worship accepts the payment of funds to defray costs related to another party's use of the building.9. On or within ninety days of the effective date of this section, any person who holds a license under section sixty-four of this article to sell beer, wine and liquor at retail for consumption on the premises and who operates pursuant to the provisions of subdivision six of this section shall file an application with the liquor authority to convert such license into a license under this section. Such an application shall be granted by the authority except for good cause shown. The granting of such an application shall constitute conversion of said license into a cabaret license subject to the provisions of this chapter applicable to cabaret licenses issued under this section; provided, however, that no licensee applying for such conversion shall be denied on the grounds that such application fails to meet the requirements of subdivision eight of this section.10. All other provisions of this chapter relative to licenses to sell liquor at retail for consumption on the premises shall apply as far as applicable. (a) the number, classes and character of licenses in proximity to the location and in the particular municipality or subdivision thereof; (b) evidence that applicants have secured all necessary licenses and permits from the state and all other governing bodies; (c) the effect that the granting of the license will have on vehicular traffic and parking in the proximity of the location; (d) the existing noise level at the location and any increase in noise level that would be generated by the proposed premises; (e) the history of liquor violations and reported criminal activity at the proposed premises; and (f) any other factors specified by law or regulation that are relevant to determine the public convenience or advantage and necessary to find that the granting of such license shall be in the public interest. 8. No cabaret license shall be granted for any premises which shall be: (a) on the same street or avenue and within two hundred feet of a building occupied exclusively as a school, church, synagogue or other place of worship or (b) in a city, town or village having a population of twenty thousand or more within five hundred feet of an existing premises licensed and operating pursuant to the provisions of this section, or within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article. (c) the measurements in paragraphs (a) and (b) of this subdivision are to be taken in straight lines from the center of the nearest entrance of the premises sought to be licensed to the center of the nearest entrance of such school, church, synagogue or other place of worship or to the center of the nearest entrance of each such premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article; except that no license shall be denied to any premises at which a license under this chapter has been in existence continuously from a date prior to the date when a building on the same street or avenue and within two hundred feet of said premises has been occupied exclusively as a school, church, synagogue or other place of worship; and except that no license shall be denied to any premises, which is within five hundred feet of an existing premises licensed and operating pursuant to the provisions of this section or which is within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article, at which a license under this chapter has been in existence continuously on or prior to November first, nineteen hundred ninety-three. The liquor authority, in its discretion, may authorize the removal of any such licensed premises to a different location on the same street or avenue, within two hundred feet of said school, church, synagogue or other place of worship, provided that such new location is not within a closer distance to such school, church, synagogue or other place of worship. (d) within the context of this subdivision, the word "entrance" shall mean a door of a school, of a house of worship, or of premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article or of the premises sought to be licensed, regularly used to give ingress to students of the school, to the general public attending the place of worship, and to patrons or guests of the premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article or of the premises sought to be licensed, except that where a school or house of worship or premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article or the premises sought to be licensed is set back from a public thoroughfare, the walkway or stairs leading to any such door shall be deemed an entrance; and the measurement shall be taken to the center of the walkway or stairs at the point where it meets the building line or public thoroughfare. A door which has no exterior hardware, or which is used solely as an emergency or fire exit, or for maintenance purposes, or which leads directly to a part of a building not regularly used by the general public or patrons, is not deemed an "entrance". (e) notwithstanding the provisions of paragraph (b) of this subdivision, the authority may issue a license pursuant to this section for a premises which shall be within five hundred feet of an existing premises licensed and operating pursuant to the provisions of this section or within five hundred feet of three or more existing premises licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article if, after consultation with the municipality or community board, it determines that granting such license would be in the public interest. Before it may issue any such license, the authority shall conduct a hearing, upon notice to the applicant and the municipality or community board, and shall state and file in its office its reasons therefor. The hearing may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued hearing. Before the authority issues any said license, the authority or one or more of the commissioners thereof may, in addition to the hearing required by this paragraph, also conduct a public meeting regarding said license, upon notice to the applicant and the municipality or community board. The public meeting may be rescheduled, adjourned or continued, and the authority shall give notice to the applicant and the municipality or community board of any such rescheduled, adjourned or continued public meeting. Notice to the

municipality or community board shall mean written notice mailed by the authority to such municipality or community board at least fifteen days in advance of any hearing scheduled pursuant to this paragraph. Upon the request of the authority, any municipality or community board may waive the fifteen day notice requirement. No premises having been granted a license pursuant to this section shall be denied a renewal of such license upon the grounds that such premises are within five hundred feet of an existing premises licensed and operating pursuant to the provisions of this section or within five hundred feet of a building or buildings wherein three or more premises are licensed and operating pursuant to this section and sections sixty-four, sixty-four-a, sixty-four-b, and/or sixty-four-c of this article. (f) Within the context of this subdivision, a building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship by incidental uses that are not of a nature to detract from the predominant character of the building as a place of worship, such uses which include, but which are not limited to: the conduct of legally authorized games of bingo or other games of chance held as a means of raising funds for the not-for-profit religious organization which conducts services at the place of worship or for other not-for-profit organizations or groups; use of the building for fund-raising performances by or benefitting the not-for-profit religious organization which conducts services at the place of worship or other not-for-profit organizations or groups; the use of the building by other religious organizations or groups for religious services or other purposes; the conduct of social activities by or for the benefit of the congregants; the use of the building for meetings held by organizations or groups providing bereavement counseling to persons having suffered the loss of a loved one, or providing advice or support for conditions or diseases including, but not limited to, alcoholism, drug addiction, cancer, cerebral palsy, Parkinson's disease, or Alzheimer's disease; the use of the building for blood drives, health screenings, health information meetings, yoga classes, exercise classes or other activities intended to promote the health of the congregants or other persons; and use of the building by non-congregant members of the community for private social functions. The building occupied as a place of worship does not cease to be "exclusively" occupied as a place of worship where the not-for-profit religious organization occupying the place of worship accepts the payment of funds to defray costs related to another party's use of the building. 9. On or within ninety days of the effective date of this section, any person who holds a license under section sixty-four of this article to sell beer, wine and liquor at retail for consumption on the premises and who operates pursuant to the provisions of subdivision six of this section shall file an application with the liquor authority to convert such license into a license under this section. Such an application shall be granted by the authority except for good cause shown. The granting of such an application shall constitute conversion of said license into a cabaret license subject to the provisions of this chapter applicable to cabaret licenses issued under this section; provided, however, that no licensee applying for such conversion shall be denied on the grounds that such application fails to meet the requirements of subdivision eight of this section. 10. All other provisions of this chapter relative to licenses to sell liquor at retail for consumption on the premises shall apply as far as applicable.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor64-E - License to Sell Liquor at Retail as an Off-Premises Catering Establishment.

§ 64-e. License to sell liquor at retail as an off-premises catering establishment. 1. Any person may make an application to the authority for a license to sell liquor at a site remote from the licensed premises of an off-premises catering establishment as defined pursuant to paragraph (b) of subdivision seven-a of section three of this chapter, and such licenses shall be issued to all applicants except for good cause shown. 2. Such application shall be in such form and shall contain such information as shall be required by the rules of the authority and shall be accompanied by a check or draft or other form of payment acceptable to the authority in the amount required by this article for such license. 3. Section fifty-four of this chapter shall control the procedure in connection with such application, so far as applicable. 4. Such license shall in form and in substance be a license to the person specifically licensed to sell liquors at retail, to be consumed only at sites at which a permit has been applied for and granted as provided for in section ninety-eight of this chapter. Such license shall also be deemed to include a license to sell wine and beer at retail to be consumed under the same terms and conditions, without the payment of any additional fee.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor65-A - Procuring Alcoholic Beverages for Persons Under the Age of Twenty-One Years.

§ 65-a. Procuring alcoholic beverages for persons under the age of twenty-one years. Any person who misrepresents the age of a person under the age of twenty-one years for the purpose of inducing the sale of any alcoholic beverage, as defined in the alcoholic beverage control law, to such person, is guilty of an offense and upon conviction thereof shall be punished by a fine of not more than two hundred dollars, or by imprisonment for not more than five days, or by both such fine and imprisonment.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor65-B - Offense for One Under Age of Twenty-One Years to Purchase or Attempt to Purchase an Alcoholic Beverage Through Fraudulent Means.

(b) "Card holder" means any person presenting a driver's license or non-driver identification card to a licensee, or to the agent or employee of such licensee under this chapter; and (c) "Transaction scan" means the process involving a device capable of deciphering any electronically readable format by which a licensee, or agent or employee of a licensee under this chapter reviews a driver's license or non-driver identification card presented as a precondition for the purchase of an alcoholic beverage as required by subdivision two of this section or as a precondition for admission to an establishment licensed for the on-premises sale of alcoholic beverages where admission is restricted to persons twenty-one years or older. 2. (a) No person under the age of twenty-one years

shall present or offer to any licensee under this chapter, or to the agent or employee of such licensee, any written evidence of age which is false, fraudulent or not actually his own, for the purpose of purchasing or attempting to purchase any alcoholic beverage. (b) No licensee, or agent or employee of such licensee shall accept as written evidence of age by any such person for the purchase of any alcoholic beverage, any documentation other than: (i) a valid driver's license or non-driver identification card issued by the commissioner of motor vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government within the United States or a provincial government of the dominion of Canada, or (ii) a valid passport issued by the United States government or any other country, or (iii) an identification card issued by the armed forces of the United States. Upon the presentation of such driver's license or non-driver identification card issued by a governmental entity, such licensee or agent or employee thereof may perform a transaction scan as a precondition to the sale of any alcoholic beverage. Nothing in this section shall prohibit a licensee or agent or employee from performing such a transaction scan on any of the other documents listed in this subdivision if such documents include a bar code or magnetic strip that that may be scanned by a device capable of deciphering any electronically readable format. (c) In instances where the information deciphered by the transaction scan fails to match the information printed on the driver's license or non-driver identification card presented by the card holder, or if the transaction scan indicates that the information is false or fraudulent, the attempted purchase of the alcoholic beverage shall be denied. 3. A person violating the provisions of paragraph (a) of subdivision two of this section shall be guilty of a violation and shall be sentenced in accordance with the following: (a) For a first violation, the court shall order payment of a fine of not more than one hundred dollars and/or an appropriate amount of community service not to exceed thirty hours. In addition, the court may order completion of an alcohol awareness program established pursuant to section 19.25 of the mental hygiene law. (b) For a second violation, the court shall order payment of a fine of not less than fifty dollars nor more than three hundred fifty dollars and/or an appropriate amount of community service not to exceed sixty hours. The court also shall order completion of an alcohol awareness program as referenced in paragraph (a) of this subdivision if such program has not previously been completed by the offender, unless the court determines that attendance at such program is not feasible due to the lack of availability of such program within a reasonably close proximity to the locality in which the offender resides or matriculates, as appropriate. (c) For third and subsequent violations, the court shall order payment of a fine of not less than fifty dollars nor more than seven hundred fifty dollars and/or an appropriate amount of community service not to exceed ninety hours. The court also shall order that such person submit to an evaluation by an appropriate agency certified or licensed by the office of alcoholism and substance abuse services to determine whether the person suffers from the disease of alcoholism or alcohol abuse, unless the court determines that under the circumstances presented such an evaluation is not necessary, in which case the court shall state on the record the basis for such determination. Payment for such evaluation shall be made by such person. If, based on such evaluation, a need for treatment is indicated, such person may choose to participate in a treatment plan developed by an agency certified or licensed by the office of alcoholism and substance abuse services. If such person elects to participate in recommended treatment, the court shall order that payment of such fine and community service be suspended pending the completion of such treatment. (d) Evaluation procedures. For purposes of this subdivision, the following shall apply: (i) The contents of an evaluation pursuant to paragraph (c) of this subdivision shall be used for the sole purpose of determining if such person suffers from the disease of alcoholism or alcohol abuse. (ii) The agency designated by the court to perform such evaluation shall conduct the evaluation and return the results to the court within thirty days, subject to any state or federal confidentiality law, rule or regulation governing the confidentiality of alcohol and substance abuse treatment records. (iii) The office of alcoholism and substance abuse services shall make available to each supreme court law library in this state, or, if no supreme court law library is available in a certain county, to the county court law library of such county, a list of agencies certified to perform evaluations as required by subdivision (f) of section 19.07 of the mental hygiene law. (iv) All evaluations required under this subdivision shall be in writing and the person so evaluated or his or her counsel shall receive a copy of such evaluation prior to its use by the court. (v) A minor evaluated under this subdivision shall have, and shall be informed by the court of, the right to obtain a second opinion regarding his or her need for alcoholism treatment. 4. A person violating the provisions of paragraph (b) of subdivision two of this section shall be guilty of a violation punishable by a fine of not more than one hundred dollars, and/or an appropriate amount of community service not to exceed thirty hours. In addition, the court may order completion of an alcohol training awareness program established pursuant to subdivision twelve of section seventeen of this chapter where such program is located within a reasonably close proximity to the locality in which the offender is employed or resides. 5. No determination of guilt pursuant to this section shall operate as a disqualification of any such person subsequently to hold public office, public employment, or as a forfeiture of any right or privilege or to receive any license granted by public authority; and no such person shall be denominated a criminal by reason of such determination. 6. In addition to the penalties otherwise provided in subdivision three of this section, if a determination is made sustaining a charge of illegally purchasing or attempting to illegally purchase an alcoholic beverage, the court may suspend such person's license to drive a motor vehicle and the privilege of an unlicensed person of obtaining such license, in accordance with the following and for the following periods, if it is found that a driver's license was used for the purpose of such illegal purchase or attempt to illegally purchase; provided, however, that where a person is sentenced pursuant to paragraph (b) or (c) of subdivision three of this section, the court shall impose such license suspension if it is found that a driver's license was used for the purpose of such illegal purchase or attempt to illegally purchase: (a) For a first violation of paragraph (a) of subdivision two of this section, a three month suspension. (b) For a second violation of paragraph (a) of subdivision two of this section, a six month suspension. (c) For a third or subsequent violation of paragraph (a) of subdivision two of this section, a suspension for one year or until the holder reaches the age of twenty-one, whichever is the greater period of time. Such person may thereafter apply for and be issued a restricted use license in accordance with the provisions of

section five hundred thirty of the vehicle and traffic law. 7. (a) In any proceeding pursuant to subdivision one of section sixty-five of this article, it shall be an affirmative defense that such person had produced a driver's license or non-driver identification card apparently issued by a governmental entity, successfully completed the transaction scan, and that the alcoholic beverage had been sold, delivered or given to such person in reasonable reliance upon such identification and transaction scan. In evaluating the applicability of such affirmative defense, the liquor authority shall take into consideration any written policy adopted and implemented by the seller to carry out the provisions of this chapter. Use of a transaction scan shall not excuse any licensee under this chapter, or agent or employee of such licensee, from the exercise of reasonable diligence otherwise required by this section. Notwithstanding the above provisions, any such affirmative defense shall not be applicable in any other civil or criminal proceeding, or in any other forum. (b) A licensee or agent or employee of a licensee may electronically or mechanically record and maintain only the information from a transaction scan necessary to effectuate the purposes of this section. Such information shall be limited to the following: (i) name, (ii) date of birth, (iii) driver's license or non-driver identification number, and (iv) expiration date. The liquor authority and the state commissioner of motor vehicles shall jointly promulgate any regulation necessary to govern the recording and maintenance of these records by a licensee under this chapter. The liquor authority and the commissioner of health shall jointly promulgate any regulations necessary to ensure quality control in the use of transaction scan devices. 8. A licensee or agent or employee of such licensee shall only use the information recorded and maintained through the use of such devices for the purposes contained in paragraph (a) of subdivision seven of this section, and shall only use such devices for the purposes contained in subdivision two of this section. No licensee or agent or employee of a licensee shall resell or disseminate the information recorded during such scan to any third person. Such prohibited resale or dissemination includes, but is not limited to, any advertising, marketing or promotional activities. Notwithstanding the restrictions imposed by this subdivision, such records may be released pursuant to a court ordered subpoena or pursuant to any other statute that specifically authorizes the release of such information. Each violation of this subdivision shall be punishable by a civil penalty of not more than one thousand dollars.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor65-C - Unlawful Possession of an Alcoholic Beverage With the Intent to Consume by Persons Under the Age of Twenty-One Years.

2. A person under the age of twenty-one years may possess any alcoholic beverage with intent to consume if the alcoholic beverage is given:(a) to a person who is a student in a curriculum licensed or registered by the state education department and the student is required to taste or imbibe alcoholic beverages in on-campus or off-campus courses which are a part of the required curriculum, provided such alcoholic beverages are used only for instructional purposes during class conducted pursuant to such curriculum; or(b) to the person under twenty-one years of age by that person's parent or guardian.3. Any person who unlawfully possesses an alcoholic beverage with intent to consume may be summoned before and examined by a court having jurisdiction of that charge; provided, however, that nothing contained herein shall authorize, or be construed to authorize, a peace officer as defined in subdivision thirty-three of section 1.20 of the criminal procedure law or a police officer as defined in subdivision thirty-four of section 1.20 of such law to arrest a person who unlawfully possesses an alcoholic beverage with intent to consume. If a determination is made sustaining such charge the court may impose a fine not exceeding fifty dollars and/or completion of an alcohol awareness program established pursuant to section 19.25 of the mental hygiene law and/or an appropriate amount of community service not to exceed thirty hours.4. No such determination shall operate as a disqualification of any such person subsequently to hold public office, public employment, or as a forfeiture of any right or privilege or to receive any license granted by public authority; and no such person shall be denominated a criminal by reason of such determination, nor shall such determination be deemed a conviction.5. Whenever a peace officer as defined in subdivision thirty-three of section 1.20 of the criminal procedure law or police officer as defined in subdivision thirty-four of section 1.20 of the criminal procedure law shall observe a person under twenty-one years of age openly in possession of an alcoholic beverage as defined in this chapter, with the intent to consume such beverage in violation of this section, said officer may seize the beverage, and shall deliver it to the custody of his or her department.6. Any alcoholic beverage seized in violation of this section is hereby declared a nuisance. The official to whom the beverage has been delivered shall, no earlier than three days following the return date for initial appearance on the summons, dispose of or destroy the alcoholic beverage seized or cause it to be disposed of or destroyed. Any person claiming ownership of an alcoholic beverage seized under this section may, on the initial return date of the summons or earlier on five days notice to the official or department in possession of the beverage, apply to the court for an order preventing the destruction or disposal of the alcoholic beverage seized and ordering the return of that beverage. The court may order the beverage returned if it is determined that return of the beverage would be in the interest of justice or that the beverage was improperly seized. (a) to a person who is a student in a curriculum licensed or registered by the state education department and the student is required to taste or imbibe alcoholic beverages in on-campus or off-campus courses which are a part of the required curriculum, provided such alcoholic beverages are used only for instructional purposes during class conducted pursuant to such curriculum; or (b) to the person under twenty-one years of age by that person's parent or guardian. 3. Any person who unlawfully possesses an alcoholic beverage with intent to consume may be summoned before and examined by a court having jurisdiction of that charge; provided, however, that nothing contained herein shall authorize, or be construed to authorize, a peace officer as defined in subdivision thirty-three of section 1.20 of the criminal procedure law or a police officer as defined in subdivision thirty-four of section 1.20 of such law to arrest a person who unlawfully possesses an alcoholic beverage with intent to consume. If a determination is made sustaining such charge the court may impose a fine not exceeding fifty dollars and/or completion of an alcohol awareness program established pursuant to section 19.25 of the mental hygiene law and/or an appropriate amount of community service not to exceed thirty hours.

4. No such determination shall operate as a disqualification of any such person subsequently to hold public office, public employment, or as a forfeiture of any right or privilege or to receive any license granted by public authority; and no such person shall be denominated a criminal by reason of such determination, nor shall such determination be deemed a conviction. 5. Whenever a peace officer as defined in subdivision thirty-three of section 1.20 of the criminal procedure law or police officer as defined in subdivision thirty-four of section 1.20 of the criminal procedure law shall observe a person under twenty-one years of age openly in possession of an alcoholic beverage as defined in this chapter, with the intent to consume such beverage in violation of this section, said officer may seize the beverage, and shall deliver it to the custody of his or her department. 6. Any alcoholic beverage seized in violation of this section is hereby declared a nuisance. The official to whom the beverage has been delivered shall, no earlier than three days following the return date for initial appearance on the summons, dispose of or destroy the alcoholic beverage seized or cause it to be disposed of or destroyed. Any person claiming ownership of an alcoholic beverage seized under this section may, on the initial return date of the summons or earlier on five days notice to the official or department in possession of the beverage, apply to the court for an order preventing the destruction or disposal of the alcoholic beverage seized and ordering the return of that beverage. The court may order the beverage returned if it is determined that return of the beverage would be in the interest of justice or that the beverage was improperly seized.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor65-D - Posting of Signs.

§ 65-d. Posting of signs. 1. The authority shall prepare, have printed and distribute across the state to all persons with a license to sell alcoholic beverages for consumption on the premises or a license to sell alcoholic beverages for consumption off the premises a sign or poster with conspicuous lettering that states the following: "No person shall sell or give away any alcoholic beverages to: 1. any person under the age of twenty-one years; or 2. any visibly intoxicated person. IT IS A VIOLATION PUNISHABLE UNDER LAW FOR ANY PERSON UNDER THE AGE OF TWENTY-ONE TO PRESENT ANY WRITTEN EVIDENCE OF AGE WHICH IS FALSE, FRAUDULENT OR NOT ACTUALLY HIS OWN FOR THE PURPOSE OF ATTEMPTING TO PURCHASE ANY ALCOHOLIC BEVERAGE". Such sign or poster shall be captioned with the word "warning" in at least two inch lettering. 2. All persons with a license to sell alcoholic beverages for consumption on the premises or a license to sell alcoholic beverages for consumption off the premises shall display, in an upright position and in a conspicuous place, where it can be easily read by the clientele of the establishment, the sign or poster upon receiving it from the authority. 3. Any person with such license who violates the provisions of this section shall be subject to a civil penalty, not to exceed one hundred dollars for each day of violation.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor65-E - Posting of Signs Relating to Human Trafficking.

(a) Each sign or poster shall include information on human trafficking and the toll free telephone number of the National Human Trafficking hotline. The authority shall make any designated sign or poster available for download from its website or from one or more links posted on its website or on the website of the office of temporary and disability assistance as provided in section four hundred eighty-three-ff of the social services law. (b) (i) Any sign or poster must be at least eight and one-half inches wide and eleven inches high. (ii) If the National Human Trafficking hotline toll free number changes, the authority shall notify each licensee that is subject to the posting requirement of this section of the change and shall require the display of one or more signs or posters with the new toll free number within thirty days of such notification. (iii) At a minimum, the licensee shall be required to display a bilingual version of the sign or poster in English and Spanish or to display one sign or poster in English and one sign or poster in Spanish. A licensee may be required to display signs or posters in other languages as determined by the authority. (c) Any person with a license to sell alcoholic beverages for consumption on the premises that is subject to the posting requirement of this section shall display, in an upright position and in a conspicuous place where it can be easily read by clientele and employees of the establishment, any sign or poster required by the authority. 2. Any person with a license to sell alcoholic beverages for consumption on the premises that is subject to the posting requirement of this section who violates the provisions of this section shall be subject to a civil penalty, not to exceed one hundred dollars for each day of violation.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor65 - Prohibited Sales.

1. Any person, actually or apparently, under the age of twenty-one years; 2. Any visibly intoxicated person; 3. Any habitual drunkard known to be such to the person authorized to dispense any alcoholic beverages. 4. Neither such person so refusing to sell or deliver under this section nor his or her employer shall be liable in any civil or criminal action or for any fine or penalty based upon such refusal, except that such sale or delivery shall not be refused, withheld from or denied to any person on account of race, creed, color or national origin. 5. The provisions of subdivision one of this section shall not apply to a person who gives or causes to be given any such alcoholic beverage to a person under the age of twenty-one years, who is a student in a curriculum licensed or registered by the state education department and is required to taste or imbibe alcoholic beverages in courses which are part of the required curriculum, provided such alcoholic beverages are used only for instructional purposes during on-campus or off-campus courses conducted pursuant to such curriculum. 6. In any proceeding pursuant to section one hundred eighteen of this chapter to revoke, cancel or suspend a license to sell alcoholic beverages, in which proceeding it is alleged that a person violated subdivision

one of this section;(a) it shall be an affirmative defense that such person had produced a photographic identification card apparently issued by a governmental entity and that the alcoholic beverage had been sold, delivered or given to such person in reasonable reliance upon such identification. In evaluating the applicability of such affirmative defense, the authority shall take into consideration any written policy adopted and implemented by the seller to carry out the provisions of paragraph (b) of subdivision two of section sixty-five-b of this article; and(b) it shall be an affirmative defense that at the time of such violation such person who committed such alleged violation held a valid certificate of completion or renewal from an entity authorized to give and administer an alcohol training awareness program pursuant to subdivision twelve of section seventeen of this chapter. Such licensee shall have diligently implemented and complied with all of the provisions of the approved training program. In such proceeding to revoke, cancel or suspend a license pursuant to section one hundred eighteen of this chapter, the licensee must prove each element of such affirmative defense by a preponderance of the credible evidence. Evidence of three unlawful sales of alcoholic beverages by any employee of a licensee to persons under twenty-one years of age, within a two year period, shall be considered by the authority in determining whether the licensee had diligently implemented such an approved program.7. In any proceeding pursuant to section one hundred eighteen of this chapter to revoke, cancel or suspend a license to sell alcoholic beverages, in which proceeding a charge is sustained that a person violated subdivision one or two of this section and the licensee has not had any adjudicated violation of this chapter at the licensed premises where the violation occurred within the previous five year period; and(a) at the time of such violation the person that committed such violation held a valid certificate of completion or renewal from an entity authorized to give and administer an alcohol training awareness program pursuant to subdivision twelve of section seventeen of this chapter, the civil penalty related to such offense shall be recovery of, as provided for in section one hundred twelve of this chapter, the penal sum of the bond on file during the period in which the violation took place; or(b) at the time of such violation the licensee has not had any adjudicated violations of this chapter at the licensed premises where the violation occurred within the previous five year period, any civil penalty imposed shall be reduced by twenty-five percent if the licensee submits written proof, within ninety days of the imposition of such civil penalty, that all of the licensee's employees involved in the direct sale or service of alcoholic beverages to the public at the licensed premises where the violation occurred have obtained a valid certificate of completion or renewal from an entity authorized to give and administer an alcohol training awareness program pursuant to subdivision twelve of section seventeen of this chapter.For the purposes of this subdivision, the five year period shall be measured from the dates that the violations occurred. (a) it shall be an affirmative defense that such person had produced a photographic identification card apparently issued by a governmental entity and that the alcoholic beverage had been sold, delivered or given to such person in reasonable reliance upon such identification. In evaluating the applicability of such affirmative defense, the authority shall take into consideration any written policy adopted and implemented by the seller to carry out the provisions of paragraph (b) of subdivision two of section sixty-five-b of this article; and (b) it shall be an affirmative defense that at the time of such violation such person who committed such alleged violation held a valid certificate of completion or renewal from an entity authorized to give and administer an alcohol training awareness program pursuant to subdivision twelve of section seventeen of this chapter. Such licensee shall have diligently implemented and complied with all of the provisions of the approved training program. In such proceeding to revoke, cancel or suspend a license pursuant to section one hundred eighteen of this chapter, the licensee must prove each element of such affirmative defense by a preponderance of the credible evidence. Evidence of three unlawful sales of alcoholic beverages by any employee of a licensee to persons under twenty-one years of age, within a two year period, shall be considered by the authority in determining whether the licensee had diligently implemented such an approved program. 7. In any proceeding pursuant to section one hundred eighteen of this chapter to revoke, cancel or suspend a license to sell alcoholic beverages, in which proceeding a charge is sustained that a person violated subdivision one or two of this section and the licensee has not had any adjudicated violation of this chapter at the licensed premises where the violation occurred within the previous five year period; and (a) at the time of such violation the person that committed such violation held a valid certificate of completion or renewal from an entity authorized to give and administer an alcohol training awareness program pursuant to subdivision twelve of section seventeen of this chapter, the civil penalty related to such offense shall be recovery of, as provided for in section one hundred twelve of this chapter, the penal sum of the bond on file during the period in which the violation took place; or (b) at the time of such violation the licensee has not had any adjudicated violations of this chapter at the licensed premises where the violation occurred within the previous five year period, any civil penalty imposed shall be reduced by twenty-five percent if the licensee submits written proof, within ninety days of the imposition of such civil penalty, that all of the licensee's employees involved in the direct sale or service of alcoholic beverages to the public at the licensed premises where the violation occurred have obtained a valid certificate of completion or renewal from an entity authorized to give and administer an alcohol training awareness program pursuant to subdivision twelve of section seventeen of this chapter. For the purposes of this subdivision, the five year period shall be measured from the dates that the violations occurred.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor66 - License Fees.

§ 66. License fees. 1. The annual fee for a distiller's license, class A, shall be twelve thousand dollars. 1-a. The annual fee for a distiller's license, class A-1, shall be two hundred fifty dollars. 2. The annual fee for a distiller's license, class B, shall be eight thousand dollars. 2-a. The annual fee for a distiller's license, class C, shall be one hundred twenty-eight dollars. 2-b. The annual fee for a distiller's license, class B-1, shall be three hundred twenty dollars. 2-c. The annual fee for distiller's license, class D, shall be one hundred twenty-eight dollars. 3. The annual fee for a license to sell liquor at wholesale shall be sixty-four hundred dollars. 3-a. The annual fee for an importer's license shall be one hundred twenty-five dollars. 4. The annual fee for a license, under section

sixty-four or sixty-four-a of this article, to sell liquor at retail to be consumed on the premises where sold shall be twenty-one hundred seventy-six dollars in the counties of New York, Kings, Bronx and Queens; fifteen hundred thirty-six dollars in the county of Richmond and in cities having a population of more than one hundred thousand and less than one million; twelve hundred sixteen dollars in cities having a population of more than fifty thousand and less than one hundred thousand; and the sum of eight hundred ninety-six dollars elsewhere; except that the license fees for catering establishments and off-premises catering establishments shall be two-thirds the license fee specified herein and for clubs, except luncheon clubs and golf clubs, shall be seven hundred fifty dollars in counties of New York, Kings, Bronx and Queens; five hundred dollars in the county of Richmond and in cities having a population of more than one hundred thousand and less than one million; three hundred fifty dollars in cities having a population of more than fifty thousand and less than one hundred thousand; and the sum of two hundred fifty dollars elsewhere. The annual fees for luncheon clubs shall be three hundred seventy-five dollars, and for golf clubs in the counties of New York, Kings, Bronx, Queens, Nassau, Richmond and Westchester, two hundred fifty dollars, and elsewhere one hundred eighty-seven dollars and fifty cents. Notwithstanding any other provision of law to the contrary, there shall be no annual fee for a license, under section sixty-four, to sell liquor at retail to be consumed on the premises where the applicant is an organization organized under section two hundred sixty of the military law and incorporated pursuant to the not-for-profit corporation law. Provided, however, that where any premises for which a license is issued pursuant to section sixty-four or sixty-four-a of this article remain open only within the period commencing April first and ending October thirty-first of any one year, or only within the period commencing October first and ending the following April thirtieth, the liquor authority may, in its discretion, grant a summer or winter license effective only for such appropriate period of time, for which a license fee shall be paid to be pro-rated for the period for which such license is effective, at the rate provided for in the city, town or village in which such premises are located, except that no such license fee shall be less than one-half of the regular annual license fee; provided further that where the premises to be licensed are a race track or a golf course or are licensed pursuant to section sixty-four or sixty-four-a of this article, the period of such summer license may commence March first and end November thirtieth. Where a hotel, restaurant, club, golf course or race track is open prior to April first and/or subsequent to October thirty-first by reason of the issuance of a caterer's permit or permits issued by the authority, such fact alone shall not affect the eligibility of the premises or the person owning or operating such hotel, restaurant, club, golf course or race track for a summer license. 5. The annual fee for a license to sell liquor at retail not to be consumed on the premises where sold shall be thirteen hundred sixty-six dollars in the counties of New York, Kings, Bronx and Queens; eight hundred fifty-four dollars in the county of Richmond and in cities having a population of more than one hundred thousand and less than one million; and elsewhere the sum of five hundred twelve dollars. 6. The annual fee for a license to sell liquor upon any railroad car to be consumed on such car or any car connected therewith shall be one hundred ninety-two dollars for each railroad car licensed. 7. The annual fee for a license to sell liquor upon any vessel in this state to be consumed upon such vessel shall be sixteen hundred dollars for each vessel licensed, provided, however, that where a vessel is operated only within the period commencing April first and ending October thirty-first of any one year, the liquor authority may, in its discretion, grant for such vessel a summer license effective only for such period of time, for which a license fee of four hundred forty-eight dollars shall be paid. 8. The annual fee for a license to sell liquor upon an aircraft being operated on regularly scheduled flights by a United States certificated airline in this state shall be nineteen hundred twenty dollars per annum for an airline company operating up to and including twenty such aircraft and twenty-five hundred sixty dollars for such an airline operating more than twenty such aircraft. 9. The annual fee for a license for a bottle club shall be the same as the annual fee for a special license to sell liquor at retail to be consumed on the premises, as set forth in subdivision four of this section. 10. Notwithstanding any provision to the contrary, the annual fee for a license for an establishment defined as an owner-occupied residence providing at least three but no more than five rooms for temporary transient lodgers with sleeping accommodations and a meal in the forenoon of the day, known as a "bed and breakfast dwelling" as authorized by subdivision five-a of section sixty-four of this article, shall be two hundred dollars plus fifteen dollars per each available bedroom.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor67 - License Fees, Duration of Licenses; Fee for Part of Year.

§ 67. License fees, duration of licenses; fee for part of year. Effective April first, nineteen hundred eighty-three, licenses issued pursuant to sections sixty-one, sixty-two, sixty-three, sixty-four, sixty-four-a, sixty-four-b, sixty-four-c and sixty-four-e of this article shall be effective for three years at three times that annual fee, except that, in implementing the purposes of this section, the liquor authority shall schedule the commencement dates, duration and expiration dates thereof to provide for an equal cycle of license renewals issued under each such section through the course of the fiscal year. Effective December first, nineteen hundred ninety-eight, licenses issued pursuant to sections sixty-four, sixty-four-a and sixty-four-b of this article shall be effective for two years at two times that annual fee, except that, in implementing the purposes of this section, the liquor authority shall schedule the commencement dates, duration and expiration dates thereof to provide for an equal cycle of license renewals issued under each such section through the course of the fiscal year. Notwithstanding the foregoing, commencing on December first, nineteen hundred ninety-eight and concluding on July thirty-first, two thousand two, a licensee issued a license pursuant to section sixty-four, sixty-four-a or sixty-four-b of this article may elect to remit the fee for such license in equal annual installments. Such installments shall be due on dates established by the liquor authority and the failure of a licensee to have remitted such annual installments after a due date shall be a violation of this chapter. For licenses issued for less than the three-year licensing period, the license fee shall be levied on a pro-rated basis. The entire license fee shall be due and payable at the time of application. The liquor authority may make

such rules as shall be appropriate to carry out the purpose of this section.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor68 - Direct Interstate Liquor Shipments.

2. License. Before sending any shipment hereunder to a resident in this state, the out-of-state shipper shall first obtain a license from the authority under procedures prescribed by rules and regulations of the authority and after providing the authority with a true copy of its current license to manufacture liquor in the applicant's state of domicile along with a copy of the applicant's federal basic permit after payment of an annual fee of one hundred twenty-five dollars. Notwithstanding the provisions of section one hundred ten of this chapter, the authority in its discretion, may excuse an out-of-state distillery from the submission of such information. 3. Licensee's responsibilities. The holder of an out-of-state direct shipper's license:(a) shall ship no more than thirty-six cases (no more than nine liters each case) per year of liquor produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale;(b) may ship within the same packaging any and all alcoholic beverages it lawfully produces and which it sells in accordance with its shipping privileges and responsibilities pursuant to the provisions of this section and sections thirty-five, fifty-nine-b, and seventy-nine-c of this chapter, as applicable;(c) shall ensure that the outside of each shipping container used to ship liquor directly to a New York resident is conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language specifically approved by the New York state liquor authority;(d) shall maintain records in such manner and form as the authority may direct, showing the total amount of liquor shipped into the state each calendar year; the names and addresses of the purchasers to whom the liquor was shipped, the date purchased, the name of the common carrier used to deliver the liquor, and the quantity and value of each shipment;(e) shall in connection with the acceptance of an order for a delivery of liquor to a New York resident, require the prospective customer to represent that he or she has attained the age of twenty-one years or more and that the liquor being purchased will not be resold or introduced into commerce;(f) shall require common carriers to:(i) require a recipient, at the delivery address, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section sixty-five-b of this article;(ii) require a recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the authority; and(iii) refuse delivery when the proposed recipient appears to be under twenty-one years of age and refuses to present valid identification as required by subparagraph (i) of this paragraph;(g) shall file returns with and pay to the New York state department of taxation and finance all state and local sales taxes and excise taxes due on sales into this state in accordance with the applicable provisions of the tax law relating to such taxes, the amount of such taxes to be determined on the basis that each sale in this state was at the location where delivery is made;(h) shall keep all records required by this section for three years and provide copies of such records, upon written request, to the authority or the department of taxation and finance;(i) shall permit the authority or the department of taxation and finance to perform an audit of such out-of-state shipper upon request;(j) shall execute a written consent to the jurisdiction of this state, its agencies and instrumentalities and the courts of this state concerning enforcement of this section and any related laws, rules, or regulations, including tax laws, rules or regulations; and(k) shall prior to obtaining an out-of-state direct shipper's license, obtain a certificate of authority pursuant to section eleven hundred thirty-four of the tax law and a registration as a distributor pursuant to sections four hundred twenty-one and four hundred twenty-two of the tax law.4. Situs. Delivery of a shipment in this state by the holder of an out-of-state direct shipper's license shall be deemed to constitute a sale in this state at the place of delivery and shall be subject to all excise taxes levied pursuant to section four hundred twenty-four of the tax law and all sales taxes levied pursuant to articles twenty-eight and twenty-nine of such law.5. Renewal. The out-of-state shipper may annually renew its license with the authority by paying a one hundred twenty-five dollar renewal fee, providing the authority with a true copy of its current license in such other state as an alcoholic beverage manufacturer and by complying with such other procedures as are prescribed by rule of the authority.6. Rules and regulations. The authority and the department of taxation and finance may promulgate rules and regulations to effectuate the purposes of this section.7. Enforcement. The authority may enforce the requirements of this section including the requirements imposed on the common carrier, by administrative proceedings to suspend or revoke an out-of-state shipper's license and the authority may accept payment of an administrative fine in lieu of suspension, such payments to be determined by rules or regulations promulgated by the authority. In addition, the authority or the attorney general of the state of New York shall report violations of this section, where appropriate, to the United States department of treasury, tax and trade bureau, for administrative action to suspend or revoke the federal basic permit.8. Violations. In any action brought under this section, the common carrier and the licensee shall only be held liable for their independent acts. (a) shall ship no more than thirty-six cases (no more than nine liters each case) per year of liquor produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale; (b) may ship within the same packaging any and all alcoholic beverages it lawfully produces and which it sells in accordance with its shipping privileges and responsibilities pursuant to the provisions of this section and sections thirty-five, fifty-nine-b, and seventy-nine-c of this chapter, as applicable; (c) shall ensure that the outside of each shipping container used to ship liquor directly to a New York resident is conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language specifically approved by the New York state liquor authority; (d) shall maintain records in such manner and form as the authority may direct, showing the total amount of liquor shipped into the state each calendar year; the names and addresses of the purchasers to whom the liquor was shipped, the date purchased, the name of the common carrier used to deliver the liquor, and the quantity and value of each shipment; (e) shall in connection with the acceptance

of an order for a delivery of liquor to a New York resident, require the prospective customer to represent that he or she has attained the age of twenty-one years or more and that the liquor being purchased will not be resold or introduced into commerce; (f) shall require common carriers to: (i) require a recipient, at the delivery address, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section sixty-five-b of this article; (ii) require a recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the authority; and (iii) refuse delivery when the proposed recipient appears to be under twenty-one years of age and refuses to present valid identification as required by subparagraph (i) of this paragraph; (g) shall file returns with and pay to the New York state department of taxation and finance all state and local sales taxes and excise taxes due on sales into this state in accordance with the applicable provisions of the tax law relating to such taxes, the amount of such taxes to be determined on the basis that each sale in this state was at the location where delivery is made; (h) shall keep all records required by this section for three years and provide copies of such records, upon written request, to the authority or the department of taxation and finance; (i) shall permit the authority or the department of taxation and finance to perform an audit of such out-of-state shipper upon request; (j) shall execute a written consent to the jurisdiction of this state, its agencies and instrumentalities and the courts of this state concerning enforcement of this section and any related laws, rules, or regulations, including tax laws, rules or regulations; and (k) shall prior to obtaining an out-of-state direct shipper's license, obtain a certificate of authority pursuant to section eleven hundred thirty-four of the tax law and a registration as a distributor pursuant to sections four hundred twenty-one and four hundred twenty-two of the tax law. 4. Situs. Delivery of a shipment in this state by the holder of an out-of-state direct shipper's license shall be deemed to constitute a sale in this state at the place of delivery and shall be subject to all excise taxes levied pursuant to section four hundred twenty-four of the tax law and all sales taxes levied pursuant to articles twenty-eight and twenty-nine of such law. 5. Renewal. The out-of-state shipper may annually renew its license with the authority by paying a one hundred twenty-five dollar renewal fee, providing the authority with a true copy of its current license in such other state as an alcoholic beverage manufacturer and by complying with such other procedures as are prescribed by rule of the authority. 6. Rules and regulations. The authority and the department of taxation and finance may promulgate rules and regulations to effectuate the purposes of this section. 7. Enforcement. The authority may enforce the requirements of this section including the requirements imposed on the common carrier, by administrative proceedings to suspend or revoke an out-of-state shipper's license and the authority may accept payment of an administrative fine in lieu of suspension, such payments to be determined by rules or regulations promulgated by the authority. In addition, the authority or the attorney general of the state of New York shall report violations of this section, where appropriate, to the United States department of treasury, tax and trade bureau, for administrative action to suspend or revoke the federal basic permit. 8. Violations. In any action brought under this section, the common carrier and the licensee shall only be held liable for their independent acts.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 5 - Special Provisions Relating to Liquor69 - Direct Intrastate Liquor Shipments.

1. Licensee's shipping responsibilities. Notwithstanding any provision to the contrary contained in this chapter, any above referred licensee:(a) shall ship no more than thirty-six cases (no more than nine liters per case) per year of liquor produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale;(b) may ship within the same packaging any and all alcoholic beverages it lawfully produces and which it sells in accordance with its shipping privileges and responsibilities pursuant to the provisions of this section and sections thirty-six, fifty-nine-c, and seventy-nine-d of this chapter, as applicable;(c) shall ensure that the outside of each shipping container used to ship liquor directly to a New York state resident is conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language specifically approved by the New York state liquor authority;(d) shall maintain records in such manner and form as the authority may direct showing the total amount of liquor shipped in the state each calendar year, the names and addresses of the purchasers to whom the liquor was shipped, the date purchased, the name of the common carrier used to deliver the liquor, and the quantity and value of each shipment. Such records shall be kept for three years and, upon written request, be provided to the authority or the department of taxation and finance;(e) shall in connection with the acceptance of an order for a delivery of liquor to a New York resident, require the prospective customer to represent that he or she has attained the age of twenty-one years or more and that the liquor being purchased will not be resold or introduced into commerce; and(f) shall require common carriers to:(i) require a recipient, at the delivery address, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section sixty-five-b of this article;(ii) require a recipient to sign an electronic or paper form or other acknowledgment of receipt as approved by the authority; and(iii) refuse delivery when the proposed recipient appears to be under twenty-one years of age and refuses to present valid identification as required by paragraph (a) of this subdivision.2. Violations. In any action brought under this section, the common carrier and the licensee shall only be held liable for their independent acts. (a) shall ship no more than thirty-six cases (no more than nine liters per case) per year of liquor produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale; (b) may ship within the same packaging any and all alcoholic beverages it lawfully produces and which it sells in accordance with its shipping privileges and responsibilities pursuant to the provisions of this section and sections thirty-six, fifty-nine-c, and seventy-nine-d of this chapter, as applicable; (c) shall ensure that the outside of each shipping container used to ship liquor directly to a New York state resident is conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with

other language specifically approved by the New York state liquor authority; (d) shall maintain records in such manner and form as the authority may direct showing the total amount of liquor shipped in the state each calendar year, the names and addresses of the purchasers to whom the liquor was shipped, the date purchased, the name of the common carrier used to deliver the liquor, and the quantity and value of each shipment. Such records shall be kept for three years and, upon written request, be provided to the authority or the department of taxation and finance; (e) shall in connection with the acceptance of an order for a delivery of liquor to a New York resident, require the prospective customer to represent that he or she has attained the age of twenty-one years or more and that the liquor being purchased will not be resold or introduced into commerce; and (f) shall require common carriers to: (i) require a recipient, at the delivery address, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section sixty-five-b of this article; (ii) require a recipient to sign an electronic or paper form or other acknowledgment of receipt as approved by the authority; and (iii) refuse delivery when the proposed recipient appears to be under twenty-one years of age and refuses to present valid identification as required by paragraph (a) of this subdivision. 2. Violations. In any action brought under this section, the common carrier and the licensee shall only be held liable for their independent acts.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine75 - Kinds of Licenses.

§ 75. Kinds of licenses. The following licenses may be issued for the manufacture and sale of wine, to wit: 1. Winery license; 1-a. Farm winery license; 1-b. Temporary winery or farm winery permit; 1-c. Micro-winery license; 2. Wholesaler's license; 3. Seven day license to sell wine at retail for consumption off the premises subject to paragraph (a) of subdivision fourteen of section one hundred five of this chapter. 4. License to sell wine at retail for consumption on the premises; 5. Roadside farm market license.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine76-A - Farm Winery License.

2. A farm winery license shall authorize the holder thereof to:(a) operate a farm winery for the manufacture of wine, New York state labeled mead or New York state labeled cider at the premises specifically designated in the license;(b) sell in bulk from the licensed premises the products manufactured under such license to any winery licensee, any other farm winery licensee, any distiller licensee or to a permittee engaged in the manufacture of products which are unfit for beverage use and to sell or deliver such wine to persons outside the state pursuant to the laws of the place of such sale or delivery;(c) sell from the licensed premises to a licensed winery, farm distiller, farm brewery, farm cidery, farm meadery, wholesaler or retailer, or to a corporation operating railroad cars or aircraft for consumption on such carriers, or at retail for consumption off the premises, wine, cider, or mead manufactured by the licensee as above set forth and to sell or deliver such wine or cider to persons outside the state pursuant to the laws of the place of such sale or delivery. All wine, cider, or mead sold by such licensee for consumption off the premises shall be securely sealed and have attached thereto a label setting forth such information as shall be required by this chapter;(d) operate, or use the services of, a custom crush facility as defined in subdivision nine-a of section three of this chapter;(e) conduct tastings of and sell at the licensed premises, at retail for consumption on or off the licensed premises alcoholic beverages manufactured by the licensee or any other licensed farm winery; New York state labeled wine manufactured by any licensed winery; New York state labeled beer manufactured by any licensed brewer or farm brewery; New York state labeled cider manufactured by any licensed cider producer, farm cidery or farm brewery; New York state labeled mead manufactured by any licensed farm meadery, winery or farm winery; New York state labeled braggot manufactured by any licensed meadery, brewery or farm brewery and New York state labeled liquor manufactured by any licensed distiller or farm distillery;(f) operate a restaurant, hotel, catering establishment, or other food and drinking establishment in or adjacent to the licensed premises and sell at such place, at retail for consumption on the premises, wine, cider, and mead manufactured by the licensee and any New York state labeled wine, New York state labeled cider, New York state labeled mead or New York state labeled wine product. All of the provisions of this chapter relative to licenses to sell wine at retail for consumption on the premises shall apply so far as applicable to such licensee. Notwithstanding any other provision of law, the licensed farm winery may apply to the authority for a license under this chapter to sell other alcoholic beverages at retail for consumption on the premises at such establishment.3. (a) Any person having applied for and received a license as a farm winery under this section may conduct wine tastings of New York state labelled wines in establishments licensed under section sixty-three of this chapter and section seventy-nine of this article to sell wine for off-premises consumption. Such farm winery may charge a fee for each wine sample tasted. The state liquor authority shall promulgate rules and regulations regarding such tastings as provided for in this subdivision.(b) Any person having applied for and received a license as a farm winery under this section may conduct wine tastings of New York state labelled wines and apply to the liquor authority for a permit to sell wine produced by such farm winery, by the bottle, during such tastings in establishments licensed under sections sixty-four and sixty-four-a of this chapter and section eighty-one or section eighty-one-a of this article to sell wine for consumption on the premises. Such farm winery may charge a fee of no more than twenty-five cents for each wine sample tasted. The state liquor authority shall promulgate rules and regulations regarding such tastings as provided for in this subdivision.(c) Tastings shall be conducted subject to the following limitations:(i) wine tastings shall be conducted by an official agent, representative or solicitor of one or more farm wineries. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and(ii) any liability stemming from a right of action resulting from a wine tasting as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the farm winery.(d) (i) Any person having applied for and received a license as a farm winery under this section may conduct wine tastings of New York state labelled wines and sell such wine by the

bottle, during such tasting, for off-premises consumption at outdoor or indoor gatherings, functions, occasions or events, within the hours fixed by or pursuant to subdivision fourteen of section one hundred five of this chapter, sponsored by a bona fide charitable organization. For the purposes of this paragraph, a bona fide charitable organization shall mean and include any bona fide religious or charitable organization or bona fide educational, fraternal or service organization or bona fide organization of veterans or volunteer firefighters, which by its charter, certificate of incorporation, constitution, or act of the legislature, shall have among its dominant purposes one or more of the lawful purposes as defined in subdivision five of section one hundred eighty-six of the general municipal law.(ii) Upon application, the liquor authority shall issue an annual permit authorizing such farm winery to participate in such outdoor or indoor gatherings, functions, occasions or events sponsored by a charitable organization. The farm winery must give the authority written or electronic notice of the date, time and specific location of each tasting at least fifteen days prior to the tasting. A farm winery that obtains a permit to conduct such wine tastings does not need to apply for or obtain a temporary beer or wine permit pursuant to section ninety-seven of this chapter or any other permit to conduct such a tasting or to sell wine by the bottle for off-premises consumption at such tastings.(iii) Such farm winery may charge a fee for each wine sample tasted. Tastings shall be conducted by an official agent, representative or solicitor of such farm winery. The state liquor authority may adopt rules and regulations regarding such tastings as provided in this subdivision.4. (a) A farm winery license shall authorize the holder thereof to manufacture, bottle and sell fruit juice, fruit jellies and fruit preserves, tonics, salad dressings and unpotable wine sauces on and from the licensed premises.(b) Such license shall authorize the holder thereof to store and sell gift items in a tax-paid room upon the licensed premises incidental to the sale of wine. These gift items shall be limited to the following categories:(1) Non-alcoholic beverages for consumption on or off premises, including but not limited to bottled water, juice and soda beverages.(2) Food items for the purpose of complimenting wine tastings, shall mean a diversified selection of food which is ordinarily consumed without the use of tableware and can conveniently be consumed while standing or walking. Such food items shall include but not be limited to: cheeses, fruits, vegetables, chocolates, breads and crackers.(3) Food items, which shall include locally produced farm products and any food or food product not specifically prepared for immediate consumption upon the premises. Such food items may be combined into a package containing wine or a wine product.(4) Wine supplies and accessories, which shall include any item utilized for the storage, serving or consumption of wine or for decorative purposes. These supplies may be sold as single items or may be combined into a package containing wine or a wine product.(5) Souvenir items, which shall include, but not be limited to artwork, crafts, clothing, agricultural products and any other articles which can be construed to propagate tourism within the region.(6) New York state labelled wine or liquors produced or manufactured by any other New York state winery or farm winery licensee or by the holder of any distiller's license. Such wine or liquors may be purchased outright by the licensee from a New York winery or farm winery licensee or the holder of any distiller's license or obtained on a consignment basis pursuant to a written agreement between the selling and purchasing licensee.(7) Wine-making equipment and supplies including, but not limited to, grapes, grape juice, grape must, home wine-making kits, presses, pumps, bottling equipment, filters, yeasts, chemicals and other wine additives, wine storage or fermenting vessels, barrels, and books or other written material to assist wine-makers and home wine-makers to produce and bottle wine.(c) The authority is hereby authorized to promulgate rules and regulations to effectuate the purposes of this subdivision.(d) A licensed farm winery may engage in any other business on the licensed premises subject to such rules and regulations as the liquor authority may prescribe. In prescribing such rules and regulations, the liquor authority shall promote the expansion and profitability of wine production and of tourism in New York, thereby promoting the conservation, production and enhancement of New York state agricultural lands. Further, such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the farm winery licensee.(e) Notwithstanding any provision of this chapter to the contrary, any farm winery licensee may charge:(i) For tours of its premises; and(ii) For any wine tastings.5. (a) Except as provided in paragraph (b) of this subdivision, no licensed farm winery shall manufacture or sell any wine not produced exclusively from grapes or other fruits or agricultural products grown or produced in New York state.(b) In the event that the commissioner of agriculture and markets, after investigating and compiling information pursuant to subdivision forty-two of section sixteen of the agriculture and markets law, determines that a natural disaster, act of God, or continued adverse weather condition has destroyed no less than forty percent of a specific grape varietal grown or produced in New York state and used for winemaking, the commissioner, in consultation with the chairman of the state liquor authority, may give authorization to a duly licensed farm winery to manufacture or sell wine produced from grapes grown outside this state. No such authorization shall be granted to a farm winery licensee unless such licensee certifies to the commissioner the quantity of New York grown grapes unavailable to such licensee due to such natural disaster, act of God or continuing adverse weather condition and satisfies the commissioner that reasonable efforts were made to obtain grapes from a New York state source for such wine making purpose. No farm winery shall utilize an amount of out-of-state grown grapes or juice exceeding the amount of New York grown grapes that such winery is unable to obtain due to the destruction of New York grown grapes by a natural disaster, act of God or continuing adverse weather condition as determined by the commissioner of agriculture and markets pursuant to this subdivision. For purposes of this subdivision, the department of agriculture and markets and the state liquor authority are authorized to adopt rules and regulations as they may deem necessary to carry out the provisions of this subdivision which shall include ensuring that in manufacturing wine farm wineries utilize grapes grown or produced in New York state to the extent they are reasonably available, prior to utilizing grapes or juice from an out-of-state source for such purpose.(c) The commissioner of agriculture and markets shall make available to farm wineries and to the public each specific grape varietal loss determination issued pursuant to paragraph (b) of this subdivision on or before August twentieth of each year.(d) In the event that the continuing effects of a natural disaster, act of God, or adverse

weather condition which occurred prior to August twentieth of each year or the effects of a natural disaster, act of God, or adverse weather condition which occurs subsequent to August twentieth each year results in any grape varietal loss which meets the standards provided in paragraph (b) of this subdivision, the commissioner of agriculture and markets, in consultation shall with the chairman of the state liquor authority, may issue additional grape varietal loss determinations and shall expeditiously make available to farm wineries and to the public each specific grape varietal loss determination issued pursuant to this paragraph prior to October tenth of each year.6. (a) Except as provided in paragraph (b) of this subdivision, no licensed farm winery shall manufacture or sell any cider other than New York state labeled cider.(b) In the event that the commissioner of agriculture and markets, after investigating and compiling information pursuant to subdivision forty-two of section sixteen of the agriculture and markets law, determines that a natural disaster, act of God, or continued adverse weather condition has destroyed at least thirty percent of the apple crop necessary for producing cider, the commissioner of agriculture and markets, in consultation with the chairman of the authority, may give authorization to a duly licensed farm winery to manufacture or sell cider produced from such apples designated as necessary for producing cider and grown outside this state. No such authorization shall be granted to a farm winery licensee unless such licensee certifies to the commissioner of agriculture and markets the quantity of such New York state apples designated as necessary for producing cider unavailable to such licensee due to such natural disaster, act of God, or continuing adverse weather condition and satisfies the commissioner of agriculture and markets that reasonable efforts were made to obtain such apples from a New York state source for such cider making purpose. No farm winery shall utilize an amount of out-of-state grown apples exceeding the amount of such designated New York grown apples that such cidery is unable to obtain due to the destruction of New York grown apples by a natural disaster, act of God, or continuing adverse weather condition as determined by the commissioner of agriculture and markets pursuant to this subdivision. For purposes of this subdivision, the department of agriculture and markets and the authority are authorized to adopt rules and regulations as they may deem necessary to carry out the provisions of this subdivision which shall include ensuring that in manufacturing cider farm cideries utilize apples grown in New York state to the extent they are reasonably available, prior to utilizing apples from an out-of-state source for such purpose.(c) The commissioner of agriculture and markets shall make available to farm wineries and to the public each specific apple loss determination issued pursuant to paragraph (b) of this subdivision on or after August twentieth of each year.(d) In the event that the continuing effects of a natural disaster, act of God, or adverse weather condition which occurred prior to August twentieth of each year or the effects of a natural disaster, act of God, or adverse weather condition which occurs subsequent to August twentieth of each year results in any apple crop loss which meets the standards provided in paragraph (b) of this subdivision, the commissioner of agriculture and markets, in consultation with the chairman of the authority, may issue additional apple crop loss determinations and shall expeditiously make available to farm wineries and to the public the loss determination issued pursuant to this paragraph prior to October tenth of each year.7. Notwithstanding any other provision of this chapter, a farm winery license shall authorize the holder thereof to:(a) Offer for sale or solicit any order in the state for the sale of any New York state labelled wine manufactured by the licensee or any other winery or farm winery licensed pursuant to this article.(b) Engage as a broker in the purchase and sale of New York state labelled wines for a fee or commission for or on behalf of any winery or farm winery licensed pursuant to this article.(c) Maintain a warehouse on the premises pursuant to section ninety-six of this chapter for the warehousing of any New York state labelled wines manufactured by any winery or farm winery licensed pursuant to this article. Any winery or farm winery that maintains such a warehouse must comply with the provisions of section ninety-six of this chapter.(d) Deliver or transport any New York state labelled wine manufactured or produced by the licensee or any other winery or farm winery licensed pursuant to this article in any vehicle owned, leased or hired by the licensee. The New York state labelled wine can be delivered, transported or sold by the licensee to any holder of: (i) a winery or farm winery license, (ii) a license to sell alcoholic beverages for consumption on the premises, (iii) a license to sell alcoholic beverages for consumption off the premises, (iv) or any person that can receive or purchase wine from a farm winery. The licensee is not required to obtain from the liquor authority a trucking permit or pay any fees pursuant to section ninety-four of this chapter.(e) Sell for consumption off the premises New York state labelled liquors manufactured by the holder of a class A-1, B-1, or C distiller's license.8. The holder of a license issued under this section may operate up to five branch offices located away from the licensed farm winery. Such locations, although not required to be on a farm, shall be considered part of the licensed premises and all activities allowed at and limited to the farm winery may be conducted at the branch offices. Such branch offices shall not be located within, share a common entrance and exit with, or have any interior access to any other business, including premises licensed to sell alcoholic beverages at retail. Prior to commencing operation of any such branch office, the licensee shall notify the authority of the location of such branch office and the authority may issue a permit for the operation of same. Such branch offices shall not be subject to the provisions of subdivision two, three or four of section seventy-nine of this article or the provisions of subdivisions two and three, and paragraphs (b) and (c) of subdivision ten of section one hundred five of this chapter.9. (a) No licensed farm winery shall manufacture in excess of two hundred fifty thousand finished gallons of wine, cider, and mead annually.(b) Any person licensed under this section shall manufacture at least fifty gallons of wine, cider, and mead per year.10. Notwithstanding any other provision of law to the contrary, a farm winery licensed pursuant to this section may engage in custom production allowing individuals to assist in the production of New York state labeled wine, cider and mead for sale for personal or family use, provided, however, that (a) the wine, cider and mead must be purchased by the individual assisting in the production of such wine, cider or mead; and (b) the owner, employee or agent of such winery shall be present at all times during such production.11. Notwithstanding any other provision of this chapter, a farm winery license shall authorize the holder thereof to sell wines manufactured or produced by such licensee to a roadside farm market pursuant to section seventy-six-f of this article.12. Notwithstanding any provision of law to the contrary, another business or other businesses may operate on the licensed premises

subject to such rules and regulations as the liquor authority may prescribe. Such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the farm winery premises, provided however that a retail business licensed under this chapter shall not be permitted to operate at a licensed manufacturing premises. (a) operate a farm winery for the manufacture of wine, New York state labeled mead or New York state labeled cider at the premises specifically designated in the license; (b) sell in bulk from the licensed premises the products manufactured under such license to any winery licensee, any other farm winery licensee, any distiller licensee or to a permittee engaged in the manufacture of products which are unfit for beverage use and to sell or deliver such wine to persons outside the state pursuant to the laws of the place of such sale or delivery; (c) sell from the licensed premises to a licensed winery, farm distiller, farm brewery, farm cidery, farm meadery, wholesaler or retailer, or to a corporation operating railroad cars or aircraft for consumption on such carriers, or at retail for consumption off the premises, wine, cider, or mead manufactured by the licensee as above set forth and to sell or deliver such wine or cider to persons outside the state pursuant to the laws of the place of such sale or delivery. All wine, cider, or mead sold by such licensee for consumption off the premises shall be securely sealed and have attached thereto a label setting forth such information as shall be required by this chapter; (d) operate, or use the services of, a custom crush facility as defined in subdivision nine-a of section three of this chapter; (e) conduct tastings of and sell at the licensed premises, at retail for consumption on or off the licensed premises alcoholic beverages manufactured by the licensee or any other licensed farm winery; New York state labeled wine manufactured by any licensed winery; New York state labeled beer manufactured by any licensed brewer or farm brewery; New York state labeled cider manufactured by any licensed cider producer, farm cidery or farm brewery; New York state labeled mead manufactured by any licensed farm meadery, winery or farm winery; New York state labeled braggot manufactured by any licensed meadery, brewery or farm brewery and New York state labeled liquor manufactured by any licensed distiller or farm distillery; (f) operate a restaurant, hotel, catering establishment, or other food and drinking establishment in or adjacent to the licensed premises and sell at such place, at retail for consumption on the premises, wine, cider, and mead manufactured by the licensee and any New York state labeled wine, New York state labeled cider, New York state labeled mead or New York state labeled wine product. All of the provisions of this chapter relative to licenses to sell wine at retail for consumption on the premises shall apply so far as applicable to such licensee. Notwithstanding any other provision of law, the licensed farm winery may apply to the authority for a license under this chapter to sell other alcoholic beverages at retail for consumption on the premises at such establishment. 3. (a) Any person having applied for and received a license as a farm winery under this section may conduct wine tastings of New York state labelled wines in establishments licensed under section sixty-three of this chapter and section seventy-nine of this article to sell wine for off-premises consumption. Such farm winery may charge a fee for each wine sample tasted. The state liquor authority shall promulgate rules and regulations regarding such tastings as provided for in this subdivision. (b) Any person having applied for and received a license as a farm winery under this section may conduct wine tastings of New York state labelled wines and apply to the liquor authority for a permit to sell wine produced by such farm winery, by the bottle, during such tastings in establishments licensed under sections sixty-four and sixty-four-a of this chapter and section eighty-one or section eighty-one-a of this article to sell wine for consumption on the premises. Such farm winery may charge a fee of no more than twenty-five cents for each wine sample tasted. The state liquor authority shall promulgate rules and regulations regarding such tastings as provided for in this subdivision. (c) Tastings shall be conducted subject to the following limitations: (i) wine tastings shall be conducted by an official agent, representative or solicitor of one or more farm wineries. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and (ii) any liability stemming from a right of action resulting from a wine tasting as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the farm winery. (d) (i) Any person having applied for and received a license as a farm winery under this section may conduct wine tastings of New York state labelled wines and sell such wine by the bottle, during such tasting, for off-premises consumption at outdoor or indoor gatherings, functions, occasions or events, within the hours fixed by or pursuant to subdivision fourteen of section one hundred five of this chapter, sponsored by a bona fide charitable organization. For the purposes of this paragraph, a bona fide charitable organization shall mean and include any bona fide religious or charitable organization or bona fide educational, fraternal or service organization or bona fide organization of veterans or volunteer firefighters, which by its charter, certificate of incorporation, constitution, or act of the legislature, shall have among its dominant purposes one or more of the lawful purposes as defined in subdivision five of section one hundred eighty-six of the general municipal law. (ii) Upon application, the liquor authority shall issue an annual permit authorizing such farm winery to participate in such outdoor or indoor gatherings, functions, occasions or events sponsored by a charitable organization. The farm winery must give the authority written or electronic notice of the date, time and specific location of each tasting at least fifteen days prior to the tasting. A farm winery that obtains a permit to conduct such wine tastings does not need to apply for or obtain a temporary beer or wine permit pursuant to section ninety-seven of this chapter or any other permit to conduct such a tasting or to sell wine by the bottle for off-premises consumption at such tastings. (iii) Such farm winery may charge a fee for each wine sample tasted. Tastings shall be conducted by an official agent, representative or solicitor of such farm winery. The state liquor authority may adopt rules and regulations regarding such tastings as provided in this subdivision. 4. (a) A farm winery license shall authorize the holder thereof to manufacture, bottle and sell fruit juice, fruit jellies and fruit preserves, tonics, salad dressings and unpotable wine sauces on and from the licensed premises. (b) Such license shall authorize the holder thereof to store and sell gift items in a tax-paid room upon the licensed premises incidental to the sale of wine. These gift items shall be limited to the following categories: (1) Non-alcoholic beverages for consumption on or off premises, including but not limited to bottled water, juice and soda beverages. (2) Food items for the purpose of complimenting wine tastings, shall mean a diversified selection of food

which is ordinarily consumed without the use of tableware and can conveniently be consumed while standing or walking. Such food items shall include but not be limited to: cheeses, fruits, vegetables, chocolates, breads and crackers. (3) Food items, which shall include locally produced farm products and any food or food product not specifically prepared for immediate consumption upon the premises. Such food items may be combined into a package containing wine or a wine product. (4) Wine supplies and accessories, which shall include any item utilized for the storage, serving or consumption of wine or for decorative purposes. These supplies may be sold as single items or may be combined into a package containing wine or a wine product. (5) Souvenir items, which shall include, but not be limited to artwork, crafts, clothing, agricultural products and any other articles which can be construed to propagate tourism within the region. (6) New York state labelled wine or liquors produced or manufactured by any other New York state winery or farm winery licensee or by the holder of any distiller's license. Such wine or liquors may be purchased outright by the licensee from a New York winery or farm winery licensee or the holder of any distiller's license or obtained on a consignment basis pursuant to a written agreement between the selling and purchasing licensee. (7) Wine-making equipment and supplies including, but not limited to, grapes, grape juice, grape must, home wine-making kits, presses, pumps, bottling equipment, filters, yeasts, chemicals and other wine additives, wine storage or fermenting vessels, barrels, and books or other written material to assist wine-makers and home wine-makers to produce and bottle wine. (c) The authority is hereby authorized to promulgate rules and regulations to effectuate the purposes of this subdivision. (d) A licensed farm winery may engage in any other business on the licensed premises subject to such rules and regulations as the liquor authority may prescribe. In prescribing such rules and regulations, the liquor authority shall promote the expansion and profitability of wine production and of tourism in New York, thereby promoting the conservation, production and enhancement of New York state agricultural lands. Further, such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the farm winery licensee. (e) Notwithstanding any provision of this chapter to the contrary, any farm winery licensee may charge: (i) For tours of its premises; and (ii) For any wine tastings. 5. (a) Except as provided in paragraph (b) of this subdivision, no licensed farm winery shall manufacture or sell any wine not produced exclusively from grapes or other fruits or agricultural products grown or produced in New York state. (b) In the event that the commissioner of agriculture and markets, after investigating and compiling information pursuant to subdivision forty-two of section sixteen of the agriculture and markets law, determines that a natural disaster, act of God, or continued adverse weather condition has destroyed no less than forty percent of a specific grape varietal grown or produced in New York state and used for winemaking, the commissioner, in consultation with the chairman of the state liquor authority, may give authorization to a duly licensed farm winery to manufacture or sell wine produced from grapes grown outside this state. No such authorization shall be granted to a farm winery licensee unless such licensee certifies to the commissioner the quantity of New York grown grapes unavailable to such licensee due to such natural disaster, act of God or continuing adverse weather condition and satisfies the commissioner that reasonable efforts were made to obtain grapes from a New York state source for such wine making purpose. No farm winery shall utilize an amount of out-of-state grown grapes or juice exceeding the amount of New York grown grapes that such winery is unable to obtain due to the destruction of New York grown grapes by a natural disaster, act of God or continuing adverse weather condition as determined by the commissioner of agriculture and markets pursuant to this subdivision. For purposes of this subdivision, the department of agriculture and markets and the state liquor authority are authorized to adopt rules and regulations as they may deem necessary to carry out the provisions of this subdivision which shall include ensuring that in manufacturing wine farm wineries utilize grapes grown or produced in New York state to the extent they are reasonably available, prior to utilizing grapes or juice from an out-of-state source for such purpose. (c) The commissioner of agriculture and markets shall make available to farm wineries and to the public each specific grape varietal loss determination issued pursuant to paragraph (b) of this subdivision on or before August twentieth of each year. (d) In the event that the continuing effects of a natural disaster, act of God, or adverse weather condition which occurred prior to August twentieth of each year or the effects of a natural disaster, act of God, or adverse weather condition which occurs subsequent to August twentieth each year results in any grape varietal loss which meets the standards provided in paragraph (b) of this subdivision, the commissioner of agriculture and markets, in consultation shall with the chairman of the state liquor authority, may issue additional grape varietal loss determinations and shall expeditiously make available to farm wineries and to the public each specific grape varietal loss determination issued pursuant to this paragraph prior to October tenth of each year. 6. (a) Except as provided in paragraph (b) of this subdivision, no licensed farm winery shall manufacture or sell any cider other than New York state labeled cider. (b) In the event that the commissioner of agriculture and markets, after investigating and compiling information pursuant to subdivision forty-two of section sixteen of the agriculture and markets law, determines that a natural disaster, act of God, or continued adverse weather condition has destroyed at least thirty percent of the apple crop necessary for producing cider, the commissioner of agriculture and markets, in consultation with the chairman of the authority, may give authorization to a duly licensed farm winery to manufacture or sell cider produced from such apples designated as necessary for producing cider and grown outside this state. No such authorization shall be granted to a farm winery licensee unless such licensee certifies to the commissioner of agriculture and markets the quantity of such New York state apples designated as necessary for producing cider unavailable to such licensee due to such natural disaster, act of God, or continuing adverse weather condition and satisfies the commissioner of agriculture and markets that reasonable efforts were made to obtain such apples from a New York state source for such cider making purpose. No farm winery shall utilize an amount of out-of-state grown apples exceeding the amount of such designated New York grown apples that such cidery is unable to obtain due to the destruction of New York grown apples by a natural disaster, act of God, or continuing adverse weather condition as determined by the commissioner of agriculture and markets pursuant to this subdivision. For purposes of this subdivision, the department of agriculture and markets and

the authority are authorized to adopt rules and regulations as they may deem necessary to carry out the provisions of this subdivision which shall include ensuring that in manufacturing cider farm cideries utilize apples grown in New York state to the extent they are reasonably available, prior to utilizing apples from an out-of-state source for such purpose. (c) The commissioner of agriculture and markets shall make available to farm wineries and to the public each specific apple loss determination issued pursuant to paragraph (b) of this subdivision on or after August twentieth of each year. (d) In the event that the continuing effects of a natural disaster, act of God, or adverse weather condition which occurred prior to August twentieth of each year or the effects of a natural disaster, act of God, or adverse weather condition which occurs subsequent to August twentieth of each year results in any apple crop loss which meets the standards provided in paragraph (b) of this subdivision, the commissioner of agriculture and markets, in consultation with the chairman of the authority, may issue additional apple crop loss determinations and shall expeditiously make available to farm wineries and to the public the loss determination issued pursuant to this paragraph prior to October tenth of each year. 7. Notwithstanding any other provision of this chapter, a farm winery license shall authorize the holder thereof to: (a) Offer for sale or solicit any order in the state for the sale of any New York state labelled wine manufactured by the licensee or any other winery or farm winery licensed pursuant to this article. (b) Engage as a broker in the purchase and sale of New York state labelled wines for a fee or commission for or on behalf of any winery or farm winery licensed pursuant to this article. (c) Maintain a warehouse on the premises pursuant to section ninety-six of this chapter for the warehousing of any New York state labelled wines manufactured by any winery or farm winery licensed pursuant to this article. Any winery or farm winery that maintains such a warehouse must comply with the provisions of section ninety-six of this chapter. (d) Deliver or transport any New York state labelled wine manufactured or produced by the licensee or any other winery or farm winery licensed pursuant to this article in any vehicle owned, leased or hired by the licensee. The New York state labelled wine can be delivered, transported or sold by the licensee to any holder of: (i) a winery or farm winery license, (ii) a license to sell alcoholic beverages for consumption on the premises, (iii) a license to sell alcoholic beverages for consumption off the premises, (iv) or any person that can receive or purchase wine from a farm winery. The licensee is not required to obtain from the liquor authority a trucking permit or pay any fees pursuant to section ninety-four of this chapter. (e) Sell for consumption off the premises New York state labelled liquors manufactured by the holder of a class A-1, B-1, or C distiller's license. 8. The holder of a license issued under this section may operate up to five branch offices located away from the licensed farm winery. Such locations, although not required to be on a farm, shall be considered part of the licensed premises and all activities allowed at and limited to the farm winery may be conducted at the branch offices. Such branch offices shall not be located within, share a common entrance and exit with, or have any interior access to any other business, including premises licensed to sell alcoholic beverages at retail. Prior to commencing operation of any such branch office, the licensee shall notify the authority of the location of such branch office and the authority may issue a permit for the operation of same. Such branch offices shall not be subject to the provisions of subdivision two, three or four of section seventy-nine of this article or the provisions of subdivisions two and three, and paragraphs (b) and (c) of subdivision ten of section one hundred five of this chapter. 9. (a) No licensed farm winery shall manufacture in excess of two hundred fifty thousand finished gallons of wine, cider, and mead annually. (b) Any person licensed under this section shall manufacture at least fifty gallons of wine, cider, and mead per year. 10. Notwithstanding any other provision of law to the contrary, a farm winery licensed pursuant to this section may engage in custom production allowing individuals to assist in the production of New York state labeled wine, cider and mead for sale for personal or family use, provided, however, that (a) the wine, cider and mead must be purchased by the individual assisting in the production of such wine, cider or mead; and (b) the owner, employee or agent of such winery shall be present at all times during such production. 11. Notwithstanding any other provision of this chapter, a farm winery license shall authorize the holder thereof to sell wines manufactured or produced by such licensee to a roadside farm market pursuant to section seventy-six-f of this article. 12. Notwithstanding any provision of law to the contrary, another business or other businesses may operate on the licensed premises subject to such rules and regulations as the liquor authority may prescribe. Such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the farm winery premises, provided however that a retail business licensed under this chapter shall not be permitted to operate at a licensed manufacturing premises.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine76-C - Special Winery License.

§ 76-c. Special winery license. 1. Any person may apply to the liquor authority for a license to operate a special winery on the premises of an existing winery licensee. Such application shall be in writing and verified and shall contain such information as the liquor authority shall require. Such application shall be accompanied by a check or draft for the amount required by this article for such license. If the liquor authority shall grant the application it shall issue a license in such form as shall be determined by its rules. 2. The provisions of section seventy-six of this article relating to the operation of a winery shall also apply to the holder of a license under this section. 3. Notwithstanding any other provision of this chapter, a special winery license shall authorize the holder thereof to sell wines manufactured or produced by such licensee to a roadside farm market pursuant to section seventy-six-f of this article.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine76-D - Special Farm Winery License.

§ 76-d. Special farm winery license. 1. Any person may apply to the liquor authority to operate a special farm winery on the premises of an existing farm winery licensee as provided for in this article. Such application shall be in writing and verified and

shall contain such information as the liquor authority shall require. Such application shall be accompanied by a check or draft for the amount required by this article for such license. If the liquor authority shall grant the application it shall issue a license in such form as shall be determined by its rules. 2. The provisions of section seventy-six-a of this article relating to the operation of a farm winery shall also apply to the holder of a license under this section.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine76-E - Special Provisions Relating to Wineries and Farm Wineries Holding a Distiller's License.

2. All consumer tastings of brandy shall be conducted subject to the following limitations:(a) Tastings of brandy shall be conducted by an official agent of one or more persons licensed pursuant to section sixty-one of this chapter. Such agent shall be physically present upon the premises at all times during the conducting of the consumer tasting of brandy.(b) No such person or persons licensed pursuant to section sixty-one of this chapter, and no official agent thereof, may provide, directly or indirectly: (i) more than a total of three samples of brandy for tasting to a person in one calendar day; or (ii) a sample of brandy for tasting equal to more than one-quarter fluid ounce.(c) Any liability stemming from a right of action resulting from a consumer tasting of brandy authorized by this section and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the persons licensed pursuant to section sixty-one of this chapter, who conducted such tasting.3. The state liquor authority shall promulgate rules and regulations regarding brandy tastings as provided for in this section.4. Any person who holds a winery license pursuant to section seventy-six of this article or a farm winery license pursuant to section seventy-six-a of this article, and who is authorized to sell wine for consumption off the premises pursuant to the provisions of such sections seventy-six and seventy-six-a of this article, shall be authorized to sell brandy manufactured by such licensed winery or licensed farm winery for consumption off the premises. Such sale of brandy for consumption off the premises shall only occur at the licensed winery or farm winery and not at any other off-premises locations licensed to the winery or farm winery, pursuant to subdivision four of section seventy-six of this article. The sale of brandy at a winery or farm winery shall also be subjected to the same hours of operation as set forth for the sale of wine at a winery or farm winery. The authority shall promulgate rules and regulations for the sale of brandy at wineries or farm wineries for off-premises consumption. (a) Tastings of brandy shall be conducted by an official agent of one or more persons licensed pursuant to section sixty-one of this chapter. Such agent shall be physically present upon the premises at all times during the conducting of the consumer tasting of brandy. (b) No such person or persons licensed pursuant to section sixty-one of this chapter, and no official agent thereof, may provide, directly or indirectly: (i) more than a total of three samples of brandy for tasting to a person in one calendar day; or (ii) a sample of brandy for tasting equal to more than one-quarter fluid ounce. (c) Any liability stemming from a right of action resulting from a consumer tasting of brandy authorized by this section and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the persons licensed pursuant to section sixty-one of this chapter, who conducted such tasting. 3. The state liquor authority shall promulgate rules and regulations regarding brandy tastings as provided for in this section. 4. Any person who holds a winery license pursuant to section seventy-six of this article or a farm winery license pursuant to section seventy-six-a of this article, and who is authorized to sell wine for consumption off the premises pursuant to the provisions of such sections seventy-six and seventy-six-a of this article, shall be authorized to sell brandy manufactured by such licensed winery or licensed farm winery for consumption off the premises. Such sale of brandy for consumption off the premises shall only occur at the licensed winery or farm winery and not at any other off-premises locations licensed to the winery or farm winery, pursuant to subdivision four of section seventy-six of this article. The sale of brandy at a winery or farm winery shall also be subjected to the same hours of operation as set forth for the sale of wine at a winery or farm winery. The authority shall promulgate rules and regulations for the sale of brandy at wineries or farm wineries for off-premises consumption.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine76-F - Roadside Farm Market License.

§ 76-f. Roadside farm market license. 1. Any person owning or operating a roadside farm market may apply to the liquor authority for a roadside farm market license to sell wine pursuant to this section. Such application shall be in writing and verified, and shall contain such information as the liquor authority shall require and shall be accompanied by a check or draft for the amount required by this article for such license. If the liquor authority shall grant the application, it shall issue a license in such form as shall be determined by its rules, and the license shall remain in effect for one year. 2. For the purposes of this section, the term "roadside farm market" means a building or structure located on a farm operation, as defined in subdivision eleven of section three hundred one of the agriculture and markets law, except for a commercial horse boarding operation, in which New York agricultural products are primarily sold by producers, growers or farmers of such agricultural products to the general public, and the term "New York agricultural product" means any agricultural or aquacultural product of the soil or water that has been grown, harvested or produced within the state, including but not limited to fruits, vegetables, eggs, dairy products, meat and meat products, poultry and poultry products, fish and fish products, grain and grain products, honey, nuts, preserves, maple sap products, apple cider, fruit juice, and Christmas trees. 3. A roadside farm market license shall authorize the holder thereof to sell wine manufactured or produced by up to two duly licensed farm or special wineries or micro-wineries that are located within twenty miles of the roadside farm market by the bottle for off-premises consumption; provided that such market's owner, operator or representative shall be present at all times during which wine is being offered for sale. Such market shall be deemed to possess a warehouse permit and be permitted to warehouse up to twenty cases of wine; provided that such market shall abide by all rules and regulations promulgated pursuant to

section ninety-six of this chapter and any other rules and regulations promulgated by the liquor authority to implement the provisions of this section to ensure that wine stored or kept by such market is segregated and kept in a safe and secure location when such market is closed for business. 4. The sale of wine pursuant to this section shall occur only within the hours fixed by or pursuant to subdivision fourteen of section one hundred five of this chapter. Notwithstanding the provisions of section eighty of this article or any other provision of law, no wine tastings shall be conducted at a roadside farm market that sells wine for off-premises consumption pursuant to the provisions of this section. 5. The liquor authority, in consultation with the department of agriculture and markets, shall promulgate any rules and regulations necessary to implement the provisions of this section.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine76 - Winery License.

2. A winery license shall authorize the holder thereof:(a) to operate a winery for the manufacture of wine and mead at the premises specifically designated in the license;(b) to receive and possess wine and mead from other states consigned to a United States government bonded winery, warehouse or storeroom located within the state;(c) to sell in bulk from the licensed premises the products manufactured under such license and wine and mead received by such licensee from any other state to any winery licensee, or meadery license any distiller licensee or to a permittee engaged in the manufacture of products which are unfit for beverage use and to sell or deliver such wine or mead to persons outside the state pursuant to the laws of the place of such sale or delivery;(d) to sell from the licensed premises to a licensed wholesaler or retailer, or to a corporation operating railroad cars or aircraft for consumption on such carriers, wine and mead manufactured or received by the licensee as above set forth in the original sealed containers of not more than fifteen gallons each and to sell or deliver such wine and mead to persons outside the state pursuant to the laws of the place of such sale or delivery. All wine and mead sold by such licensee shall be securely sealed and have attached thereto a label setting forth such information as shall be required by this chapter;(e) to sell from the licensed premises to licensed farm wineries, farm cideries, farm distilleries and farm breweries New York state labelled wine manufactured by the licensee in the original sealed containers of not more than fifteen gallons each; and(f) to operate, or use the services of, a custom crush facility as defined in subdivision nine-a of section three of this chapter.3. (a) Any person having applied for and received a license as a winery under this section may conduct wine tastings of New York state labelled wines in establishments licensed under sections sixty-three and seventy-nine of this chapter to sell wine for off-premises consumption. Such winery may charge a fee for each wine sample tasted. The state liquor authority shall promulgate rules and regulations regarding such tastings as provided for in this subdivision.(a-1) Any person having applied for and received a license as a winery under this section may conduct wine tastings of New York state labelled wines and apply to the liquor authority for a permit to sell wine produced by such winery by the bottle, during such tastings in establishments licensed under section sixty-four, section sixty-four-a, section eighty-one or section eighty-one-a of this chapter to sell wine for consumption on the premises. Such winery may charge a fee of no more than twenty-five cents for each wine sample tasted. The state liquor authority shall promulgate rules and regulations regarding such tastings as provided for in this subdivision.(b) Tastings shall be conducted subject to the following limitations:(i) wine tastings shall be conducted by an official agent, representative or solicitor of one or more wineries. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and(ii) any liability stemming from a right of action resulting from a wine tasting as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the winery licensee.(c)(i) Any person having applied for and received a license as a winery under this section may conduct wine tastings of New York state labelled wines and sell such wine by the bottle, during such tasting, for off-premises consumption at outdoor or indoor gatherings, functions, occasions or events, within the hours fixed by or pursuant to subdivision fourteen of section one hundred five of this chapter, sponsored by a bona fide charitable organization. For the purposes of this paragraph, a bona fide charitable organization shall mean and include any bona fide religious or charitable organization or bona fide educational, fraternal or service organization or bona fide organization of veterans or volunteer firefighters, which by its charter, certificate of incorporation, constitution, or act of the legislature, shall have among its dominant purposes one or more of the lawful purposes as defined in subdivision five of section one hundred eighty-six of the general municipal law.(ii) Upon application, the liquor authority shall issue an annual permit authorizing such winery to participate in outdoor or indoor gatherings, functions, occasions or events sponsored by a charitable organization. The winery must give the authority written or electronic notice of the date, time and specific location of each tasting at least fifteen days prior to the tasting. A winery that obtains a permit to conduct such wine tastings does not need to apply for or obtain a temporary beer or wine permit pursuant to section ninety-seven of this chapter or any other permit to conduct such a tasting or to sell wine by the bottle for off-premises consumption at such tastings.(iii) Such winery may charge a fee for each wine sample tasted. Tastings shall be conducted by an official agent, representative or solicitor of such winery. The state liquor authority may promulgate rules and regulations regarding such tastings as provided for in this subdivision.4. A licensed winery may at the licensed premises, conduct tastings of, and sell at retail for consumption on or off the licensed premises, any wine or wine product manufactured by the licensee or any New York state labeled wine or New York state labeled wine product or any New York state labeled cider. Provided, however, for tastings and sales for on-premises consumption, the licensee shall regularly keep food available for sale or service to its retail customers for consumption on the premises. A licensee providing the following shall be deemed in compliance with this provision: (i) sandwiches, soups or other such foods, whether fresh, processed, pre-cooked or frozen; and/or (ii) food items intended to complement the tasting of alcoholic beverages, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking, including but not limited to: cheeses, fruits, vegetables, chocolates, breads, mustards and crackers. All of the provisions of this chapter relative to licenses to sell wine at retail for consumption on or off the

premises shall apply so far as applicable to such licensee.4-a. A licensed winery may operate a restaurant, hotel, catering establishment, or other food and drinking establishment in or adjacent to the licensed premises and sell at such place, at retail for consumption on the premises, wine, mead and wine products manufactured by the licensee and any New York state labeled wine, mead or New York state labeled wine product. All of the provisions of this chapter relative to licenses to sell wine at retail for consumption on the premises shall apply so far as applicable to such licensee. Notwithstanding any other provision of law, the licensed winery may apply to the authority for a license under article four of this chapter to sell other alcoholic beverages at retail for consumption on the premises at such establishment.5. Notwithstanding any provision of this chapter to the contrary, any one or more winery licensees, singly or jointly, may apply to the liquor authority for a license or licenses to sell wine at retail for consumption off the premises. For licensees applying singly, the duration of such license shall be coextensive with the duration of such licensee's winery license, and the fee therefor shall be five hundred dollars if such retail premises is located in cities having a population of one million or more; in cities having less than one million population and more than one hundred thousand, two hundred fifty dollars; and elsewhere, the sum of one hundred twenty-five dollars. Such license shall entitle the holder thereof to sell at retail for consumption off the premises any New York state labelled wine. Such license shall also entitle the holder thereof to conduct wine tastings. Such license shall also authorize the sale by the holder thereof of New York state labelled wine, in sealed containers for off-premises consumption, from the specially licensed premises of any person licensed pursuant to section eighty-one-a of this article to sell wine at retail for consumption on premises in which the principal business is the operation of a legitimate theater or such other lawful adult entertainment or recreational facility as the liquor authority may classify for eligibility pursuant to subdivision six of section sixty-four-a of this chapter. Not more than five such licenses shall be issued, either singly or jointly, to any licensed winery. All other provisions of this chapter relative to licenses to sell wine at retail for consumption off the premises shall apply so far as applicable to such application. The liquor authority is hereby authorized to adopt such rules as it may deem necessary to carry out the purpose of this subdivision, provided that all licenses issued pursuant to this subdivision shall be subject to the same rules and regulations as are applicable to the sale of wine at retail for consumption off the premises of the winery licensee.6. Any winery licensed pursuant to this section is authorized to engage in what is commonly known as wine by wire services whereby a winery within the state may make deliveries on behalf of other wineries within the state.7. Notwithstanding any provision of this chapter to the contrary, a licensed winery may apply to the liquor authority for a permit to sell New York state labelled wine, by the bottle, at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis. As a condition of the permit, an agent, representative, or solicitor from the winery must be present at the time of sale.8. Any winery may sell or deliver such wine produced by the winery to persons outside the state pursuant to the laws of the place of such sale or delivery.10. Notwithstanding any provision of this chapter to the contrary, and upon payment to the liquor authority of an additional annual fee of one hundred twenty-five dollars, the liquor authority may in its discretion and upon such terms and conditions as it may prescribe, issue to a licensed winery upon application therefor a certificate authorizing such winery to sell wine at retail in sealed containers to a regularly organized church, synagogue or religious organization for sacramental purposes.11. (a) A licensed winery may manufacture, bottle and sell fruit juice, fruit jellies and fruit preserves, tonics, salad dressings and unpotable wine sauces on and from licensed premises.(b) Such license shall authorize the holder thereof to store and sell gift items in a tax-paid room upon the licensed premises. These gift items shall be limited to the following categories:(i) Non-alcoholic beverages for consumption on or off premises, including but not limited to bottled water, juice and soda beverages.(ii) Food items for the purpose of complementing wine tasting shall mean a diversified selection of food which is ordinarily consumed without the use of tableware and can conveniently be consumed while standing or walking. Such food items shall include but not be limited to: cheeses, fruits, vegetables, chocolates, breads and crackers.(iii) Food items, which shall include locally produced farm products and any food or food product not specifically prepared for immediate consumption upon the premises. Such food items may be combined into a package containing wine or wine product.(iv) Wine supplies and accessories, which shall include any item utilized for the storage, serving or consumption of wine or for decorative purposes. These supplies may be sold as single items or may be combined into a package containing wine or a wine product.(v) Souvenir items, which shall include, but not be limited to artwork, crafts, clothing, agricultural products and any other articles which can be construed to propagate tourism within the region.(vi) New York state labelled wine produced or manufactured by any other New York state winery or farm winery licensee. Such wine may be purchased outright by the licensee from a New York winery or farm winery licensee or obtained on a consignment basis pursuant to a written agreement between the selling and purchasing licensee.(c) Notwithstanding any provision of this chapter to the contrary, any winery licensee may charge:(i) For tours of its premises; and(ii) For any wine tastings.(d) Wine grape growers or wine producer organizations or associations, incorporated within the state for the purpose of wine or wine grape promotion may hold wine tastings for purposes of education in the production and proper use of wine products under the same rules applying to winery licensees.(e) The authority is hereby authorized to promulgate rules and regulations to effectuate the purposes of this subdivision.(f) A licensed winery may engage in any other business on the licensed premises subject to such rules and regulations as the liquor authority may prescribe. In prescribing such rules and regulations, the liquor authority shall promote the expansion and profitability of wine production and of tourism in New York, thereby promoting the conservation, production and enhancement of New York state agricultural lands. Further, such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the winery licensee.12. A licensed winery shall be permitted to remain open for the purposes of selling its products, in accordance with the provisions of subdivisions two and four of this section, and/or conducting wine tasting at the winery, and/or conducting public tours of its winery and/or to sell New York state labelled wine, by the bottle, at the state fair, at recognized county fairs and at farmers

markets operated on a not-for-profit basis in accordance with the provisions of this section on Sunday between the hours of ten o'clock in the morning and midnight. The authority is hereby authorized to promulgate rules and regulations to effectuate the purposes of this subdivision.13. Notwithstanding any other provision of law to the contrary, a winery licensed pursuant to this section may engage in custom wine production allowing individuals to assist in the production of wine or mead for sale for personal or family use, provided, however, that (a) the wine or mead must be purchased by the individual assisting in the production of such wine or mead; and (b) the owner, employee or agent of such winery shall be present at all times during such production.14. Any person licensed under this section shall manufacture at least fifty gallons of wine and/or mead per year. (a) to operate a winery for the manufacture of wine and mead at the premises specifically designated in the license; (b) to receive and possess wine and mead from other states consigned to a United States government bonded winery, warehouse or storeroom located within the state; (c) to sell in bulk from the licensed premises the products manufactured under such license and wine and mead received by such licensee from any other state to any winery licensee, or meadery license any distiller licensee or to a permittee engaged in the manufacture of products which are unfit for beverage use and to sell or deliver such wine or mead to persons outside the state pursuant to the laws of the place of such sale or delivery; (d) to sell from the licensed premises to a licensed wholesaler or retailer, or to a corporation operating railroad cars or aircraft for consumption on such carriers, wine and mead manufactured or received by the licensee as above set forth in the original sealed containers of not more than fifteen gallons each and to sell or deliver such wine and mead to persons outside the state pursuant to the laws of the place of such sale or delivery. All wine and mead sold by such licensee shall be securely sealed and have attached thereto a label setting forth such information as shall be required by this chapter; (e) to sell from the licensed premises to licensed farm wineries, farm cideries, farm distilleries and farm breweries New York state labelled wine manufactured by the licensee in the original sealed containers of not more than fifteen gallons each; and (f) to operate, or use the services of, a custom crush facility as defined in subdivision nine-a of section three of this chapter. 3. (a) Any person having applied for and received a license as a winery under this section may conduct wine tastings of New York state labelled wines in establishments licensed under sections sixty-three and seventy-nine of this chapter to sell wine for off-premises consumption. Such winery may charge a fee for each wine sample tasted. The state liquor authority shall promulgate rules and regulations regarding such tastings as provided for in this subdivision. (a-1) Any person having applied for and received a license as a winery under this section may conduct wine tastings of New York state labelled wines and apply to the liquor authority for a permit to sell wine produced by such winery by the bottle, during such tastings in establishments licensed under section sixty-four, section sixty-four-a, section eighty-one or section eighty-one-a of this chapter to sell wine for consumption on the premises. Such winery may charge a fee of no more than twenty-five cents for each wine sample tasted. The state liquor authority shall promulgate rules and regulations regarding such tastings as provided for in this subdivision. (b) Tastings shall be conducted subject to the following limitations: (i) wine tastings shall be conducted by an official agent, representative or solicitor of one or more wineries. Such agent, representative or solicitor shall be physically present at all times during the conduct of the tastings; and (ii) any liability stemming from a right of action resulting from a wine tasting as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the winery licensee. (c)(i) Any person having applied for and received a license as a winery under this section may conduct wine tastings of New York state labelled wines and sell such wine by the bottle, during such tasting, for off-premises consumption at outdoor or indoor gatherings, functions, occasions or events, within the hours fixed by or pursuant to subdivision fourteen of section one hundred five of this chapter, sponsored by a bona fide charitable organization. For the purposes of this paragraph, a bona fide charitable organization shall mean and include any bona fide religious or charitable organization or bona fide educational, fraternal or service organization or bona fide organization of veterans or volunteer firefighters, which by its charter, certificate of incorporation, constitution, or act of the legislature, shall have among its dominant purposes one or more of the lawful purposes as defined in subdivision five of section one hundred eighty-six of the general municipal law. (ii) Upon application, the liquor authority shall issue an annual permit authorizing such winery to participate in outdoor or indoor gatherings, functions, occasions or events sponsored by a charitable organization. The winery must give the authority written or electronic notice of the date, time and specific location of each tasting at least fifteen days prior to the tasting. A winery that obtains a permit to conduct such wine tastings does not need to apply for or obtain a temporary beer or wine permit pursuant to section ninety-seven of this chapter or any other permit to conduct such a tasting or to sell wine by the bottle for off-premises consumption at such tastings. (iii) Such winery may charge a fee for each wine sample tasted. Tastings shall be conducted by an official agent, representative or solicitor of such winery. The state liquor authority may promulgate rules and regulations regarding such tastings as provided for in this subdivision. 4. A licensed winery may at the licensed premises, conduct tastings of, and sell at retail for consumption on or off the licensed premises, any wine or wine product manufactured by the licensee or any New York state labeled wine or New York state labeled wine product or any New York state labeled cider. Provided, however, for tastings and sales for on-premises consumption, the licensee shall regularly keep food available for sale or service to its retail customers for consumption on the premises. A licensee providing the following shall be deemed in compliance with this provision: (i) sandwiches, soups or other such foods, whether fresh, processed, pre-cooked or frozen; and/or (ii) food items intended to complement the tasting of alcoholic beverages, which shall mean a diversified selection of food that is ordinarily consumed without the use of tableware and can be conveniently consumed while standing or walking, including but not limited to: cheeses, fruits, vegetables, chocolates, breads, mustards and crackers. All of the provisions of this chapter relative to licenses to sell wine at retail for consumption on or off the premises shall apply so far as applicable to such licensee. 4-a. A licensed winery may operate a restaurant, hotel, catering establishment, or other food and drinking establishment in or adjacent to the licensed premises and sell at such place, at retail for consumption on the premises, wine, mead and wine products manufactured by the licensee and any New

York state labeled wine, mead or New York state labeled wine product. All of the provisions of this chapter relative to licenses to sell wine at retail for consumption on the premises shall apply so far as applicable to such licensee. Notwithstanding any other provision of law, the licensed winery may apply to the authority for a license under article four of this chapter to sell other alcoholic beverages at retail for consumption on the premises at such establishment. 5. Notwithstanding any provision of this chapter to the contrary, any one or more winery licensees, singly or jointly, may apply to the liquor authority for a license or licenses to sell wine at retail for consumption off the premises. For licensees applying singly, the duration of such license shall be coextensive with the duration of such licensee's winery license, and the fee therefor shall be five hundred dollars if such retail premises is located in cities having a population of one million or more; in cities having less than one million population and more than one hundred thousand, two hundred fifty dollars; and elsewhere, the sum of one hundred twenty-five dollars. Such license shall entitle the holder thereof to sell at retail for consumption off the premises any New York state labelled wine. Such license shall also entitle the holder thereof to conduct wine tastings. Such license shall also authorize the sale by the holder thereof of New York state labelled wine, in sealed containers for off-premises consumption, from the specially licensed premises of any person licensed pursuant to section eighty-one-a of this article to sell wine at retail for consumption on premises in which the principal business is the operation of a legitimate theater or such other lawful adult entertainment or recreational facility as the liquor authority may classify for eligibility pursuant to subdivision six of section sixty-four-a of this chapter. Not more than five such licenses shall be issued, either singly or jointly, to any licensed winery. All other provisions of this chapter relative to licenses to sell wine at retail for consumption off the premises shall apply so far as applicable to such application. The liquor authority is hereby authorized to adopt such rules as it may deem necessary to carry out the purpose of this subdivision, provided that all licenses issued pursuant to this subdivision shall be subject to the same rules and regulations as are applicable to the sale of wine at retail for consumption off the premises of the winery licensee. 6. Any winery licensed pursuant to this section is authorized to engage in what is commonly known as wine by wire services whereby a winery within the state may make deliveries on behalf of other wineries within the state. 7. Notwithstanding any provision of this chapter to the contrary, a licensed winery may apply to the liquor authority for a permit to sell New York state labelled wine, by the bottle, at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis. As a condition of the permit, an agent, representative, or solicitor from the winery must be present at the time of sale. 8. Any winery may sell or deliver such wine produced by the winery to persons outside the state pursuant to the laws of the place of such sale or delivery. 10. Notwithstanding any provision of this chapter to the contrary, and upon payment to the liquor authority of an additional annual fee of one hundred twenty-five dollars, the liquor authority may in its discretion and upon such terms and conditions as it may prescribe, issue to a licensed winery upon application therefor a certificate authorizing such winery to sell wine at retail in sealed containers to a regularly organized church, synagogue or religious organization for sacramental purposes. 11. (a) A licensed winery may manufacture, bottle and sell fruit juice, fruit jellies and fruit preserves, tonics, salad dressings and unpotable wine sauces on and from licensed premises. (b) Such license shall authorize the holder thereof to store and sell gift items in a tax-paid room upon the licensed premises. These gift items shall be limited to the following categories: (i) Non-alcoholic beverages for consumption on or off premises, including but not limited to bottled water, juice and soda beverages. (ii) Food items for the purpose of complementing wine tasting shall mean a diversified selection of food which is ordinarily consumed without the use of tableware and can conveniently be consumed while standing or walking. Such food items shall include but not be limited to: cheeses, fruits, vegetables, chocolates, breads and crackers. (iii) Food items, which shall include locally produced farm products and any food or food product not specifically prepared for immediate consumption upon the premises. Such food items may be combined into a package containing wine or wine product. (iv) Wine supplies and accessories, which shall include any item utilized for the storage, serving or consumption of wine or for decorative purposes. These supplies may be sold as single items or may be combined into a package containing wine or a wine product. (v) Souvenir items, which shall include, but not be limited to artwork, crafts, clothing, agricultural products and any other articles which can be construed to propagate tourism within the region. (vi) New York state labelled wine produced or manufactured by any other New York state winery or farm winery licensee. Such wine may be purchased outright by the licensee from a New York winery or farm winery licensee or obtained on a consignment basis pursuant to a written agreement between the selling and purchasing licensee. (c) Notwithstanding any provision of this chapter to the contrary, any winery licensee may charge: (i) For tours of its premises; and (ii) For any wine tastings. (d) Wine grape growers or wine producer organizations or associations, incorporated within the state for the purpose of wine or wine grape promotion may hold wine tastings for purposes of education in the production and proper use of wine products under the same rules applying to winery licensees. (e) The authority is hereby authorized to promulgate rules and regulations to effectuate the purposes of this subdivision. (f) A licensed winery may engage in any other business on the licensed premises subject to such rules and regulations as the liquor authority may prescribe. In prescribing such rules and regulations, the liquor authority shall promote the expansion and profitability of wine production and of tourism in New York, thereby promoting the conservation, production and enhancement of New York state agricultural lands. Further, such rules and regulations shall determine which businesses will be compatible with the policy and purposes of this chapter and shall consider the effect of particular businesses on the community and area in the vicinity of the winery licensee. 12. A licensed winery shall be permitted to remain open for the purposes of selling its products, in accordance with the provisions of subdivisions two and four of this section, and/or conducting wine tasting at the winery, and/or conducting public tours of its winery and/or to sell New York state labelled wine, by the bottle, at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis in accordance with the provisions of this section on Sunday between the hours of ten o'clock in the morning and midnight. The authority is hereby authorized to promulgate rules and regulations to effectuate the purposes of this subdivision. 13. Notwithstanding any other provision of law to the contrary, a winery licensed pursuant to this

section may engage in custom wine production allowing individuals to assist in the production of wine or mead for sale for personal or family use, provided, however, that (a) the wine or mead must be purchased by the individual assisting in the production of such wine or mead; and (b) the owner, employee or agent of such winery shall be present at all times during such production. 14. Any person licensed under this section shall manufacture at least fifty gallons of wine and/or mead per year.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine77 - Custom Winemakers' Center.

2. For the purposes of this section, "fruit" shall mean grapes, other fruits, fruit juices, and other agricultural products including, but not limited to, honey and flowers, that are grown or produced in the state of New York. 3. A custom winemakers' center license shall authorize the holder thereof to operate a facility for individuals to rent space, equipment, and storage facilities and, if necessary, to purchase fruit to manufacture wine for personal household use provided that the manufacture and production of wine for personal household consumption and use is done in accordance with state and federal laws and regulations. Such a license shall also authorize the licensee, provided such activities are permitted by the federal Alcohol and Tobacco Tax and Trade Bureau for the manufacture of tax exempt wine for personal household use, to:(a) conduct training classes on how to manufacture wine; and(b) conduct wine tastings for those individuals taking such classes and/or using such facilities for the production of wine at the licensed facility provided that the tastings shall be subject to the following limitations:(i) tastings shall be conducted by the licensee or by an official agent of the licensee. Such licensee or agent shall be physically present at all times during the conduct of the tastings; and(ii) any liability stemming from a right of action resulting from a tasting of wine as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to such center.4. The custom winemakers' center licensee shall be subject to the supervision of the authority to ensure that the licensee and the individuals utilizing such center are in compliance with the provisions of this chapter, state laws, rules, and regulations, and the laws, rules, and regulations of the federal Alcohol and Tobacco Tax and Trade Bureau.5. The licensee or an official agent of the licensee shall be physically present at all times during the facility's hours of operations.6. The annual aggregate production of wine at any such center for all individuals making wine at such premises, pursuant to a custom winemakers' center license, shall not exceed the production limits set forth by the authority that are commensurate with a non-commercial production facility. Provided that such aggregate production limit shall not be offset by wine produced at such facility under a winery's license or farm winery license.7. Notwithstanding any other provision of this chapter, the authority may issue a custom winemakers' center license to the holder of a farm winery or winery license for use at such licensee's existing licensed premises.8. The authority is hereby authorized to promulgate rules and regulations to effectuate the purposes of this section.9. The licensee must maintain a record of the name, address, and contact information of the individual or individuals that have used such facility and the annual amount of wine produced by each individual at the facility pursuant to the rules of the authority. (a) conduct training classes on how to manufacture wine; and (b) conduct wine tastings for those individuals taking such classes and/or using such facilities for the production of wine at the licensed facility provided that the tastings shall be subject to the following limitations: (i) tastings shall be conducted by the licensee or by an official agent of the licensee. Such licensee or agent shall be physically present at all times during the conduct of the tastings; and (ii) any liability stemming from a right of action resulting from a tasting of wine as authorized herein and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to such center. 4. The custom winemakers' center licensee shall be subject to the supervision of the authority to ensure that the licensee and the individuals utilizing such center are in compliance with the provisions of this chapter, state laws, rules, and regulations, and the laws, rules, and regulations of the federal Alcohol and Tobacco Tax and Trade Bureau. 5. The licensee or an official agent of the licensee shall be physically present at all times during the facility's hours of operations. 6. The annual aggregate production of wine at any such center for all individuals making wine at such premises, pursuant to a custom winemakers' center license, shall not exceed the production limits set forth by the authority that are commensurate with a non-commercial production facility. Provided that such aggregate production limit shall not be offset by wine produced at such facility under a winery's license or farm winery license. 7. Notwithstanding any other provision of this chapter, the authority may issue a custom winemakers' center license to the holder of a farm winery or winery license for use at such licensee's existing licensed premises. 8. The authority is hereby authorized to promulgate rules and regulations to effectuate the purposes of this section. 9. The licensee must maintain a record of the name, address, and contact information of the individual or individuals that have used such facility and the annual amount of wine produced by each individual at the facility pursuant to the rules of the authority.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine78 - Wholesaler's Wine License.

§ 78. Wholesaler's wine license. 1. The procedure contained in section sixty-two hereof shall apply so far as applicable to applications for a wholesaler's wine license. Such license shall contain a description of the licensed premises and in form and in substance shall be a license to the person therein specifically designated to sell wine at wholesale in the premises therein specifically licensed in the original sealed containers of not more than fifteen gallons each to duly licensed manufacturers, wholesalers, retailers and permittees in this state, and to sell or deliver such wine to persons outside the state pursuant to the laws of the place of such sale or delivery. 2. Upon payment to the liquor authority of an additional annual fee of one hundred twenty-five dollars, the liquor authority may in its discretion and upon such terms and conditions as it may prescribe, issue to a wholesale wine licensee upon application therefor a certificate authorizing such wholesaler to sell wine at retail in sealed containers to a regularly organized

church, synagogue or religious organization for sacramental purposes.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine79-A - Authorization to Sell Wine Products by Certain Licensees for Consumption Off the Premises.

§ 79-a. Authorization to sell wine products by certain licensees for consumption off the premises. 1. Any person licensed to sell beer at retail for consumption off the premises, pursuant to section fifty-four of this chapter, shall, by virtue of such license and upon payment to the liquor authority of an additional fee in the sum of one hundred sixty-five dollars in cities having a population of one hundred thousand or over and eighty-three dollars elsewhere, be granted authorization to sell from the licensed premises wine products in sealed containers for consumption off such premises. Upon receipt of such additional fee, the liquor authority shall promptly issue a permit authorizing such sales by the licensee. 2. Notwithstanding any other provisions of this chapter, any person receiving a permit pursuant to this section shall be subject to such provisions of this chapter as are applicable to persons licensed pursuant to section fifty-four of this chapter, and not to those provisions which are applicable only to persons licensed pursuant to sections sixty-three and seventy-nine of this chapter.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine79-B - Authorization to Sell Wine Products by Certain Licensees for Consumption on the Premises.

§ 79-b. Authorization to sell wine products by certain licensees for consumption on the premises. 1. Any person licensed to sell beer at retail for consumption on the premises, pursuant to section fifty-five of this chapter, shall, by virtue of such license and upon payment to the liquor authority of an additional fee in the sum of one hundred ninety-two dollars in cities having a population of one hundred thousand or over and ninety-six dollars elsewhere, be granted authorization to sell from the licensed premises wine products in sealed containers at retail for consumption on or off such premises. Upon receipt of such additional fee, the liquor authority shall promptly issue a permit authorizing such sales by the licensee. 1-a. Any person licensed to sell beer at retail for consumption on the premises, pursuant to section fifty-five-a of this chapter, shall, by virtue of such license and upon payment to the liquor authority of an additional fee in the sum of one hundred ninety-two dollars in cities having a population of one hundred thousand or over and ninety-six dollars elsewhere, be granted authorization to sell from the licensed premises wine products in sealed containers at retail for consumption on such premises. Upon receipt of such additional fee, the liquor authority shall promptly issue a permit authorizing such sales by the licensee. 2. Notwithstanding any other provisions of this chapter, any person receiving a permit pursuant to this section shall be subject to such provisions of this chapter as are applicable to persons licensed pursuant to section fifty-five of this chapter, and not to those provisions which are applicable only to persons licensed pursuant to sections sixty-four and eighty of this chapter.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine79-C - Direct Interstate Wine Shipments.

2. License. Before sending any shipment hereunder to a resident in this state, the out-of-state shipper shall first obtain a license from the authority under procedures prescribed by rules and regulations of the authority and after providing the authority with a true copy of its current license to manufacture wine in the applicant's state of domicile along with a copy of the applicant's federal basic permit after payment of an annual fee of one hundred twenty-five dollars. Notwithstanding the provisions of section one hundred ten of this chapter, the authority in its discretion, may excuse an out-of-state winery from the submission of such information. 3. Licensee's responsibilities. The holder of an out-of-state direct shipper's license:(a) shall ship no more than thirty-six cases (no more than nine liters each case) per year of wine produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale;(b) may ship within the same packaging any and all alcoholic beverages it lawfully produces and which it sells in accordance with its shipping privileges and responsibilities pursuant to the provisions of this section and sections thirty-five, fifty-nine-b, and sixty-eight of this chapter, as applicable;(c) shall ensure that the outside of each shipping container used to ship wine directly to a New York resident is conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language specifically approved by the New York state liquor authority;(d) shall maintain records in such manner and form as the authority may direct, showing the total amount of wine shipped into the state each calendar year; the names and addresses of the purchasers to whom the wine was shipped, the date purchased, the name of the common carrier used to deliver the wine, and the quantity and value of each shipment;(e) shall in connection with the acceptance of an order for a delivery of wine to a New York resident, require the prospective customer to represent that he or she has attained the age of twenty-one years or more and that the wine being purchased will not be resold or introduced into commerce;(f) shall require common carriers to:(i) require a recipient, at the delivery address, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section sixty-five-b of this chapter;(ii) require a recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the authority; and(iii) refuse delivery when the proposed recipient appears to be under twenty-one years of age and refuses to present valid identification as required by subparagraph (i) of this paragraph;(g) shall file returns with and pay to the New York state department of taxation and finance all state and local sales taxes and excise taxes due on sales into this state in accordance with the applicable provisions of the tax law relating to such taxes, the amount of such taxes to be determined on the basis that each sale in this state was at the location where delivery is made;(h) shall keep all records required by this section for three years and provide copies of

such records, upon written request, to the authority or the department of taxation and finance;(i) shall permit the authority or the department of taxation and finance to perform an audit of such out-of-state shipper upon request;(j) shall execute a written consent to the jurisdiction of this state, its agencies and instrumentalities and the courts of this state concerning enforcement of this section and any related laws, rules, or regulations, including tax laws, rules or regulations; and(k) shall prior to obtaining an out-of-state direct shipper's license, obtain a certificate of authority pursuant to section eleven hundred thirty-four of the tax law and a registration as a distributor pursuant to sections four hundred twenty-one and four hundred twenty-two of the tax law.4. Situs. Delivery of a shipment in this state by the holder of an out-of-state direct shipper's license shall be deemed to constitute a sale in this state at the place of delivery and shall be subject to all excise taxes levied pursuant to section four hundred twenty-four of the tax law and all sales taxes levied pursuant to articles twenty-eight and twenty-nine of such law.5. Renewal. The out-of-state shipper may annually renew its license with the authority by paying a one hundred twenty-five dollar renewal fee, providing the authority with a true copy of its current license in such other state as an alcoholic beverage manufacturer and by complying with such other procedures as are prescribed by rule of the authority.6. Rules and regulations. The authority and the department of taxation and finance may promulgate rules and regulations to effectuate the purposes of this section.7. Enforcement. The authority may enforce the requirements of this section including the requirements imposed on the common carrier, by administrative proceedings to suspend or revoke an out-of-state shipper's license and the authority may accept payment of an administrative fine in lieu of suspension, such payments to be determined by rules or regulations promulgated by the authority. In addition, the authority or the attorney general of the state of New York shall report violations of this section, where appropriate, to the United States department of treasury, tax and trade bureau, for administrative action to suspend or revoke the federal basic permit.8. Violations. In any action brought under this section, the common carrier and the licensee shall only be held liable for their independent acts. (a) shall ship no more than thirty-six cases (no more than nine liters each case) per year of wine produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale; (b) may ship within the same packaging any and all alcoholic beverages it lawfully produces and which it sells in accordance with its shipping privileges and responsibilities pursuant to the provisions of this section and sections thirty-five, fifty-nine-b, and sixty-eight of this chapter, as applicable; (c) shall ensure that the outside of each shipping container used to ship wine directly to a New York resident is conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language specifically approved by the New York state liquor authority; (d) shall maintain records in such manner and form as the authority may direct, showing the total amount of wine shipped into the state each calendar year; the names and addresses of the purchasers to whom the wine was shipped, the date purchased, the name of the common carrier used to deliver the wine, and the quantity and value of each shipment; (e) shall in connection with the acceptance of an order for a delivery of wine to a New York resident, require the prospective customer to represent that he or she has attained the age of twenty-one years or more and that the wine being purchased will not be resold or introduced into commerce; (f) shall require common carriers to: (i) require a recipient, at the delivery address, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section sixty-five-b of this chapter; (ii) require a recipient to sign an electronic or paper form or other acknowledgement of receipt as approved by the authority; and (iii) refuse delivery when the proposed recipient appears to be under twenty-one years of age and refuses to present valid identification as required by subparagraph (i) of this paragraph; (g) shall file returns with and pay to the New York state department of taxation and finance all state and local sales taxes and excise taxes due on sales into this state in accordance with the applicable provisions of the tax law relating to such taxes, the amount of such taxes to be determined on the basis that each sale in this state was at the location where delivery is made; (h) shall keep all records required by this section for three years and provide copies of such records, upon written request, to the authority or the department of taxation and finance; (i) shall permit the authority or the department of taxation and finance to perform an audit of such out-of-state shipper upon request; (j) shall execute a written consent to the jurisdiction of this state, its agencies and instrumentalities and the courts of this state concerning enforcement of this section and any related laws, rules, or regulations, including tax laws, rules or regulations; and (k) shall prior to obtaining an out-of-state direct shipper's license, obtain a certificate of authority pursuant to section eleven hundred thirty-four of the tax law and a registration as a distributor pursuant to sections four hundred twenty-one and four hundred twenty-two of the tax law. 4. Situs. Delivery of a shipment in this state by the holder of an out-of-state direct shipper's license shall be deemed to constitute a sale in this state at the place of delivery and shall be subject to all excise taxes levied pursuant to section four hundred twenty-four of the tax law and all sales taxes levied pursuant to articles twenty-eight and twenty-nine of such law. 5. Renewal. The out-of-state shipper may annually renew its license with the authority by paying a one hundred twenty-five dollar renewal fee, providing the authority with a true copy of its current license in such other state as an alcoholic beverage manufacturer and by complying with such other procedures as are prescribed by rule of the authority. 6. Rules and regulations. The authority and the department of taxation and finance may promulgate rules and regulations to effectuate the purposes of this section. 7. Enforcement. The authority may enforce the requirements of this section including the requirements imposed on the common carrier, by administrative proceedings to suspend or revoke an out-of-state shipper's license and the authority may accept payment of an administrative fine in lieu of suspension, such payments to be determined by rules or regulations promulgated by the authority. In addition, the authority or the attorney general of the state of New York shall report violations of this section, where appropriate, to the United States department of treasury, tax and trade bureau, for administrative action to suspend or revoke the federal basic permit. 8. Violations. In any action brought under this section, the common carrier and the licensee shall only be held liable for their independent acts.

Title: abc

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine79-D - Direct Intrastate Wine Shipments.

1. Licensee's shipping responsibilities. Notwithstanding any provision to the contrary contained in this chapter, any above referred licensee:(a) shall in the case of a farm winery licensee or a winery licensee, ship no more than thirty-six cases (no more than nine liters) per year of wine produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale;(b) may ship within the same packaging any and all alcoholic beverages it lawfully produces and which it sells in accordance with its shipping privileges and responsibilities pursuant to the provisions of this section and sections thirty-six, fifty-nine-c, and sixty-nine of this chapter, as applicable;(c) shall ensure that the outside of each shipping container used to ship wine directly to a New York state resident is conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language specifically approved by the New York state liquor authority;(d) shall maintain records in such manner and form as the authority may direct showing the total amount of wine shipped in the state each calendar year, the names and addresses of the purchasers to whom the wine was shipped, the date purchased, the name of the common carrier used to deliver the wine, and the quantity and value of each shipment. Such records shall be kept for three years and, upon written request, be provided to the authority or the department of taxation and finance;(e) shall in connection with the acceptance of an order for a delivery of wine to a New York resident, require the prospective customer to represent that he or she has attained the age of twenty-one years or more and that the wine being purchased will not be resold or introduced into commerce; and(f) shall require common carriers to:(i) require a recipient, at the delivery address, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section sixty-five-b of this chapter;(ii) require a recipient to sign an electronic or paper form or other acknowledgment of receipt as approved by the authority; and(iii) refuse delivery when the proposed recipient appears to be under twenty-one years of age and refuses to present valid identification as required by paragraph (a) of this subdivision.2. Violations. In any action brought under this section, the common carrier and the licensee shall only be held liable for their independent acts. (a) shall in the case of a farm winery licensee or a winery licensee, ship no more than thirty-six cases (no more than nine liters) per year of wine produced by such license holder directly to a New York state resident who is at least twenty-one years of age, for such resident's personal use and not for resale; (b) may ship within the same packaging any and all alcoholic beverages it lawfully produces and which it sells in accordance with its shipping privileges and responsibilities pursuant to the provisions of this section and sections thirty-six, fifty-nine-c, and sixty-nine of this chapter, as applicable; (c) shall ensure that the outside of each shipping container used to ship wine directly to a New York state resident is conspicuously labeled with the words: "CONTAINS ALCOHOLIC BEVERAGES - SIGNATURE OF PERSON AGE 21 OR OLDER REQUIRED FOR DELIVERY - NOT FOR RESALE," or with other language specifically approved by the New York state liquor authority; (d) shall maintain records in such manner and form as the authority may direct showing the total amount of wine shipped in the state each calendar year, the names and addresses of the purchasers to whom the wine was shipped, the date purchased, the name of the common carrier used to deliver the wine, and the quantity and value of each shipment. Such records shall be kept for three years and, upon written request, be provided to the authority or the department of taxation and finance; (e) shall in connection with the acceptance of an order for a delivery of wine to a New York resident, require the prospective customer to represent that he or she has attained the age of twenty-one years or more and that the wine being purchased will not be resold or introduced into commerce; and (f) shall require common carriers to: (i) require a recipient, at the delivery address, upon delivery, to demonstrate that the recipient is at least twenty-one years of age by providing a valid form of photographic identification authorized by section sixty-five-b of this chapter; (ii) require a recipient to sign an electronic or paper form or other acknowledgment of receipt as approved by the authority; and (iii) refuse delivery when the proposed recipient appears to be under twenty-one years of age and refuses to present valid identification as required by paragraph (a) of this subdivision. 2. Violations. In any action brought under this section, the common carrier and the licensee shall only be held liable for their independent acts.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine79 - Seven Day License to Sell Wine at Retail for Consumption Off the Premises.

§ 79. Seven day license to sell wine at retail for consumption off the premises. 1. The procedure set forth in section sixty-three of this chapter shall apply so far as applicable to applications for seven day licenses to sell wine at retail for off-premise consumption. Such seven day license shall in form and in substance be a license to the person specifically licensed to sell wine at retail for off-premise consumption. 1-a. The liquor authority shall convert all current licenses to sell wine at retail for consumption off the premises to seven day licenses to sell wine at retail for consumption off the premises pursuant to subdivision three of section seventy-five of this article. However, the conversion of the license to the seven day license shall not affect licenses other than licenses issued pursuant to subdivision three of section seventy-five of this article prior to the effective date of part W3 of chapter 62 of the laws of 2003. 2. Not more than one license shall be granted to any person under this section. 3. No licensee under this section shall be engaged in any other business in the premises licensed. The sale of those items specifically enumerated in subdivision four of section sixty-three of this chapter shall not constitute engaging in another business within the meaning of this subdivision. 4. Determinations under this section with respect to the issuance of a new license or under section one hundred eleven with respect to the transfer to any other premises of a license issued hereunder shall be made in accordance with public convenience and advantage.

Title: abc

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine80 - Wine Tasting.

§ 80. Wine tasting. 1. Except as otherwise provided for in this chapter, any person licensed to sell wine pursuant to this article, or section sixty-three or section seventy-nine of this chapter, shall be permitted to conduct wine tastings only upon the licensed premises. Wine tastings which are conducted under the auspices of an official agent of a farm winery, winery, wholesaler, or importer and where such agent is physically present at all times during the conduct of the tasting, then, in that event, any liability stemming from a right of action resulting from a wine tasting as authorized herein, and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the farm winery, winery, wholesaler, or importer. 2. In addition to such other wine tastings permitted under this chapter, licensed farm wineries, wineries, and wine wholesalers may apply for a permit, pursuant to paragraph k of subdivision one of section ninety-nine-b of this chapter, to conduct wine tastings. Such permits shall be valid throughout the state and may be issued on an annual basis or for individual events. Each such permit and the exercise of the privilege granted thereby shall be subject to such rules of the liquor authority as it deems necessary.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine81-A - Special License to Sell Wine at Retail for Consumption on the Premises.

§ 81-a. Special license to sell wine at retail for consumption on the premises. 1. On or after the effective date hereof, any person may make an application to the appropriate board for a special license to sell wine at retail to be consumed on the premises where sold. 2. Such special license shall in form and in substance be a license to the person specifically licensed to sell wine at retail to be consumed on the premises specifically licensed. Such license shall also be deemed to include a license to sell beer at retail to be consumed under the same terms and conditions, without the payment of any additional fee. 3. The provisions contained in subdivisions three, four, six, eight and nine of section sixty-four-a shall apply to applicants for licenses under this section. 4. a. No such license shall be issued to any person for any premises other than premises for which a license may be issued under section sixty-four of this chapter or a hotel or premises which are kept, used, maintained, advertised or held out to the public to be a place where food is prepared and served for consumption on the premises in such quantities as to satisfy the liquor authority that the sale of wine intended is incidental to and not the prime source of revenue from the operation of such premises. Such license may also include such suitable space outside the licensed premises and adjoining it as may be approved by the liquor authority. b. Notwithstanding paragraph a of this subdivision, a special on-premises license for a premises in which the principal business shall be the operation of a legitimate theater by a corporation organized pursuant to the not-for-profit corporation law may be granted notwithstanding the proximity of such premises to any school, provided that the availability of alcoholic beverages on such premises shall not be advertised in any way at such premises in any manner visible from such street or avenue.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine81 - License to Sell Wine at Retail for Consumption on the Premises.

2. No such license shall be issued to any person for any premises other than premises for which a license may be issued under section sixty-four of this chapter or a hotel or premises which are kept, used, maintained, advertised or held out to the public to be a place where food is prepared and served for consumption on the premises in such quantities as to satisfy the liquor authority that the sale of wine intended is incidental to and not the prime source of revenue from the operation of such premises. Such license may also include such suitable space outside the licensed premises and adjoining it as may be approved by the liquor authority. 3. Such license shall in form and in substance be a license to the person specifically licensed to sell wine at retail, to be consumed upon the premises. Such license shall also be deemed to include a license to sell beer, soju and shochu at retail to be consumed under the same terms and conditions without the payment of any additional fee. For the purposes of this subdivision:(a) "soju" shall mean an imported Korean alcoholic beverage that contains not more than twenty-four per centum alcohol, by volume, and is derived from agricultural products.(b) "shochu" shall mean an imported Japanese alcoholic beverage that contains not more than twenty-four per centum alcohol, by volume, and is derived from agricultural products.4. A restaurant licensed to sell wine under this section may permit a patron to remove one unsealed bottle of wine for off-premises consumption provided that the patron has purchased a full course meal and consumed a portion of the bottle of wine with such meal on the restaurant premises. For the purposes of this subdivision the term "full course meal" shall mean a diversified selection of food which is ordinarily consumed with the use of tableware and cannot conveniently be consumed while standing or walking. A partially consumed bottle of wine that is to be removed from the premises pursuant to this subdivision shall be securely sealed by the licensee or an agent of the licensee prior to removal from the premises, in a bag such that it is visibly apparent that such resealed bottle of wine has not been tampered with. Such licensee or agent of the licensee shall provide a dated receipt for the bottle of wine to the patron. (a) "soju" shall mean an imported Korean alcoholic beverage that contains not more than twenty-four per centum alcohol, by volume, and is derived from agricultural products. (b) "shochu" shall mean an imported Japanese alcoholic beverage that contains not more than twenty-four per centum alcohol, by volume, and is derived from agricultural products. 4. A restaurant licensed to sell wine under this section may permit a patron to remove one unsealed bottle of wine for off-premises consumption provided that the patron has purchased a full course meal and consumed a portion of the bottle of wine with such meal on the restaurant premises. For the purposes of this subdivision the term "full course meal" shall mean a diversified selection of food which is ordinarily consumed with the use of tableware and cannot conveniently be consumed while standing or walking. A partially consumed bottle of wine that is to be

removed from the premises pursuant to this subdivision shall be securely sealed by the licensee or an agent of the licensee prior to removal from the premises, in a bag such that it is visibly apparent that such resealed bottle of wine has not been tampered with. Such licensee or agent of the licensee shall provide a dated receipt for the bottle of wine to the patron.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine82 - Prohibited Sales.

§ 82. Prohibited sales. The restrictions contained in section sixty-five hereof shall apply to persons licensed to sell wine at retail.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine83 - License Fees.

1-a. The annual fee for a farm winery license shall be one hundred twenty-five dollars, provided that the annual fee for a farm winery manufacturing no more than fifteen hundred finished gallons of wine annually shall be fifty dollars. 1-d. The fee for each license issued for a winery or farm winery licensee's authority to conduct wine tastings and the sale of New York state labelled wines for off-premises consumption pursuant to paragraph (c) of subdivision two of section seventy-six of this article shall be forty dollars. 2. The annual fee for a license to sell wine at wholesale shall be eight hundred dollars. 3. The annual fee for a license to sell wine at retail, not to be consumed on the premises, shall be six hundred forty dollars for each such place where such business is carried on in cities having a population of one million or more; in cities having less than one million population and more than one hundred thousand, three hundred twenty dollars; and elsewhere, the sum of one hundred forty-five dollars. 4. The annual fee for selling wine at retail, to be consumed on the premises where sold, shall be as follows:(a) In cities having a population of one hundred thousand or over the sum of four hundred eighty dollars per year; and(b) Elsewhere, the sum of two hundred forty dollars per year.4-a. The annual fee for a license to sell wine at retail to be consumed on the premises where sold where the premises to be licensed remain open only within the period commencing April first and ending October thirty-first of any one year or only within the period commencing October first and ending the following April thirtieth, the liquor authority, in its discretion, may grant a summer or winter license effective only for such appropriate period of time, for which an annual fee of one hundred twelve dollars shall be paid.5. The annual fee for a special license to sell wine at retail, to be consumed on the premises where sold, shall be as follows:(a) In cities having a population of one hundred thousand or over, the sum of five hundred seventy-six dollars per year; and(b) Elsewhere, the sum of two hundred seventy dollars per year.6. The annual fee for a special winery license shall be six hundred twenty-five dollars.7. The annual fee for a special farm winery license shall be one hundred twenty-five dollars.8. The annual fee for a roadside farm market license shall be one hundred dollars.9. The annual fee for a license to operate a custom winemakers' center shall be three hundred twenty dollars. (a) In cities having a population of one hundred thousand or over the sum of four hundred eighty dollars per year; and (b) Elsewhere, the sum of two hundred forty dollars per year. 4-a. The annual fee for a license to sell wine at retail to be consumed on the premises where sold where the premises to be licensed remain open only within the period commencing April first and ending October thirty-first of any one year or only within the period commencing October first and ending the following April thirtieth, the liquor authority, in its discretion, may grant a summer or winter license effective only for such appropriate period of time, for which an annual fee of one hundred twelve dollars shall be paid. 5. The annual fee for a special license to sell wine at retail, to be consumed on the premises where sold, shall be as follows: (a) In cities having a population of one hundred thousand or over, the sum of five hundred seventy-six dollars per year; and (b) Elsewhere, the sum of two hundred seventy dollars per year. 6. The annual fee for a special winery license shall be six hundred twenty-five dollars. 7. The annual fee for a special farm winery license shall be one hundred twenty-five dollars. 8. The annual fee for a roadside farm market license shall be one hundred dollars. 9. The annual fee for a license to operate a custom winemakers' center shall be three hundred twenty dollars.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine84 - License Fees; When Due and Payable; Fee for Part of Year.

§ 84. License fees; when due and payable; fee for part of year. The provisions contained in section sixty-seven shall apply to all licenses issued pursuant to this article.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 6 - Special Provisions Relating to Wine85 - Purchase From Private Collection.

§ 85. Purchase from private collection. Notwithstanding any other provisions of this chapter any nonlicensed person owning bottled wine is authorized to sell that wine to a wholesale or retail licensee authorized to sell wine. The licensee involved in such sale shall ensure that each bottle of wine sold from a private collection has a permanently affixed label stating that the wine was acquired from a private collection.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits90 - Kinds of Permits.

§ 90. Kinds of permits. The following kinds of permits may be issued for carrying on the activities enumerated in this article with respect to alcoholic beverages, alcohol or spirits. No person shall engage in any of such activities without having obtained the appropriate permit required hereby therefor: 1. Industrial alcohol permit. 2. Alcohol permit. 2-a. Alcohol distributors' permits. 3. Solicitor's permit. 3-a. Broker's permit. 4. Trucking permit. 5. Drug store permit. 6. Warehouse permit. 7. Temporary outdoor permit. 8. Caterer's permit. 9. Special permit to remain open during certain hours of the morning. 10. Bottling permit. 11. Reconditioning permit. 12. Miscellaneous permits.

Title: abc

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits91-A - Industrial Alcohol Manufacturers' Permits.

For scientific, chemical, mechanical, industrial, medicinal and culinary purposes. For use by those authorized to procure alcohol tax-free, as provided by the acts of congress and regulations promulgated thereunder. In the manufacture of denatured alcohol as provided by the acts of congress and regulations promulgated thereunder. In the manufacture of patented, patent, proprietary, medicinal, pharmaceutical, antiseptic, toilet, scientific, chemical, mechanical and industrial preparations or products, unfit for beverage purposes. In the manufacture of flavoring extracts and syrups, unfit for beverage purposes. In the manufacture of ethanol from biomass feedstock for use as fuel (including but not limited to motor fuel, heating fuel or fuel for process heat). 2. Such permit shall be in such form as prescribed by the rules of the liquor authority and shall permit the manufacturer to manufacture and distribute said alcohol to holders of industrial alcohol permits, alcohol permits, distributors' alcohol permits class A, distributors' alcohol permits class B and distributors' alcohol permits class C but nothing contained herein shall authorize the manufacturing and distribution of said alcohol for beverage purposes. 3. The annual fee for an industrial alcohol manufacturer's permit shall be eight hundred dollars, except that:(a) no holder of a class A distiller's license shall be required to obtain such permit or pay such fee;(b) no fee shall be required from any applicant who certifies that he will manufacture, solely from biomass feedstock, ethanol for his own use as fuel;(c) no fee shall be required from any applicant who certifies that he will manufacture, solely from biomass feedstock, less than one hundred thousand gallons of ethanol annually for use as a fuel;(d) no fee shall be required from any applicant who certifies that he will manufacture, solely from biomass feedstock other than food crops, ethanol for use as fuel; and(e) no fee shall be required from any applicant who certifies that he is the holder of an experimental distilled spirits plant permit, as provided by federal law and regulation, for the manufacture of ethanol for his own use as fuel.Any permit issued pursuant to paragraph (b), (c), (d) or (e) of this subdivision shall clearly state the conditions upon which it is granted.4. Such industrial alcohol manufacturer's permit shall be effective for a license year expiring on the thirty-first day of December following the date of issue, and the fee prescribed therefor by this section shall be the fee due and payable therefor, and shall be paid in advance at the time the application shall be made as provided by this section.When application for any permit under this section is made, after the first day of January in any year, the fee therefor shall, for the balance of the year, be in proportion as the remainder of such year shall bear to the whole year, except, that it shall in no case be for less than one-half of such year. (a) no holder of a class A distiller's license shall be required to obtain such permit or pay such fee; (b) no fee shall be required from any applicant who certifies that he will manufacture, solely from biomass feedstock, ethanol for his own use as fuel; (c) no fee shall be required from any applicant who certifies that he will manufacture, solely from biomass feedstock, less than one hundred thousand gallons of ethanol annually for use as a fuel; (d) no fee shall be required from any applicant who certifies that he will manufacture, solely from biomass feedstock other than food crops, ethanol for use as fuel; and (e) no fee shall be required from any applicant who certifies that he is the holder of an experimental distilled spirits plant permit, as provided by federal law and regulation, for the manufacture of ethanol for his own use as fuel. Any permit issued pursuant to paragraph (b), (c), (d) or (e) of this subdivision shall clearly state the conditions upon which it is granted. 4. Such industrial alcohol manufacturer's permit shall be effective for a license year expiring on the thirty-first day of December following the date of issue, and the fee prescribed therefor by this section shall be the fee due and payable therefor, and shall be paid in advance at the time the application shall be made as provided by this section. When application for any permit under this section is made, after the first day of January in any year, the fee therefor shall, for the balance of the year, be in proportion as the remainder of such year shall bear to the whole year, except, that it shall in no case be for less than one-half of such year.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits91 - Industrial Alcohol Permit.

(a) Denatured alcohol purchased and used pursuant to acts of Congress and regulations promulgated thereunder. (b) Patent, proprietary, medicinal, pharmaceutical, antiseptic and toilet preparations. (c) Flavoring extracts, syrups and food products. (d) Scientific, chemical, mechanical and industrial products. 2. Such permit shall be in such form as prescribed by the rules of the liquor authority and shall permit the purchaser to use said alcohol for the purpose named in such permit and in accordance with the terms and conditions of such permit and the rules of the liquor authority. 3. Such permit shall be issued for a calendar year, and the fee therefor shall be sixty-four dollars per year, or for any part thereof. 4. Any person who shall knowingly sell any of the products enumerated in this section for beverage purposes, or who shall sell any of the same under circumstances from which he might reasonably deduce the intention of the purchaser to use them for such purposes, shall be subject to the penalties provided for in this chapter.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits92-A - Alcohol Distributors' Permits.

(a) Distributor's alcohol permit---class a. (b) Distributor's alcohol permit---class b. (c) Distributor's alcohol permit---class c. (d) Distributor's alcohol permit---class d. 2. (a) A class "a" permit shall authorize the holder thereof to sell and distribute to licensed rectifiers alcohol which is to be used for beverage purposes and to all holders of permits issued pursuant to this section or sections ninety-one and ninety-two of this chapter. (b) A class "b" permit shall authorize the holder thereof to sell and distribute alcohol to holders of a class "c" alcohol distributor's permit or to holders of permits issued pursuant to section ninety-one and section ninety-two of this chapter. (c) A class "c" permit shall authorize the holder thereof to sell and distribute alcohol to holders of permits issued pursuant to section ninety-two of this chapter and to use alcohol in the preparation by him of any of the products enumerated

in section ninety-one of this chapter. Such a permit may be applied for by and shall be issued only to a wholesale druggist. (d) A class "d" permit shall authorize the holder thereof to sell and distribute alcohol to the holder of winery licenses. Such permits shall be issued only to a person holding a winery license under this chapter. Such permits shall be issued in such form as may be prescribed by the liquor authority, and the privileges granted thereby shall be exercised in accordance with the terms and conditions thereof and the rules of the liquor authority. 3. The annual fee for a distributor's alcohol permit, class "a," shall be sixteen hundred dollars. 4. The annual fee for a distributor's alcohol permit, class "b," shall be eight hundred dollars. 5. The annual fee for a distributor's alcohol permit, class "c," shall be one hundred sixty dollars. 6. The annual fee for a distributor's alcohol permit, class "d," shall be three hundred eighty-four dollars. 7. Such distributors' alcohol permits shall be effective for a license year expiring on the thirty-first day of December following the date of issuance, and the fee prescribed therefor by this section shall be the fee due and payable therefor, and shall be paid in advance at the time the application shall be made as provided by this section. When application for any permit under this section is made, after the first day of January in any year, the fee therefor shall, for the balance of the year, be in proportion as the remainder of such year shall bear to the whole year, except, that it shall in no case be for less than one-half of such year.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits92 - Alcohol Permit.

§ 92. Alcohol permit. 1. The liquor authority is hereby authorized to issue special permits for the purchase of alcohol to the superintendent, or duly authorized officer, of a hospital, museum, laboratory, art, charitable, educational, or similar public institution, or to a drug store, or licensed physician, dentist, veterinarian, optometrist and chiropodist, or to a manufacturing establishment using alcohol in its processes of manufacture. 2. Such permit shall be issued in such form as prescribed by the liquor authority and shall permit the purchase and use of such alcohol for the purpose named in such permit and in accordance with the terms and conditions thereof and the rules of the liquor authority. 3. Such permit shall be issued for a calendar year, and the fee therefor shall be six dollars per year or for any part thereof. 4. Any person who shall knowingly sell any alcohol for beverage purposes or who shall sell the same under circumstances from which he might reasonably deduce the intention of the purchaser to use it for such purposes, shall be subject to the penalties provided for in this chapter.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits93-A - Broker's Permit.

§ 93-a. Broker's permit. 1. No person shall engage as a broker in the purchase and sale of alcoholic beverages in this state unless such person shall have a broker's permit. 2. Such permit shall authorize the permittee to act as a broker in the purchase and sale of alcoholic beverages for a fee or commission, for or on behalf of a person authorized to manufacture or sell at wholesale alcoholic beverages within or without the state. Such permittee shall not buy or sell any alcoholic beverages for his own account, or take or deliver title to such alcoholic beverages, and shall not receive or store any alcoholic beverages in his own name in this state, or offer, agree to offer or sell any alcoholic beverages to any retailer within this state. 3. Such permit shall be issued either for one transaction or for a calendar year and the exercise of the privileges granted thereby shall be subject to such rules and conditions by the liquor authority as it deems necessary. 4. The fee for a broker's permit shall be fixed by the liquor authority, but shall not exceed twenty-six dollars for a permit valid for one transaction nor two hundred fifty-six dollars for a permit issued for a calendar year.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits93 - Solicitor's Permit.

§ 93. Solicitor's permit. 1. No individual shall offer for sale or solicit any order in the state for the sale of any alcoholic beverage irrespective of whether such sale is to be made within or without the state, unless such person shall have a solicitor's permit. Provided, however, that no permit under this section shall be required for an individual who is soliciting orders on behalf of a micro-brewery, farm brewery, farm cidery, farm winery, micro-farm winery, micro-distillery, micro-rectifier, or farm distillery licensed under this chapter. 2. Such a permit shall authorize the permittee to offer for sale or to solicit orders for the sale of any alcoholic beverages, and shall set forth the name, address and license number of the licensee whom the solicitor represents, and such solicitor shall not represent any licensee whose name does not appear upon such permit. 3. The license fee for such permit shall be twenty-six dollars per year, or for any part thereof, and the permit shall be issued for the calendar year. 4. Notwithstanding the foregoing provisions of this section, any duly licensed manufacturer or wholesaler may apply to the liquor authority for an annual temporary solicitor's employment permit. Such permit shall authorize such manufacturer or wholesaler to employ one or more persons as a solicitor for a period of not exceeding six months provided that within sixty days after such employee has been employed as a solicitor such employee shall file his application for a solicitor's permit with the liquor authority. The license fee for such permit shall be thirty-eight dollars per year, or for any part thereof, and the permit shall be issued for the calendar year. Such permit and the exercise of the privileges hereby granted thereunder, shall be subject to such terms and conditions as may be prescribed by the liquor authority. 5. Notwithstanding any provision of this chapter to the contrary, a licensed winery or licensed farm winery may obtain from the liquor authority a solicitor's permit authorizing the licensee to offer for sale or solicit any order for any New York state labelled wine. The authority shall not charge an application or permit fee for the issuance of a solicitor's permit to a licensed winery or farm winery.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits94 - Trucking Permit.

§ 94. Trucking permit. 1. No vehicle shall be used in this state for the trucking or transportation of any alcoholic beverage unless

such vehicle shall be registered with the liquor authority by a permit issued by it and shall have affixed thereto a sign to be approved by the liquor authority, containing the registration number of such vehicle. In lieu of such sign a vehicle may have in its cab a photostatic copy of its current permit issued by the Authority. This provision shall not apply to vehicles owned or hired and operated by a licensee. 2. Such permit shall be issued for the calendar year, and may cover one or more trucks and in cities having a population of one million or less to duly licensed taxicabs used to deliver only wine or liquor sold at retail and the fee therefor shall be at the rate of fifty-one dollars per truck or such duly licensed taxicab per year. 2-a. In lieu of such permits, the liquor authority may issue a fleet permit for an annual fee of sixty-four hundred dollars. Such fleet permit shall cover any and all vehicles owned or hired, and operated, by such permittee. In lieu of the sign required to be affixed to each vehicle pursuant to subdivision one of this section, the holder of a fleet permit may have in the cab of such vehicle a photostatic copy of its current fleet permit issued by the authority. 2-b. In lieu of such permits, the liquor authority may issue a company permit to a licensed manufacturer or wholesaler licensed pursuant to section fifty-three of this chapter for an annual fee of sixty-four hundred dollars. Such company permit shall cover any and all vehicles over sixty-five thousand pounds hired or contracted for a term by such permittee. In lieu of the sign required to be affixed to each vehicle pursuant to subdivision one of this section, the holder of the company permit may have in the cab of such hired or contracted vehicle a photostatic copy, noting the time and date alcoholic beverages departed the company and its intended delivery time and date of destination of its company permit issued by the authority. 3. If such application is made after July first in any one year, the fee shall be one-half of the annual fee herein provided for.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits95 - Drug Store Permit.

§ 95. Drug store permit. The liquor authority may issue a drug store permit to sell liquor and/or wine for off-premises consumption pursuant to this section. 1. Application must be made upon a form to be provided by the liquor authority and shall be filed with the appropriate board. Section fifty-four shall control so far as applicable the procedure in connection with such application. 2. Such permit shall authorize the permittee to sell liquor or wine in the original sealed package only upon a written prescription of a regularly licensed physician in a quantity not exceeding one pint of liquor and one quart of wine; such prescription shall state the date thereof; the name of the person for whom prescribed and shall be preserved by the vendor and pasted in a book kept for the purpose and be but once filled. Such package shall not be opened after sale nor its contents consumed on the premises where sold. 3. No such permittee shall have, keep or offer for sale, or sell in the premises designated in the permit any liquor which is not of the strength, quality and purity prescribed in the latest United States Pharmacopoeia. 4. Such permit shall be issued for a calendar year and the fee therefor shall be at the rate of fifty-one dollars per year for each place where such traffic is carried on except that where application shall be filed after July first in any year the fee to be paid shall be the sum of twenty-six dollars for the balance of such year.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits96-A - Bottling Permit.

§ 96-a. Bottling permit. 1. No liquor or wine may be bottled in this state except by the manufacturer thereof or as hereinafter provided. 2. The liquor authority is hereby authorized to issue a bottling permit to a wholesale wine or liquor licensee to bottle, recask, filter or clarify wine or liquor, respectively, imported in bulk from a foreign country, on the premises of a United States customs bonded warehouse for which a warehouse permit has been issued under this chapter or in a foreign trade zone established pursuant to federal law. Such permit and the exercise of the privileges granted thereunder shall be subject to the laws of the United States and the rules of the federal agency having jurisdiction thereunder, and such other rules as the state liquor authority deems necessary. 3. The liquor authority is hereby authorized to issue a bottling permit to a person to bottle, on the premises designated in the permit or in a United States customs bonded warehouse for which a warehouse permit has been issued under this chapter, liquor manufactured outside of the state of New York or wine produced in a foreign country and received in this state in bulk. Such bottling may be performed for or on behalf of wholesale liquor or wine licensees or for persons authorized to sell liquor or wine at wholesale pursuant to the laws and regulations of any other state, territorial possession of the United States or foreign country. Such permit shall also authorize the holder thereof to rebottle or recondition liquors and wines manufactured outside of the state of New York and received in this state, for or on behalf of wholesale liquor or wine licensees, or for persons authorized to sell liquor or wine at wholesale pursuant to the laws and regulations of any other state, territorial possession of the United States or foreign country. Such permit and the exercise of the privileges granted thereunder shall be subject to the laws of the United States and the rules of the federal agency having jurisdiction thereunder, and such other rules as the state liquor authority deems necessary. 4. Such permit shall be issued in the form prescribed by the liquor authority and shall be issued for the calendar year and the fee for a permit issued under subdivision two of this section shall be at the rate of four hundred eighty dollars per annum, except that where the application shall be filed after July first in any year the fee shall be two hundred forty dollars for the remainder of such period. The fee for a permit under subdivision three of this section shall be at the rate of sixteen hundred dollars per annum, except that where the application shall be filed after July first in any year the fee shall be eight hundred dollars for the remainder of such period.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits96-B - Reconditioning Permit.

§ 96-b. Reconditioning permit. 1. The liquor authority may issue a reconditioning permit to a wholesale liquor licensee to recondition wines and liquors manufactured outside of the state of New York including filtering, clarifying, rebottling, labeling, relabeling or repacking such wines and liquors. Such permit may be issued to a wholesale wine licensee to recondition such wines under the same terms and conditions as provided herein. Only wines purchased in sealed containers not exceeding fifteen gallons in

content or liquor in sealed containers not exceeding one quart in content may be so reconditioned. Such reconditioning shall be done on such premises and under such conditions as the liquor authority may prescribe. 2. Each such permit and the exercise of the privilege granted thereby shall be subject to the laws of the United States and the rules of the federal agency having jurisdiction thereunder and the rules and regulations to be promulgated by the liquor authority and operations conducted pursuant thereto shall be performed under such supervision as the liquor authority shall require. 3. Each such permit shall be issued in such form as shall be prescribed by the liquor authority and shall be valid for one day only. The fee for each such permit shall not exceed twenty-six dollars.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits96 - Warehouse Permit.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, a person licensed pursuant to section fifty-four or fifty-four-a of this article may be issued a permit pursuant to this section for the storage of a private label brand or brands of beer for which the licensee is the registered owner or for a brand or brands of beer of which the licensee is the exclusive retail seller in the state. 2. The authority is hereby empowered upon application therefor to issue a special retail warehouse permit for the storage of beer. Such permit may be issued to a person licensed pursuant to section fifty-four or section fifty-four-a of this article on an annual basis and shall be issued in such form as prescribed by the rules of the authority for the storage of beer in other than such licensee's licensed premises. No more than five such permits may be issued by the authority on a statewide basis at any time and such permits may only be issued to persons who own licensed premises having no more than twenty-five hundred square feet of retail space per each such premises and employing no more than five people on each premises during any period of operation. 3. Such permit shall be issued for the calendar year and the fee therefor shall be at the rate of two hundred fifty-six dollars per annum, except that where the application shall be filed after July first in any year the fee shall be one hundred twenty-eight dollars for the remainder of such period.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits97-B - Sale of Alcoholic Beverages at the New York State Fair.

2. In addition to any license issued pursuant to section fifty-five, sixty-four, sixty-four-a, sixty-four-c, sixty-four-d, eighty-one or eighty-one-a of this chapter for a premises located upon the New York state fairgrounds, the liquor authority is hereby authorized to issue a temporary permit to the holder of a concessionaire's license issued by the division of the New York state fair in the department of agriculture and markets. 3. (a) Such permit shall allow for the sale of alcoholic beverages by the permit holder for consumption upon the premises known as the New York state fairgrounds during the annual New York state fair for the calendar year such permit is issued.(b) Such a permit shall also allow the holder thereof to store alcoholic beverages upon the New York state fairgrounds, in areas designated by the concessionaire's license, during the seven days immediately preceding and the seven days immediately following the state fair for which the permit has been issued.(c) Such permit holder must display its permit at all locations as authorized by the concessionaire's license and the authority.4. The holder of an on-premises license issued for a premises located upon the New York state fairgrounds may exercise the privileges of a permit issued under this section without the need to obtain such permit. Provided, however, that the licensee may only sell such alcoholic beverages as may be sold under the terms of its license.5. The holder of a manufacturing license issued pursuant to section thirty-one, fifty-one, fifty-one-a, fifty-eight, fifty-eight-c, seventy-six or seventy-six-a of this chapter or subdivision two-c of section sixty-one of this chapter may exercise the privileges of a permit issued under this section without need to obtain such permit. Provided, however, that the licensee: (a) holds a concessionaire's license issued by the division of the New York state fair in the department of agriculture and markets; and (b) may only sell such alcoholic beverages as may be sold for on-premises consumption at its licensed premises under the terms of its license.6. The exercise of the privileges of a permit under this section shall be subject to: (a) such rules of the liquor authority as it deems necessary; and (b) the provisions of a concessionaire's agreement between the permit holder or licensee and the division of the New York state fair in the department of agriculture and markets.7. The fee for such permit shall be two hundred sixty dollars. (b) Such a permit shall also allow the holder thereof to store alcoholic beverages upon the New York state fairgrounds, in areas designated by the concessionaire's license, during the seven days immediately preceding and the seven days immediately following the state fair for which the permit has been issued. (c) Such permit holder must display its permit at all locations as authorized by the concessionaire's license and the authority. 4. The holder of an on-premises license issued for a premises located upon the New York state fairgrounds may exercise the privileges of a permit issued under this section without the need to obtain such permit. Provided, however, that the licensee may only sell such alcoholic beverages as may be sold under the terms of its license. 5. The holder of a manufacturing license issued pursuant to section thirty-one, fifty-one, fifty-one-a, fifty-eight, fifty-eight-c, seventy-six or seventy-six-a of this chapter or subdivision two-c of section sixty-one of this chapter may exercise the privileges of a permit issued under this section without need to obtain such permit. Provided, however, that the licensee: (a) holds a concessionaire's license issued by the division of the New York state fair in the department of agriculture and markets; and (b) may only sell such alcoholic beverages as may be sold for on-premises consumption at its licensed premises under the terms of its license. 6. The exercise of the privileges of a permit under this section shall be subject to: (a) such rules of the liquor authority as it deems necessary; and (b) the provisions of a concessionaire's agreement between the permit holder or licensee and the division of the New York state fair in the department of agriculture and markets. 7. The fee for such permit shall be two hundred sixty dollars.

Title: abc

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits97-C - Temporary Manufacturing Permit.

2. Upon application, the liquor authority may issue such temporary permit when:(a) the applicant has a manufacturing license application at the same premises pending before the liquor authority, together with all required filing and license fees; and(b) the applicant has obtained and provided evidence of all permits, licenses and other documents necessary for the operation of such a business; and(c) any current license in effect at the premises has been surrendered or placed in safekeeping, or has been deemed abandoned by the authority.3. The liquor authority in granting such permit shall ensure that:(a) issuance of the permit will not inordinately hinder the operation or effective administration of this chapter; and(b) the applicant would in all likelihood be able to ultimately obtain the manufacturing license being applied for; and(c) the applicant has substantially complied with the requirements necessary to obtain such license.4. The application for a permit shall be approved or denied by the liquor authority within forty-five days after the receipt of such application.5. A temporary permit shall authorize the permittee to operate a manufacturing facility for the manufacture and sale of alcoholic beverages according to the laws applicable to the type of manufacturing license being applied for.6. Such temporary permit shall remain in effect for six months or until the manufacturing license being applied for is approved and the license granted, whichever is shorter. Such permit may be extended at the discretion of the liquor authority for additional three-month periods of time upon payment of an additional fee of fifty dollars for each such extension.7. Notwithstanding any provision of law to the contrary, a temporary permit may be summarily cancelled or suspended at any time if the liquor authority determines that good cause for cancellation or suspension exists. The liquor authority shall promptly notify the permittee in writing of such cancellation or suspension and shall set forth the reasons for such action.8. The liquor authority in reviewing such application shall review the entire record and grant the temporary permit unless good cause is otherwise shown. A decision on an application shall be based on substantial evidence in the record and supported by a preponderance of the evidence in favor of the applicant. (a) the applicant has a manufacturing license application at the same premises pending before the liquor authority, together with all required filing and license fees; and (b) the applicant has obtained and provided evidence of all permits, licenses and other documents necessary for the operation of such a business; and (c) any current license in effect at the premises has been surrendered or placed in safekeeping, or has been deemed abandoned by the authority. 3. The liquor authority in granting such permit shall ensure that: (a) issuance of the permit will not inordinately hinder the operation or effective administration of this chapter; and (b) the applicant would in all likelihood be able to ultimately obtain the manufacturing license being applied for; and (c) the applicant has substantially complied with the requirements necessary to obtain such license. 4. The application for a permit shall be approved or denied by the liquor authority within forty-five days after the receipt of such application. 5. A temporary permit shall authorize the permittee to operate a manufacturing facility for the manufacture and sale of alcoholic beverages according to the laws applicable to the type of manufacturing license being applied for. 6. Such temporary permit shall remain in effect for six months or until the manufacturing license being applied for is approved and the license granted, whichever is shorter. Such permit may be extended at the discretion of the liquor authority for additional three-month periods of time upon payment of an additional fee of fifty dollars for each such extension. 7. Notwithstanding any provision of law to the contrary, a temporary permit may be summarily cancelled or suspended at any time if the liquor authority determines that good cause for cancellation or suspension exists. The liquor authority shall promptly notify the permittee in writing of such cancellation or suspension and shall set forth the reasons for such action. 8. The liquor authority in reviewing such application shall review the entire record and grant the temporary permit unless good cause is otherwise shown. A decision on an application shall be based on substantial evidence in the record and supported by a preponderance of the evidence in favor of the applicant.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits97-D - Temporary Wholesale Permit.

2. Upon application, the liquor authority may issue such temporary permit when:(a) the applicant has a wholesale license application at the same premises pending before the liquor authority, together with all required filing and license fees;(b) the applicant has obtained and provided evidence of all permits, licenses and other documents necessary for the operation of such a business; and(c) any current license in effect at the premises has been surrendered or placed in safekeeping, or has been deemed abandoned by the authority.3. The liquor authority in granting such permit shall ensure that:(a) issuance of the permit will not inordinately hinder the operation or effective administration of this chapter;(b) the applicant would in all likelihood be able to ultimately obtain the wholesale license being applied for; and(c) the applicant has substantially complied with the requirements necessary to obtain such license.4. The application for a permit shall be approved or denied by the liquor authority within forty-five days after the receipt of such application.5. A temporary permit shall authorize the permittee to operate a wholesale facility for the purchase, warehousing, and sale of alcoholic beverages according to the laws applicable to the type of wholesale license being applied for.6. Such temporary permit shall remain in effect for six months or until the wholesale license being applied for is approved and the license granted, whichever is shorter. Such permit may be extended at the discretion of the liquor authority for additional three-month periods of time upon payment of an additional fee of fifty dollars for each such extension.7. Notwithstanding any provision of law to the contrary, a temporary wholesale permit may be summarily cancelled or suspended at any time if the liquor authority determines that good cause for cancellation or suspension exists. The liquor authority shall promptly notify the permittee in writing of such cancellation or suspension and shall set forth the reasons for such action.8. The liquor authority in reviewing such application shall review the entire record and grant the temporary permit unless good cause is otherwise shown. A decision on an application shall be based on substantial evidence in the record and supported by a preponderance of the evidence in favor of the applicant. (a) the

applicant has a wholesale license application at the same premises pending before the liquor authority, together with all required filing and license fees; (b) the applicant has obtained and provided evidence of all permits, licenses and other documents necessary for the operation of such a business; and (c) any current license in effect at the premises has been surrendered or placed in safekeeping, or has been deemed abandoned by the authority. 3. The liquor authority in granting such permit shall ensure that: (a) issuance of the permit will not inordinately hinder the operation or effective administration of this chapter; (b) the applicant would in all likelihood be able to ultimately obtain the wholesale license being applied for; and (c) the applicant has substantially complied with the requirements necessary to obtain such license. 4. The application for a permit shall be approved or denied by the liquor authority within forty-five days after the receipt of such application. 5. A temporary permit shall authorize the permittee to operate a wholesale facility for the purchase, warehousing, and sale of alcoholic beverages according to the laws applicable to the type of wholesale license being applied for. 6. Such temporary permit shall remain in effect for six months or until the wholesale license being applied for is approved and the license granted, whichever is shorter. Such permit may be extended at the discretion of the liquor authority for additional three-month periods of time upon payment of an additional fee of fifty dollars for each such extension. 7. Notwithstanding any provision of law to the contrary, a temporary wholesale permit may be summarily cancelled or suspended at any time if the liquor authority determines that good cause for cancellation or suspension exists. The liquor authority shall promptly notify the permittee in writing of such cancellation or suspension and shall set forth the reasons for such action. 8. The liquor authority in reviewing such application shall review the entire record and grant the temporary permit unless good cause is otherwise shown. A decision on an application shall be based on substantial evidence in the record and supported by a preponderance of the evidence in favor of the applicant.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits97 - Temporary Beer and Wine Permit.

§ 97. Temporary beer and wine permit. 1. The liquor authority is hereby authorized to issue temporary permits effective for a period not to exceed twenty-four consecutive hours to authorize the sale of beer, wine, cider, mead and/or braggot, and liquor at outdoor or indoor gatherings, functions, occasions or events, within the hours fixed by or pursuant to subdivision five of section one hundred six of this chapter, during which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages at retail for on-premises consumption in the community in which is located the premises in which such gathering, function, occasion or event is held. The fee for such permit shall be twenty-six dollars. Such permit and the exercise of the privilege granted thereby shall be subject to such rules of the liquor authority as it deems necessary. 2. The liquor authority is hereby authorized to issue an annual permit to brewers and beer wholesalers authorizing such licensees to sell beer for consumption at outdoor or indoor gatherings, functions, occasions or events, provided that such gatherings are not open to admission to the general public nor is admission thereto made contingent upon the payment of an admission fee, donation or contribution, and further provided that such beer is not resold at such gatherings. Every brewer or beer wholesaler to whom a permit shall be issued hereunder shall require every person to whom beer shall be sold for use at such gatherings to make, execute and file with such brewer or beer wholesaler, upon a form to be prescribed by the liquor authority, a statement, that the beer purchased by such person will not be sold or offered for sale by such person. Such statement shall be accepted for all purposes as the equivalent of an affidavit, and if false, shall subject the person making and executing the same to the same penalties as if he had been duly sworn. Such permit shall be issued in the form prescribed by the liquor authority and shall run concurrently with the annual term of the brewer's license or of the wholesale beer license, and the fee for such permit shall be sixty-four dollars. Such a permit and the exercise of the privileges granted thereunder shall be subject to such rules by the liquor authority as it deems necessary. The provisions hereof shall not apply to the sale of beer for consumption in the home. 4. The liquor authority is hereby authorized to issue a temporary permit effective for a period not to exceed twenty-four consecutive hours to any holder of a license to manufacture wine in this or any other state, to sell wine at outdoor or indoor gatherings, functions, occasions, or events, provided that such manufacturer produces not more than one hundred fifty thousand gallons of wine annually. The fee for such permit shall be twenty-six dollars. 5. The authority is authorized to allow a brewer, once per annum, and after the property owner obtains a permit under this section, to sell or offer at no cost beer, beginning at eight antemeridian and ending at the hours fixed by or pursuant to subdivision five of section one hundred six of this chapter, at the following two locations in the city of Utica, county of Oneida, and bounded and described as follows: PARCEL I Beginning at the northwest corner of the beer storage building at the corner of Edward Street and Wasmer Street and proceeding northerly for a distance of 76 feet 1 inch; thence 128 feet 5 inches easterly along Wasmer Street; thence continuing along said Wasmer Street northeasterly for a distance of 202 feet 10 inches to the corner of Wasmer Street and Hamilton Street. Thence northerly along Hamilton Street for a distance of 46 feet 8 inches to the intersection of Columbia Street. Thence northwesterly along Columbia Street for a distance of 233 feet 6 inches. Thence southwesterly for a distance of 77 feet 7 inches to a fence. Thence northwesterly for a distance of 62 feet and thence southwesterly a distance of 10 feet 6 inches to the southeastern corner of the brewery garage. Thence, following the garage's perimeter: first in a southwesterly direction for a distance of 133 feet 2 inches to the southwest corner of the garage; thence in a northwesterly direction for a distance of 22 feet 5 inches; and thence in a northeasterly direction for a distance of 11 feet 2 inches, then in a northwesterly direction for a distance of 100 feet, to a fence just before the sidewalk on Schuyler Street; thence southwesterly for a distance of 234 feet 5 inches to the Brewery main complex. Thence following the perimeter of the brewery complex buildings southeast for a distance of 82 feet 8 inches, northeasterly for a distance of 81 feet 11 inches; thence southeasterly for a distance of 85 feet 3 inches; thence northeasterly for a distance of 21 feet 6 inches; and thence southeasterly for a distance of 96 feet 8 inches to the northwestern corner of the shipping office. From the northwestern corner of the shipping office, southeasterly for a distance of 33 feet 9 inches; thence southwesterly for a distance of 37 feet 8 inches;

thence southeasterly for a distance of 65 feet 8 inches; thence southerly for a distance of 27 feet 4 inches; thence easterly for a distance of 33 feet, to the point or place of beginning. PARCEL II Beginning at the iron fence which is 26 feet northwest of the southwest corner of the tour center on Court Street; thence 66 feet, 7 inches northeast, 11 feet 7 inches northwest to the west corner of the tour center parking lot stairs. Proceeding northeasterly 71 feet 10 inches, thence northwesterly 19 feet 10 inches to the southeastern corner of the boiler room building. Thence northwesterly 161 feet; south by southwest 80 feet; southwest 58 feet 5 inches and finally southeast 155 feet to the point or place of beginning.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits98 - Caterer's Permit.

§ 98. Caterer's permit. 1. The liquor authority is hereby authorized to issue to a retail licensee for on-premises consumption or a licensed off-premises caterer furnishing provisions and service for use at a particular function, occasion or event in a hotel, restaurant, club, ballroom or other premises a temporary permit effective for a period not to exceed twenty-four consecutive hours, which shall authorize the service of alcoholic beverages at such function, occasion or event within the hours, fixed by or pursuant to subdivision five of section one hundred six of this chapter, during which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages at retail for on-premises consumption in the community in which is located the premises in which such function, occasion or event is held. The fee therefor shall be thirty-eight dollars. Such a permit and the exercise of the privilege granted thereby may be subjected to such rules by the liquor authority as it deems necessary and such rules as are in conformity with the provisions of subdivision two of this section. Such a permit may also be issued for functions, occasions or events at premises for which a summer license has been previously issued pursuant to this chapter. 2. Except for good cause shown, the liquor authority shall issue upon proper application and payment of fee, an on-premises caterer's permit to a club licensed pursuant to the provisions of this chapter upon the club premises if it is shown: a. That the club has not solicited the event, nor advertised such affair in any manner as open to the public and the alcoholic beverages shall be sold only to persons invited to and attending such function, occasion or event; and b. (see, also, par. b below) That the particular function or event is to be held by a sodality, an auxiliary or other organization affiliated with the licensed club and also other organizations not affiliated with a licensed club, provided the function or event being held is in conjunction with the use of the primary athletic or sports facilities of the licensed club; and b. (see, also, par. b above) The particular function or event is to be held by a sodality or auxiliary affiliated with the club, or a particular charitable or non-profit function or event is to be held by a charitable or non-profit organization and such organization has one or more members who are also members of the club. 3. The liquor authority may issue upon proper application and payment of fee, an on-premises caterer's permit to a club licensed pursuant to the provisions of this chapter if the facts set forth in the application establish to the satisfaction of the authority that no other suitably licensed premises authorized to sell alcoholic beverages to the public is available within a reasonable distance. 4. A caterer's permit will not be granted to a club licensed for a function to be held off the club premises except where such is exclusively for the use and benefit of the club members only and is so restricted. 5. Notwithstanding any other provision of this chapter or any rule of the liquor authority, the liquor authority is hereby authorized to issue, to caterers and other persons furnishing provisions and services for use at a particular function or occasion or event to be held at a winery or farm winery, a temporary indoor and/or outdoor permit effective for a period not to exceed twenty-four consecutive hours, which shall authorize the service of alcoholic beverages at such function, occasion or event within the hours as fixed by or pursuant to subdivision five of section one hundred six of this chapter, during which alcoholic beverages may lawfully be sold or served upon premises licensed to sell alcoholic beverages at retail for on-premises consumption in the community in which is located the premises in which such function, occasion or event is held. The issuance of a caterer's permit under this section shall in no way prohibit or suspend the lawful operation of the winery or farm winery licensed under this chapter. For purposes of this subdivision, both the permittee and the winery or farm winery licensee shall be responsible for any violations of this chapter or the rules of the authority occurring while the permit is in effect. Liability under the provisions of sections 11-100 and 11-101 of the general obligations law shall accrue to both the permittee and the winery or farm winery licensee. The fee for the permit shall be thirty-eight dollars, provided, however, that no fee shall be charged to a licensed off-premises caterer. Such a permit and the exercise of the privilege granted thereby may be subjected to such rules by the liquor authority as it deems necessary.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits99-A - Charitable Permits.

§ 99-a. Charitable permits. 1. The liquor authority is hereby authorized to issue a charitable permit to an organization to sell alcoholic beverages, at auction or otherwise, where the authority is satisfied: (a) that contributions made by an individual donor to such organization are deductible for Federal income tax purposes; (b) that the funds so raised will be used for the non-profit purposes of the organization; (c) that all such alcoholic beverages shall be in sealed containers; and (d) that not more than eighty cases shall be sold. Such permit shall be valid for a twenty-four hour period commencing at eight o'clock a.m. and only during the hours when such alcoholic beverages may lawfully be sold by retail licensees in the county in which the auction or sale is held. No alcoholic beverages sold pursuant to such permit shall be consumed on the premises at which they are sold. 2. The fee for a one-day charitable permit shall be twenty dollars.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits99-B - Miscellaneous Permits.

a. A sheriff, marshal, assignee for the benefit of creditors, trustee or receiver in bankruptcy, executor or administrator of an estate, to sell the stock of alcoholic beverages which came into his possession pursuant to judicial process. b. A steamship company or company operating aircraft, or its duly authorized agent, to purchase from a manufacturer or wholesaler in this state alcoholic

beverages for ship's stores for consumption outside the territorial jurisdiction of the state, and not for purposes of resale in this state. c. A person engaged in the manufacture of products which are unfit for beverage use and classified by the United States treasury department, as exempt from special and commodity taxes to purchase liquor, wine or beer from licensed wholesalers and manufacturers for use only in the process of manufacture of such products. d. A fire insurance company or fire salvage company, under the supervision of the New York state department of financial services, to sell to licensees alcoholic beverages which came into its possession as a result of a fire on licensed premises. e. A hospital, which shall mean a place for overnight care of the sick, conducted or licensed by the state or a political subdivision thereof or subject to visitation and inspection by the state board of social welfare to purchase liquor, wine or beer for medicinal use only in the treatment of bona fide patients of such hospital. f. A licensee who is liquidating or selling its business, or a former licensee whose license has been surrendered, revoked, cancelled or has expired, to sell its entire stock of alcoholic beverages to other licensees, provided, however, that no such permit shall be issued to a licensee or former licensee who is delinquent under the provisions of section one hundred one-aa or section one hundred one-aaa of this chapter. A former licensee whose license has been surrendered, revoked, cancelled, or has expired, may not transfer its stock of alcoholic beverages to any other person unless it obtains such a permit. g. A warehouseman, railroad company, steamship company, or other person who has acquired a lien pursuant to law for the storage or carriage of alcoholic beverages, to sell such alcoholic beverages to a licensee. i. A bank or trust company incorporated under articles three, seven or twelve of the banking law or a foreign banking corporation licensed by superintendent of financial services of this state or a banking corporation organized under the laws of the United States and doing business in this state, to sell warehouse receipts pertaining to alcoholic beverages which it has accepted as collateral security for a loan to a licensee and which it acquired through default in the payment of such loan. j. A person duly licensed outside the state of New York to manufacture or sell alcoholic beverages at wholesale, or his duly authorized representative, to negotiate and consummate contracts or agreements with licensed wholesalers in this state for the establishment of operating agency relationships for the sale of its products in this state. k. A person to purchase, receive or sell alcoholic beverages or receipts, certificates, contracts or other documents pertaining to alcoholic beverages, in cases not expressly provided for by this chapter, when in the judgment of the liquor authority it would be appropriate and consistent with the purpose of this chapter. l. (1) Licensed wineries and licensed farm wineries to sell New York state labelled wine, by the bottle, at the state fair, at recognized county fairs and at farmers markets operated on a not-for-profit basis.(2) The permit shall be valid for the length of the event, but not for a period to exceed one year.(3) No fee shall be charged for permits issued pursuant to this subdivision.m. An institution of higher education operating under authority granted by the state education department, to deliver or cause to be delivered alcoholic beverages to a person who is at least twenty-one years of age enrolled in a single class or course of classes authorized by the institution of higher education and conducted by an instructor or instructors engaged by the institution of higher education, provided that such person's imbibing or tasting of such alcoholic beverages is a required part of the class or course of classes, and provided that such person's imbibing or tasting of such alcoholic beverages is only for instructional purposes. No alcoholic beverage shall be delivered, or shall be permitted to be delivered, to a person under twenty-one years of age during any class conducted under the authority of such permit, and the provisions of subdivision five of section sixty-five and paragraph (a) of subdivision two of section sixty-five-c of this chapter shall not apply to any delivery made during any class conducted under the authority of such permit.2. Each such permit and the exercise of the privilege granted thereby may be subjected to such rules and conditions by the liquor authority as it deems necessary.3. Each such permit shall be issued in such form as shall be prescribed by the liquor authority and shall be valid for one transaction only, except that a permit issued pursuant to paragraph b, c, e, j, or m of subdivision one of this section may be issued either for one transaction or for a calendar year. The liquor authority may, by rule, fix the quantity of alcoholic beverages to be involved in a single transaction under a permit issued pursuant to paragraph k of subdivision one of this section, but no single transaction so authorized shall involve more than twenty cases of alcoholic beverages. The fee for each such permit shall be fixed by the liquor authority, but shall not exceed ninety dollars for a permit valid for one transaction only nor two hundred fifty-six dollars for a permit issued for a calendar year. (2) The permit shall be valid for the length of the event, but not for a period to exceed one year. (3) No fee shall be charged for permits issued pursuant to this subdivision. m. An institution of higher education operating under authority granted by the state education department, to deliver or cause to be delivered alcoholic beverages to a person who is at least twenty-one years of age enrolled in a single class or course of classes authorized by the institution of higher education and conducted by an instructor or instructors engaged by the institution of higher education, provided that such person's imbibing or tasting of such alcoholic beverages is a required part of the class or course of classes, and provided that such person's imbibing or tasting of such alcoholic beverages is only for instructional purposes. No alcoholic beverage shall be delivered, or shall be permitted to be delivered, to a person under twenty-one years of age during any class conducted under the authority of such permit, and the provisions of subdivision five of section sixty-five and paragraph (a) of subdivision two of section sixty-five-c of this chapter shall not apply to any delivery made during any class conducted under the authority of such permit. 2. Each such permit and the exercise of the privilege granted thereby may be subjected to such rules and conditions by the liquor authority as it deems necessary. 3. Each such permit shall be issued in such form as shall be prescribed by the liquor authority and shall be valid for one transaction only, except that a permit issued pursuant to paragraph b, c, e, j, or m of subdivision one of this section may be issued either for one transaction or for a calendar year. The liquor authority may, by rule, fix the quantity of alcoholic beverages to be involved in a single transaction under a permit issued pursuant to paragraph k of subdivision one of this section, but no single transaction so authorized shall involve more than twenty cases of alcoholic beverages. The fee for each such permit shall be fixed by the liquor authority, but shall not exceed ninety dollars for a permit valid for one transaction only nor two hundred fifty-six dollars for a permit issued for a calendar year.

Title: abc

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits99-D - Miscellaneous Fees.

2. Before any change in the members of a limited liability company or the transfer or assignment of a membership interest in a limited liability company or any corporate change in stockholders, stockholdings, alcoholic beverage officers, officers or directors, except officers and directors of a premises licensed as a club or a luncheon club under this chapter can be effectuated for the purposes of this chapter, there shall be filed with the liquor authority an application for permission to make such change and there shall be paid to the liquor authority in advance upon filing of the application a fee of one hundred twenty-eight dollars.(a) The provisions of this section shall not be applicable where there are ten or more stockholders and such change involves less than ten per centum of the stock of the corporation and the stock holdings of any stockholder are not increased thereby to ten per centum or more of the stock.(b) Where the same corporation operates two or more premises separately licensed under this chapter a separate corporate change shall be filed for each such licensed premises, except as otherwise provided for by rule of the liquor authority. The corporate change fee provided for herein shall not be applicable to more than one license held by the same corporation.(c) Notwithstanding any corporate change approved by the authority, a licensed corporation or limited liability company shall be bound by the representations set forth in the original application and any amendments thereto approved by the authority.3. Before any removal of a license to any premises other than the licensed premises or to any other part of the building containing the licensed premises, the licensee shall make an application to the liquor authority for permission to effect such removal and shall pay to the liquor authority in advance upon filing of the application a fee of one hundred ninety-two dollars where the base license fee is five hundred dollars or more and thirty-two dollars in all other instances.4. The liquor authority may make such rules as it deems necessary to carry out the provisions of this section. (a) The provisions of this section shall not be applicable where there are ten or more stockholders and such change involves less than ten per centum of the stock of the corporation and the stock holdings of any stockholder are not increased thereby to ten per centum or more of the stock. (b) Where the same corporation operates two or more premises separately licensed under this chapter a separate corporate change shall be filed for each such licensed premises, except as otherwise provided for by rule of the liquor authority. The corporate change fee provided for herein shall not be applicable to more than one license held by the same corporation. (c) Notwithstanding any corporate change approved by the authority, a licensed corporation or limited liability company shall be bound by the representations set forth in the original application and any amendments thereto approved by the authority. 3. Before any removal of a license to any premises other than the licensed premises or to any other part of the building containing the licensed premises, the licensee shall make an application to the liquor authority for permission to effect such removal and shall pay to the liquor authority in advance upon filing of the application a fee of one hundred ninety-two dollars where the base license fee is five hundred dollars or more and thirty-two dollars in all other instances. 4. The liquor authority may make such rules as it deems necessary to carry out the provisions of this section.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits99-E - Change in Duration of Permits.

§ 99-e. Change in duration of permits. The liquor authority is authorized to change the periods during which permits authorized by sections ninety-one, ninety-one-a, ninety-two, ninety-two-a, ninety-three, ninety-three-a, ninety-four, ninety-five, ninety-six, ninety-six-a and ninety-nine-b of this article, shall be effective and to establish the commencement dates, duration and expiration dates thereof, provided that no such permit shall be effective for a period in excess of three years. When any change or changes are made in the duration of any such permit, the permit fee shall be equal to the annual permit fee specified in this article multiplied by the number of years for which such permit is issued. Any other provision of any other law to the contrary notwithstanding, an applicant, other than a not-for-profit organization as defined in section one hundred seventy-nine-q of the state finance law, shall not be issued a temporary permit pursuant to section ninety-seven of this article for events to take place upon any premise for which the authority has issued any license, or has issued a permit more than four times within any one year period, provided however that the authority may, in its sole discretion, issue additional single permits if it shall determine upon the issuance of each that (a) the application for such permit is not an attempt to circumvent licensing provisions of this chapter, and (b) the issuance of such permit would not be a detriment to the community or the surrounding neighborhood as such shall be determined by the authority after consultation with municipal authorities and police agencies and community boards for the purpose of reviewing community or neighborhood or police agency complaints, or violations of state or local laws. The liquor authority may make such rules as shall be appropriate to carry out the purpose of this section.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits99-F - Special Permits for Minors to Entertain.

§ 99-f. Special permits for minors to entertain. The liquor authority is hereby authorized to issue special permits to any person under the age of eighteen years for the purpose of enabling such person to appear as an entertainer on any premises licensed for retail sale hereunder. The provisions of this section shall apply to persons under the age of eighteen years who are not otherwise eligible to act as an entertainer pursuant to the provisions of subdivision two-b of section one hundred of this chapter. Such special permit shall be issued, in the discretion of the authority, upon the application of such minor. No such special permit shall be granted unless the written consent of both parents or the lawful guardian or guardians of such minor shall appear upon such application. The liquor authority may require the personal appearance at an office of the authority of such applicant and his parents or legal guardians at the time such application is made or at any other time prior to the consideration of such application by the authority upon written notice

to the applicant and/or his parents or legal guardians. Such personal appearance, if requested, shall be for the purpose of enabling the authority to establish that the entertainment that the applicant is intending to perform is not contrary to the best interests of the minor. The liquor authority is hereby authorized and directed to promulgate rules and regulations for the orderly implementation and administration of the provisions of this section. Such rules and regulations shall provide for a reasonable limitation upon the types of entertainment for which an application for a special permit shall be granted and may provide for conditions or limitations which may be attached to the granting of such special permit. In addition to any conditions or limitations as may be so imposed, such rules or regulations shall impose as a condition for the granting of such special permit that a parent or legal guardian of the minor shall be present during such minor's appearance as an entertainer. Such special permit shall be subject to revocation, after a hearing upon a determination by the authority that the conditions or limitations attached upon such special permit have been violated. Such special permits shall be issued for limited periods not to exceed one year. The liquor authority may impose a fee for the issuance of such special permit. Such fee shall not exceed sixty-four dollars if issued for an annual period nor shall such fee exceed six dollars per month or any lesser period thereof for which a special permit has been issued. The liquor authority may waive such fee. The liquor authority shall revoke any special permit upon the written request of the parents or legal guardians of such minor.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits99-G - Sale of Privately Held Wines and Liquors.

(b) For purposes of this section, if wine is offered at an auction, "licensed person" means any person licensed under section sixty-three or seventy-nine of this chapter, if liquor is offered at an auction "licensed person" means any person licensed under section sixty-three of this chapter, and in any auction a "licensed person" shall have been so licensed for a period of ten years or more. 2. (a) The liquor authority is hereby authorized to issue a wine and liquor auction permit to a licensed person to conduct auctions of wines and/or liquors. The wine and liquor auction permit shall be in addition to any permit requirements imposed by local law, ordinance or resolution by any municipality in which the auctioneer seeks to operate. (b) A wine and liquor auction permit shall be issued for a calendar year. A wine and liquor auction permit shall allow the holder to conduct twenty-four auctions of wine and/or liquor during the period the wine and liquor auction permit shall be in effect. (c) The fee therefor shall be thirty-two hundred dollars for each year or part thereof. (d) The permit shall be in the form prescribed by the authority. 3. A person owning, controlling or possessing wines and/or liquors may ship the wines and/or liquors from within or without New York state to a wine and liquor auction permittee or licensee; provided that such permittee or licensee shall ensure that each bottle is labelled in accordance with the provisions of paragraph (a) of subdivision one of this section. Although the wines and/or liquors to be offered at auction may not be owned by a wine and liquor auction permittee, upon receipt of the wines and/or liquors the permittee shall be responsible for the storage and warehousing of the wines and/or liquors, as well as be responsible for the delivery of the wines and/or liquors to the purchasers at auction and shall be responsible for the payment of all applicable state and local taxes. 4. Notwithstanding any other provision of this chapter, any person authorized to sell wine at wholesale or retail may purchase any wine offered at an auction conducted pursuant to this section and may resell any wine so purchased in accordance with the terms of his or her license, and any person authorized to sell liquor at wholesale or retail may purchase any liquor offered at an auction conducted pursuant to this section and may resell any liquor so purchased in accordance with the terms of his license; provided that such licensee shall ensure that each bottle is labelled in accordance with the provisions of paragraph (a) of subdivision one of this section. 5. A wine and liquor auction permittee shall be permitted to hold wine tastings at an auction at which wine is offered, and to hold liquor tastings at an auction at which liquor is offered, on the premises of any location approved by the authority for conducting an auction. 6. A wine and liquor auction permittee shall be subject to all restrictions, regulations, and provisions heretofore set forth in the appropriate sections of this chapter governing the sale of wine or liquor for off-premises consumption, provided those provisions are not inconsistent with the provisions created pursuant to this section. 7. (a) Wine tastings which are conducted under this auspices of an official agent of a farm winery, winery, wholesaler or importer and where such agent is physically present at all times during the conduct of the tasting, then, in that event, any liability stemming from a right of action resulting from a wine tasting as authorized herein, and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the farm winery, winery, wholesaler, importer, or licensee. (b) Liquor tastings which are conducted under the auspices of an official agent of a distiller, wholesaler or importer and where such agent is physically present at all times during the conduct of the tasting, then, in that event, any liability stemming from a right of action resulting from a liquor tasting as authorized herein, and in accordance with the provisions of sections 11-100 and 11-101 of the general obligations law, shall accrue to the distiller, wholesaler, importer, or licensee. 8. The authority shall adopt any rules consistent with and in furtherance of the implementation of this section.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits99-H - Sunday On-Premises Sales Permit.

§ 99-h. Sunday on-premises sales permit. 1. A permit issued under this section shall authorize a person licensed to sell alcoholic beverages for consumption on the premises pursuant to this chapter to sell alcoholic beverages for on-premises consumption on Sunday between the hours of eight o'clock a.m. and ten o'clock a.m. 2. A permit under this section shall be issued for one calendar day. 3. The fee for such a permit shall be twenty-five dollars, together with a filing fee of ten dollars. 4. An applicant for a permit under this section shall provide notice to the local municipality of such application as provided in section one hundred ten-b of this chapter. 5. No more than twelve permits under this section may be issued to the same licensee in any calendar year. 6. A permit under this section shall not be available for any licensed premises located in a city with a population of one million or more. 7. Such permit and the exercise of the privileges granted thereunder shall be subject to such rules that the authority may deem necessary.

Title: abc

2024 New York LawsABC - Alcoholic Beverage ControlArticle 7 - Special Permits99 - Special Permit to Remain Open During Certain Hours of the Morning.

§ 99. Special permit to remain open during certain hours of the morning. 1. Any person licensed to sell alcoholic beverages for consumption on the premises pursuant to this chapter may apply to the liquor authority for a special permit to remain open on any week day between the hours of four o'clock a.m. or the closing hour prescribed by a rule adopted in a county on or before April first, nineteen hundred ninety-five or pursuant to subdivision eleven of section seventeen of this chapter, and eight o'clock a.m. The fee for such permit shall be fifty-one dollars per day. 2. The liquor authority may, in its discretion, issue to any such licensed person, whose premises are located within a trade area, a special permit to remain open during such hours of the morning on week-days. The fee for such permit shall be at the rate of two hundred fifty-six dollars per annum. 3. Such permits and the exercise of the privileges granted thereunder may be subjected by the liquor authority to such rules as it may deem necessary. 4. Notice of intent to apply for a permit pursuant to this section must be sent to the local police department or, if there is no local police department then to the county sheriff's office, and such notice must also be sent to the local community board.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions100 - Alcoholic Beverages Generally.

1-a. No person shall sell, offer for sale, or otherwise provide for the consumption of any powdered or crystalline alcoholic product. 2. No manufacturer and no wholesaler shall sell, or agree to sell or deliver in this state any alcoholic beverage for the purposes of resale to any person who is not duly licensed pursuant to this chapter to sell such beverages, at wholesale or retail, as the case may be, at the time of such agreement and sale. 2-a. No retailer shall employ, or permit to be employed, or shall suffer to work, on any premises licensed for retail sale hereunder, any person under the age of eighteen years, as a hostess, waitress, waiter, or in any other capacity where the duties of such person require or permit such person to sell, dispense or handle alcoholic beverages; except that: (1) any person under the age of eighteen years and employed by any person holding a grocery or drug store beer license shall be permitted to handle and deliver beer and wine products for such licensee, (2) any person under the age of eighteen employed as a cashier by a person holding a grocery or drug store beer license shall be permitted to record and receive payment for beer and wine product sales when in the presence of and under the direct supervision of a person eighteen years of age or over, (2-a) any person under the age of eighteen years and employed by a person holding a grocery store or drug store beer license as either a cashier or in any other position to which handling of containers which may have held alcoholic beverages is necessary, shall be permitted to handle the containers if such have been presented for redemption in accordance with the provisions of title ten of article twenty-seven of the environmental conservation law, and (3) any person under the age of eighteen years employed as a dishwasher, busboy, or other such position as to which handling of containers which may have held alcoholic beverages is necessary shall be permitted to do so under the direct supervision of a person of legal age to purchase alcoholic beverages in the state. 2-b. Subject to the provisions of section ninety-nine-f of this chapter no retailer shall permit or suffer to appear as an entertainer, on any premises licensed for retail sale hereunder, any person under the age of eighteen years, except that a person under the age of eighteen years may appear as such entertainer, provided that:(a) the parents or lawful guardian of such person expressly consent in writing to such appearance;(b) the appearance is for a special function, occasion, or event;(c) the appearance is approved by and made under the sponsorship of a primary or secondary school;(d) the appearance takes place in the presence and under the direct supervision of a teacher of such school; and(e) the appearance does not take place in a tavern. Failure to restrain such a person from so appearing shall be deemed to constitute permission.3. Nothing contained in this chapter shall be construed to require that any food be sold or purchased with or in order to obtain any alcoholic beverage for consumption on the premises where sold.4. Alcoholic beverages may be sold to be consumed on the premises at a bar, counter or similar contrivance. Only one such bar, counter or contrivance shall be permitted in any licensed premises, except that not more than two additional bars, counters or contrivances may be permitted by the liquor authority for good cause shown to it, and upon the payment to it of a fee, for each additional bar, equivalent to the amount of the annual license fee paid by the licensee or, in the case of an additional bar, counter or contrivance operated on a seasonal basis, a fee equivalent to the amount of the annual license fee paid by the licensee prorated for the number of months that the seasonal bar is in operation. Provided however that:(a) if the licensed premises is a legitimate theatre or concert hall, or contiguous to and used in conjunction with a legitimate theatre or concert hall, additional bars, counters or contrivances may be permitted by the liquor authority upon payment to it of an annual fee of one hundred dollars for each such additional bar, counter or contrivance so permitted, in addition to the annual license fee paid by such licensee;(b) if such licensed premises be located at a baseball park, race track, or either outdoor or indoor athletic field, facility, arena or stadium, additional bars, counters or contrivances where beer shall be sold at retail for consumption on the premises may be permitted by the liquor authority, upon payment to it of the annual fee of thirty dollars for each such additional bar, counter or contrivance so permitted, in addition to the amount of the annual license fee paid by the licensee; and(c) temporary portable bars, counters or contrivances shall be permitted in a ballroom, meeting room or private dining-room on the licensed premises of a hotel, restaurant or club during such time as said ballroom, meeting room or private dining-room is used for a private dinner, entertainment, meeting or similar affair to which members of the general public are not admitted.4-a. At race meetings, authorized by the state gaming commission, notwithstanding any inconsistent provision of law, additional bars, counters or contrivances where alcoholic beverages shall be sold at retail for consumption on the premises may be permitted by the liquor authority, upon payment to it of a fee equivalent to the amount of the annual or summer license fee paid by the licensee for each such additional bar, counter or contrivance so permitted in addition to the amount of the annual or summer

license fee paid by the licensee.4-b. Notwithstanding any inconsistent provision of law, for venues being operated or to be operated under a license to sell alcoholic beverages for consumption on the premises, and having a capacity for one thousand or more persons, the liquor authority may issue licenses for bars, counters, or similar contrivances in such numbers as the authority may determine in the exercise of its discretion.5. No retail licensee for off-premises consumption shall sell, deliver or give away, or cause, permit or procure to be sold, delivered or given away any alcoholic beverage, other than as provided herein, on credit: a retail licensee for off-premises consumption, except a winery licensee, may accept third party credit cards for the sale of any alcoholic beverage for which it is licensed; a winery licensee having the right to sell wine at retail for off-premises consumption may accept third party credit cards for the sale of said beverages at the winery premises only; and any person duly authorized to sell wine at retail for consumption off the premises may sell on credit to any regularly organized church, synagogue or religious organization, wines to be used for sacramental purposes only. For purposes of this subdivision, beer and wine products that are delivered and left at the residence of a consumer without payment of the balance due thereon shall not constitute a sale on credit.6. Notwithstanding any provision of law, rule or regulation to the contrary, a retail licensee for off-premises consumption may sell, deliver or give away, or cause, permit or procure to be sold, delivered or given away any alcoholic beverage on credit to a business or corporation, provided that the business or corporation is permitted to purchase from such retail licensee under this chapter. Such credit period shall not exceed thirty days.7. No licensee shall sell or purchase any receipts, certificates, contracts or other documents issued for the storage of alcoholic beverages except as provided by the rules of the liquor authority. The liquor authority shall prescribe such rules for the purchase and sale of such receipts, certificates, contracts or other documents issued for the storage of alcoholic beverages which, in its opinion, will best accomplish(1) Elimination of fraudulent and deceptive transactions;(2) Protection of purchasers against defaults by sellers;(3) The delivery of the alcoholic beverages represented by such receipts or documents, and(4) The payment of all taxes due thereon to the state.8. Within ten days after filing a new application to sell liquor at retail under section sixty-three of this chapter, a notice thereof, in the form prescribed by the authority, shall be posted by the applicant in a conspicuous place at the entrance to the proposed premises. The applicant shall make reasonable efforts to insure such notice shall remain posted throughout the pendency of the application. The provisions hereof shall apply only where no retail liquor license has previously been granted for the proposed premise and shall, specifically, not be applicable to a proposed sale of an existing business engaged in the retail sale of liquor. The authority may adopt such rules as it may deem necessary to carry out the purpose of this subdivision.9. (a) Within ten days after filing a new application or an application for renewal to sell liquor under section sixty-four, sixty-four-a, sixty-four-b, sixty-four-c, sixty-four-d or sixty-four-e of this chapter, a notice thereof shall be posted by the applicant in a conspicuous place at the entrance to the establishment or proposed establishment where it can be easily read by passers-by. Said notice shall be in a form prescribed by the authority, provided however that said notice shall be either printed or highlighted in a pink ink of a neon, luminous or fluorescent variety. The notice shall specify the application date, the type of license, any identifying number assigned by the authority, if available at the time of posting such notice, and how to contact the state liquor authority to give a response to the application. The applicant shall make reasonable efforts to insure such notice shall remain posted throughout the pendency of such application. Additionally, within ten days of the applicant's receipt of a written request from the authority, the applicant shall re-post such notice. The authority may adopt such rules as it may deem necessary to carry out the purpose of this paragraph.(b) Within ten days of the applicant's receipt of written notice of a hearing scheduled pursuant to section sixty-four, sixty-four-a or sixty-four-c of this chapter, the applicant shall post a copy of such notice in a conspicuous place at the entrance to the establishment or proposed establishment where it can be easily read by passers-by. This notice shall include in clear and concise language a statement of the use and capacity of the establishment. The applicant shall make reasonable efforts to insure such notice shall remain posted until the date of the hearing or public meeting specified in such notice. Additionally, within ten days of the applicant's receipt of a written request from the authority, the applicant shall re-post such notice. The authority may adopt such rules as it may deem necessary to carry out the purpose of this paragraph. (a) the parents or lawful guardian of such person expressly consent in writing to such appearance; (b) the appearance is for a special function, occasion, or event; (c) the appearance is approved by and made under the sponsorship of a primary or secondary school; (d) the appearance takes place in the presence and under the direct supervision of a teacher of such school; and (e) the appearance does not take place in a tavern. Failure to restrain such a person from so appearing shall be deemed to constitute permission. 3. Nothing contained in this chapter shall be construed to require that any food be sold or purchased with or in order to obtain any alcoholic beverage for consumption on the premises where sold. 4. Alcoholic beverages may be sold to be consumed on the premises at a bar, counter or similar contrivance. Only one such bar, counter or contrivance shall be permitted in any licensed premises, except that not more than two additional bars, counters or contrivances may be permitted by the liquor authority for good cause shown to it, and upon the payment to it of a fee, for each additional bar, equivalent to the amount of the annual license fee paid by the licensee or, in the case of an additional bar, counter or contrivance operated on a seasonal basis, a fee equivalent to the amount of the annual license fee paid by the licensee prorated for the number of months that the seasonal bar is in operation. Provided however that: (a) if the licensed premises is a legitimate theatre or concert hall, or contiguous to and used in conjunction with a legitimate theatre or concert hall, additional bars, counters or contrivances may be permitted by the liquor authority upon payment to it of an annual fee of one hundred dollars for each such additional bar, counter or contrivance so permitted, in addition to the annual license fee paid by such licensee; (b) if such licensed premises be located at a baseball park, race track, or either outdoor or indoor athletic field, facility, arena or stadium, additional bars, counters or contrivances where beer shall be sold at retail for consumption on the premises may be permitted by the liquor authority, upon payment to it of the annual fee of thirty dollars for each such additional bar, counter or contrivance so permitted, in addition to the amount of the annual license fee paid by the licensee; and (c) temporary portable bars, counters or contrivances shall be

permitted in a ballroom, meeting room or private dining-room on the licensed premises of a hotel, restaurant or club during such time as said ballroom, meeting room or private dining-room is used for a private dinner, entertainment, meeting or similar affair to which members of the general public are not admitted. 4-a. At race meetings, authorized by the state gaming commission, notwithstanding any inconsistent provision of law, additional bars, counters or contrivances where alcoholic beverages shall be sold at retail for consumption on the premises may be permitted by the liquor authority, upon payment to it of a fee equivalent to the amount of the annual or summer license fee paid by the licensee for each such additional bar, counter or contrivance so permitted in addition to the amount of the annual or summer license fee paid by the licensee. 4-b. Notwithstanding any inconsistent provision of law, for venues being operated or to be operated under a license to sell alcoholic beverages for consumption on the premises, and having a capacity for one thousand or more persons, the liquor authority may issue licenses for bars, counters, or similar contrivances in such numbers as the authority may determine in the exercise of its discretion. 5. No retail licensee for off-premises consumption shall sell, deliver or give away, or cause, permit or procure to be sold, delivered or given away any alcoholic beverage, other than as provided herein, on credit: a retail licensee for off-premises consumption, except a winery licensee, may accept third party credit cards for the sale of any alcoholic beverage for which it is licensed; a winery licensee having the right to sell wine at retail for off-premises consumption may accept third party credit cards for the sale of said beverages at the winery premises only; and any person duly authorized to sell wine at retail for consumption off the premises may sell on credit to any regularly organized church, synagogue or religious organization, wines to be used for sacramental purposes only. For purposes of this subdivision, beer and wine products that are delivered and left at the residence of a consumer without payment of the balance due thereon shall not constitute a sale on credit. 6. Notwithstanding any provision of law, rule or regulation to the contrary, a retail licensee for off-premises consumption may sell, deliver or give away, or cause, permit or procure to be sold, delivered or given away any alcoholic beverage on credit to a business or corporation, provided that the business or corporation is permitted to purchase from such retail licensee under this chapter. Such credit period shall not exceed thirty days. 7. No licensee shall sell or purchase any receipts, certificates, contracts or other documents issued for the storage of alcoholic beverages except as provided by the rules of the liquor authority. The liquor authority shall prescribe such rules for the purchase and sale of such receipts, certificates, contracts or other documents issued for the storage of alcoholic beverages which, in its opinion, will best accomplish (1) Elimination of fraudulent and deceptive transactions; (2) Protection of purchasers against defaults by sellers; (3) The delivery of the alcoholic beverages represented by such receipts or documents, and (4) The payment of all taxes due thereon to the state. 8. Within ten days after filing a new application to sell liquor at retail under section sixty-three of this chapter, a notice thereof, in the form prescribed by the authority, shall be posted by the applicant in a conspicuous place at the entrance to the proposed premises. The applicant shall make reasonable efforts to insure such notice shall remain posted throughout the pendency of the application. The provisions hereof shall apply only where no retail liquor license has previously been granted for the proposed premise and shall, specifically, not be applicable to a proposed sale of an existing business engaged in the retail sale of liquor. The authority may adopt such rules as it may deem necessary to carry out the purpose of this subdivision. 9. (a) Within ten days after filing a new application or an application for renewal to sell liquor under section sixty-four, sixty-four-a, sixty-four-b, sixty-four-c, sixty-four-d or sixty-four-e of this chapter, a notice thereof shall be posted by the applicant in a conspicuous place at the entrance to the establishment or proposed establishment where it can be easily read by passers-by. Said notice shall be in a form prescribed by the authority, provided however that said notice shall be either printed or highlighted in a pink ink of a neon, luminous or fluorescent variety. The notice shall specify the application date, the type of license, any identifying number assigned by the authority, if available at the time of posting such notice, and how to contact the state liquor authority to give a response to the application. The applicant shall make reasonable efforts to insure such notice shall remain posted throughout the pendency of such application. Additionally, within ten days of the applicant's receipt of a written request from the authority, the applicant shall re-post such notice. The authority may adopt such rules as it may deem necessary to carry out the purpose of this paragraph. (b) Within ten days of the applicant's receipt of written notice of a hearing scheduled pursuant to section sixty-four, sixty-four-a or sixty-four-c of this chapter, the applicant shall post a copy of such notice in a conspicuous place at the entrance to the establishment or proposed establishment where it can be easily read by passers-by. This notice shall include in clear and concise language a statement of the use and capacity of the establishment. The applicant shall make reasonable efforts to insure such notice shall remain posted until the date of the hearing or public meeting specified in such notice. Additionally, within ten days of the applicant's receipt of a written request from the authority, the applicant shall re-post such notice. The authority may adopt such rules as it may deem necessary to carry out the purpose of this paragraph.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions101-AA - Terms of Sale.

a. "Credit period" means a period beginning on the date alcoholic beverages are delivered and ending thirty days thereafter. b. "payment period" means the period beginning on the date alcoholic beverages are delivered and ending on the thirtieth day following the date on which alcoholic beverages are delivered. c. "Final payment date" means the last day of a payment period. d. "Notification date" means, notwithstanding section twenty-five of the general construction law, for deliveries on:(i) Monday, the Monday immediately following a final payment date;(ii) Tuesday, the Tuesday immediately following the final payment date;(iii) Wednesday, the Wednesday immediately following the final payment date;(iv) Thursday, the Thursday immediately following the final payment date;(v) Friday, the Friday immediately following the final payment date.e. "Retail licensee" means a person licensed to sell liquor and/or wine at retail for on-premise consumption or for off-premise consumption (including a person holding a permit granted by the authority pursuant to subdivision six of section sixty-four of this chapter).f. "Cash" means and includes currency and coin of the United States of America, certified check, money order, electronic funds transfer, bank officer's check or draft, or a

check drawn on the account of the retail licensee payable to the manufacturer or wholesaler and dated no later than the date of delivery of the alcoholic beverages and which is honored upon presentment for payment, provided, however, that if any check or other instrument described herein tendered by a retail licensee on the delinquent list is not honored upon presentment for payment, the license of such retail licensee may be suspended for not more than fifteen days for the first offense, and not more than sixty days for a subsequent offense, which penalty shall be in addition to the penalty provided for by the provisions of subdivision six of this section, and provided further, that nothing herein contained shall require a manufacturer or wholesaler to accept a check tendered by or drawn on the account of a retail licensee on the delinquent list unless the same has been certified.2. No manufacturer or wholesaler licensed under this chapter shall sell or deliver any liquor or wine to any retail licensee except as provided for in this section:(a) for cash to be paid at the time of delivery; or(b) on terms requiring payment by such retail licensee for such alcoholic beverages on or before the final payment date of the credit period for which delivery is made.3. Each such manufacturer and wholesaler is hereby required, on or before the respective notification dates for each retail license, to give written notice of default, by first class mail, to all such licensees therein who have failed to make payment to him or her on or before their final payment date for alcoholic beverages sold or delivered to them during a credit period ending on their final payment date. No retail licensee shall be placed in default if the wholesaler has issued an account credit to the licensee, which after application to all debts owed by the retail licensee, is equal to or greater than the amount of the default. Any such retail licensee receiving such notice shall not thereafter purchase alcoholic beverages except for cash until such time as the authority determines that his or her name shall not be published on the delinquent list as provided in subdivision four of this section, or until such time as the authority permits sales or deliveries to him or her as provided in subdivision five of this section. Each such manufacturer and wholesaler is hereby required to file with the authority, on or before each notification date, copies of the notices sent by him or her to all delinquent retail licensees as required in this subdivision, and in addition, if the authority shall so require, a written list setting forth the names and addresses of all such delinquent licensees. The authority, in its discretion, may extend for a period not exceeding three days the date for giving written notice of default to delinquent retail licensees and extend for three days the date for filing with the authority the copies of notices sent to such licensees and/or the written list of delinquent retail licensees as required in this subdivision. The authority, in its discretion, may limit the documents to be filed to those relating to licensees who are to be added or deleted from the default list and direct that the manufacturer or wholesaler maintain copies of all other documents required under this section for future inspection by the authority. The authority shall, as soon as practicable after each notification date, compile and publish and furnish each manufacturer and wholesaler licensed under this chapter a list, to be designated the delinquent list containing the names and addresses of all retail licensees who have been reported by manufacturers and wholesalers pursuant to the provisions of this section or section one hundred one-aaa of this article as having failed to make payment as required by this section for alcoholic beverages sold or delivered to them, and no such manufacturer or wholesaler, on or after the fifth day after the receipt of such delinquent list, shall knowingly, wilfully or intentionally sell or deliver any alcoholic beverages to any such licensee whose name appears on such list, except for cash, until such time as the name of such licensee is removed therefrom, except as hereinafter permitted. The receipt of a delinquent list by a manufacturer or wholesaler shall constitute knowledge of the names of the retail licensees who have failed to make payment for alcoholic beverages as required by this section. The failure of any manufacturer or wholesaler to comply with the foregoing provisions of this section may, at the discretion of the authority, subject the license of such manufacturer or wholesaler to suspension for not more than five days for the first offense, and not more than thirty days for a subsequent offense. The authority may publish the delinquent list on its website; provided, however, that full access shall be restricted to those manufacturers and wholesalers licensed under this chapter and access to their specific status shall be provided to retailers licensed under this chapter. Such publication shall be considered receipt thereof by all manufacturers and wholesalers.4. In the event that any dispute shall exist between any manufacturer or wholesaler and a retail licensee to whom he shall have sold alcoholic beverages, either as to the fact of payment or as to the amount due for such alcoholic beverages or as to the quantity of the alcoholic beverages sold or delivered, which dispute cannot be adjusted between them, the authority is hereby authorized to receive statements from each of the parties to such dispute as to the facts and circumstances thereof and to determine whether or not such retail licensee's name should be published on the appropriate delinquent list.5. The authority in the case of a retail licensee who has actually made payment for alcoholic beverages, or on good cause shown to it, may permit sales or deliveries to any retail licensee who has received notice of default or who is named on any delinquent list, on terms other than for cash, but within the limitations of this section, prior to the publication of the next appropriate delinquent list.6. The license of any retail licensee who purchases or accepts delivery of alcoholic beverages on any terms, other than as provided in this section, may be suspended for not more than five days for the first offense and not more than thirty days for a subsequent offense. The failure of any such retail licensee to pay any amount in default before the expiration of the period of suspension shall be deemed and punishable as a subsequent offense until paid. In addition, the authority may require any such retail licensee, after default in making payment in accordance with the provisions of this section to make payment in cash for alcoholic beverages subsequently delivered.7. a. All retail licensees who fail to pay manufacturers or wholesalers for alcoholic beverages sold or delivered to such retail licensees by such manufacturers or wholesalers subsequent to the effective date of this section, shall liquidate and pay such unpaid balances to such manufacturers or wholesalers in equal monthly installments over a period of three months from the date upon which such unpaid balances become due. The authority, shall not, however, because of such an indebtedness or failure to pay such refuse to renew the license of any such licensee.b. All retail licensees shall, on or before October tenth, nineteen hundred sixty-five, make payment in full to manufacturers and wholesalers of all unpaid balances for alcoholic beverages sold and delivered to such licensees during the month of September, nineteen hundred sixty-five. All retail licensees in groups two, three, four and one shall, on or before November tenth, nineteen hundred sixty-five,

make payment in full to manufacturers and wholesalers of all unpaid balances for alcoholic beverages sold and delivered between October first and October seventh, fourteenth, twenty-first and thirty-first, nineteen hundred sixty-five, respectively. The authority may impose any penalty or condition otherwise authorized by this section in the case of any such retail licensee who fails or refuses to liquidate and pay unpaid balance becoming due under this subdivision.8. Nothing herein contained shall be construed to require any manufacturer or wholesaler to extend credit to any retail licensee nor to restrain any manufacturer or wholesaler from seeking to enforce by legal action or otherwise, payment of any sum or sums of money due or alleged to be due to any such manufacturer or wholesaler for alcoholic beverages sold or delivered to any such retail licensee.9. The state liquor authority is hereby authorized to do such acts, prescribe such forms and make such rules, regulations and orders as it may deem necessary or proper fully to effectuate the provisions of this section, including but not limited to the changing of any date on which any act or function pursuant to this section is to be performed by any licensee or by the liquor authority.10. For the purpose of raising the moneys necessary to defray the expenses incurred in the administration of this section, on or before the tenth day after this section becomes a law, there shall be paid to the liquor authority by each manufacturer and wholesaler licensed under this chapter to sell to retailers liquor and/or wines or beer, a sum equivalent to ten per centum of the annual license fee prescribed by this chapter for each such licensee. A like sum shall be paid by each person hereafter applying for any such license or the renewal of any such license, and such sum shall accompany the application and the license fee prescribed by this chapter for such license or renewal, as the case may be. (i) Monday, the Monday immediately following a final payment date; (ii) Tuesday, the Tuesday immediately following the final payment date; (iii) Wednesday, the Wednesday immediately following the final payment date; (iv) Thursday, the Thursday immediately following the final payment date; (v) Friday, the Friday immediately following the final payment date. e. "Retail licensee" means a person licensed to sell liquor and/or wine at retail for on-premise consumption or for off-premise consumption (including a person holding a permit granted by the authority pursuant to subdivision six of section sixty-four of this chapter). f. "Cash" means and includes currency and coin of the United States of America, certified check, money order, electronic funds transfer, bank officer's check or draft, or a check drawn on the account of the retail licensee payable to the manufacturer or wholesaler and dated no later than the date of delivery of the alcoholic beverages and which is honored upon presentment for payment, provided, however, that if any check or other instrument described herein tendered by a retail licensee on the delinquent list is not honored upon presentment for payment, the license of such retail licensee may be suspended for not more than fifteen days for the first offense, and not more than sixty days for a subsequent offense, which penalty shall be in addition to the penalty provided for by the provisions of subdivision six of this section, and provided further, that nothing herein contained shall require a manufacturer or wholesaler to accept a check tendered by or drawn on the account of a retail licensee on the delinquent list unless the same has been certified. 2. No manufacturer or wholesaler licensed under this chapter shall sell or deliver any liquor or wine to any retail licensee except as provided for in this section: (a) for cash to be paid at the time of delivery; or (b) on terms requiring payment by such retail licensee for such alcoholic beverages on or before the final payment date of the credit period for which delivery is made. 3. Each such manufacturer and wholesaler is hereby required, on or before the respective notification dates for each retail license, to give written notice of default, by first class mail, to all such licensees therein who have failed to make payment to him or her on or before their final payment date for alcoholic beverages sold or delivered to them during a credit period ending on their final payment date. No retail licensee shall be placed in default if the wholesaler has issued an account credit to the licensee, which after application to all debts owed by the retail licensee, is equal to or greater than the amount of the default. Any such retail licensee receiving such notice shall not thereafter purchase alcoholic beverages except for cash until such time as the authority determines that his or her name shall not be published on the delinquent list as provided in subdivision four of this section, or until such time as the authority permits sales or deliveries to him or her as provided in subdivision five of this section. Each such manufacturer and wholesaler is hereby required to file with the authority, on or before each notification date, copies of the notices sent by him or her to all delinquent retail licensees as required in this subdivision, and in addition, if the authority shall so require, a written list setting forth the names and addresses of all such delinquent licensees. The authority, in its discretion, may extend for a period not exceeding three days the date for giving written notice of default to delinquent retail licensees and extend for three days the date for filing with the authority the copies of notices sent to such licensees and/or the written list of delinquent retail licensees as required in this subdivision. The authority, in its discretion, may limit the documents to be filed to those relating to licensees who are to be added or deleted from the default list and direct that the manufacturer or wholesaler maintain copies of all other documents required under this section for future inspection by the authority. The authority shall, as soon as practicable after each notification date, compile and publish and furnish each manufacturer and wholesaler licensed under this chapter a list, to be designated the delinquent list containing the names and addresses of all retail licensees who have been reported by manufacturers and wholesalers pursuant to the provisions of this section or section one hundred one-aaa of this article as having failed to make payment as required by this section for alcoholic beverages sold or delivered to them, and no such manufacturer or wholesaler, on or after the fifth day after the receipt of such delinquent list, shall knowingly, wilfully or intentionally sell or deliver any alcoholic beverages to any such licensee whose name appears on such list, except for cash, until such time as the name of such licensee is removed therefrom, except as hereinafter permitted. The receipt of a delinquent list by a manufacturer or wholesaler shall constitute knowledge of the names of the retail licensees who have failed to make payment for alcoholic beverages as required by this section. The failure of any manufacturer or wholesaler to comply with the foregoing provisions of this section may, at the discretion of the authority, subject the license of such manufacturer or wholesaler to suspension for not more than five days for the first offense, and not more than thirty days for a subsequent offense. The authority may publish the delinquent list on its website; provided, however, that full access shall be restricted to those manufacturers and wholesalers licensed under this chapter and access to their specific status shall be provided to retailers licensed under this chapter.

Such publication shall be considered receipt thereof by all manufacturers and wholesalers. 4. In the event that any dispute shall exist between any manufacturer or wholesaler and a retail licensee to whom he shall have sold alcoholic beverages, either as to the fact of payment or as to the amount due for such alcoholic beverages or as to the quantity of the alcoholic beverages sold or delivered, which dispute cannot be adjusted between them, the authority is hereby authorized to receive statements from each of the parties to such dispute as to the facts and circumstances thereof and to determine whether or not such retail licensee's name should be published on the appropriate delinquent list. 5. The authority in the case of a retail licensee who has actually made payment for alcoholic beverages, or on good cause shown to it, may permit sales or deliveries to any retail licensee who has received notice of default or who is named on any delinquent list, on terms other than for cash, but within the limitations of this section, prior to the publication of the next appropriate delinquent list. 6. The license of any retail licensee who purchases or accepts delivery of alcoholic beverages on any terms, other than as provided in this section, may be suspended for not more than five days for the first offense and not more than thirty days for a subsequent offense. The failure of any such retail licensee to pay any amount in default before the expiration of the period of suspension shall be deemed and punishable as a subsequent offense until paid. In addition, the authority may require any such retail licensee, after default in making payment in accordance with the provisions of this section to make payment in cash for alcoholic beverages subsequently delivered. 7. a. All retail licensees who fail to pay manufacturers or wholesalers for alcoholic beverages sold or delivered to such retail licensees by such manufacturers or wholesalers subsequent to the effective date of this section, shall liquidate and pay such unpaid balances to such manufacturers or wholesalers in equal monthly installments over a period of three months from the date upon which such unpaid balances become due. The authority, shall not, however, because of such an indebtedness or failure to pay such refuse to renew the license of any such licensee. b. All retail licensees shall, on or before October tenth, nineteen hundred sixty-five, make payment in full to manufacturers and wholesalers of all unpaid balances for alcoholic beverages sold and delivered to such licensees during the month of September, nineteen hundred sixty-five. All retail licensees in groups two, three, four and one shall, on or before November tenth, nineteen hundred sixty-five, make payment in full to manufacturers and wholesalers of all unpaid balances for alcoholic beverages sold and delivered between October first and October seventh, fourteenth, twenty-first and thirty-first, nineteen hundred sixty-five, respectively. The authority may impose any penalty or condition otherwise authorized by this section in the case of any such retail licensee who fails or refuses to liquidate and pay unpaid balance becoming due under this subdivision. 8. Nothing herein contained shall be construed to require any manufacturer or wholesaler to extend credit to any retail licensee nor to restrain any manufacturer or wholesaler from seeking to enforce by legal action or otherwise, payment of any sum or sums of money due or alleged to be due to any such manufacturer or wholesaler for alcoholic beverages sold or delivered to any such retail licensee. 9. The state liquor authority is hereby authorized to do such acts, prescribe such forms and make such rules, regulations and orders as it may deem necessary or proper fully to effectuate the provisions of this section, including but not limited to the changing of any date on which any act or function pursuant to this section is to be performed by any licensee or by the liquor authority. 10. For the purpose of raising the moneys necessary to defray the expenses incurred in the administration of this section, on or before the tenth day after this section becomes a law, there shall be paid to the liquor authority by each manufacturer and wholesaler licensed under this chapter to sell to retailers liquor and/or wines or beer, a sum equivalent to ten per centum of the annual license fee prescribed by this chapter for each such licensee. A like sum shall be paid by each person hereafter applying for any such license or the renewal of any such license, and such sum shall accompany the application and the license fee prescribed by this chapter for such license or renewal, as the case may be.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions101-AAA - Terms of Sale; Beer or Wine Products.

a. "Credit period" means the following:(1) A period beginning on Thursday, January first, two thousand four and ending on Sunday, January eighteenth, two thousand four; and(2) A period beginning on the first Monday succeeding the concluding day of each prior period and ending on the second succeeding Sunday thereafter.b. "Payment period" means the period ending on the twelfth day immediately following the last day of any credit period.c. "Final payment date" means the last day of a payment period.d. "Delinquent notice date" means the third business day immediately following a final payment date.e. "Notification date" means the day immediately following a delinquent notice date.f. "Retail licensee" means a person licensed pursuant to this chapter who purchases beer and/or wine products for resale for on or off premises consumption, except a person licensed to sell liquor and/or wine for off premises consumption.g. "Cash" means and includes currency and coin of the United States of America, certified check, money order, electronic funds transfer, bank officer's check or draft, or a check drawn on the account of the retail licensee payable to the manufacturer or wholesaler and dated no later than the date of delivery of the alcoholic beverages and which is honored upon presentment for payment; provided, however, that if any check or other instrument described in this paragraph tendered by a retail licensee on the delinquent list is not honored upon presentment for payment, the license of such retail licensee may be suspended for not more than fifteen days for the first offense, and not more than sixty days for a subsequent offense, which penalty shall be in addition to the penalty provided for by the provisions of subdivision six of this section, and provided further, that nothing in this section shall require a manufacturer or wholesaler to accept a check tendered by or drawn on the account of a retail licensee on the delinquent list unless the same has been certified.h. "Business payment card" means: (1) any credit card issued to a retail licensee for business or commercial use pursuant to an agreement that allows the holder thereof to obtain goods and services on the credit of the issuer or a debit card that provides access to a bank account of a retail licensee; (2) a credit or debit card from an issuer accepted by the manufacturer or wholesaler as permitted by the authority in regulation; and (3) such credit card shall not include cards in which a manufacturer or wholesaler has a financial interest or cards by which their use benefits a manufacturer or wholesaler. Such card

must be issued in the same name as a retail licensee and registered to the same address as the address on the retail license, or as otherwise permitted by the authority in regulation.i. "Final cash invoice amount" means the amount charged by a manufacturer or wholesaler to a retail licensee pursuant to paragraphs (a) and (b) of subdivision two of this section.j. "Final business payment card invoice amount" means the amount charged by a manufacturer or wholesaler to a retail licensee pursuant to paragraph (c) of subdivision two of this section; and shall equal the final cash invoice amount plus three percent of the final cash invoice amount. The three percent represents the surcharges and fees that are charged to the manufacturer or wholesaler by the business payment card issuer or a person or entity associated with the issuer.2. No manufacturer or wholesaler licensed under this chapter shall sell or deliver any beer, mead, cider or wine products to any retail licensee except as provided for in this section:(a) for cash to be paid at the time of delivery;(b) on terms requiring payment by such retail licensee for such beer, mead, cider, or wine products on or before the final payment date of any credit period within which delivery is made; or(c) by business payment card; provided that a manufacturer or wholesaler that exercises reasonable diligence to ensure the sale comports with the requirements of this section shall not be found to have violated this subdivision where a retail licensee uses a credit card other than a business payment card.Provided, however, that the sale of wine products, mead, or cider to a retail licensee by a wholesaler licensed under section fifty-eight, sixty-two, or seventy-eight of this chapter, or a licensed manufacturer of liquor, mead or wine or a cider producer's license, shall be governed by the provisions of section one hundred-one-aa of this article.2-a. A manufacturer or wholesaler that accepts business payment cards shall clearly state the final cash invoice amount and the final business payment card invoice amount on an invoice provided to a retail licensee. Nothing in this section shall preclude, or permit a manufacturer or wholesaler to prevent, a retail licensee that receives such an invoice from electing to use any other form of payment method permitted pursuant to subdivision two of this section following receipt of such invoice.2-b. Nothing herein contained shall be construed to require any manufacturer or wholesaler to accept business payment cards as a method of payment by any retail licensee, provided that if such payment method is made available it shall be available on equal terms to all retail licensees.3. Each such manufacturer and wholesaler shall, on or before the respective delinquent notice date, give written notice of default, by first class mail, to all such licensees who have failed to make payment to the manufacturer or wholesaler on or before their final payment date for beer or wine products sold or delivered to such licensees during the previous credit period. Any such retail licensee receiving such notice shall not thereafter purchase beer or wine products except for cash until such time as the authority determines that its name shall not be published on the delinquent list as provided in this subdivision, or until such time as the authority permits sales or deliveries to such licensee as provided in subdivision five of this section. Each such manufacturer and wholesaler shall file with the authority, on or before each notification date, copies of the notices sent by it to all delinquent retail licensees, and in addition, if the authority shall so require, a written list setting forth the names and addresses of all such delinquent licensees. The authority, in its discretion, may extend for a period not exceeding three days the date for giving written notice of default to delinquent retail licensees and extend for three days the date for filing with the authority the copies of notices sent to such licensees and/or the written list of delinquent retail licensees. The authority shall, as soon as practicable after each notification date, compile, publish, and furnish each manufacturer and wholesaler licensed under this chapter a delinquent list containing the names and addresses of all retail licensees who have been reported by manufacturers and wholesalers pursuant to the provisions of this section or section one hundred one-aa of this article as having failed to make payment as required by this section or section one hundred one-aa of this article for beer or wine products sold or delivered to them, and no such manufacturer or wholesaler, on or after the fifth day after the receipt of such delinquent list, shall knowingly, wilfully or intentionally sell or deliver any beer or wine products to any such licensee whose name appears on such list, except for cash, until such time as the name of such licensee is removed therefrom, except as otherwise permitted by this section. The receipt of a delinquent list by a manufacturer or wholesaler shall constitute knowledge of the names of the retail licensees who have failed to make payment for beer or wine products as required by this section. The failure of any manufacturer or wholesaler to comply with the provisions of this section may, at the discretion of the authority, subject the license of such manufacturer or wholesaler to suspension for not more than five days for the first offense, and not more than thirty days for a subsequent offense. The authority may publish the delinquent list on its website; provided, however, that access shall be restricted to those manufacturers and wholesalers licensed under this chapter. Such publication shall be considered receipt thereof by all manufacturers and wholesalers.4. In the event that any dispute shall exist between any manufacturer or wholesaler and a retail licensee to whom such manufacturer or wholesaler shall have sold beer or wine products, either as to the fact of payment or as to the amount due for such beer or wine products or as to the quantity of the beer or wine products sold or delivered, which dispute cannot be adjusted between them, the authority is authorized to receive statements from each of the parties to such dispute as to the facts and circumstances thereof and to determine whether or not such retail licensee's name should be published on the delinquent list.5. The authority in the case of a retail licensee who has actually made payment for beer or wine products, or on good cause shown to it, may permit sales or deliveries to any retial licensee who has received notice of default or who is named on any delinquent list, on terms other than for cash, but within the limitations of this section, prior to the publication of the next delinquent list.6. The license of any retail licensee who purchases or accepts delivery of beer or wine products on any terms, other than as provided in this section, may be suspended for not more than five days for the first offense and not more than thirty days for a subsequent offense. The failure of any such retail licensee to pay any amount in default before the expiration of the period of suspension shall be deemed and punishable as a subsequent offense until paid. In addition, the authority may require any such retail licensee, after default in making payment in accordance with the provisions of this section to make payment in cash for beer or wine products subsequently delivered.7. Nothing contained in this section shall be construed to require any manufacturer or wholesaler to extend credit to any retail licensee nor to restrain any manufacturer or wholesaler from seeking to enforce by legal action or otherwise, payment of any

sum or sums of money due or alleged to be due to any such manufacturer or wholesaler for beer or wine products sold or delivered to any such retail licensee.8. There shall be paid to the liquor authority by each person applying after the effective date of this section for any license to sell beer or wine products to retailers or upon the renewal of such license, a sum equivalent to ten per centum of the annual license fee prescribed by this chapter for each such licensee. Such moneys shall be used by the authority to defray the expenses incurred in the administration of this section.9. Notwithstanding the law in effect at the time of the sale, the final payment date for beer and/or wine products sold prior to the effective date of this section for which payment has not been made shall be the first final payment date as determined by the provisions of this section. (1) A period beginning on Thursday, January first, two thousand four and ending on Sunday, January eighteenth, two thousand four; and (2) A period beginning on the first Monday succeeding the concluding day of each prior period and ending on the second succeeding Sunday thereafter. b. "Payment period" means the period ending on the twelfth day immediately following the last day of any credit period. c. "Final payment date" means the last day of a payment period. d. "Delinquent notice date" means the third business day immediately following a final payment date. e. "Notification date" means the day immediately following a delinquent notice date. f. "Retail licensee" means a person licensed pursuant to this chapter who purchases beer and/or wine products for resale for on or off premises consumption, except a person licensed to sell liquor and/or wine for off premises consumption. g. "Cash" means and includes currency and coin of the United States of America, certified check, money order, electronic funds transfer, bank officer's check or draft, or a check drawn on the account of the retail licensee payable to the manufacturer or wholesaler and dated no later than the date of delivery of the alcoholic beverages and which is honored upon presentment for payment; provided, however, that if any check or other instrument described in this paragraph tendered by a retail licensee on the delinquent list is not honored upon presentment for payment, the license of such retail licensee may be suspended for not more than fifteen days for the first offense, and not more than sixty days for a subsequent offense, which penalty shall be in addition to the penalty provided for by the provisions of subdivision six of this section, and provided further, that nothing in this section shall require a manufacturer or wholesaler to accept a check tendered by or drawn on the account of a retail licensee on the delinquent list unless the same has been certified. h. "Business payment card" means: (1) any credit card issued to a retail licensee for business or commercial use pursuant to an agreement that allows the holder thereof to obtain goods and services on the credit of the issuer or a debit card that provides access to a bank account of a retail licensee; (2) a credit or debit card from an issuer accepted by the manufacturer or wholesaler as permitted by the authority in regulation; and (3) such credit card shall not include cards in which a manufacturer or wholesaler has a financial interest or cards by which their use benefits a manufacturer or wholesaler. Such card must be issued in the same name as a retail licensee and registered to the same address as the address on the retail license, or as otherwise permitted by the authority in regulation. i. "Final cash invoice amount" means the amount charged by a manufacturer or wholesaler to a retail licensee pursuant to paragraphs (a) and (b) of subdivision two of this section. j. "Final business payment card invoice amount" means the amount charged by a manufacturer or wholesaler to a retail licensee pursuant to paragraph (c) of subdivision two of this section; and shall equal the final cash invoice amount plus three percent of the final cash invoice amount. The three percent represents the surcharges and fees that are charged to the manufacturer or wholesaler by the business payment card issuer or a person or entity associated with the issuer. 2. No manufacturer or wholesaler licensed under this chapter shall sell or deliver any beer, mead, cider or wine products to any retail licensee except as provided for in this section: (a) for cash to be paid at the time of delivery; (b) on terms requiring payment by such retail licensee for such beer, mead, cider, or wine products on or before the final payment date of any credit period within which delivery is made; or (c) by business payment card; provided that a manufacturer or wholesaler that exercises reasonable diligence to ensure the sale comports with the requirements of this section shall not be found to have violated this subdivision where a retail licensee uses a credit card other than a business payment card. Provided, however, that the sale of wine products, mead, or cider to a retail licensee by a wholesaler licensed under section fifty-eight, sixty-two, or seventy-eight of this chapter, or a licensed manufacturer of liquor, mead or wine or a cider producer's license, shall be governed by the provisions of section one hundred-one-aa of this article. 2-a. A manufacturer or wholesaler that accepts business payment cards shall clearly state the final cash invoice amount and the final business payment card invoice amount on an invoice provided to a retail licensee. Nothing in this section shall preclude, or permit a manufacturer or wholesaler to prevent, a retail licensee that receives such an invoice from electing to use any other form of payment method permitted pursuant to subdivision two of this section following receipt of such invoice. 2-b. Nothing herein contained shall be construed to require any manufacturer or wholesaler to accept business payment cards as a method of payment by any retail licensee, provided that if such payment method is made available it shall be available on equal terms to all retail licensees. 3. Each such manufacturer and wholesaler shall, on or before the respective delinquent notice date, give written notice of default, by first class mail, to all such licensees who have failed to make payment to the manufacturer or wholesaler on or before their final payment date for beer or wine products sold or delivered to such licensees during the previous credit period. Any such retail licensee receiving such notice shall not thereafter purchase beer or wine products except for cash until such time as the authority determines that its name shall not be published on the delinquent list as provided in this subdivision, or until such time as the authority permits sales or deliveries to such licensee as provided in subdivision five of this section. Each such manufacturer and wholesaler shall file with the authority, on or before each notification date, copies of the notices sent by it to all delinquent retail licensees, and in addition, if the authority shall so require, a written list setting forth the names and addresses of all such delinquent licensees. The authority, in its discretion, may extend for a period not exceeding three days the date for giving written notice of default to delinquent retail licensees and extend for three days the date for filing with the authority the copies of notices sent to such licensees and/or the written list of delinquent retail licensees. The authority shall, as soon as practicable after each notification date, compile, publish, and furnish each manufacturer and wholesaler licensed under this chapter a delinquent list

containing the names and addresses of all retail licensees who have been reported by manufacturers and wholesalers pursuant to the provisions of this section or section one hundred one-aa of this article as having failed to make payment as required by this section or section one hundred one-aa of this article for beer or wine products sold or delivered to them, and no such manufacturer or wholesaler, on or after the fifth day after the receipt of such delinquent list, shall knowingly, wilfully or intentionally sell or deliver any beer or wine products to any such licensee whose name appears on such list, except for cash, until such time as the name of such licensee is removed therefrom, except as otherwise permitted by this section. The receipt of a delinquent list by a manufacturer or wholesaler shall constitute knowledge of the names of the retail licensees who have failed to make payment for beer or wine products as required by this section. The failure of any manufacturer or wholesaler to comply with the provisions of this section may, at the discretion of the authority, subject the license of such manufacturer or wholesaler to suspension for not more than five days for the first offense, and not more than thirty days for a subsequent offense. The authority may publish the delinquent list on its website; provided, however, that access shall be restricted to those manufacturers and wholesalers licensed under this chapter. Such publication shall be considered receipt thereof by all manufacturers and wholesalers. 4. In the event that any dispute shall exist between any manufacturer or wholesaler and a retail licensee to whom such manufacturer or wholesaler shall have sold beer or wine products, either as to the fact of payment or as to the amount due for such beer or wine products or as to the quantity of the beer or wine products sold or delivered, which dispute cannot be adjusted between them, the authority is authorized to receive statements from each of the parties to such dispute as to the facts and circumstances thereof and to determine whether or not such retail licensee's name should be published on the delinquent list. 5. The authority in the case of a retail licensee who has actually made payment for beer or wine products, or on good cause shown to it, may permit sales or deliveries to any retial licensee who has received notice of default or who is named on any delinquent list, on terms other than for cash, but within the limitations of this section, prior to the publication of the next delinquent list. 6. The license of any retail licensee who purchases or accepts delivery of beer or wine products on any terms, other than as provided in this section, may be suspended for not more than five days for the first offense and not more than thirty days for a subsequent offense. The failure of any such retail licensee to pay any amount in default before the expiration of the period of suspension shall be deemed and punishable as a subsequent offense until paid. In addition, the authority may require any such retail licensee, after default in making payment in accordance with the provisions of this section to make payment in cash for beer or wine products subsequently delivered. 7. Nothing contained in this section shall be construed to require any manufacturer or wholesaler to extend credit to any retail licensee nor to restrain any manufacturer or wholesaler from seeking to enforce by legal action or otherwise, payment of any sum or sums of money due or alleged to be due to any such manufacturer or wholesaler for beer or wine products sold or delivered to any such retail licensee. 8. There shall be paid to the liquor authority by each person applying after the effective date of this section for any license to sell beer or wine products to retailers or upon the renewal of such license, a sum equivalent to ten per centum of the annual license fee prescribed by this chapter for each such licensee. Such moneys shall be used by the authority to defray the expenses incurred in the administration of this section. 9. Notwithstanding the law in effect at the time of the sale, the final payment date for beer and/or wine products sold prior to the effective date of this section for which payment has not been made shall be the first final payment date as determined by the provisions of this section.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions101-B - Unlawful Discriminations Prohibited; Filing of Schedules; Schedule Listing Fund.

2. It shall be unlawful for any person who sells liquors or wines to wholesalers or retailers(a) to discriminate, directly or indirectly, in price, in discounts for time of payment or in discounts on quantity of merchandise sold, between one wholesaler and another wholesaler, or between one retailer and another retailer purchasing liquor or wine bearing the same brand or trade name and of like age and quality; (b) to grant, directly or indirectly, any discount, rebate, free goods, allowance or other inducement of any kind whatsoever, except a discount or discounts for quantity of liquor or for quantity of wine and a discount not in excess of one per centum for payment on or before ten days from date of shipment.3. (a) No brand of liquor or wine shall be sold to or purchased by a wholesaler, irrespective of the place of sale or delivery, unless a schedule, as provided by this section, is transmitted to and received by the liquor authority, and is then in effect. Such schedule shall be transmitted to the authority in such form, manner, medium and format as the authority may direct; shall be deemed duly verified by the person submitting such schedule upon its transmission to the authority; and shall contain, with respect to each item, the exact brand or trade name, capacity of package, nature of contents, age and proof where stated on the label, the number of bottles contained in each case, the bottle and case price to wholesalers, the net bottle and case price paid by the seller, which prices, in each instance, shall be individual for each item and not in "combination" with any other item, the discounts for quantity, if any, and the discounts for time of payment, if any. Such brand of liquor or wine shall not be sold to wholesalers except at the price and discounts then in effect unless prior written permission of the authority is granted for good cause shown and for reasons not inconsistent with the purpose of this chapter. Such schedule shall be transmitted by (1) the owner of such brand, or (2) a wholesaler selling such brand and who is designated as agent for the purpose of filing such schedule if the owner of the brand is not licensed by the authority, or (3) with the approval of the authority, by a wholesaler, in the event that the owner of the brand is unable to transmit a schedule or designate an agent for such purpose.(b) No brand of liquor or wine shall be sold to or purchased by a retailer unless a schedule, as provided by this section, is transmitted to and received by the liquor authority, and is then in effect. Such schedule shall be transmitted to the authority in such form, manner, medium and format as the authority may direct; shall be deemed duly verified by the person submitting such schedule upon its transmission to the authority; and shall contain, with respect to each item, the exact brand or trade name, capacity of package, nature of contents, age

and proof where stated on the label, the number of bottles contained in each case, the bottle and case price to retailers, the net bottle and case price paid by the seller, which prices, in each instance, shall be individual for each item and not in "combination" with any other item, the discounts for quantity, if any, and the discounts for time of payment, if any. Such brand of liquor or wine shall not be sold to retailers except at the price and discounts then in effect unless prior written permission of the authority is granted for good cause shown and for reasons not inconsistent with the purpose of this chapter. Such schedule shall be transmitted by each manufacturer selling such brand to retailers and by each wholesaler selling such brand to retailers.(c) Provided however, nothing contained in this section shall require any manufacturer or wholesaler to list in any schedule to be filed pursuant to this section any item offered for sale to a retailer under a brand which is owned exclusively by one retailer and sold at retail within the state exclusively by such retailer.(d) The authority may make available the schedules in paragraphs (a) and (b) of this subdivision to all licensed wholesaler or retail establishments by way of controlled internet access.(e) As used in this subdivision the term "item" shall be deemed to include a sealed, pre-wrapped package consisting of a sealed container or containers of liquor, wine or wine products and other merchandise reasonably used in connection with the preparation, storage, promotion, gifting, or service of liquor, wine or wine products provided that such other merchandise shall not be potable or edible; provided however that any such wine, liquor or wine products sealed or pre-wrapped in combination with other items shall also be available individually for sale. For the purposes of this section, gift and promotional items shall only include those items that are complementary and directly associated with the sale of wine or liquor they are gifting or promoting and shall mean: (1) items that are de minimis in value, but in no instance shall merchandise be valued at more than fifteen dollars in total; (2) items that are imprinted with the wine or liquor brand logo on the gift or promotional item; and (3) items that are included as part of a manufactured pre-sealed package with the wine or liquor that is being gifted or promoted. Further, for the purposes of this section, gift or promotional items shall not include any food, non-alcoholic beverage, or other drink or food mix, nor shall these items be offered for sale to the general public as individual items.4. Each such schedule required by paragraph (a) of subdivision three of this section shall be filed on or before the twenty-fifth day of each month and the prices and discounts set forth therein shall become effective on the first day of the second succeeding calendar month and shall be in effect for such second succeeding calendar month. Each such schedule required by paragraph (b) of subdivision three of this section shall be filed on or before the fifth day of each month, and the prices and discounts set forth therein shall become effective on the first day of the calendar month following the filing thereof, and shall be in effect for such calendar month. Within ten days after the filing of such schedule the authority shall make them or a composite thereof available for inspection by licensees. Within three business days after such inspection is provided for, a wholesaler may amend his filed schedule for sales to retailers in order to meet lower competing prices and discounts for liquor or wine of the same brand or trade name, and of like age and quality, filed pursuant to this section by any licensee selling such brand, provided such amended prices are not lower and discounts are not greater than those to be met. Any amended schedule so filed shall become effective on the first day of the calendar month following the filing thereof and shall be in effect for such calendar month. All schedules filed shall be subject to public inspection, from the time that they are required to be made available for inspection by licensees, and shall not be considered confidential. Each manufacturer and wholesaler shall retain in his licensed premises for inspection by licensees a copy of his filed schedules as then in effect. The liquor authority may make such rules as shall be appropriate to carry out the purpose of this section.4-a. No licensee shall refuse to sell any brand of liquor or wine to any licensee authorized to purchase such brand of liquor or wine from such licensee at the price listed in the schedule of prices of such brand of liquor or wine required to be filed by such licensee with the authority pursuant to this section, provided the purchaser pays cash therefor, and except as herein provided.(a) A schedule of prices to wholesalers filed by the brand owner or its agent with the authority, pursuant to this section, may limit the distribution or resale of a brand to wholesalers by the filing by the brand owner or its agent with the authority of the names, addresses and license numbers of such wholesalers. Such list shall be filed each month together with the schedule of prices, and no name shall be added thereto or removed therefrom after filing except with permission of the authority.(b) Only those wholesalers listed, pursuant to paragraph (a) of this subdivision, may schedule the price to retailers for such brand, except that when not inconsistent with the purpose of this section, the authority may authorize any other wholesaler to schedule a price after furnishing the quantity, source of purchase and any other information the authority may require.(c) When distribution or resale of a brand has been restricted, pursuant to paragraph (a) of this subdivision, such brand shall not be sold or purchased by any wholesalers who are not listed in accordance with paragraph (a) of this subdivision.(d) For good cause shown to the satisfaction of the authority, permission may be granted for the filing of schedules limiting the distribution or resale of a brand to retailers.(e) Manufacturers and wholesalers may not require or compel retailers to purchase other brands in order to be able to buy a particular brand.(f) Nothing contained in this subdivision shall be construed as authority for permitting any conduct or activity by any brand owner or its agent or any wholesaler of liquor or wine proscribed by the antitrust laws of this state or the United States.(g) If any provision of any paragraph of this subdivision or any subdivision of this section or the application thereof to any person or circumstance shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any provision of this subdivision or any subdivision of this section or the application of any part thereof to any other person or circumstance and to this end the provisions of each paragraph of this subdivision and each subdivision of this section are hereby declared to be severable.5. (a) (i) Notwithstanding any other provision of law, each such schedule required by paragraph (a) of subdivision three of this section which is filed by a micro-winery, winery, or farm winery, or a class A, A-1, B, B-1, C, or D distiller shall be filed annually on or before the twenty-fifth day of November. The prices and discounts set forth therein shall become effective on the first day of the second succeeding calendar month and shall remain in effect for such twelve succeeding calendar months, unless a price change filing is made pursuant to

subparagraph (ii) of this paragraph.(ii) A micro-winery, winery, or farm winery, or a class A, A-1, B, B-1, C, or D distiller licensee may file a price schedule change at any time between the required annual filings. Each such price schedule change shall be filed on or before the twenty-fifth day of each month for a change in prices to become effective on the first day of the second succeeding calendar month and shall remain in effect until the effective date of the next filing.(b) (i) Notwithstanding any other provision of law, each such schedule required by paragraph (b) of subdivision three of this section which is filed by a micro-winery, winery, or farm winery licensee, or a class A, A-1, B, B-1, C, or D distiller shall be filed annually on or before the fifth day of December. The prices and discounts set forth therein shall become effective on the first day of the calendar month following the filing thereof, and shall remain in effect for such twelve succeeding calendar months, unless a price change filing is made pursuant to subparagraph (ii) of this paragraph.(ii) A micro-winery, winery, or farm winery, or a class A, A-1, B, B-1, C, or D distiller licensee may file a price schedule change at any time between the required annual filings. Each such price schedule change shall be filed on or before the fifth day of each month for a change in prices to become effective on the first day of the calendar month following the filing thereof and shall remain in effect until the effective date of the next filing.(c) Within ten days after the filing of such schedules the authority shall make them or a composite thereof available for inspection by licensees. Within three business days after such inspection is provided for, a wholesaler may amend his filed schedule for sales to retailers in order to meet lower competing prices and discounts for wine of the same brand or trade name, and of like age and quality, filed pursuant to this section by any licensee selling such brand, provided such amended prices are not lower and discounts are not greater than those to be met. Any amended schedule so filed shall become effective on the first day of the calendar month following the filing thereof and shall be in effect until the effective date of the next filing.(d) All schedules filed shall be subject to public inspection, from the time that they are required to be made available for inspection by licensees, and shall not be considered confidential. Each manufacturer and wholesaler shall retain in his licensed premises for inspection by licensees a copy of his filed schedules as then in effect. The liquor authority may make such rules as shall be appropriate to carry out the purpose of this subdivision.6. For the purpose of raising the moneys necessary to defray the expenses incurred in the administration of this section, on or before the tenth day after this act becomes a law, there shall be paid to the liquor authority by each manufacturer and wholesaler licensed under this chapter to sell to retailers liquors and/or wines, a sum equivalent to fifteen per centum of the annual license fee prescribed by this chapter for each such licensee. A like sum shall be paid by each person hereafter applying for any such license or the renewal of any such license, and such sum shall accompany the application and the license fee prescribed by this chapter for such license or renewal as the case may be. In the event that any other law requires the payment of a fee by any such licensee or applicant as set forth in this section for schedule listing, then and in such event the total fee imposed by this section and such other law or laws on each such licensee shall not exceed in the aggregate a sum equivalent to fifteen per centum of the annual license fee prescribed by this chapter for such license.7. The authority may revoke, cancel or suspend any license issued pursuant to this chapter, and may recover (as provided in section one hundred twelve of this chapter) the penal sum of the bond filed by a licensee, or both, for any sale or purchase in violation of any of the provisions of this section or for making a false statement in any schedule filed pursuant to this section or for failing or refusing in any manner to comply with any of the provisions of this section. (a) to discriminate, directly or indirectly, in price, in discounts for time of payment or in discounts on quantity of merchandise sold, between one wholesaler and another wholesaler, or between one retailer and another retailer purchasing liquor or wine bearing the same brand or trade name and of like age and quality; (b) to grant, directly or indirectly, any discount, rebate, free goods, allowance or other inducement of any kind whatsoever, except a discount or discounts for quantity of liquor or for quantity of wine and a discount not in excess of one per centum for payment on or before ten days from date of shipment. 3. (a) No brand of liquor or wine shall be sold to or purchased by a wholesaler, irrespective of the place of sale or delivery, unless a schedule, as provided by this section, is transmitted to and received by the liquor authority, and is then in effect. Such schedule shall be transmitted to the authority in such form, manner, medium and format as the authority may direct; shall be deemed duly verified by the person submitting such schedule upon its transmission to the authority; and shall contain, with respect to each item, the exact brand or trade name, capacity of package, nature of contents, age and proof where stated on the label, the number of bottles contained in each case, the bottle and case price to wholesalers, the net bottle and case price paid by the seller, which prices, in each instance, shall be individual for each item and not in "combination" with any other item, the discounts for quantity, if any, and the discounts for time of payment, if any. Such brand of liquor or wine shall not be sold to wholesalers except at the price and discounts then in effect unless prior written permission of the authority is granted for good cause shown and for reasons not inconsistent with the purpose of this chapter. Such schedule shall be transmitted by (1) the owner of such brand, or (2) a wholesaler selling such brand and who is designated as agent for the purpose of filing such schedule if the owner of the brand is not licensed by the authority, or (3) with the approval of the authority, by a wholesaler, in the event that the owner of the brand is unable to transmit a schedule or designate an agent for such purpose. (b) No brand of liquor or wine shall be sold to or purchased by a retailer unless a schedule, as provided by this section, is transmitted to and received by the liquor authority, and is then in effect. Such schedule shall be transmitted to the authority in such form, manner, medium and format as the authority may direct; shall be deemed duly verified by the person submitting such schedule upon its transmission to the authority; and shall contain, with respect to each item, the exact brand or trade name, capacity of package, nature of contents, age and proof where stated on the label, the number of bottles contained in each case, the bottle and case price to retailers, the net bottle and case price paid by the seller, which prices, in each instance, shall be individual for each item and not in "combination" with any other item, the discounts for quantity, if any, and the discounts for time of payment, if any. Such brand of liquor or wine shall not be sold to retailers except at the price and discounts then in effect unless prior written permission of the authority is granted for good cause shown and for reasons not inconsistent with the purpose of this chapter. Such schedule shall be transmitted by each manufacturer

selling such brand to retailers and by each wholesaler selling such brand to retailers. (c) Provided however, nothing contained in this section shall require any manufacturer or wholesaler to list in any schedule to be filed pursuant to this section any item offered for sale to a retailer under a brand which is owned exclusively by one retailer and sold at retail within the state exclusively by such retailer. (d) The authority may make available the schedules in paragraphs (a) and (b) of this subdivision to all licensed wholesaler or retail establishments by way of controlled internet access. (e) As used in this subdivision the term "item" shall be deemed to include a sealed, pre-wrapped package consisting of a sealed container or containers of liquor, wine or wine products and other merchandise reasonably used in connection with the preparation, storage, promotion, gifting, or service of liquor, wine or wine products provided that such other merchandise shall not be potable or edible; provided however that any such wine, liquor or wine products sealed or pre-wrapped in combination with other items shall also be available individually for sale. For the purposes of this section, gift and promotional items shall only include those items that are complementary and directly associated with the sale of wine or liquor they are gifting or promoting and shall mean: (1) items that are de minimis in value, but in no instance shall merchandise be valued at more than fifteen dollars in total; (2) items that are imprinted with the wine or liquor brand logo on the gift or promotional item; and (3) items that are included as part of a manufactured pre-sealed package with the wine or liquor that is being gifted or promoted. Further, for the purposes of this section, gift or promotional items shall not include any food, non-alcoholic beverage, or other drink or food mix, nor shall these items be offered for sale to the general public as individual items. 4. Each such schedule required by paragraph (a) of subdivision three of this section shall be filed on or before the twenty-fifth day of each month and the prices and discounts set forth therein shall become effective on the first day of the second succeeding calendar month and shall be in effect for such second succeeding calendar month. Each such schedule required by paragraph (b) of subdivision three of this section shall be filed on or before the fifth day of each month, and the prices and discounts set forth therein shall become effective on the first day of the calendar month following the filing thereof, and shall be in effect for such calendar month. Within ten days after the filing of such schedule the authority shall make them or a composite thereof available for inspection by licensees. Within three business days after such inspection is provided for, a wholesaler may amend his filed schedule for sales to retailers in order to meet lower competing prices and discounts for liquor or wine of the same brand or trade name, and of like age and quality, filed pursuant to this section by any licensee selling such brand, provided such amended prices are not lower and discounts are not greater than those to be met. Any amended schedule so filed shall become effective on the first day of the calendar month following the filing thereof and shall be in effect for such calendar month. All schedules filed shall be subject to public inspection, from the time that they are required to be made available for inspection by licensees, and shall not be considered confidential. Each manufacturer and wholesaler shall retain in his licensed premises for inspection by licensees a copy of his filed schedules as then in effect. The liquor authority may make such rules as shall be appropriate to carry out the purpose of this section. 4-a. No licensee shall refuse to sell any brand of liquor or wine to any licensee authorized to purchase such brand of liquor or wine from such licensee at the price listed in the schedule of prices of such brand of liquor or wine required to be filed by such licensee with the authority pursuant to this section, provided the purchaser pays cash therefor, and except as herein provided. (a) A schedule of prices to wholesalers filed by the brand owner or its agent with the authority, pursuant to this section, may limit the distribution or resale of a brand to wholesalers by the filing by the brand owner or its agent with the authority of the names, addresses and license numbers of such wholesalers. Such list shall be filed each month together with the schedule of prices, and no name shall be added thereto or removed therefrom after filing except with permission of the authority. (b) Only those wholesalers listed, pursuant to paragraph (a) of this subdivision, may schedule the price to retailers for such brand, except that when not inconsistent with the purpose of this section, the authority may authorize any other wholesaler to schedule a price after furnishing the quantity, source of purchase and any other information the authority may require. (c) When distribution or resale of a brand has been restricted, pursuant to paragraph (a) of this subdivision, such brand shall not be sold or purchased by any wholesalers who are not listed in accordance with paragraph (a) of this subdivision. (d) For good cause shown to the satisfaction of the authority, permission may be granted for the filing of schedules limiting the distribution or resale of a brand to retailers. (e) Manufacturers and wholesalers may not require or compel retailers to purchase other brands in order to be able to buy a particular brand. (f) Nothing contained in this subdivision shall be construed as authority for permitting any conduct or activity by any brand owner or its agent or any wholesaler of liquor or wine proscribed by the antitrust laws of this state or the United States. (g) If any provision of any paragraph of this subdivision or any subdivision of this section or the application thereof to any person or circumstance shall be adjudged invalid by a court of competent jurisdiction, such order or judgment shall be confined in its operation to the controversy in which it was rendered and shall not affect or invalidate the remainder of any provision of this subdivision or any subdivision of this section or the application of any part thereof to any other person or circumstance and to this end the provisions of each paragraph of this subdivision and each subdivision of this section are hereby declared to be severable. 5. (a) (i) Notwithstanding any other provision of law, each such schedule required by paragraph (a) of subdivision three of this section which is filed by a micro-winery, winery, or farm winery, or a class A, A-1, B, B-1, C, or D distiller shall be filed annually on or before the twenty-fifth day of November. The prices and discounts set forth therein shall become effective on the first day of the second succeeding calendar month and shall remain in effect for such twelve succeeding calendar months, unless a price change filing is made pursuant to subparagraph (ii) of this paragraph. (ii) A micro-winery, winery, or farm winery, or a class A, A-1, B, B-1, C, or D distiller licensee may file a price schedule change at any time between the required annual filings. Each such price schedule change shall be filed on or before the twenty-fifth day of each month for a change in prices to become effective on the first day of the second succeeding calendar month and shall remain in effect until the effective date of the next filing. (b) (i) Notwithstanding any other provision of law, each such schedule required by paragraph (b) of subdivision three of this section which is filed by a micro-winery, winery, or farm winery

licensee, or a class A, A-1, B, B-1, C, or D distiller shall be filed annually on or before the fifth day of December. The prices and discounts set forth therein shall become effective on the first day of the calendar month following the filing thereof, and shall remain in effect for such twelve succeeding calendar months, unless a price change filing is made pursuant to subparagraph (ii) of this paragraph. (ii) A micro-winery, winery, or farm winery, or a class A, A-1, B, B-1, C, or D distiller licensee may file a price schedule change at any time between the required annual filings. Each such price schedule change shall be filed on or before the fifth day of each month for a change in prices to become effective on the first day of the calendar month following the filing thereof and shall remain in effect until the effective date of the next filing. (c) Within ten days after the filing of such schedules the authority shall make them or a composite thereof available for inspection by licensees. Within three business days after such inspection is provided for, a wholesaler may amend his filed schedule for sales to retailers in order to meet lower competing prices and discounts for wine of the same brand or trade name, and of like age and quality, filed pursuant to this section by any licensee selling such brand, provided such amended prices are not lower and discounts are not greater than those to be met. Any amended schedule so filed shall become effective on the first day of the calendar month following the filing thereof and shall be in effect until the effective date of the next filing. (d) All schedules filed shall be subject to public inspection, from the time that they are required to be made available for inspection by licensees, and shall not be considered confidential. Each manufacturer and wholesaler shall retain in his licensed premises for inspection by licensees a copy of his filed schedules as then in effect. The liquor authority may make such rules as shall be appropriate to carry out the purpose of this subdivision. 6. For the purpose of raising the moneys necessary to defray the expenses incurred in the administration of this section, on or before the tenth day after this act becomes a law, there shall be paid to the liquor authority by each manufacturer and wholesaler licensed under this chapter to sell to retailers liquors and/or wines, a sum equivalent to fifteen per centum of the annual license fee prescribed by this chapter for each such licensee. A like sum shall be paid by each person hereafter applying for any such license or the renewal of any such license, and such sum shall accompany the application and the license fee prescribed by this chapter for such license or renewal as the case may be. In the event that any other law requires the payment of a fee by any such licensee or applicant as set forth in this section for schedule listing, then and in such event the total fee imposed by this section and such other law or laws on each such licensee shall not exceed in the aggregate a sum equivalent to fifteen per centum of the annual license fee prescribed by this chapter for such license. 7. The authority may revoke, cancel or suspend any license issued pursuant to this chapter, and may recover (as provided in section one hundred twelve of this chapter) the penal sum of the bond filed by a licensee, or both, for any sale or purchase in violation of any of the provisions of this section or for making a false statement in any schedule filed pursuant to this section or for failing or refusing in any manner to comply with any of the provisions of this section.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions102 - General Prohibitions and Restrictions.

(b) Except as provided in section seventy-nine-c of this chapter, no common carrier or other person shall bring or carry into the state any alcoholic beverages, unless the same shall be consigned to a person duly licensed hereunder to traffic in alcoholic beverages, provided, however, that alcoholic beverages may be delivered by a trucking permittee from a steamship or railroad station or terminal to a New York resident who has personally purchased alcoholic beverages for his personal use while outside the United States for a minimum period of forty-eight consecutive hours, and which he has shipped as consignor to himself as consignee, and except as so stated, no trucking permittee shall accept for delivery, deliver or transport from a steamship or railroad station or terminal any shipment of alcoholic beverages consigned to a non-licensed person having his home or business in New York state. Purchases of alcoholic beverages made outside the United States by persons other than the purchaser himself, regardless whether made as his agent, or by his authorization or on his behalf, are deemed not to have been personally purchased within the meaning of this paragraph. (c) Paragraphs (a) and (b) of this subdivision shall apply to alcoholic beverages, either in the original package or otherwise, whether intended for commercial or personal use, as well as otherwise, and to foreign, interstate, as well as intrastate, shipments or carriage, irrespective of whether such alcoholic beverages were purchased within or without the state. (d) Nothing in this chapter shall be deemed to exempt from taxation the sale or use of any alcoholic beverages subject to any tax imposed under or pursuant to the authority of the tax law or to grant any other exemption from the provisions of such law. 2. No person holding any license hereunder, other than a license to sell an alcoholic beverage at retail for off-premises consumption or a license or special license to sell an alcoholic beverage at retail for consumption on the premises where such license authorizes the sale of liquor, beer and/or wine on the premises of a catering establishment, off-premises catering establishment, hotel, restaurant, club, or recreational facility, shall knowingly employ in connection with his business in any capacity whatsoever, any person, who has been convicted of a felony, or any of the following offenses, who has not subsequent to such conviction received an executive pardon therefor removing any civil disabilities incurred thereby, a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law, or other relief from disabilities provided by law, or the written approval of the state liquor authority permitting such employment, to wit: (a) Illegally using, carrying or possessing a pistol or other dangerous weapon; (b) Making or possessing burglar's instruments; (c) Buying or receiving or criminally possessing stolen property; (d) Unlawful entry of a building; (e) Aiding escape from prison; (f) Unlawfully possessing or distributing habit forming narcotic drugs; (g) Violating subdivisions six, ten or eleven of section seven hundred twenty-two of the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven, or violating sections 165.25 or 165.30 of the penal law; (h) Vagrancy or prostitution; or (i) Ownership, operation, possession, custody or control of a still subsequent to July first, nineteen hundred fifty-four. If, as hereinabove provided, the state liquor authority issues its written approval for the employment by a licensee, in a

specified capacity, of a person previously convicted of a felony or any of the offenses above enumerated, such person, may, unless he is subsequently convicted of a felony or any of such offenses, thereafter be employed in the same capacity by any other licensee without the further written approval of the authority unless the prior approval given by the authority is terminated. The liquor authority may make such rules as it deems necessary to carry out the purpose and intent of this subdivision. As used in this subdivision, "recreational facility" shall mean: (i) premises that are part of a facility the principal business of which shall be the providing of recreation in the form of golf, tennis, swimming, skiing or boating; and (ii) premises in which the principal business shall be the operation of a theatre, concert hall, opera house, bowling establishment, excursion and sightseeing vessel, or accommodation of athletic events, sporting events, expositions and other similar events or occasions requiring the accommodation of large gatherings of persons. 3-a. No licensee or permittee shall purchase or agree to purchase any alcoholic beverages from any person within the state who is not duly licensed to sell such alcoholic beverage as the case may be, at the time of such agreement and sale nor give any order for any alcoholic beverage to any individual who is not the holder of a solicitor's permit, except as provided for in section eighty-five or ninety-nine-g of this chapter. 3-b. No retail licensee shall purchase, agree to purchase or receive any alcoholic beverage except from a person duly licensed within the state by the liquor authority to sell such alcoholic beverage at the time of such agreement and sale to such retail licensee, except as provided for in section eighty-five or ninety-nine-g of this chapter. 4. No licensee or any of his or its agents, servants or employees shall peddle any liquor and/or wine from house to house by means of a truck or otherwise, where the sale is consummated and delivery made concurrently at the residence or place of business of a consumer. This subdivision shall not prohibit the delivery by a licensee to consumers, pursuant to sales made at the place of business of said licensee. 5. No licensee shall employ any canvasser or solicitor for the purpose of receiving an order from a consumer for any liquor and/or wine at the residence or place of business of such consumer, nor shall any licensee receive or accept any order, for the sale of any liquor and/or wine, which shall be solicited at the residence or place of business of a consumer. This subdivision shall not prohibit the solicitation by a wholesaler of an order from any licensee at the licensed premises of such licensee. 6. No alcoholic beverage shall be released for delivery from any warehouse located within the state, except upon a permit having first been obtained as provided by this chapter. Applications for such permits may be filed at the office of the liquor authority in New York, Albany or Buffalo, whichever is nearest to the location of the warehouse, and shall be upon a form to be prepared by the liquor authority. This provision shall not apply to alcoholic beverages, which are to be released for shipment outside of the state. 7. Each person owning or operating any warehouse located within the state shall keep and maintain as part of his permanent records, treasury department forms fifty-two and fifty-two-a as heretofore required by the United States government. 8. No alcoholic beverage retail licensee shall sell cannabis, as defined in section three of the cannabis law, nor have or possess a license or permit to sell cannabis, on the same premises where alcoholic beverages are sold.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions103 - Provisions Governing Manufacturers.

§ 103. Provisions governing manufacturers. 1. No manufacturer shall sell, or agree to sell or deliver in the state any liquors and/or wines, as the case may be, in any cask, barrel, keg, hogshead or other container, except in sealed containers containing quantities in accordance with federal size standards adopted pursuant to the federal alcohol administration act, as amended (27 U.S.C. 201 et. seq.); and provided further, that (a) Class A distillers may sell or deliver liquor in bulk to the holder of a Class A or B distiller's license or to a permittee engaged in the manufacture of products which are unfit for beverage use; (b) Class C distillers may sell or deliver fruit brandy in bulk to the holder of a winery license, a holder of a Class B distiller's license or to a permittee engaged in the manufacture of products which are unfit for beverage use; and (c) a winery licensee may sell or deliver wine in bulk to a holder of a winery license, the holder of a distiller's license of any class, or to a permittee engaged in the manufacture of products which are unfit for beverage use. Such containers shall have affixed thereto such labels as may be required by the rules of the liquor authority, together with all necessary federal revenue and New York state excise tax stamps, as required by law. 2. No manufacturer shall transport alcoholic beverages in any vehicle owned and operated or hired and operated by such manufacturer, unless there shall be attached to or inscribed upon both sides of such vehicle a sign, showing the name and address of the licensee, together with the following inscription: "New York State Distiller (or Brewer or Winery) License No. ..," in uniform letters not less than three and one-half inches in height. In lieu of such sign a manufacturer may have in the cab of such vehicle a photostatic copy of its current license issued by the authority, and such copy duly authenticated by the authority. 3. No manufacturer shall deliver any alcoholic beverages, except in vehicles owned and operated by such manufacturer, or hired and operated by such manufacturer from a trucking or transportation company registered with the liquor authority, and shall only make deliveries at the licensed premises of the purchaser. 7. Each manufacturer shall keep and maintain upon the licensed premises, adequate books and records of all transactions involving the manufacture and sale of his or its products, which shall show the ingredients but not the formula or recipe used in the manufacture of such alcoholic beverages together with the quantity of alcoholic beverages manufactured by such manufacturer; the names, addresses, and the license numbers of the purchasers of such alcoholic beverages, together with the quantities involved in such purchases, whether the same shall be sold within or without the state. Each sale shall be recorded separately on a numbered invoice, which shall have printed thereon the number, the name of the licensee, the address of the licensed premises, and the current license number. Such manufacturer shall deliver to the purchaser a true duplicate invoice stating the name and address of the purchaser, the quantity of alcoholic beverages, description by brands and the price of such alcoholic beverages, and a true, accurate and complete statement of the terms and conditions on which such sale is made. Any terms and conditions of a sale not stated on said invoice shall constitute a service within the meaning of paragraph (c) of subdivision one of section one

hundred one of this article. Such books, records and invoices shall be kept for a period of two years and shall be available for inspection by any authorized representative of the liquor authority. Provided, however, that any books and records required by this chapter to be maintained by a winery, farm winery, special winery, special farm winery or microwinery must be kept either upon the licensed premises or such other location as may be approved by the authority. 8. No manufacturer shall furnish or cause to be furnished to any licensee, any exterior or interior sign, printed, painted, electric or otherwise, except as authorized by the liquor authority. 9. Nothing contained in this chapter shall prohibit a brewer from manufacturing, bottling or storing non-alcoholic carbonated beverages on the licensed premises provided such business was conducted by the licensee prior to July first, nineteen hundred thirty-nine.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions104-A - Provisions Governing Vendors.

§ 104-a. Provisions governing vendors. 1. No sign, of any kind, printed, painted, or electric, advertising any brand of beer shall be permitted on the exterior or interior of such premises, except by permission of the liquor authority. 2. No vendor shall transport beer in any vehicle owned and operated or hired and operated by such vendor, for off-premises consumption, unless there shall be attached to or inscribed upon both sides of such vehicle a sign, showing the name and address of the licensee together with the following inscription, "New York State Beer Vendor's License No. ..... , " as the case may be, in uniform letters not less than three and one-half inches in height. In lieu of such sign, a vendor may have in the cab of such vehicle a photostatic copy of its current license issued by the authority, and such copy duly authenticated by the authority. 3. No vendor for off-premises consumption shall sell or deliver to any person beer in excess of five gallons at one and at the same time. 4. Each vendor for off-premises consumption shall keep and maintain upon the licensed premises, adequate books and records of all transactions involving the business transacted by such vendor, which shall show the amount of beer purchased by such licensee together with the names, license numbers and places of business of the persons from whom the same was purchased, and the amount involved in such purchases, as well as the amount of beer sold by such vendor, and the amount involved in each sale. Such books and records shall be available for inspection by any authorized representative of the liquor authority.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions104 - Provisions Governing Wholesalers.

(b) "Non-alcoholic snack foods" as used in paragraph (a) of this subdivision shall include ready to eat finger foods ordinarily intended to be served cold or at room temperature, such as nut and seed meats, cooked pork rinds, pretzels, popped corn and a variety of other similar finger foods which are prepared from high-starch and/or cellulosic edible materials. (c) "Promotional items" are items which bear advertising information, are of nominal value, are obtained by a licensee through a supplier of alcoholic beverages and are designated and designed for unconditional sale or distribution to the public. The sale or distribution of promotional items shall be incidental to the licensee's sale of alcoholic beverages. All promotional items shall be properly invoiced. (d) "Wine merchandise" as used in paragraph (a) of this subdivision shall include corkscrews, ice, the sale of publications, including prerecorded video and/or audio cassette tapes, designed to help educate consumers in their knowledge and appreciation of wine and wine products, as defined in section three of this chapter, or the sale of glasses designed for the consumption of wine, racks designed for the storage of wine, and devices designed to minimize oxidation in bottles of wine which have been uncorked. 2. No wholesaler shall sell, or agree to sell or deliver in the state any liquors and/or wines, as the case may be, in any cask, barrel, keg, hogshead or other container, except in a sealed package containing quantities in accordance with federal size standards adopted pursuant to the federal alcohol administration act, as amended (27 U.S.C. 201 et. seq.); provided, however, that wholesalers may store, warehouse or keep off the licensed premises any liquors and/or wines in bulk for sale to a rectifier or to a permittee engaged in the manufacture of products which are unfit for beverage use. Such containers shall have affixed thereto such labels as may be required by the rules of the liquor authority, together with all necessary federal revenue and New York state excise tax stamps, as required by law. 3. Each wholesaler shall have painted on the front window of the licensed premises, or if there be no window, on a sign affixed to the front of the building containing said licensed premises, the name of the licensee together with the inscription, "New York State wholesale beer, liquor or wine license number _____"; as the case may be, in uniform letters not less than three and one-half inches in height. 5. No wholesaler shall transport alcoholic beverages in any vehicle owned and operated or hired and operated by such wholesaler, unless there shall be attached to or inscribed upon both sides of such vehicle a sign, showing the name and address of the licensee, together with the following inscription: "New York State wholesale beer, liquor or wine license number ..... , " as the case may be, in uniform letters not less than three and one-half inches in height. In lieu of such sign, a wholesaler may have in the cab of such vehicle a photostatic copy of its current license issued by the authority, and such copy duly authenticated by the authority. 6. No wholesaler shall deliver any alcoholic beverages, except in vehicles owned and operated by such wholesaler, or hired and operated by such wholesaler from a trucking or transportation company registered with the liquor authority, and shall only make deliveries at the licensed premises of the purchaser. 10. Each wholesaler shall keep and maintain upon the licensed premises, adequate books and records of all transactions involving the business transacted by such wholesaler, which shall show the amount of alcoholic beverages in gallons, purchased by such wholesaler together with the names, license numbers and places of business of the persons from whom the same was purchased and the amount involved in such purchases, as well as the amount of alcoholic beverages, in gallons, sold by such wholesaler together with the names, addresses, and license numbers of such purchasers whether the same shall be purchased or sold within or without the state. Each sale shall be recorded

separately on a numbered invoice, which shall have printed thereon the number, the name of the licensee, the address of the licensed premises, and the current license number. Such wholesaler shall deliver to the purchaser a true duplicate invoice stating the name and address of the purchaser, the quantity of alcoholic beverages, description by brands and the price of such alcoholic beverages, and a true, accurate and complete statement of the terms and conditions on which such sale is made. Any terms and conditions of a sale not stated on said invoice shall constitute a service within the meaning of section one hundred and one, subdivision one (c) of this chapter. Such books, records and invoices shall be kept for a period of two years and shall be available for inspection by any authorized representative of the liquor authority. 11. No wholesaler shall furnish or cause to be furnished to any licensee, any exterior or interior sign, printed, painted, electric or otherwise, unless authorized by the liquor authority.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions105-B - Posting of Certain Signs.

§ 105-b. Posting of certain signs. 1. The authority shall prepare, have printed and distribute across the state to all persons with a license to sell any alcoholic beverage for consumption on the premises or a license to sell any alcoholic beverage for consumption off the premises, a sign or poster with conspicuous lettering that states: "Government Warning: According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects". Such sign or poster must have conspicuous lettering in at least seventy-two point bold face type that states the warning set forth in this subdivision, except that such sign or poster shall be captioned with the word "warning" in at least two inch lettering. 2. All persons with a license to sell any alcoholic beverage for consumption on the premises or a license to sell any alcoholic beverage for consumption off the premises shall display in a conspicuous place the sign or poster upon receiving it from the authority. Such sign shall be placed as close as possible to the place where alcoholic beverages are sold. 3. Any person with such license who violates the provisions of this section shall be subject to a civil penalty, not to exceed one hundred dollars for each day of violation. 4. Compliance with the provisions of any local law requiring the posting of signs containing warnings regarding alcoholic beverages enacted on or before the date on which the provisions of this section shall have become a law, shall be deemed to be in compliance with the provisions of this section. Nothing contained herein, however, shall be deemed to exempt any licensee not otherwise subject to the provisions of any such local law from complying with the provisions of this section.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions106-A - Notice of Arrest and Convictions.

§ 106-a. Notice of arrest and convictions. 1. When an arrest for gambling activity, illicit drug activity, prostitution activity, or for a breach of the peace or for a crime of a violent nature, or for a crime of weapons possession occurs or where the activity or crime has taken place in a licensed premises, the arresting agency shall notify in writing, the authority and the district attorney of the county in which the licensed premises are located within two weeks of the arrest and set forth therein the name of the arrestee, the date of the arrest, the time of the arrest, the exact place of the arrest, the name of the licensee, the name and address of the licensed premises, the offense or offenses allegedly committed by the arrestee, the factual circumstances of the arrest, the name or names of the arresting officer, and such other information as may reasonably be required by the authority. 2. Such district attorney shall maintain a written record of all notices forwarded as required by subdivision one of this section and where the arrestee named in said notice is convicted of either the offense charged or a lesser included offense as defined by the penal law, the district attorney shall so notify the authority in writing. In addition, where a person is convicted of a violation of paragraph (b) of subdivision one of section sixty-five-b of this chapter or of a violation of subdivision one of section sixty-five of this chapter, the district attorney shall promptly notify the authority of such conviction in writing and shall include in such notification the information required to be provided pursuant to subdivision one of this section.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions106-B - Provisions for Governing Sports Facilities Operators and Retail Licenses to Sell at Certain Sporting Events for Consumption on Premises.

(b) Nonalcoholic seating accommodations shall constitute not less than six percentum of all permanent seating accommodations for a given sporting event, unless otherwise provided for by this section, and shall at such level be equally distributed among each separately designated ticket price area. 2. (a) Every person who operates a facility for the performance of a sporting event during which alcoholic beverages are sold or otherwise furnished for consumption on such premises shall establish nonvending seating accommodations, separate from other seating accommodations within such premises, wherein the sale or other furnishing of alcoholic beverages shall not be permitted, but where the consumption of such alcoholic beverages shall not be prohibited. (b) Nonvending seating accommodations shall constitute not less than fifteen percentum of all permanent seating accommodations, in addition to those seating accommodations segregated pursuant to subdivision one of this section, and shall be equally distributed among each separately designated ticket price area. 3. (a) Immediately upon the effective date of this section, each facility operator shall designate not less than ten percentum of all non-season ticket seating as either nonalcohol seating accommodations or nonvending seating accommodations or both, and that such designations shall thereafter remain in effect up to and until the commencement of designations pursuant to paragraph (b) of this subdivision, or designations pursuant to subdivision four of this section. (b) The establishment of seating accommodations pursuant to subdivisions one and two of this section may be implemented over a period of three years from the effective date of this section, and in a combination of nonalcoholic seating accommodations and nonvending seating accommodations, that is consistent with the provisions of this section, provided that (i) designations of not less than one-third of the total seating accommodations required pursuant to subdivisions one and two of this section are made

within one year of the effective date of this section; however, such designation up to the first one-third of the total nonalcohol seating accommodation may be designated in any ticket price area, and (ii) designations of an additional one-third of the total seating accommodations required pursuant to subdivisions one and two of this section are made by January first, nineteen hundred ninety-one; however, such designation up to the second one-third of the total nonalcohol seating accommodation may be designated in any ticket price area, and (iii) designations of a final one-third of the total seating accommodations required pursuant to subdivisions one and two of this section are made by January first, nineteen hundred ninety-two. (c) A facility operator may petition the state liquor authority for an exemption from the provisions of subparagraphs (ii) and (iii) of paragraph (b) hereof as they relate to nonalcohol seating if it can be shown that the demand for such seating does not exceed the availability under subparagraph (i) of paragraph (b) hereof. The state liquor authority, in evaluating such petition, shall consider, among other things, the availability of such seating, the promotion of such seating, the method of merchandising tickets for such seating, and the location of such seating sections within the overall seating available in a given facility. In addition, the state liquor authority shall consider any voluntarily instituted alcohol reduction plan which includes, but is not necessarily limited to, the provision of low alcohol beer, the limitation on the number of servings of alcoholic beverages, or limitations on the size of such servings. (d) Nothing in this section shall be construed as prohibiting facility operators from relocating designated nonvending or nonalcohol seating accommodations in each year, provided that each facility maintains the levels of nonalcohol and nonvending seating accommodations provided for in this section. 4. Notwithstanding any provision of this section to the contrary, a facility operator shall be exempt from the provisions of subdivisions one, two and three hereof, upon the filing of certification with the state liquor authority that said operator prohibits the vending of alcoholic beverages in all seating areas of such facility, and furthermore provides non-alcohol seating accommodations in not less than two percentum of the total permanent seating accommodations. 5. (a) For the purposes of preserving order and preventing offenses against the laws of the state during the course of a sporting event, and when otherwise authorized pursuant to the provisions of the criminal procedure law and appropriate local legislation, the trustees or directors of any corporation acting in the capacity of facility operator and licensed to do business in New York, may apply from time to time to the commissioner of police of the municipality within which the facility is located for the appointment of special patrolmen, who, when appointed, shall be peace officers with the same powers within such facility as are set forth in section 2.20 of the criminal procedure law, whose duty, when appointed, shall be to preserve order within the facility operated by the applicant corporation, to protect the property within said facility, with the authority to eject or arrest all persons who shall be improperly within the facility or who shall be guilty of disorderly conduct, or who shall neglect or refuse to pay the fees prescribed by said corporation; and it shall be the further duty of said special patrolmen, when appointed, to prevent all violations of law and arrest any and all persons violating such provisions, and to process such persons in accordance with the criminal procedure law. The appointment of special patrolmen pursuant to this section shall not supersede in any way the authority of peace officers or police officers of the jurisdiction within which such facility is located, nor shall any patrolmen be deemed by virtue of such employment an employee of said municipality, or be entitled to any of the benefits arising from such employment, and such special patrolmen may be terminated by the commissioner at any time, without assigning cause therefore. (b) The special patrolmen appointed and approved pursuant to the provisions of this subdivision shall be the sole responsibility of the applying corporate entity, and such entity shall indemnify and defend the municipality for any and all liability arising from the acts or omissions of such officers. In consideration of their appointment, special patrolmen shall sign an agreement in writing releasing and waiving all claim whatsoever against the police department or the municipality for pay, salary or compensation for their services, or for any other expenses connected thereto. 6. Each facility operator shall file with the state liquor authority a plan of compliance with the provisions of this section, including but not limited to a facility diagram or such other seating program, indicating ticket price areas designated as nonalcoholic and nonvending seating accommodations. This plan shall also include a description of all policies and procedures instituted by the facility operator in relation to the sale, consumption or limitation of alcoholic beverages. 7. (a) For the purposes of this section, "facility for the performance of a sporting event" shall include any stadium, arena, ballpark, or other indoor or outdoor athletic field complex in use during a professional sporting event, and located within a standard metropolitan statistical area having a population of one million or more as of the most current decennial census as conducted by the United States Department of Commerce, but shall not include facilities owned or operated by an educational institution. (b) For the purposes of this section, "facility operator" shall include the primary tenant of a facility defined in paragraph (a) of this subdivision. In those situations where the entity responsible for operation and management of said facility is other than the primary tenant, the person or persons so responsible shall constitute the "facility operator." If no facility operator pursuant to this section can be ascertained, then the facility owner shall also constitute the facility operator. In any event, the designation of such facility operator shall be included in all plans of compliance filed pursuant to subdivision six of this section. 8. The state liquor authority shall promulgate rules and regulations no later than January first, nineteen hundred eighty-nine, that provide for notification of facility operators of such facilities and sellers of alcoholic beverages at such facilities of the provisions of this section and that provide for the conspicuous posting at such facilities notices informing the public of the provisions of this section, indicating the nonalcohol and nonvending seating accommodations designated pursuant to this section, and the penalty for violating this section, and shall promulgate such other rules and regulations in furtherance of the provisions of this section. 9. The state liquor authority shall report to the governor and legislature no later than February first, nineteen hundred ninety-three on the compliance with the provisions of this section, any and all administrative or enforcement actions taken under the authority vested in it by the provisions of this section and the effectiveness of the provisions of this section in reducing the occurrence of alcohol-related incidents. 10. (a) Violation by a facility operator of the provisions of this section or of the rules and regulations promulgated pursuant to this section is a misdemeanor. (b) Violation of any stadium plan enacted pursuant to this section or the

rules and regulations promulgated hereunder is a violation. 11. Severability. If any provision of this section shall be held void or unconstitutional, all other provisions and all other sanctions not expressly held to be void or unconstitutional shall continue in full force and effect. 12. (a) Notwithstanding any provision of this section to the contrary, a facility operator may reduce the total number of seats segregated as non-alcohol seating as necessary to assure local television broadcast of a particular sporting event when ninety-nine percent of all other seating is unavailable, so long as the facility operator, prior to the commencement of the sporting season, files with the state liquor authority for a plan of reduction in the consumption of alcoholic beverages that includes: (i) restrictions in those areas that were to be segregated as non-alcohol seating that exceed the limitations on non-vending, but which do not prohibit the consumption of alcohol in toto; (ii) the development of additional security personnel in those areas that were to be segregated as non-alcohol seating, or such other areas in which persons requesting non-alcohol seating are located; and (iii) a plan of marketing, promotion, method of merchandising and location of non-alcoholic seating, and a description of the seats to be declassified as non-alcohol seats. (b) The provisions of this subdivision shall apply only in those instances where a facility is operated with two percent of its seating segregated as non-alcohol seating in accordance with the provisions of this section. (c) In the event that a facility operator invokes the provisions of this subdivision for its intended purposes, the facility operator shall notify the state liquor authority at least three days before the particular sporting event of the utilization of this subdivision, the time period in which the provisions of this subdivision shall be in effect, and certify that such utilization is based on the unavailability of seating in all remaining sections of the facility. * NB Expired Effective July 1, 1993

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions107-A - Labeling Containers of Alcoholic Beverages.

Such regulations shall be calculated to prohibit deception of the consumer; to afford him or her adequate information as to quality and identity; and to achieve national uniformity in so far as possible. 2. The bottling, packaging, sale or possession by any licensee of any alcoholic beverage not labelled or offered in conformity with this section shall be ground for suspension, revocation or cancellation of the license. 3. No alcoholic beverage shall be offered or advertised for sale in this state, including direct interstate shipments under this chapter, unless:(a) there is a brand or trade name label affixed to or imprinted upon the container of such alcoholic beverage;(b) such label is registered with and approved by the authority and contains the information required in this section; and(c) the appropriate fee has been paid as provided for in this section.4. An application for registration of a brand or trade name label shall be filed by (1) the owner of the brand or trade name if such owner is licensed by the authority, or (2) a wholesaler selling such brand who is appointed as exclusive agent, in writing, by the owner of the brand or trade name for the purpose of filing such application, if the owner of the brand or trade name is not licensed by the authority, or (3) any wholesaler, with the approval of the authority, in the event that the owner of the brand or trade name does not file or is unable to file such application or designate an agent for such purposes, or (4) any wholesaler, with the approval of the authority, in the event that the owner of the brand or trade name is a retailer who does not file such application, provided that the retailer shall consent to such filing by such wholesaler. Such retailer may revoke his consent at any time, upon written notice to the authority and to such wholesaler.Unless otherwise permitted or required by the authority, the application for registration of a liquor or wine brand or trade name label filed pursuant to this section shall be filed by the same licensee filing schedules pursuant to section one hundred one-b of this article.Cordials and wines which differ only as to fluid content, age, or vintage year, as defined by such regulations, shall be considered the same brand; and those that differ as to type or class may be considered the same brand by the authority where consistent with the purposes of this section.(a) (1) The application for registration of a brand or trade name label shall be filed by certified mail return receipt requested, registered mail return receipt requested, overnight delivery service with proof of mailing, or via electronic filing, on a form prescribed by the authority, and shall contain such information as the authority shall require. Such application shall be accompanied by the appropriate fee prescribed by paragraph (b) of this subdivision and may also require a processing fee of no more than ten dollars paid to either the authority or a third party provider.(2) Provided, however, where a brand or trade name label has been approved by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury, it shall be deemed registered and approved by the authority if:(i) the applicant submits on a form prescribed by the authority, by certified mail return receipt requested, registered mail return receipt requested, or overnight delivery service with proof of mailing, or via electronic filing, a true copy of the brand or trade name label approval issued by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury along with the appropriate fee as established in paragraph (b) of this subdivision; and(ii) the authority does not deny such application within seven business days after receipt.(3) Provided, however, that where a brand or trade name label for wine has been approved by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury, it shall be deemed registered and approved by the authority and no application, application fee, or annual registration fee shall be submitted to the authority.(b) The annual fee for registration of any brand or trade name label for liquor shall be two hundred fifty dollars; the annual fee for registration of any brand or trade name label for beer, mead or cider shall be one hundred fifty dollars; the annual fee for registration of any brand or trade name label for wine or wine products shall be fifty dollars. Such fee shall be in the form of a check, draft, or via electronic payment. No annual fee for registration of any brand or trade name label for wine shall be required if it has been approved by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury pursuant to this section.Each brand or trade name label registration approved pursuant to this section shall be valid for a term of three years as set forth by the authority and which shall be pro-rated for partial years as applicable.Each brand or trade name label registration approved pursuant to this section shall be valid only for the licensee to whom issued and shall not be transferable.(c) If the authority shall deny the application for registration of a brand or trade name label pursuant to this section, it shall return the

registration fee to the applicant, less twenty-five per centum of such fee and shall notify the applicant, in writing with the specific reasons for its denial.(d) The authority may at any time exempt any discontinued brand from such fee provisions where a manufacturer or wholesaler has an inventory of one hundred cases or less of liquor or wine and five hundred cases or less of beer, and certifies to the authority in writing that such brand is being discontinued. The authority may also at any time exempt any discontinued brand from such fee provisions where a retailer discontinuing a brand owned by him has a balance of an order yet to be delivered of fifty cases or less of liquor or wine, or two hundred fifty cases or less of beer, mead, wine products or cider.(e) The authority shall exempt from such fee provisions the registration of each brand or trade name label used for beer, mead or cider that is produced in small size batches totaling fifteen hundred barrels or less of beer, mead or cider annually.(f) The authority shall exempt from such fee provisions the registration of each brand or trade name label used for spirits or liquor that is produced in small size batches totaling one thousand gallons or less of spirits or liquor annually.5. (a) Each brand or trade name label shall contain the following information:(i) the brand or trade name;(ii) the class and type (if applicable) of alcoholic beverage in accordance with the labeling regulations promulgated by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury; and(iii) the net contents of the container.(b) The brand or trade name label, or a separate label on the front or back of the container shall contain information consistent with the labeling regulations promulgated by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury.(c) No brand or trade name label, or any separate label on the front or back of the container shall contain:(i) any statement that is false or untrue in any particular manner;(ii) any statement that is disparaging of a competitor's product;(iii) any statement, design, device or representation that is likely to mislead the consumer; or(iv) any statement or claim of health benefits to be derived from consumption by the consumer.(d) A separate label registration shall be required in connection with the registration of a brand or trade name label used where there is a difference in any of the following information:(i) the brand or trade name;(ii) the class and type (if applicable) of alcoholic beverage in accordance with federal label regulations; or(iii) a private label owned and sold exclusively by one retailer, where the alcoholic beverage is manufactured, bottled, or imported by a different manufacturer, bottler, or importer, provided all other information appearing on the label is the same. (a) there is a brand or trade name label affixed to or imprinted upon the container of such alcoholic beverage; (b) such label is registered with and approved by the authority and contains the information required in this section; and (c) the appropriate fee has been paid as provided for in this section. 4. An application for registration of a brand or trade name label shall be filed by (1) the owner of the brand or trade name if such owner is licensed by the authority, or (2) a wholesaler selling such brand who is appointed as exclusive agent, in writing, by the owner of the brand or trade name for the purpose of filing such application, if the owner of the brand or trade name is not licensed by the authority, or (3) any wholesaler, with the approval of the authority, in the event that the owner of the brand or trade name does not file or is unable to file such application or designate an agent for such purposes, or (4) any wholesaler, with the approval of the authority, in the event that the owner of the brand or trade name is a retailer who does not file such application, provided that the retailer shall consent to such filing by such wholesaler. Such retailer may revoke his consent at any time, upon written notice to the authority and to such wholesaler. Unless otherwise permitted or required by the authority, the application for registration of a liquor or wine brand or trade name label filed pursuant to this section shall be filed by the same licensee filing schedules pursuant to section one hundred one-b of this article. Cordials and wines which differ only as to fluid content, age, or vintage year, as defined by such regulations, shall be considered the same brand; and those that differ as to type or class may be considered the same brand by the authority where consistent with the purposes of this section. (a) (1) The application for registration of a brand or trade name label shall be filed by certified mail return receipt requested, registered mail return receipt requested, overnight delivery service with proof of mailing, or via electronic filing, on a form prescribed by the authority, and shall contain such information as the authority shall require. Such application shall be accompanied by the appropriate fee prescribed by paragraph (b) of this subdivision and may also require a processing fee of no more than ten dollars paid to either the authority or a third party provider. (2) Provided, however, where a brand or trade name label has been approved by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury, it shall be deemed registered and approved by the authority if: (i) the applicant submits on a form prescribed by the authority, by certified mail return receipt requested, registered mail return receipt requested, or overnight delivery service with proof of mailing, or via electronic filing, a true copy of the brand or trade name label approval issued by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury along with the appropriate fee as established in paragraph (b) of this subdivision; and (ii) the authority does not deny such application within seven business days after receipt. (3) Provided, however, that where a brand or trade name label for wine has been approved by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury, it shall be deemed registered and approved by the authority and no application, application fee, or annual registration fee shall be submitted to the authority. (b) The annual fee for registration of any brand or trade name label for liquor shall be two hundred fifty dollars; the annual fee for registration of any brand or trade name label for beer, mead or cider shall be one hundred fifty dollars; the annual fee for registration of any brand or trade name label for wine or wine products shall be fifty dollars. Such fee shall be in the form of a check, draft, or via electronic payment. No annual fee for registration of any brand or trade name label for wine shall be required if it has been approved by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury pursuant to this section. Each brand or trade name label registration approved pursuant to this section shall be valid for a term of three years as set forth by the authority and which shall be pro-rated for partial years as applicable. Each brand or trade name label registration approved pursuant to this section shall be valid only for the licensee to whom issued and shall not be transferable. (c) If the authority shall deny the application for registration of a brand or trade name label pursuant to this section, it shall return the registration fee to the applicant, less twenty-five per centum of such fee and shall notify the applicant, in writing with the specific reasons for its denial.

(d) The authority may at any time exempt any discontinued brand from such fee provisions where a manufacturer or wholesaler has an inventory of one hundred cases or less of liquor or wine and five hundred cases or less of beer, and certifies to the authority in writing that such brand is being discontinued. The authority may also at any time exempt any discontinued brand from such fee provisions where a retailer discontinuing a brand owned by him has a balance of an order yet to be delivered of fifty cases or less of liquor or wine, or two hundred fifty cases or less of beer, mead, wine products or cider. (e) The authority shall exempt from such fee provisions the registration of each brand or trade name label used for beer, mead or cider that is produced in small size batches totaling fifteen hundred barrels or less of beer, mead or cider annually. (f) The authority shall exempt from such fee provisions the registration of each brand or trade name label used for spirits or liquor that is produced in small size batches totaling one thousand gallons or less of spirits or liquor annually. 5. (a) Each brand or trade name label shall contain the following information: (i) the brand or trade name; (ii) the class and type (if applicable) of alcoholic beverage in accordance with the labeling regulations promulgated by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury; and (iii) the net contents of the container. (b) The brand or trade name label, or a separate label on the front or back of the container shall contain information consistent with the labeling regulations promulgated by the Alcohol and Tobacco Tax and Trade Bureau of the United States Department of Treasury. (c) No brand or trade name label, or any separate label on the front or back of the container shall contain: (i) any statement that is false or untrue in any particular manner; (ii) any statement that is disparaging of a competitor's product; (iii) any statement, design, device or representation that is likely to mislead the consumer; or (iv) any statement or claim of health benefits to be derived from consumption by the consumer. (d) A separate label registration shall be required in connection with the registration of a brand or trade name label used where there is a difference in any of the following information: (i) the brand or trade name; (ii) the class and type (if applicable) of alcoholic beverage in accordance with federal label regulations; or (iii) a private label owned and sold exclusively by one retailer, where the alcoholic beverage is manufactured, bottled, or imported by a different manufacturer, bottler, or importer, provided all other information appearing on the label is the same.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions107 - Advertising and Forms of Notices of the Issuance of Licenses.

1. Where the licensed premises are located in any county other than New York, Kings, Queens or Bronx, notice shall be published once a week for two successive weeks in a daily or weekly newspaper published in the city, town or village in which the licensed premises are located, except that if there shall be no daily or weekly newspaper published in the city, town or village in which the licensed premises are located, then such notice shall be published in a daily or weekly newspaper published in the county in which the licensed premises are located, once a week for two successive weeks. The provisions of this section shall only be applicable to the original license issued to the licensee for the premises. 2. Where the licensed premises are located in the counties of New York, Kings, Queens or Bronx, such notice shall be published once a week for two successive weeks in one daily and one weekly newspaper published in the county in which the licensed premises are located. This provision is only applicable to the original license issued to the licensee for the premises. 3. The notice to be so published shall be printed in English, in substantially the following forms:(a) Form of notice for manufacturer's license. Notice is hereby given that manufacturer's license (fill in beer, liquor or wine manufacturer or rectifier and number) has been issued to the undersigned to manufacture (beer, liquor or wine, as the case may be) under the alcoholic beverage control law in the premises located at (fill in street address, city, town or village and county in which licensed premises are located).Name of licensee) Address of licensee)(b) Form of notice for wholesaler's license. Notice is hereby given that wholesaler's license (fill in beer, liquor or wine wholesaler and license number) has been issued to the undersigned to sell (beer, liquor or wine, as the case may be) at wholesale under the alcoholic beverage control law in the premises located at (fill in street address, city, town or village and county in which licensed premises are located).Name of licensee) Address of licensee)(c) Form of notice for off-premises license. Notice is hereby given that license (fill in beer, liquor or wine store and license number) has been issued to the undersigned to sell (beer, liquor or wine, as the case may be) at retail under the alcoholic beverage control law at (fill in street address, city, town or village and county in which licensed premises are located) for off-premises consumption.Name of licensee) Address of licensee)(d) Form of notice for on-premises license. Notice is hereby given that license (fill in beer, liquor or wine as the case may be, and license number) has been issued to the undersigned to sell (beer, liquor or wine, as the case may be) at retail in a (hotel, club, restaurant, vessel, car, or other type of establishment, as the case may be) under the alcoholic beverage control law at (fill in street address, city, town or village and county in which licensed premises are located) for on-premises consumption.Name of licensee) Address of licensee) (a) Form of notice for manufacturer's license. Notice is hereby given that manufacturer's license (fill in beer, liquor or wine manufacturer or rectifier and number) has been issued to the undersigned to manufacture (beer, liquor or wine, as the case may be) under the alcoholic beverage control law in the premises located at (fill in street address, city, town or village and county in which licensed premises are located). (b) Form of notice for wholesaler's license. Notice is hereby given that wholesaler's license (fill in beer, liquor or wine wholesaler and license number) has been issued to the undersigned to sell (beer, liquor or wine, as the case may be) at wholesale under the alcoholic beverage control law in the premises located at (fill in street address, city, town or village and county in which licensed premises are located). (c) Form of notice for off-premises license. Notice is hereby given that license (fill in beer, liquor or wine store and license number) has been issued to the undersigned to sell (beer, liquor or wine, as the case may be) at retail under the alcoholic beverage control law at (fill in street address, city, town or village and county in which licensed premises are located) for off-premises consumption. (d) Form of notice for on-premises license. Notice is hereby given that license (fill in beer, liquor or wine as the case may be, and license number) has been issued to the undersigned to sell (beer, liquor or wine, as the case may be) at retail in a (hotel, club, restaurant, vessel, car, or

other type of establishment, as the case may be) under the alcoholic beverage control law at (fill in street address, city, town or village and county in which licensed premises are located) for on-premises consumption. 4. The first publication of said notice shall be made within fifteen days after the date of issuance of said license and proof of such publication, in the form hereinafter set forth, shall be obtained by the licensee and retained by him during the license year. The form of proof of such publication shall be as follows: STATE OF NEW YORK)) ss: County of .....) ..... of ..... , being duly sworn, says that he is ..... of the publishers of the ..... , a (daily) or (weekly) newspaper (printed and) published in the (city, town, or village and county) ..... and that the notice of which the annexed is a true copy, has been published in said newspaper for two successive weeks commencing on the ..... day of .....195 ... . Sworn to before me this ....., 195..... .....

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions108 - Restrictions Upon Licensees.

§ 108. Restrictions upon licensees. 1. No licensee except the holder of a license to manufacture alcoholic beverages shall keep or permit to be kept or consumed on the licensed premises any alcoholic beverage except the alcoholic beverages which he is permitted to sell under the terms of the license issued to him. 2. The provisions of subdivision one of this section shall not prohibit a person holding a retail on-premises license and a retail off-premises beer or beer and wine products license for an adjacent premises to transport alcoholic beverages through such off-premises location to supply such adjacent on-premises location.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions109 - Renewals of Licenses and Permits.

§ 109. Renewals of licenses and permits. 1. Each license and permit, except a temporary permit effective for one day only, issued pursuant to this chapter may be renewed upon application therefor by the licensee or permittee and the payment of the annual fee for such license or permit as prescribed by this chapter. In the case of applications for renewals, the liquor authority may dispense with the requirements of such statements as it deems unnecessary in view of those contained in the application made for the original license or permit; provided, however, that no waiver of paragraph (f) of subdivision one of section one hundred ten of this article may be made. The submission of photographs of the licensed premises shall be dispensed with provided the applicant for such renewal shall file a statement with such authority to the effect that there has been no alteration of such premises since the original license was issued. An applicant for a retail license for on-premises consumption shall also submit to the authority a copy of the valid certificate of occupancy or such other document issued by the local code enforcement agency for the premises for which the original license was issued. The liquor authority may make such rules as may be necessary not inconsistent with this chapter regarding applications for renewals of licenses and permits and the time for making the same. 2. The authority shall provide an application for renewal of a license issued under section sixty-four or sixty-four-a of this chapter not less than sixty days prior to the expiration of the current license.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions110-A - Notice of Application for Certain Licenses to Be Published by Applicant.

2. All applicants required to publish notice of an application for a license pursuant to subdivision one of this section shall, in such form as prescribed by subdivision three of this section, publish such notice as follows:(a) Where the prospective licensed premises are located in any county other than New York, Kings, Queens or Bronx, notice shall be published once a week for two successive weeks in a daily or weekly newspaper, to be designated by the county clerk, published in the city, town or village in which the prospective licensed premises are located, except that if there shall be no daily or weekly newspaper published in the city, town or village in which the prospective licensed premises are located, then such notice shall be published in a daily or weekly newspaper, to be designated by the county clerk, published in the county in which the prospective licensed premises are located, once a week for two successive weeks.(b) Where the prospective licensed premises are located in the counties of New York, Kings, Queens or Bronx, such notice shall be published once a week for two successive weeks in one daily and one weekly newspaper, to be designated by the county clerk, published in the county in which the prospective licensed premises are located.3. Such notice shall be printed in English, in substantially the following form:Form of notice for on-premises license. Notice is hereby given that license (fill in beer, liquor or wine as the case may be, and license number) has been applied for by the undersigned to sell (beer, liquor or wine, as the case may be) at retail in a (hotel, club, restaurant, vessel, car, or other type of establishment, as the case may be) under the alcoholic beverage control law at (fill in street address, city, town or village and county in which licensed premises are located) for on-premises consumption.Name of licensee) Address of licensee) (a) Where the prospective licensed premises are located in any county other than New York, Kings, Queens or Bronx, notice shall be published once a week for two successive weeks in a daily or weekly newspaper, to be designated by the county clerk, published in the city, town or village in which the prospective licensed premises are located, except that if there shall be no daily or weekly newspaper published in the city, town or village in which the prospective licensed premises are located, then such notice shall be published in a daily or weekly newspaper, to be designated by the county clerk, published in the county in which the prospective licensed premises are located, once a week for two successive weeks. (b) Where the prospective licensed premises are located in the counties of New York, Kings, Queens or Bronx, such notice shall be published once a week for two successive weeks in one daily and one weekly newspaper, to be designated by the county clerk, published in the county in which the prospective licensed premises are located. 3. Such notice shall be printed in English, in substantially the following form: Form of notice for on-premises license. Notice is hereby given that license (fill in beer, liquor or wine as the case may be, and license number) has been applied for by the undersigned to sell (beer, liquor or wine, as the case may

be) at retail in a (hotel, club, restaurant, vessel, car, or other type of establishment, as the case may be) under the alcoholic beverage control law at (fill in street address, city, town or village and county in which licensed premises are located) for on-premises consumption. 4. The provisions of this section shall apply only to the application for the original license issued to the licensee for the premises. 5. Except for good cause shown, the first publication of such notice shall be made within ten days after the date of the submission of the application for such license to the authority. Two original copies of proof of such publication, in the form set forth in this subdivision shall be obtained by the applicant for such license, who shall within fifteen days of receipt of such original copies of such proof, submit one original copy to the authority, and the second original copy of such proof shall be retained by the applicant for such license. Except for good cause shown, the authority shall not issue the license sought by the applicant unless such proof is submitted within such fifteen-day period. The form of proof of such publication shall be as follows: State of New York)) ss.: County of .....) ..... of ..... being duly sworn, says that he is ..... of the publishers of the ..... (daily) or (weekly) newspaper (printed and) published in the (city, town, or village and county) ....., and that the notice of which the annexed is a true copy, has been published in said newspaper for two successive weeks commencing on the ..... day of ..... 199.... ..... Sworn to before me this ..... day of .....

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions110-B - Notification to Municipalities.

(a) for a license issued pursuant to section fifty-five, fifty-five-a, sixty-four, sixty-four-a, sixty-four-b, sixty-four-c, sixty-four-d, eighty-one or eighty-one-a of this chapter; (b) for a renewal under section one hundred nine of this chapter of a license issued pursuant to section fifty-five, fifty-five-a, sixty-four, sixty-four-a, sixty-four-c, sixty-four-d, eighty-one or eighty-one-a of this chapter if the premises is located within the city of New York; (c) for approval of an alteration under section ninety-nine-d of this chapter if the premises is located within the city of New York and licensed pursuant to section fifty-five, fifty-five-a, sixty-four, sixty-four-a, sixty-four-c, sixty-four-d, eighty-one or eighty-one-a of this chapter; (d) for approval of a substantial corporate change under section ninety-nine-d of this chapter if the premises is located within the city of New York and licensed pursuant to section fifty-five, fifty-five-a, sixty-four, sixty-four-a, sixty-four-c, sixty-four-d, eighty-one or eighty-one-a of this chapter; or (e) for a temporary retail permit issued under paragraph (b) of subdivision one of section ninety-seven-a of this chapter where the establishment is to be licensed pursuant to section fifty-five, fifty-five-a, sixty-four, sixty-four-a, sixty-four-b, sixty-four-c, sixty-four-d, eighty-one or eighty-one-a of this chapter located in a city with a population of one million or more people. If an applicant subject to this paragraph shall, after filing an application for a retail license and providing proper notice for such application pursuant to paragraph (a) of this subdivision, subsequently file an application for a temporary retail permit pursuant to section ninety-seven-a of this chapter at the same premises, such applicant must file additional notice pursuant to this paragraph; provided, however, such notice will be effective at the later of its proper service under this section or thirty days from the date proper notice was served under paragraph (a) of this subdivision for the license at the same premises. 1-a. The proof of notification, provided for in subdivisions six and six-a of this section, must be provided at the time of application; failure to so provide shall constitute good cause for denial. 1-b. The authority may not act to approve any application subject to this section prior to the passage of thirty days from the date notification was provided to the municipality. 2. Such notification shall be made to the clerk of the village, town or city, as the case may be, wherein the premises is located. For purposes of this section: (a) notification need only be given to the clerk of a village when the premises is located within the boundaries of the village; and (b) in the city of New York, the community board established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which the premises is located shall be considered the appropriate public body to which notification shall be given. 3. For purposes of this section, "substantial corporate change" shall mean: (a) for a corporation, a change of eighty percent or more of the officers and/or directors, or a transfer of eighty percent or more of stock of such corporation, or an existing stockholder obtaining eighty percent or more of the stock of such corporation; and (b) for a limited liability company, a change of eighty percent or more of the managing members of the company, or a transfer of eighty percent or more of ownership interest in said company, or an existing member obtaining a cumulative of eighty percent or more of the ownership interest in said company. 4. Such notification shall be made in such form as shall be prescribed by the rules of the liquor authority. 5. A municipality may express an opinion for or against the granting of such application. Any such opinion shall be deemed part of the record upon which the liquor authority makes its determination to grant or deny the application. 6. Such notification shall be made by: certified mail, return receipt requested; overnight delivery service with proof of mailing; or personal service upon the offices of the clerk or community board. 6-a. Such notification may be made by email, provided the municipality or community board in which the premises is located elects to take service in such form. Such an election shall be in a writing signed by the authorized agent or clerk of the municipality or community board. Proof of email service shall be provided to the authority in the form of an email from the municipality or community board that reasonably identifies the applicant, or by other such forms of proof as determined by the authority. 7. The liquor authority shall require such notification to be on a standardized form that can be obtained on the internet or from the liquor authority and such notification to include: (a) the trade name or "doing business as" name, if any, of the establishment; (b) the full name of the applicant; (c) the street address of the establishment, including the floor location or room number, if applicable; (d) the mailing address of the establishment, if different than the street address; (e) the name, address and telephone number of the attorney or representative of the applicant, if any; (f) a statement indicating whether the application is for: (i) a new establishment; (ii) a transfer of an existing licensed business; (iii) a renewal of an existing license; or (iv) an alteration of an existing licensed premises; (g) if the establishment is a transfer or previously licensed premises, the name of the old establishment and such establishment's license serial number; (h) in the case of a renewal or alteration application, the license serial number of the applicant; and (i) the

type of license.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions110-C - Public License Query.

§ 110-c. Public license query. 1. The authority shall make available to the public all digitally archived information pertaining to any conditions it imposes on the operation of a premises licensed by the authority pursuant to this chapter, including but not necessarily limited to information pertaining to the hours during which the licensed premises is allowed to operate, the maximum permitted occupancy of the licensed premises, and any special conditions imposed by the authority on the licensed premises. 2. The authority shall make available to the public on its website a daily updated list or lists of all pending license applications. Such list shall include the serial, certificate or other identifying number assigned by the authority; the status of the application; the name of the applicant; the complete address, including county, of the applied for premises; the license type and class the applicant is seeking; the date such application was received; based on the date submitted, an estimated timeframe, specified as a date, for a determination on the application. For any unreasonable delay that is caused solely by an action of the authority, this timeframe will be updated; if the authority has issued any temporary permit for the premises related to the current application; and the final date of an applications determination. 3. The authority shall maintain a record of the number of licenses applied for and the length of time required for the approval or denial of such licenses on its public website. Such records shall be updated at least monthly by the authority. 4. The authority shall, where feasible and resources permitting, develop or cause to be developed up-grades to their information technology systems that will enable greater transparency for applicants with respect to their application status and estimated processing times for final determination on a license application.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions110 - Information to Be Requested in Applications for Licenses or Permits.

(a) A statement of identity as follows: (i) If the applicant is an individual, his name, date and place of birth, citizenship, permanent home address, telephone number and social security number, as well as any other names by which he has conducted a business at any time. (ii) If the applicant is a corporation, the corporate name of the applicant, its place of incorporation, its main business address (and if such main business address is not within the state, the address of its main place of business within the state), other names by which it has been known or has conducted business at any time, its telephone number, its federal employer identification number, and the names, ages, citizenship, and permanent home addresses of its directors, officers and its shareholders (except that if there be more than ten shareholders then those shareholders holding ten percent or more of any class of its shares). (iii) If the applicant is a partnership, its name, its main business address (and if such main business address is not within the state, the address of its main place of business within the state), other names by which it has been known or has conducted business at any time, its telephone number, its federal employer identification number, and the names, ages, citizenship, and permanent home addresses of each of its partners. (b) A statement identifying the street and number of the premises to be licensed, if the premises have a street and number, and otherwise such description as will reasonably indicate the locality thereof; photographs, drawings or other items related to the appearance of the interior or exterior of such premises, and a floor plan of the interior, shall be required. The applicant shall also state the nature of his interest in the premises; and the name of any other person interested as a partner, joint venturer, investor or lender with the applicant either in the premises or in the business to be licensed. (c) A description of any other alcohol beverage license or permit under this chapter or any other alcoholic beverage control law which, within the past ten years, the applicant (including any officers, directors, shareholders or partners listed in the statement of identity under paragraph (a) of this subdivision or the spouse of any such person) or the applicant's spouse held or applied for. (d) A statement that such applicant or the applicant's spouse has not been convicted of a crime addressed by the provisions of section one hundred twenty-six of this article which would forbid the applicant (including any officers, directors, shareholders or partners listed in the statement of identity under paragraph (a) of this subdivision or the spouse of such person) or the applicant's spouse to traffic in alcoholic beverages, a statement whether or not the applicant (including any officers, directors, shareholders or partners listed in the statement of identity under paragraph (a) of this subdivision or the spouse of any such person) or the applicant's spouse is an official described in section one hundred twenty-eight of this article, and a description of any crime that the applicant (including any officers, directors, shareholders or partners listed under paragraph (a) of this subdivision or the spouse of any such person) or the applicant's spouse has been convicted of and whether such person has received a pardon, certificate of good conduct or certificate of relief from disabilities; provided, however, that no person shall be denied any license solely on the grounds that such person is the spouse of a person otherwise disqualified from holding a license under this chapter. (e) A statement that the location and layout of the premises to be licensed does not violate any requirement of this chapter relating to location and layout of licensed premises, with a copy of the certificate of occupancy for the premises. (f) A statement indicating the type of establishment to be operated at the premises. Such statement shall indicate the occurrence of topless entertainment and/or exotic dancing whether topless or otherwise, including, but not limited to, pole dancing and lap dancing, at the establishment. (g) A statement that the applicant has control of the premises to be licensed by ownership of a fee interest or via a leasehold, management agreement, or other agreement giving the applicant control over the food and beverage at the premises, with a term at least as long as the license for which the application is being made, or by a binding contract to acquire the same and a statement of identity under paragraph (a) of this subdivision for the lessor of any leasehold, manager of any management agreement, or other agreement giving the applicant control over the food and beverage at the premises, with a copy of the lease, contract, management agreement, or other agreement giving the applicant control over the food and beverage at the premises, or deed evidencing fee ownership of the premises. (h) A financial statement adequate to show all

persons who, directly or indirectly have an economic interest in the establishment or acquisition of the business for which the license or permit application is being made, to identify the sources of funds to be applied in such establishment or acquisition, and to describe the terms and conditions governing such establishment with copies of such financial documents as the authority may reasonably require. (i) The fingerprints of the applicants. Fingerprints submitted by the applicants shall be transmitted to the division of criminal justice services and may be submitted to the federal bureau of investigation for state and national criminal history record checks. 2. All license or permit applications shall be signed by the applicant (if an individual), by an officer (if a corporation), or by all partners (if a partnership). Each person signing such application shall verify it or affirm it as true under the penalties of perjury. 3. All license or permit applications shall be accompanied by a check, draft or other forms of payment as the authority may require or authorize in the amount required by this chapter for such license or permit. 4. If there be any change, after the filing of the application or the granting of a license, in any of the facts required to be set forth in such application, a supplemental statement giving notice of such change, cost and source of money involved in the change, duly verified, shall be filed with the authority within ten days after such change. Failure to do so shall, if willful and deliberate, be cause for revocation of the license. 5. In giving any notice, or taking any action in reference to a licensee of a licensed premises, the authority may rely upon the information furnished in such application and in any supplemental statement connected therewith, and such information may be presumed to be correct, and shall be binding upon a licensee or licensed premises as if correct. All information required to be furnished in such application or supplemental statements shall be deemed material in any prosecution for perjury, any proceeding to revoke, cancel or suspend any license, and in the authority's determination to approve or deny the license. 6. The authority may in its discretion waive the submission of any category of information described in this section for any category of license or permit, provided that it shall not be permitted to waive the requirement for submission of any such category of information solely for an individual applicant or applicants and provided further that no waiver of paragraph (f) of subdivision one of this section shall be made. 7. The authority may, by rule, adopt additional categories of information which may be reasonably necessary to carry out the provisions of this section.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions111-A - Use of Contiguous and Non-Contiguous Municipal Public Space for On-Premises Alcoholic Beverage Sales by Certain Licensees.

(a) the municipality in which the licensed premises is located issues a permit or the responsible municipal regulatory body or agency issues written authorization to the licensee to sell and/or serve food on such contiguous municipal public space or non-contiguous municipal public space; (b) the licensee submits to the liquor authority a copy of such municipal permit or other written authorization along with the alteration application; (c) the licensee submits to the liquor authority a copy of the permit application submitted to the municipality to obtain the municipal permit or other written authorization from the municipality along with the alteration application; (d) the licensee submits to the liquor authority a diagram depicting both the licensed premises and the contiguous municipal public space or non-contiguous municipal public space to be used by the licensee with the alteration application; (e) the licensee submits to the liquor authority proof that it has provided community notification to the municipality, including municipalities outside the city of New York, in a manner consistent with or required by subdivision two of section one hundred ten-b of this article as required for the city of New York; (f) the licensee submits proof to the liquor authority that: (i) such licensee has obtained workers' compensation insurance for all employees, as required by the workers' compensation law; and (ii) such licensee has obtained general liability insurance to provide coverage against liability for injury sustained by persons on the contiguous municipal public space or non-contiguous municipal public space used by the licensee and, if applicable, persons and cyclists using or crossing a bike thoroughfare that connects the licensed premises to the non-contiguous municipal public space used by the licensee. The licensee shall maintain such general liability coverage during the term of its municipal permit or written authorization to use the contiguous municipal public space or non-contiguous municipal public space; and (g) use of any such contiguous or non-contiguous municipal public space meets all applicable federal, state or local laws, rules, regulations, guidance, conditions or requirements. 2. For the purposes of this section: (a) "non-contiguous municipal public space" shall mean space that: (i) is located in front of, behind, or to the side of the licensed premises; (ii) is within the property boundaries of the licensed premises as extended out; or within the property boundaries of the nearest adjacent properties on either side; (iii) does not extend further than the midline of any public roadway; (iv) is separated from the licensed premises only by one or more of the following: a pedestrian thoroughfare, a thoroughfare primarily restricted to use by bicycles, or a portion of a thoroughfare with such restrictions; and (v) otherwise complies with all applicable federal, state and local requirements. (b) "Contiguous municipal public space" shall mean space that: (i) is located in front of, behind, or to the side of the licensed premises; (ii) is within the property boundaries of the licensed premises as extended out; or within the property boundaries of the nearest adjacent properties on either side; (iii) otherwise complies with all applicable federal, state and local requirements. 3. Licensees choosing to utilize non-contiguous municipal public space that includes a thoroughfare primarily restricted to use by bicycles, or a portion of a thoroughfare with such restrictions, shall post a sign or poster in said municipal outdoor space with conspicuous lettering in at least seventy-two point bold face font that states: "CAUTION: BICYCLE LANE" prior to and while utilizing any such municipal space for on-premises alcoholic beverage sales to patrons. Such licensees shall be solely responsible for production of and maintenance of such signage. Compliance by the licensee with the provisions of any local law requiring posting of warning signs regarding bicycle lanes enacted on or before the effective date of this section shall be deemed to be in compliance with the provisions of this section. Nothing contained herein, however, shall be deemed to exempt any licensee not otherwise subject to the provisions of any such local law from complying with the provisions of this section. 4. If at any time the municipality revokes, cancels or suspends or otherwise terminates the licensee's

authorization to use such contiguous municipal public space or non-contiguous municipal public space, the licensee shall immediately cease exercising the privilege to sell and/or serve alcoholic beverages at retail for consumption on such municipal public space. The licensee shall then file a new alteration application removing the municipal public space from its licensed premises. The failure to file a new alteration application with the authority within ten business days of the revocation, cancellation, suspension, or other termination by the local municipality of the licensee's authorization to use such contiguous or non-contiguous municipal public space shall be cause for revocation, cancellation, suspension and/or imposition of a civil penalty against the license in accordance with section one hundred eighteen of this article. 5. The authority may promulgate guidance, rules and/or regulations necessary to implement the provisions of this section. Notwithstanding existing provisions of this chapter, the authority is authorized to provide simplified applications and notification procedures for licensees seeking to utilize municipal space for on-premises alcoholic beverage sales whenever possible or appropriate. Nothing in this section shall prohibit the authority from requesting additional information from any applicant seeking to use new municipal space or renewal of existing municipal space.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions111 - License to Be Confined to Premises Licensed.

§ 111. License to be confined to premises licensed. A license issued to any person, pursuant to chapter one hundred eighty of the laws of nineteen hundred thirty-three or this chapter, for any licensed premises shall not be transferable to any other person or to any other premises or to any other part of the building containing the licensed premises except in the discretion of the authority. It shall be available only to the person therein specified, and only for the premises licensed and no other except if authorized by the authority. Provided, however, that the provisions of this section shall not be deemed to prohibit the issuance of a license under section seventy-six-b or seventy-six-c of this chapter. For the purposes of this section each railroad car and each vessel shall be deemed premises separately to be licensed.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions112 - Bonds of Licensees and Permittees.

§ 112. Bonds of licensees and permittees. The liquor authority may require the licensees and permittees of one or more of the kinds or classes described in this chapter to file with it a bond to the people of the state of New York issued by a surety company, approved by the superintendent of financial services as to solvency and responsibility and authorized to transact business in this state, in such penal sum as the liquor authority may heretofore have prescribed or hereafter shall prescribe, conditioned that such licensee or permittee will not suffer or permit any violation of the provisions of this chapter and that all fines and penalties which shall accrue, during the time the license or permit shall be in effect, will be paid, together with all costs taxed or allowed in any action or proceeding brought or instituted for a violation of any of the provisions of this chapter. A suit to recover on any bond filed pursuant to chapter one hundred eighty of the laws of nineteen hundred thirty-three or this chapter may be brought by the liquor authority or on relation of any party aggrieved, in a court of competent jurisdiction and in the event that the obligor named in such bond has violated any of the conditions of such bond, recovery for the penal sum of such bond may be had in favor of the people of the state. Notwithstanding the provisions of this section, no bond shall be required to be filed by the holder of a solicitor's permit issued under section ninety-three of this chapter.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions113 - Premises for Which No License Shall Be Granted.

2. In determining whether to issue such a license for such two year period, in addition to any other factors deemed relevant, the liquor authority shall, in the case of a license revoked due to the illegal sale of alcohol to a minor, determine whether the proposed subsequent licensee has obtained such premises through an arm's length transaction, and, if such transaction is not found to be an arm's length transaction, the liquor authority shall deny the issuance of such license. 3. For purposes of this section, "arm's length transaction" shall mean a sale of a fee of all undivided interests in real property, lease, management agreement, or other agreement giving the applicant control over the food and beverage at the premises, or any part thereof, in the open market, between an informed and willing buyer and seller where neither is under any compulsion to participate in the transaction, unaffected by any unusual conditions indicating a reasonable possibility that the sale was made for the purpose of permitting the original licensee to avoid the effect of the revocation. The following sales shall be presumed not to be arm's length transactions unless adequate documentation is provided demonstrating that the sale, lease, management agreement, or other agreement giving the applicant control over the food and beverage at the premises, was not conducted, in whole or in part, for the purpose of permitting the original licensee to avoid the effect of the revocation:(a) a sale between relatives;(b) a sale between related companies or partners in a business; or(c) a sale, lease, management agreement, or other agreement giving the applicant control over the food and beverage at the premises, affected by other facts or circumstances that would indicate that the sale, lease, management agreement, or other agreement giving the applicant control over the food and beverage at the premises, is entered into for the primary purpose of permitting the original licensee to avoid the effect of the revocation. (a) a sale between relatives; (b) a sale between related companies or partners in a business; or (c) a sale, lease, management agreement, or other agreement giving the applicant control over the food and beverage at the premises, affected by other facts or circumstances that would indicate that the sale, lease, management agreement, or other agreement giving the applicant control over the food and beverage at the premises, is entered into for the primary purpose of permitting the original licensee to avoid the effect of the revocation.

Title: abc

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions114-A - License or Permit Issuance and Registration Approval.

§ 114-a. License or permit issuance and registration approval. 1. The authority upon receiving an application and appropriate payment shall, to the extent practicable, provide the applicant with a receipt within twenty-five business days. Such receipt shall include the date of acceptance of such application as well as an estimated length of time necessary for the authority to review and make a determination on such application. Such receipt shall include a unique serial, certification or other identifying number. 2. No license or permit shall be issued and no registration approved pursuant to this chapter until such time as any check or draft submitted for payment of the required fee has been honored by the payor financial institution, provided, however, that this provision shall not apply in the case of a certified check, bank officers' check or money order.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions114 - Licenses, Publication, General Provisions.

§ 114. Licenses, publication, general provisions. 1. All licenses issued pursuant to this chapter shall be distinctive in color and design so as to be readily distinguishable from each other. 2. No license shall be transferable or assignable except that notwithstanding any other provision of law, the license of a sole proprietor converting to corporate form, where such proprietor becomes the sole stockholder and only officer and director of such new corporation, may be transferred to the subject corporation if all requirements of this chapter remain the same with respect to such license as transferred and, further, the licensee shall transmit to the authority, within ten days of the transfer of license allowable under this subdivision, on a form prescribed by the authority, notification of the transfer of such license. 3. No license shall be pledged or deposited as collateral security for any loan or upon any other condition; and any such pledge or deposit, and any contract providing therefor, shall be void. 4. Licenses issued under this chapter shall contain, in addition to any further information or material to be prescribed by the rules of the liquor authority, the following information: (a) Name of person to whom license is issued; (b) kind of license and what kind of traffic in alcoholic beverages is thereby permitted; (c) description by street and number, or otherwise, of licensed premises; (d) a statement in substance that such license shall not be deemed a property or vested right, and that it may be revoked at any time pursuant to law. 5. There shall be printed and furnished by the liquor authority to each licensee a statement of the causes for which licenses may be revoked. Such statement shall be prepared by the liquor authority and delivered to the licensee with his license or as soon thereafter as may be practicable. Any amendments thereto shall also be sent by the liquor authority to all licensees as soon as may be practicable after such amendments. Failure to send such statements or changes therein, or failure to receive the same, or any misstatement or error contained in such statements or amendments shall, however, not be an excuse or justification for any violation of law, or prevent, or remit, or decrease any penalty or forfeiture therefor. 6. Before commencing or doing any business for the time for which a license has been issued said license shall be enclosed in a suitable wood or metal frame having a clear glass space and a substantial wood or metal back so that the whole of said license may be seen therein, and shall be posted up and at all times displayed in a conspicuous place in the room where such business is carried on, so that all persons visiting such place may readily see the same. It shall be unlawful for any person holding a license to post such license or to permit such license to be posted upon premises other than the premises licensed, or upon premises where traffic in alcoholic beverages is being carried on by any person other than the licensee, or knowingly to deface, destroy or alter any such license in any respect. Whenever a license shall be lost or destroyed without fault on the part of the licensee or his agents or employees, a duplicate license in lieu thereof may be issued by the liquor authority in its discretion and in accordance with such rules and regulations and the payment of such fees, not exceeding five dollars, as it may prescribe.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions115 - Rules Need Not Be Uniform.

§ 115. Rules need not be uniform. Whenever in this chapter the liquor authority is authorized to adopt rules in respect to a particular subject or matter, such rules need not be uniform in their application to the various localities within the jurisdiction of such authority, but may vary in accordance with a reasonable classification of such localities.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions116 - Deliveries of Alcoholic Beverages.

§ 116. Deliveries of alcoholic beverages. No alcoholic beverage shall be transported within this state by any vehicle unless such vehicle is owned and operated, or hired and operated by a licensee and unless there shall be attached to or inscribed upon both sides of such vehicle so as to be visible from a reasonable distance, a sign setting forth the name and address of such licensee in such form and with such additional information as the liquor authority may prescribe; provided, however, (a) that alcoholic beverages may be transported by a retail licensee to the home of a purchaser not to be resold by the purchaser; (b) that alcoholic beverages owned by a person may be transported from place to place not for purposes of sale; (c) that alcoholic beverages may be delivered from a licensee to a steamship or railroad station or terminal for purposes of transportation, and may be delivered from a steamship or railroad station or terminal to a purchaser for purposes of consumption, or to a licensee by any bona fide trucking agency holding a permit under this chapter. In lieu of such sign, a licensee may have in the cab of such vehicle a photostatic copy of its current license issued by the authority, and such copy duly authenticated by the authority.

Title: abc

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions117-A - Unlimited Drink Offerings Prohibited.

(a) offer, sell, serve, or deliver to any person or persons an unlimited number of drinks during any set period of time for a fixed price. (b) allow a person, agent, party organizer, or promoter, as such terms shall be defined by the authority in rule and regulation, to offer, sell, serve, or deliver to any person or persons an unlimited number of drinks during any set period of time for a fixed price. (c) advertise, promote, or charge a price for drinks that in the judgment of the authority creates an offering of alcoholic beverages in violation of the purposes and intent of this section, or which in the judgment of the authority is an attempt to circumvent the intent and purposes of this section, such as, but not limited to, offerings of free drinks, or multiple drinks for free or for the price of a single drink, or for a low initial price followed by a price increment per hour or other period of time, or for such a minor amount that in the judgment of the authority the pricing would constitute an attempt to circumvent the intent and purposes of this section. 2. As used in this section, licensee means and includes the licensee, and any employees, or agents of such licensee. 3. With respect to an individual licensee, this section shall not apply to private functions not opened to the public, such as weddings, banquets, or receptions, or other similar functions, or to a package of food and beverages where the service of alcoholic beverages is incidental to the event or function. 4. The authority shall investigate any documented allegation of a violation of this section upon a complaint by any person. 5. The authority shall promulgate rules and regulations necessary to implement the provisions of this section. 6. The provisions of this section shall not apply to the holder of a temporary permit under subdivision five of section ninety-seven of this chapter.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions117-B - Possession or Use of Alcohol Vaporizing Devices Prohibited.

§ 117-b. Possession or use of alcohol vaporizing devices prohibited. 1. For purposes of this section, "alcohol vaporizing device" means any device, machine or process which mixes spirits, liquor or other alcohol product with pure oxygen or other gas to produce a vaporized product for the purpose of consumption by inhalation. 2. No licensee shall knowingly possess or make available for use an alcohol vaporizing device upon the premises of an establishment licensed pursuant to this chapter. 3. A violation of the provisions of this section shall be an offense punishable by a fine of not more than five thousand dollars. A violation of the provisions of this section after having been previously convicted of such an offense within the previous five years shall be a class B misdemeanor punishable by a fine of not more than ten thousand dollars. 4. Nothing in this section shall be construed to prohibit the authority from instituting proceedings to suspend, cancel, or revoke a license as provided in section seventeen of this chapter.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions117 - Transportation of Alcoholic Beverages.

§ 117. Transportation of alcoholic beverages. No common carrier or person operating a transportation facility in this state, other than the United States government, shall receive for transportation or delivery within the state any alcoholic beverages unless the shipment is accompanied by copy of a bill of lading, or other document, showing the name and address of the consignor, the name and address of the consignee, the date of the shipment, and the quantity and kind of alcoholic beverage contained therein.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions118 - Revocation of Licenses for Cause.

(a) Conviction of the licensee, permittee or his agent or employee for selling any illegal alcoholic beverages on the premises licensed. (b) For transferring, assigning or hypothecating a license or permit. 2. Notwithstanding the issuance of a license or permit by way of renewal, the liquor authority may revoke, cancel or suspend such license or permit and/or may impose a civil penalty against any holder of such license or permit, as prescribed by this section and section one hundred nineteen of this chapter, for causes or violations occurring during the license period immediately preceding the issuance of such license or permit, and may recover, as provided in section one hundred twelve of this chapter, the penal sum of the bond on file during said period. 3. (a) As used in this section, the term "for cause" shall also include the existence of a sustained and continuing pattern of noise, disturbance, misconduct, or disorder on or about the licensed premises, related to the operation of the premises or the conduct of its patrons, which adversely affects the health, welfare or safety of the inhabitants of the area in which such licensed premises are located. (b) (i) As used in this section, the term "for cause" shall also include, for licensees that sell alcoholic beverages for on premises consumption, deliberately misleading the authority: (A) as to the nature and character of the business to be operated on the licensed premises; or (B) by substantially altering the nature or character of such business at the licensed premises during the licensing period without seeking appropriate approvals from the authority. (ii) As used in this subdivision, the term "substantially altering the nature or character" of such business shall mean any significant alteration in the scope of business activities conducted at a licensed premises that would require obtaining an alternate form of license. (c) As used in this section, the term "for cause" shall also include a licensee's or permittee's failure to cure a violation of law or rule in the time period prescribed by the authority pursuant to subdivision six of this section. 4. As used in this chapter, the existence of a sustained and continuing pattern of noise, disturbance, misconduct, or disorder on or about the licensed premises, related to the operation of the premises or the conduct of its patrons, will be presumed upon the sixth incident reported to the authority by a law enforcement agency of noise or disturbance or misconduct or

disorder on or about the licensed premises or related to the operation of the premises or the conduct of its patrons, in any sixty day period, absent clear and convincing evidence of either fraudulent intent on the part of any complainant or a factual error with respect to the content of any report concerning such complaint relied upon by the authority. 5. Notwithstanding any other provision of this chapter to the contrary, a suspension imposed under this section against the holder of a license issued under section sixty-one-a of this chapter shall only suspend the licensed activities related to the type of alcoholic beverage involved in the violation resulting in the suspension. 6. (a) Notwithstanding any other provision of this chapter, in lieu of commencement of a disciplinary proceeding against a licensee or permittee, for a first-time violation of either a provision of this chapter or a rule of the authority that is deemed by the authority under its discretion to be de minimis under the circumstances, and is related to (i) an administrative process, or (ii) paperwork requested or received by the authority, or (iii) acts or omissions of the licensee or permittee, the authority shall provide a cure period or other opportunity for ameliorative action if the violation can be corrected. (b) Upon such first-time violation, the authority shall (i) provide the licensee with a copy of the applicable law or rule and any other helpful guidance or information explaining such law or rule, to the extent such materials exist, or (ii) to the extent practicable, provide such licensee assistance with compliance with the law or the authority's rules. (c) The authority shall have the discretion to determine the appropriate period of time to allow such licensee to cure or take such other ameliorative action to address such violation, which shall be reasonable but shall not be less than fifteen business days and not more than twenty business days, unless a longer period is allowed pursuant to law or regulation. (d) No waiver of penalties or cure period or other opportunity for ameliorative action may be given if the authority determines that such violation may result in serious actual harm, or may present an endangerment to public safety, human health or the environment, is a violation of human or civil rights law, results in loss of employee wages or benefits, interferes with any remedy, review, or resolution related to harassment or discrimination claims, was or is a willful violation, involves tax fraud, violates requirements related to federal funding to the state, relates to state funding or procurement, is similar to prior violations, is a penal law violation, relates to a material or substantive portion of the licensee's business, or is in contravention of the public interest and/or policy reflected by the authority's mission.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions119 - Procedure for Revocation or Cancellation.

2. The liquor authority may on its own initiative or on complaint of any person institute proceedings to revoke, cancel or suspend any retail license and may impose a civil penalty against the licensee after a hearing at which the licensee shall be given an opportunity to be heard. Such hearing shall be held in such manner and upon such notice as may be prescribed by the rules of the liquor authority. 3. All other licenses or permits issued under this chapter may be revoked, cancelled, suspended and/or made subject to the imposition of a civil penalty by the liquor authority after a hearing to be held in the manner to be determined by the rules of the liquor authority. 4. (a) The provisions of this subdivision shall apply in all cases of licensee or permittee failure after receiving appropriate notice, to comply with a summons, subpoena or warrant relating to a paternity or child support proceeding and arrears in payment of child support or combined child and spousal support referred to the authority by a court pursuant to the requirements of section two hundred forty-four-c of the domestic relations law or pursuant to section four hundred fifty-eight-b or five hundred forty-eight-b of the family court act.(b) Upon receipt of an order from the court based on arrears in payment of child support or combined child and spousal support pursuant to one of the foregoing provisions of law, the authority, if it finds such person to have been issued a license or permit, shall within thirty days of receipt of such order from the court, provide notice to the licensee or permittee of, and initiate, a hearing which shall be held at least twenty days and no more than thirty days after the sending of such notice to the licensee or permittee. The hearing shall be solely held for the purpose of determining whether there exists as of the date of the hearing proof that full payment of all arrears of support established by the order of the court to be due from the licensee or permittee have been paid. Proof of such payment shall be a certified check showing full payment of established arrears or a notice issued by the court or the support collection unit, where the order is payable to the support collection unit designated by the appropriate social services district. Such notice shall state that full payment of all arrears of support established by the order of the court to be due have been paid. The licensee or permittee shall be given full opportunity to present such proof of payment at the hearing in person or by counsel. The only issue to be determined by the authority as a result of the hearing is whether the arrears have been paid. No evidence with respect to the appropriateness of the court order or ability of the respondent party in arrears to comply with such order shall be received or considered by the authority.(c) Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, such license or permit shall be suspended if at the hearing, provided for by paragraph (b) of this subdivision, the licensee or permittee fails to present proof of payment as required by such subdivision. Such suspension shall not be lifted unless the court or the support collection unit, where the court order is payable to the support collection unit designated by the appropriate social services district, issues notice to the authority that full payment of all arrears of support established by the order of the court to be due have been paid.(d) Upon receipt of an order from the court based on failure to comply with a summons, subpoena, or warrant relating to a paternity or child support proceeding, the authority, if it finds such person has been issued a license or permit, shall within thirty days of receipt of such order from the court, provide notice to the licensee or permittee that his or her license shall be suspended in sixty days unless the conditions in paragraph (e) of this subdivision are met.(e) Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, such license or permit shall be suspended in accordance with the provisions of paragraph (c) of this subdivision unless the court terminates its order to commence suspension proceedings. Such suspension shall not be lifted unless the court issues an order to the authority terminating its order to commence suspension proceedings.(f) The authority shall inform the court of all actions taken hereunder as

required by law.(g) This subdivision applies to support obligations paid pursuant to any order of child support or child and spousal support issued under provisions of article three-A or section two hundred thirty-six or two hundred forty of the domestic relations law, or article four, five or five-A of the family court act.(h) Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the provisions of this subdivision shall apply to the exclusion of any other requirements of this article and to the exclusion of any other requirement of law to the contrary.5. Where a licensee is convicted of two or more qualifying offenses within a five year period, the authority, upon receipt of notification of such second or subsequent conviction pursuant to the provisions of subdivision two of section one hundred six-a of this article, shall, in addition to any other sanction or civil or criminal penalty imposed pursuant to this chapter, impose on such licensee a civil penalty not to exceed five hundred dollars. For purposes of this subdivision, a qualifying offense shall mean (a) the offense defined in subdivision one of section sixty-five of this chapter; or (b) the offense defined in paragraph (b) of subdivision one of section sixty-five-b of this chapter. For purposes of this subdivision, a conviction of a licensee or an employee or agent of such licensee shall constitute a conviction of such licensee. (b) Upon receipt of an order from the court based on arrears in payment of child support or combined child and spousal support pursuant to one of the foregoing provisions of law, the authority, if it finds such person to have been issued a license or permit, shall within thirty days of receipt of such order from the court, provide notice to the licensee or permittee of, and initiate, a hearing which shall be held at least twenty days and no more than thirty days after the sending of such notice to the licensee or permittee. The hearing shall be solely held for the purpose of determining whether there exists as of the date of the hearing proof that full payment of all arrears of support established by the order of the court to be due from the licensee or permittee have been paid. Proof of such payment shall be a certified check showing full payment of established arrears or a notice issued by the court or the support collection unit, where the order is payable to the support collection unit designated by the appropriate social services district. Such notice shall state that full payment of all arrears of support established by the order of the court to be due have been paid. The licensee or permittee shall be given full opportunity to present such proof of payment at the hearing in person or by counsel. The only issue to be determined by the authority as a result of the hearing is whether the arrears have been paid. No evidence with respect to the appropriateness of the court order or ability of the respondent party in arrears to comply with such order shall be received or considered by the authority. (c) Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, such license or permit shall be suspended if at the hearing, provided for by paragraph (b) of this subdivision, the licensee or permittee fails to present proof of payment as required by such subdivision. Such suspension shall not be lifted unless the court or the support collection unit, where the court order is payable to the support collection unit designated by the appropriate social services district, issues notice to the authority that full payment of all arrears of support established by the order of the court to be due have been paid. (d) Upon receipt of an order from the court based on failure to comply with a summons, subpoena, or warrant relating to a paternity or child support proceeding, the authority, if it finds such person has been issued a license or permit, shall within thirty days of receipt of such order from the court, provide notice to the licensee or permittee that his or her license shall be suspended in sixty days unless the conditions in paragraph (e) of this subdivision are met. (e) Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, such license or permit shall be suspended in accordance with the provisions of paragraph (c) of this subdivision unless the court terminates its order to commence suspension proceedings. Such suspension shall not be lifted unless the court issues an order to the authority terminating its order to commence suspension proceedings. (f) The authority shall inform the court of all actions taken hereunder as required by law. (g) This subdivision applies to support obligations paid pursuant to any order of child support or child and spousal support issued under provisions of article three-A or section two hundred thirty-six or two hundred forty of the domestic relations law, or article four, five or five-A of the family court act. (h) Notwithstanding any inconsistent provision of this article or of any other provision of law to the contrary, the provisions of this subdivision shall apply to the exclusion of any other requirements of this article and to the exclusion of any other requirement of law to the contrary. 5. Where a licensee is convicted of two or more qualifying offenses within a five year period, the authority, upon receipt of notification of such second or subsequent conviction pursuant to the provisions of subdivision two of section one hundred six-a of this article, shall, in addition to any other sanction or civil or criminal penalty imposed pursuant to this chapter, impose on such licensee a civil penalty not to exceed five hundred dollars. For purposes of this subdivision, a qualifying offense shall mean (a) the offense defined in subdivision one of section sixty-five of this chapter; or (b) the offense defined in paragraph (b) of subdivision one of section sixty-five-b of this chapter. For purposes of this subdivision, a conviction of a licensee or an employee or agent of such licensee shall constitute a conviction of such licensee.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions120-A - Corporate Change; Hearing on Application.

§ 120-a. Corporate change; hearing on application. Upon the disapproval by the authority of an application for a corporate change in the stockholders, stockholdings, officers or directors the liquor authority shall provide for a hearing at which the applicant may produce any evidence it shall desire with reference to such disapproval by the authority.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions120 - Decisions by Liquor Authority.

§ 120. Decisions by liquor authority. A decision upon any application or hearing submitted to or held by the liquor authority shall be rendered within thirty days after such submission or hearing.

Title: abc

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions121 - Review by Courts.

§ 121. Review by courts. The following actions by the liquor authority shall be subject to review by the supreme court in the manner provided in article seventy-eight of the civil practice law and rules provided that no stay shall be granted pending the determination of the matter except on notice to the liquor authority and for a period not exceeding thirty days: 1. Refusal by the liquor authority to issue a license or a permit. 2. The revocation, cancellation or suspension of a license or permit by the liquor authority. 3. The failure or refusal by the liquor authority to render a decision within the time required by section one hundred twenty of this article. 4. The transfer by the liquor authority of a license or permit to any other premises, or the failure or refusal by the liquor authority to approve such a transfer. 5. The issuance of an order of warning by the liquor authority. 6. Refusal to approve alteration of premises. 7. Refusal to approve a corporate change in stockholders, stockholdings, officers or directors. 8. Refusal by the liquor authority to grant permission for an additional bar pursuant to subdivision four of section one hundred of this chapter.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions122 - Continuance of Business by Receiver or Other Representative.

§ 122. Continuance of business by receiver or other representative. If a corporation or copartnership holding any license or holding a permit for which an annual fee of one hundred dollars or more is prescribed by this chapter shall be dissolved, or if a receiver or assignee for the benefit of creditors be appointed therefor, or if a receiver, assignee for the benefit of creditors or a committee or conservator of the property of an individual holding any license or holding a permit for which an annual fee of one hundred dollars or more is prescribed by this chapter be appointed, during the time for which such license or permit was granted, or if a person, including a member of a copartnership, holding any license or holding a permit for which an annual fee of one hundred dollars or more is prescribed by this chapter shall die during the term for which such license or permit was given, such corporation, copartnership, receiver or assignee, or the administrator or executor of the estate of such individual, or of such deceased member of a copartnership, or a committee of the property of a person adjudged to be incompetent, or a conservator of the property of an individual, or a petition under title eleven of the United States code shall have been filed and a trustee has been appointed or the holder of the license of permit has been permitted to remain in possession without the appointment of a trustee, may continue to carry on such business upon such premises for the balance of the term for which such license or permit was effective, with the same rights and subject to the same restrictions and liabilities as if he had been the original applicant for and the original holder, or one of either of them, of such license or permit, providing the approval of the liquor authority shall be first obtained. Before continuing such business, such receiver, assignee, individual, committee, or conservator, debtor in possession, or trustee in bankruptcy shall file a statement setting forth in such form and substance as the liquor authority may prescribe the facts and circumstances by which he has succeeded to the rights of the original licensee or permittee. The liquor authority may, in its discretion, permit the continuance of such business or may refuse to do so. In the event that the authority determines to permit the continuance of the business, the license or permit shall be submitted to the authority and shall have affixed thereto a certificate in the form prescribed by the authority. For each such certificate a fee shall be paid to the liquor authority of fifty dollars by the applicant, except in the case of an off-premise beer license, such fee shall be ten dollars which shall be paid into the same fund as other license fees herein provided for.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions123 - Injunction for Unlawful Manufacturing, Sale or Consumption of Liquor, Wine or Beer.

(b) The owner, lessor and lessee of a building, erection or place where alcoholic beverages are unlawfully manufactured, sold, consumed or permitted to be unlawfully manufactured, sold or consumed may be made respondents or defendants in the proceeding or action. 2. (a) This seized property shall be delivered by the peace officer, acting pursuant to his special duties or police officer having made the seizure to the custody of the authority or the district attorney of the county wherein the seizure was made as may be directed by the court, except that in the cities of New York and Buffalo, the seized property shall be delivered to the custody of the authority or of the police department of such cities, together with a report of all the facts and circumstances of the seizure. (b) It shall be the duty of the authority or such district attorney or, if the seizure was made in the cities of New York or Buffalo, of the authority or corporation counsel of such city, as the case may be, to inquire into the facts of the seizure so reported and if it appears probable that a forfeiture has been incurred, for the determination of which the institution of proceedings in the supreme court is necessary, to cause the proper proceedings to be commenced and prosecuted, at any time after thirty days from the date of seizure, to declare such forfeiture, unless, upon inquiry and examination the authority or such person, as the case may be, decides that such proceedings can not probably be sustained or that the ends of public justice do not require that they should be instituted or prosecuted, in which case, the authority or such person shall cause such seized property to be returned to the owner thereof. (c) Notice of the institution of the forfeiture proceeding shall be served either (i) personally on the owners of the seized property or (ii) by registered mail to the owners' last known address and by publication of the notice once a week for two successive weeks in a newspaper published or circulated in the county wherein the seizure was made. (d) Forfeiture shall not be adjudged where the owners established by preponderance of the evidence that (i) the use of such seized property was not intentional on the part of any owner, or (ii) said seized property was used by any person other than an owner thereof, while such seized property was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States, or of any state. (e) The authority or such person having custody of the seized property, after such judicial determination of forfeiture, shall, by a

public notice of at least five days, sell such forfeited property at public sale. The net proceeds of any such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund of the county wherein the seizure was made except that the net proceeds of the sale of property seized in the cities of New York and Buffalo shall be paid into the respective general funds of such cities. (f) Whenever any person interested in any property which is seized and declared forfeited under the provisions of this section files with a justice of the supreme court a petition for the recovery of such forfeited property, the justice of the supreme court may restore said forfeited property upon such terms and conditions as he deems reasonable and just, if the petitioner establishes either of the affirmative defenses set forth in paragraph (d) of subdivision two of this section and that the petitioner was without personal or actual knowledge of the forfeiture proceeding. If the petition be filed after the sale of the forfeited property, any judgment in favor of the petitioner shall be limited to the net proceeds of such sale, after deduction of the lawful expenses and costs incurred by the seizing party. (g) No suit or action under this section for wrongful seizure shall be instituted unless such suit or action is commenced within two years after the time when the property was seized.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions124 - Liquor Authority to Be Necessary Party to Certain Proceedings.

§ 124. Liquor authority to be necessary party to certain proceedings. The state liquor authority shall be made a party to all actions and proceedings affecting in any manner the submission of the local option questions provided for in this chapter, or the result of any vote thereupon; to all actions and proceedings relative to issuance or revocation of licenses or permits; to all injunction proceedings, and to all other civil actions or proceedings which in any manner affect the enjoyment of the privileges or the operation of the restrictions provided for in this chapter.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions125 - Disposition of Moneys Received for License Fees.

§ 125. Disposition of moneys received for license fees. The moneys received for license fees provided for in this chapter shall be turned over by the liquor authority to the state comptroller. It shall be placed by the state comptroller in the fund derived from the proceeds of the taxes on liquor, wine and beer provided for in article eighteen of the tax law and become a part thereof and be subject to all of the provisions of law relating to such fund.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions126 - Persons Forbidden to Traffic in Alcoholic Beverages.

1. Except as provided in subdivision one-a of this section, a person who has been convicted of a felony or any of the misdemeanors mentioned in section eleven hundred forty-six of the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven, or of an offense defined in section 230.20 or 230.40 of the penal law, unless subsequent to such conviction such person shall have received an executive pardon therefor removing this disability, a certificate of good conduct granted by the department of corrections and community supervision, or a certificate of relief from disabilities granted by the department of corrections and community supervision or a court of this state pursuant to the provisions of article twenty-three of the correction law to remove the disability under this section because of such conviction. 1-a. Notwithstanding the provision of subdivision one of this section, a corporation holding a license to traffic in alcoholic beverages shall not, upon conviction of a felony or any of the misdemeanors or offenses described in subdivision one of this section, be automatically forbidden to traffic in alcoholic beverages, but the application for a license by such a corporation shall be subject to denial, and the license of such a corporation shall be subject to revocation or suspension by the authority pursuant to section one hundred eighteen of this chapter, consistent with the provisions of article twenty-three-A of the correction law. For any felony conviction by a court other than a court of this state, the authority may request the department of corrections and community supervision to investigate and review the facts and circumstances concerning such a conviction, and such department shall, if so requested, submit its findings to the authority as to whether the corporation has conducted itself in a manner such that discretionary review by the authority would not be inconsistent with the public interest. The department of corrections and community supervision may charge the licensee or applicant a fee equivalent to the expenses of an appropriate investigation under this subdivision. For any conviction rendered by a court of this state, the authority may request the corporation, if the corporation is eligible for a certificate of relief from disabilities, to seek such a certificate from the court which rendered the conviction and to submit such a certificate as part of the authority's discretionary review process. 2. A person under the age of twenty-one years. 3. A person who is not a citizen of the United States or a noncitizen lawfully admitted for permanent residence in the United States. 4. A copartnership or a corporation, unless each member of the partnership, or each of the principal officers and directors of the corporation, is a citizen of the United States or a noncitizen lawfully admitted for permanent residence in the United States, not less than twenty-one years of age, and has not been convicted of any felony or any of the misdemeanors, specified in section eleven hundred forty-six of the former penal law as in force and effect immediately prior to September first, nineteen hundred sixty-seven, or of an offense defined in section 230.20 or 230.40 of the penal law, or if so convicted has received, subsequent to such conviction, an executive pardon therefor removing this disability a certificate of good conduct granted by the department of corrections and community supervision, or a certificate of relief from disabilities granted by the department of corrections and community supervision or a court of this state pursuant to the provisions of article twenty-three of the correction law to remove the disability under this section because of such conviction; provided however that a corporation which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal

officers and more than one-half of its directors are citizens of the United States or noncitizens lawfully admitted for permanent residence in the United States; and provided further that a corporation organized under the not-for-profit corporation law or the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and more than one-half of its directors are not less than twenty-one years of age and none of its directors are less than eighteen years of age; and provided further that a corporation organized under the not-for-profit corporation law or the education law and located on the premises of a college as defined by section two of the education law which otherwise conforms to the requirements of this section and chapter may be licensed if each of its principal officers and each of its directors are not less than eighteen years of age. 5. (a) A person who shall have had any license issued under this chapter revoked for cause, until the expiration of two years from the date of such revocation.(b) A person not licensed under the provisions of this chapter, who has been convicted of a violation of this chapter, until the expiration of two years from the date of such conviction.6. A corporation or copartnership, if any officer and director or any partner, while not licensed under the provisions of this chapter, has been convicted of a violation of this chapter, or has had a license issued under this chapter revoked for cause, until the expiration of two years from the date of such conviction or revocation.* 8. Notwithstanding any of the provisions of this section, the authority is authorized to waive the citizenship requirements therein, provided that the applicant otherwise conforms to the requirements of this section, and the application is for a premises located in the area leased by the city of New York to the New York World's Fair 1964-1965 Corporation pursuant to the provisions of chapter four hundred twenty-eight of the laws of nineteen hundred sixty as amended by chapter nine hundred nine of the laws of nineteen hundred sixty-one, during the term or duration of such lease.* NB Expired January 31, 1966 (b) A person not licensed under the provisions of this chapter, who has been convicted of a violation of this chapter, until the expiration of two years from the date of such conviction. 6. A corporation or copartnership, if any officer and director or any partner, while not licensed under the provisions of this chapter, has been convicted of a violation of this chapter, or has had a license issued under this chapter revoked for cause, until the expiration of two years from the date of such conviction or revocation. * 8. Notwithstanding any of the provisions of this section, the authority is authorized to waive the citizenship requirements therein, provided that the applicant otherwise conforms to the requirements of this section, and the application is for a premises located in the area leased by the city of New York to the New York World's Fair 1964-1965 Corporation pursuant to the provisions of chapter four hundred twenty-eight of the laws of nineteen hundred sixty as amended by chapter nine hundred nine of the laws of nineteen hundred sixty-one, during the term or duration of such lease. * NB Expired January 31, 1966

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions127-A - Surrender and Cancellation of Permits; Payment of Refunds; Notice to Police Officials.

§ 127-a. Surrender and cancellation of permits; payment of refunds; notice to police officials. The procedure prescribed by the provisions of section one hundred twenty-seven of this chapter shall be applicable to permits issued pursuant to this chapter. Notwithstanding anything to the contrary contained in this chapter, no refund shall be payable with respect to any special permit issued pursuant to section ninety-nine-c.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions127-B - Payment of Refunds on Special Permits and Notice to Police Officers.

§ 127-b. Payment of refunds on special permits and notice to police officers. Where a special permit to remain open until three antemeridian has been issued under subdivision two of section ninety-nine of this chapter, in a county where a regulation of a local board further restricting the hours during which alcoholic beverages may be sold for on-premises consumption shall have been rescinded by such local board during the period for which the special permit was issued, the holder of such special permit shall be entitled to a refund computed for full months commencing with the first day of the month succeeding the month in which the rescission of the local regulation occurred. The procedure with reference to the payment of refunds and notice to police officials shall be as nearly as possible the same as outlined in section one hundred and twenty-seven of this chapter.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions127-C - Refunds on Licenses and Permits Erroneously or Unlawfully Cancelled, Revoked or Suspended.

§ 127-c. Refunds on licenses and permits erroneously or unlawfully cancelled, revoked or suspended. If a license or permit issued under this chapter is cancelled, revoked or suspended and thereafter the action of the state liquor authority effecting such cancellation, revocation or suspension is reversed or annulled, upon application made within six months of the date of such judgment of reversal or annulment there shall be refunded to such licensee or his assignee such proportion of the fee paid for such license or permit as the period that such licensee or permittee has not had the beneficial use of such license or permit by reason of such cancellation, revocation or suspension bears to the full period for which the license or permit was issued. The provisions of section one hundred twenty-seven of this chapter so far as they can be made applicable and are not inconsistent with this section, shall govern the procedure to be followed in making application for refunds under this section.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions127-D - Refunds on Over-Payment of Fees; Permit Not Issued.

§ 127-d. Refunds on over-payment of fees; permit not issued. Monies heretofore or hereafter received by the authority pursuant to

this chapter may, within three years from the receipt thereof, be refunded to the applicant for the license or permit, on satisfactory proof that: a. Such monies were in excess of the amount required by this chapter, to the extent of such excess. b. The permit for which application was made has not been issued. Such refunds shall, upon approval by the authority and after audit by the state comptroller, be paid from any monies in the custody of the comptroller, derived from fees received pursuant to this chapter.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions127 - Surrender and Cancellation of Licenses; Payment of Refunds; Notice to Police Officials.

§ 127. Surrender and cancellation of licenses; payment of refunds; notice to police officials. 1. If a person holding a license to traffic in alcoholic beverages under the provisions of this chapter, against whom no complaint, prosecution or action is pending on account of any violation thereof, shall voluntarily, and before arrest or indictment for a violation of this chapter, cease to traffic in alcoholic beverages during the term for which the license fee is paid, such person may surrender such license to the liquor authority for cancellation and refund, provided that such license shall have at least one month to run at the time of such surrender. Such refund shall be computed for full months less thirty dollars, commencing with the first day of the month succeeding the one in which such license is surrendered, unless such surrender be on the first day of the month; and at the same time such person shall present to the liquor authority a verified petition setting forth all facts required to be shown by the liquor authority upon such surrender. The liquor authority shall thereupon compute the amount of refund then due on said license for the unexpired term thereof, and shall execute a receipt therefor showing the name of the person to whom such license was issued, the number thereof, date when issued, amount of license fee paid therefor, and the date when surrendered for cancellation, together with the amount of refund due thereon at such date as computed by it, and the name of the person entitled to receive the refund. Such receipt shall be delivered by the liquor authority to the person entitled thereto. If within thirty days from the date of such surrender and application, the person surrendering such certificate shall be arrested or indicted for a violation of this chapter, or proceedings shall be instituted for the cancellation of such certificate, or an action shall be commenced against him for penalties, such petition shall not be granted until the final determination of such proceedings or actions; and if the said petitioner be convicted, or said action or proceedings be determined against him, the authority may direct that any refund due thereunder be forfeited or may impose such other penalty or conditions it may deem appropriate in the circumstances but if such petitioner be acquitted, or such proceedings or action against him be dismissed on the merits or, if within such time, no such action or proceeding shall be brought against such person, then the liquor authority shall prepare an order for the payment of such refund, directed to the comptroller, to be paid him, on his audit, upon the surrender of the receipt theretofore given such person; provided, however, that if any taxes or penalties imposed by article eighteen of the tax law or if any civil penalties imposed under this chapter are unpaid by such person, the amount of such taxes, penalties or civil penalties shall be deducted from the amount of such refund. Any refunds due on the surrender and cancellation of licenses pursuant to this section shall be paid by the comptroller from moneys in his custody, derived from license fees received pursuant to this chapter. 2. It shall be the duty of the liquor authority, upon the receipt of a license surrendered for cancellation and refund pursuant to this section, to immediately serve a written or printed notice upon the commissioner of police, chief of police, or chief police officer of the city, borough or village in which the place for which the surrendered license was issued is situated, or upon the sheriff of the county and a constable of the town, in case the license was issued for a place situated in a town and not within any city, borough or village, which notice shall include a statement of the number of the surrendered license, the name and place of residence of the holder of the license at the time of surrender, the location of the place for which the license was issued and was held at the time of surrender by street and number, if any, otherwise such apt description as will definitely locate the premises; the fact that such license has been surrendered; that the traffic in alcoholic beverages at said premises by any one is not authorized until a new license has been obtained therefor; and the date when such license was surrendered for cancellation. Such notice may be served by registered or certified mail, by inclosing the same in a post-paid sealed envelope, duly addressed to such officer.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions128-A - Police Officers Allowed to Work in Licensed Premises in Certain Cases.

§ 128-a. Police officers allowed to work in licensed premises in certain cases. Notwithstanding any inconsistent provision of law to the contrary, the authority shall promulgate such rules and regulations as may be necessary to provide that it shall not be unlawful for a police officer employed in this state, having written permission and consent from his commanding officer, to work in a premises licensed to sell beer at retail for off-premises consumption under section fifty-four of this chapter or to work solely as a security guard or director of traffic on the premises of a volunteer firefighters' organization licensed to sell beer and wine at retail pursuant to a temporary permit for on-premises consumption under section ninety-seven of this chapter.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions128-B - Police Officers Allowed to Serve as an Officer of a Volunteer Firefighters' Organization.

§ 128-b. Police officers allowed to serve as an officer of a volunteer firefighters' organization. Notwithstanding any inconsistent provision of law to the contrary, a volunteer firefighters' organization shall not be precluded from applying for an on-premises license or permit under the provisions of this chapter due to the presence of a police officer serving as an officer of such organization and the state liquor authority shall be authorized to issue such license or permit.

Title: abc

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions128-C - Police Officers Allowed to Serve as an Officer of Veterans' Organization.

§ 128-c. Police officers allowed to serve as an officer of veterans' organization. Notwithstanding any inconsistent provision of law to the contrary, a veterans' organization, including, but not limited to the Veterans of Foreign Wars, the American Legion, or any other "veterans club" identified in subdivision nine of section three of this chapter, shall not be precluded from applying for an on-premises license or permit under the provisions of this chapter due to the presence of a police officer serving as an officer of such organization and the state liquor authority shall be authorized to issue such license or permit.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions128 - Certain Officials Not to Be Interested in Manufacture or Sale of Alcoholic Beverages.

§ 128. Certain officials not to be interested in manufacture or sale of alcoholic beverages. 1. Except as otherwise provided in section one hundred twenty-eight-a and section one hundred twenty-eight-b of this article, it shall be unlawful for any police commissioner, police inspector, captain, sergeant, roundsman, patrolman or other police official or subordinate of any police department in the state, to be either directly or indirectly interested in the manufacture or sale of alcoholic beverages or to offer for sale, or recommend to any licensee any alcoholic beverages. A person may not be denied any license granted under the provisions of sections fifty-four, fifty-five, fifty-nine, sixty-three, sixty-four, seventy-nine, eighty-one, or article seven of this chapter solely on the grounds of being the spouse of a public servant described in this subdivision. The solicitation or recommendation made to any licensee, to purchase any alcoholic beverages by any police official or subordinate as hereinabove described, shall be presumptive evidence of the interest of such official or subordinate in the manufacture or sale of alcoholic beverages. 2. No elective village officer shall be subject to the limitations set forth in subdivision one of this section unless such elective village officer shall be assigned duties directly relating to the operation or management of the police department.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions129 - Surrender of License; Notice to Police Officials.

§ 129. Surrender of license; notice to police officials. Within three days after a license shall have been revoked pursuant to this chapter, notice thereof shall be given to the licensee by mailing such notice addressed to him at the premises licensed. Notice shall also be mailed to the owner of the premises licensed. The holder of such license shall thereupon surrender same to the liquor authority. The mailing thereof by the licensee to the liquor authority by registered mail or insured parcel post shall be deemed sufficient compliance with this section. The liquor authority, immediately upon giving notice of revocation, shall serve a written notice thereof upon the commissioner of police, chief of police or chief police officer of the city, or village in which the premises for which the revoked license was issued is situated, or upon the sheriff of the county or a constable of the town in case the license was issued for premises situated in a town and not within any city or village. Such notice shall include a statement of the number of such license, the name and place of residence of the holder thereof, the location of the licensed premises, and the date when such license was revoked. In case such license be not forthwith surrendered, the liquor authority shall issue a written demand for the surrender of such license and deliver said demand to the sheriff of the county in which the licensed premises are located, or to any representative of the liquor authority, and said sheriff or representative shall immediately take possession of such license and return the same to the liquor authority.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions130 - Penalties for Violations of Chapter.

§ 130. Penalties for violations of chapter. 1. Any person who manufactures for sale or sells alcoholic beverages, other than the illicit alcoholic beverages as defined in section one hundred fifty, without having an appropriate license therefor, or whose license has been revoked, surrendered or cancelled, shall be guilty of a misdemeanor, and upon first conviction thereof shall be punished by a fine not more than two times the cost of a special on premises license in the county where the unlawful act took place or by imprisonment in a county jail or penitentiary for a term of not less than thirty days nor more than one year or both and upon second conviction thereof shall be punished by a fine not less than two times and not more than three times the cost of a special on premises license in the county where the unlawful act took place or by imprisonment in a county jail or penitentiary for a term of not less than thirty days nor more than one year or both and upon all subsequent convictions thereof shall be punished by a fine not less than three times and not more than four times the cost of a special on premises license in the county where the unlawful act took place or by imprisonment in a county jail or penitentiary for a term of not less than thirty days nor more than one year or both provided, however, that in default of payment of any fine imposed, such person shall be imprisoned in a county jail or penitentiary for a term of not less than thirty days. 1-a. Any licensee, whose license has been suspended pursuant to the provisions of this chapter, who sells alcoholic beverages during the suspension period, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than two hundred dollars or by imprisonment in a county jail or penitentiary for a term of not more than six months, or by both such fine and imprisonment. 2. Any person who shall make any false statement in the application for a license or a permit under this chapter shall be guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine of not more than two hundred dollars, or by imprisonment in a county jail or penitentiary for a term of not more than six months or both. 3. Any

violation by any person of any provision of this chapter for which no punishment or penalty is otherwise provided shall be a misdemeanor, provided, however, that the provisions of this subdivision shall not apply to the prohibitions provided for in subdivision six-a of section one hundred six of this article. 4. In the city of New York, a summons shall be issued for a violation of the provisions of subdivision fourteen of section one hundred five and subdivision five of section one hundred six of this chapter in the same manner as provided by subdivision h of section one hundred sixteen of the New York city criminal courts act. 5. Any violation by any person of the alcoholic beverage control law for which no punishment or penalty is otherwise provided shall be a misdemeanor, provided, however, that the provisions of this subdivision shall not apply to the prohibitions provided for in subdivision six-a of section one hundred six of this chapter.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 8 - General Provisions131 - New York Alcoholic Beverage Control Problem Premises Task Force.

§ 131. New York alcoholic beverage control problem premises task force. 1. There is hereby created within the authority the New York alcoholic beverage control problem premises task force (hereinafter "task force"), which shall consist of employees of the authority as designated by the members of the authority, provided however, that the task force shall include at least one investigator from the Albany office, one investigator from the Buffalo office, and one investigator from the New York city office. 2. In any case where the authority receives notification from the mayor, chief of police, police commissioner, sheriff, or local legislative body of any city, town or village which certifies that continued operation of an on-premises establishment poses a significant threat to the public health, safety, or welfare requiring immediate action, the authority shall assign responsibility for conducting an investigation concerning such premises to the task force. In the city of New York, the community board established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which such premises is located shall be considered the appropriate local legislative body. 3. Not more than fourteen calendar days after receipt by the authority of a notification as provided in this section, the task force shall commence an investigation into the operation of the establishment. The task force shall complete its investigation and the authority shall commence a disciplinary hearing proceeding pursuant to this chapter for revocation or other appropriate action within forty-five calendar days, unless the task force determines in written findings that no disciplinary charges are warranted. A copy of any such determination shall be sent to the mayor, chief of police, police commissioner, sheriff, or local legislative body of the city, town or village that filed the notification with the authority. The authority shall notify the mayor, chief of police, police commissioner, sheriff, or local legislative body of the city, town or village that filed the notification to the authority of the final disposition of the disciplinary proceeding within ten business days of the completion of this process.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 9 - Local Option140 - Applicability of Chapter Before Local Option.

§ 140. Applicability of chapter before local option. Until such time as it shall become unlawful to sell alcoholic beverages in any town or city by the vote of the voters in such town or city in the manner provided in this article, all of the provisions of this chapter shall apply throughout the entire state. This article shall not apply to the Whiteface mountain ski center, owned by the state and located in the town of Wilmington, county of Essex.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 9 - Local Option141 - Local Option for Towns.

§ 141. Local option for towns. 1. Not less than sixty days nor more than seventy-five days before the general election in any town at which the submission of the questions hereinafter stated is authorized by this article, a petition signed by electors of the town to a number amounting to twenty-five per centum of the votes cast in the town for governor at the then last preceding gubernatorial election, acknowledged by the signers or authenticated by witnesses as provided in the election law in respect of a nominating petition, requesting the submission at such election to the electors of the town of one or more of the following questions, may be filed with the town clerk: Question 1. Tavern alcoholic beverage license. Shall a person be allowed to obtain a license to operate a tavern with a limited-service menu (sandwiches, salads, soups, etc.) which permits the tavern operator to sell alcoholic beverages for a customer to drink while the customer is within the tavern. In addition, unopened containers of beer (such as six-packs and kegs) may be sold "to go" for the customer to open and drink at another location (such as, for example, at his home)? Question 2. Restaurant alcoholic beverage license. Shall the operator of a full-service restaurant be allowed to obtain a license which permits the restaurant operator to sell alcoholic beverages for a customer to drink while the customer is within the restaurant. In addition, unopened containers of beer (such as six-packs and kegs) may be sold "to go" for the customer to open and drink at another location (such as, for example, at his home)? Question 3. Year-round hotel alcoholic beverage license. Shall the operator of a year-round hotel with a full-service restaurant be allowed to obtain a license which permits the year-round hotel to sell alcoholic beverages for a customer to drink while the customer is within the hotel. In addition, unopened containers of beer (such as six-packs and kegs) may be sold "to go" for the customer to open and drink at another location (such as, for example, at his home)? Question 4. Summer hotel alcoholic beverage license. Shall the operator of a summer hotel with a full-service restaurant, open for business only within the period from May first to October thirty-first in each year, be allowed to obtain a license which permits the summer hotel to sell alcoholic beverages for a customer to drink while the customer is within the hotel. In addition, unopened containers of beer (such as six-packs and kegs) may be sold "to go" for the customer to open and drink at another location (such as, for example, at his home)? Question 5. Retail package liquor or wine store license. Shall a person be allowed to obtain a license to operate a retail package

liquor-and-wine or wine-without-liquor store, to sell "to go" unopened bottles of liquor or wine to a customer to be taken from the store for the customer to open and drink at another location (such as, for example, at his home)? Question 6. Off-premises beer and wine cooler license. Shall the operator of a grocery store, drugstore or supply ship operating in the harbors of Lake Erie be allowed to obtain a license which permits the operator to sell "to go" unopened containers of beer (such as six-packs and kegs) and wine coolers with not more than 6% alcohol to a customer to be taken from the store for the customer to open and drink at another location (such as, for example, at his home)? Question 7. Baseball park, racetrack, athletic field or stadium license. Shall a person be allowed to obtain a license which permits the sale of beer for a patron's consumption while the patron is within a baseball park, racetrack, or other athletic field or stadium where admission fees are charged? 2. Upon the due filing of such petition complying with the foregoing provisions, such questions shall be submitted in accordance therewith. 3. The town clerk shall, within five days from the filing of such petition in his office, prepare and file in the office of the board of elections, as defined by the election law, of the county, a certified copy of such petition. Such questions may be submitted only at the time of a general election. At least ten days before such general election, the board of elections shall cause to be printed and posted in at least four public places in such town, a notice of the fact that all of the local option questions will be voted on at such general election; and the said notice shall also be published at least five days before the vote is to be taken once in a newspaper published in the county in which such town is situated, which shall be a newspaper published in the town, if there be one. Whenever such questions are to be submitted under the provisions of this article the board of elections shall cause the proper ballot labels to be printed and placed on all voting machines used in the town in which such questions are to be submitted, in the form prescribed by the election law in respect of other propositions or questions, upon the face of which shall be printed in full the said questions. Any elector qualified to vote for state officers shall be entitled to vote upon such local option questions. As soon as the election shall be held, a return of the votes cast and counted shall be made as provided by law and the returns canvassed by the inspectors of election. If a majority of the votes cast shall be in the negative on all or any of the questions, no person shall, after such election, sell alcoholic beverages in such town contrary to such vote or to the provisions of this chapter; provided, however, that the result of such vote shall not shorten the term for which any license may have been lawfully issued under this chapter or affect the rights of the licensee thereunder; and no person shall after such vote apply for or receive a license to sell alcoholic beverages at retail in such town contrary to such vote, until, by referendum as hereinafter provided for, such sale shall again become lawful.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 9 - Local Option142 - Local Option for Cities.

(a) Opposite and on the right of the name of each elector signing such petition shall be written his residence address by house number and street name, if any, and otherwise by an appropriate designation, and the date of his signing. Each signature shall be made personally by the one whose name is signed and not by another. No signature shall be valid or counted as to which any of such requirements is not complied with, nor as to which the date of signing is more than four months prior to the day of the election. No signature shall be withdrawn after the petition is filed. (b) At the bottom of each sheet of the petition shall be a statement, signed by a duly qualified elector of the city, with his residence address, stating that every signature on that sheet of the petition is genuine and that to the best of his knowledge and belief every person so signing was at the time thereof a qualified elector of such city, that their respective residences are correctly stated therein and that each signer signed the same on the date set opposite his name. Such statement shall be sworn to before an officer authorized to administer oaths within such city. (c) The same petition may be either in one document or prepared and signed in two or more documents. Such documents shall constitute one petition and be filed as a whole. (d) The petition shall also appoint a committee upon whom or any of its members a summons, order or notice may be served in any proceeding respecting the validity of the petition or of an election held pursuant thereto, and shall also designate the chairman of such committee. The residence address of each member of the committee shall be stated. Such committee may fill a vacancy in its chairmanship or in its membership, and notice of any such change shall promptly be filed with the officer with whom the petition is required to be filed; provided, however, that failure to file such notice shall not invalidate any proceeding under this chapter. (e) Upon the due filing of such a petition, complying with the foregoing provisions, such questions shall be submitted in accordance therewith. If the petition be filed with the city clerk, he shall within five days from the filing thereof, prepare and file in the office of the board of elections of the county, as defined by the election law, a certified copy thereof. 2. The method and manner of submission, preparation and provision of ballot labels, balloting by voting machine and conducting the election, canvassing the result and making and filing the returns and all other procedure with reference to the submission of and action upon any such question shall be the same as in the case of any other proposition to be submitted to the electors of a city at a general election as provided by law. 3. If a majority of the votes cast shall be in the negative on any or all of the questions, no person shall, after such election, sell alcoholic beverages in such city contrary to such vote or to the provisions of this chapter; provided, however, that the result of such vote shall not shorten the term for which any license may have been lawfully issued under this chapter or affect the rights of the licensee thereunder; and no person shall after such vote apply for or receive a license to sell alcoholic beverages at retail in such city contrary to such vote, until, by referendum as hereinafter provided for, such sale shall again become lawful.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 9 - Local Option143 - Filing Certificate of Result With Liquor Authority.

§ 143. Filing certificate of result with liquor authority. Whenever at an election a vote shall be taken on the local option questions pursuant to sections one hundred forty-one or one hundred forty-two in any town or city, the officer or board charged by law with the duty of filing a statement of the result and certificate of determination of such election shall file a duplicate thereof with the

liquor authority.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 9 - Local Option144 - Contesting Validity of Petition.

§ 144. Contesting validity of petition. Proceedings may be instituted and maintained to contest the validity, sufficiency or legality of any petition provided for in this article, in the manner provided by the election law, as though such petition were a certificate of nomination.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 9 - Local Option145 - False Statements and Forgery.

§ 145. False statements and forgery. A person who forges the signature of any person upon any petition or statement provided for in this article shall be guilty of forgery in the third degree and on conviction thereof be punished accordingly.

2024 New York LawsABC - Alcoholic Beverage ControlArticle 9 - Local Option147 - Effective Duration of Local Option Determination.

§ 147. Effective duration of local option determination. 1. In any town or city in which a vote shall be taken on any one or more of the local option questions provided for in this article, no further vote shall be submitted upon any local option question that was presented to the voters before the second general election thereafter. 2. If at the time of any subsequent submission of such questions it shall be lawful to sell alcoholic beverages and a majority of the votes cast shall be in the negative on such questions, then all of the provisions of this article applicable thereto shall become effective.

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.100-A - Access Highway.

§ 100-a. Access highway. Any highway providing access between a qualifying highway, as defined in section one hundred thirty-four-a of this article, and terminals, facilities for food, fuel, repairs, and rest and, in addition, for points of loading and unloading for household goods carriers as such highways are designated by the commissioner of transportation pursuant to section sixteen hundred twenty-seven of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.100-B - Ambulance.

§ 100-b. Ambulance. Every motor vehicle designed, appropriately equipped and used for the purpose of carrying sick or injured persons by a person or entity registered or certified as an ambulance service by the department of health.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.100-C - Articulated Bus.

§ 100-c. Articulated bus. A two unit bus with a flexible coupling connection between the units.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.100-D - Agricultural Equipment.

§ 100-d. Agricultural equipment. Every agricultural tractor, self-propelled implement of husbandry, and towed, mounted or semi-mounted implement of husbandry. "Implement of husbandry" shall mean a vehicle designed or adapted exclusively for agricultural, horticultural or livestock raising operations or for lifting or carrying an implement of husbandry.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.100 - Definition of Words and Phrases.

§ 100. Definition of words and phrases. The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this article except where another definition is specifically provided in any title, article or section for application in such title, article or section:

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.101-A - Automobile Transporter.

§ 101-a. Automobile transporter. Any vehicle combination designed and used specifically for the transport of assembled (capable of being driven) motor vehicles.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.101-B - Boat Transporter.

§ 101-b. Boat transporter. Any vehicle combination designed and used specifically for the transport of boats.

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.101-C - B-Train Assembly.

§ 101-c. B-train assembly. A rigid frame extension attached to the rear frame of the first semitrailer, in a tractor-semitrailer-semitrailer combination of vehicles, which allows for a fifth wheel connection point for the second semitrailer.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.101 - Authorized Emergency Vehicle.

§ 101. Authorized emergency vehicle. Every ambulance, police vehicle or bicycle, correction vehicle, fire vehicle, civil defense emergency vehicle, emergency ambulance service vehicle, blood delivery vehicle, human organ delivery vehicle, county emergency medical services vehicle, environmental emergency response vehicle, sanitation patrol vehicle, hazardous materials emergency vehicle and ordnance disposal vehicle of the armed forces of the United States.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.102-A - Bicycle Lane.

§ 102-a. Bicycle lane. A portion of the roadway which has been designated by striping, signing and pavement markings for the preferential or exclusive use of bicycles.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.102-B - Bicycle Path.

§ 102-b. Bicycle path. A path physically separated from motorized vehicle traffic by an open space or barrier and either within the highway right-of-way or within an independent right-of-way and which is intended for the use of bicycles.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.102-C - Bicycle With Electric Assist.

(a) "Class one bicycle with electric assist." A bicycle with electric assist having an electric motor that provides assistance only when the person operating such bicycle is pedaling, and that ceases to provide assistance when such bicycle reaches a speed of twenty miles per hour. (b) "Class two bicycle with electric assist." A bicycle with electric assist having an electric motor that may be used exclusively to propel such bicycle, and that is not capable of providing assistance when such bicycle reaches a speed of twenty miles per hour. (c) "Class three bicycle with electric assist." Solely within a city having a population of one million or more, a bicycle with electric assist having an electric motor that may be used exclusively to propel such bicycle, and that is not capable of providing assistance when such bicycle reaches a speed of twenty-five miles per hour.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.102 - Bicycle.

§ 102. Bicycle. Every two or three wheeled device upon which a person or persons may ride, propelled by human power through a belt, a chain or gears, with such wheels in a tandem or tricycle, except that it shall not include such a device having solid tires and intended for use only on a sidewalk by pre-teenage children.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.103 - Bureau.

§ 103. Bureau. The department of motor vehicles of this state acting directly or through its duly authorized officers and agents.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.104 - Bus.

§ 104. Bus. Every motor vehicle having a seating capacity of fifteen or more passengers in addition to the driver and used for the transportation of persons.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.105-A - Car Carrier.

§ 105-a. Car carrier. A truck that is designed to carry one to three motor vehicles on a flat platform that slides or tilts to the ground to facilitate loading and unloading of such motor vehicles and to tow an additional motor vehicle behind it by the use of a wheel lift. For the purposes of this chapter, whenever such car carrier tows or carries a disabled, illegally parked or abandoned motor vehicle or a motor vehicle involved in an accident, such car carrier shall be deemed to be a tow truck and shall comply with all provisions of this chapter, and any other law, ordinance, order, rule and regulation, applicable to tow trucks.

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.105-B - Certificate of Registration.

§ 105-b. Certificate of registration. Any document or other indicia of registration, other than number plates or tags required to be affixed to such number plates or to the vehicle itself, in a form and name prescribed by the commissioner, which identifies the vehicle described thereon and indicates that such vehicle is registered pursuant to the provisions of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.105 - Business District.

§ 105. Business district. The territory contiguous to and including a highway when within any six hundred feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings, railroad stations, and public buildings, which occupy at least three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.106-A - Civil Defense Emergency Vehicle.

§ 106-a. Civil defense emergency vehicle. Every communications vehicle and rescue vehicle owned by the state, a county, town, city or village and operated for civil defense purposes and equipped and marked as a civil defense emergency communications or rescue vehicle in compliance with the rules and regulations of the state civil defense commission.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.106 - Circulatory Roadway.

§ 106. Circulatory roadway. The roadway within a circular intersection on which traffic travels in a counterclockwise direction around a central island.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.107-B - Commercial Towing.

§ 107-b. Commercial towing. The moving or removing of disabled, illegally parked, or abandoned motor vehicles or motor vehicles involved in accidents, by another motor vehicle, for which there is direct or indirect compensation. Commercial towing shall also include towing by a person, firm, corporation, or other entity pursuant to a contract or other agreement with a political subdivision.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.107 - Classes of Cities.

(b) City of the second class. A city with a population of fifty thousand and less than one hundred seventy-five thousand. (c) City of the third class. Any city not included in the foregoing classes. (d) The classification herein made shall be determined by the federal census or state enumeration, whichever is the later, as last previously taken before the effective date of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.108 - Commissioner.

§ 108. Commissioner. The commissioner of motor vehicles of this state.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.109-A - Correction Vehicle.

§ 109-a. Correction vehicle. Every vehicle operated in the city of New York by the New York city department of correction or the New York state department of corrections and community supervision while engaged in an emergency operation.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.109-B - County Emergency Medical Services Vehicle.

§ 109-b. County emergency medical services vehicle. Every vehicle operated by a county emergency medical services coordinator or deputy county emergency medical services coordinator appointed pursuant to the provisions of section two hundred twenty-three-b of the county law, when operated in an official capacity while engaged in an emergency operation.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.109-C - Conviction.

§ 109-c. Conviction. Any conviction as defined in subdivision thirteen of section 1.20 of the criminal procedure law; provided, however, where a conviction or administrative finding in this state or another state results in a mandatory sanction against a commercial driver's license, as set forth in sections five hundred ten, five hundred ten-a, eleven hundred ninety-two and eleven

hundred ninety-four of this chapter, conviction shall also mean an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.109 - Controlled-Access Highway.

§ 109. Controlled-access highway. Every highway, street, or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street, or roadway.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.110 - Crosswalk.

(a) That part of a roadway at an intersection included within the connections of the lateral lines of the sidewalks on opposite sides of the highway between the curbs or, in the absence of curbs, between the edges of the traversable roadway. (b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.111 - Curb.

§ 111. Curb. A vertical or sloping member along the edge of a roadway clearly defining the pavement edge.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.112-A - Department of Transportation.

§ 112-a. Department of transportation. The department of transportation of this state acting directly or through its duly authorized officers and agents.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.112 - Department.

§ 112. Department. The department of motor vehicles of this state acting directly or through its duly authorized officers and agents.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.113 - Driver.

§ 113. Driver. Every person who operates or drives or is in actual physical control of a vehicle. Whenever the terms "chauffeur" or "operator" or "chauffeur's license" or "operator's license" are used in this chapter, such terms shall be deemed to mean driver and driver's license respectively.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.114-A - Drug.

§ 114-a. Drug. The term "drug" when used in this chapter, means and includes any substance listed in section thirty-three hundred six of the public health law and cannabis and concentrated cannabis as defined in section 222.00 of the penal law.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.114-B - Emergency Operation.

§ 114-b. Emergency operation. The operation, or parking, of an authorized emergency vehicle, when such vehicle is engaged in transporting a sick or injured person, transporting prisoners, delivering blood or blood products in a situation involving an imminent health risk, transporting human organs and/or medical personnel for the purpose of organ recovery or transplantation in a situation involving an imminent health risk where undue delay would jeopardize such recovery or transplantation, pursuing an actual or suspected violator of the law, or responding to, or working or assisting at the scene of an accident, disaster, police call, alarm of fire, actual or potential release of hazardous materials or other emergency. Emergency operation shall not include returning from such service.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.114-C - Escort Vehicle.

§ 114-c. Escort vehicle. A motor vehicle which operates under its own power and which precedes or follows a vehicle or combination of vehicles that has been issued a special hauling permit by the department of transportation, a municipality or public authority pursuant to section three hundred eighty-five of this chapter.

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.114-D - Electric Personal Assistive Mobility Device.

§ 114-d. Electric personal assistive mobility device. Every self-balancing, two non-tandem wheeled device designed to transport one person by means of an electric propulsion system with an average output of not more than seven hundred fifty watts (one horsepower), and the maximum speed of which on a paved level surface, when propelled solely by its electric propulsion system while ridden by an operator weighing one hundred seventy pounds, is less than twelve and one-half miles per hour.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.114-E - Electric Scooter.

§ 114-e. Electric scooter. Every device weighing less than one hundred pounds that (a) has handlebars, a floorboard or a seat that can be stood or sat upon by the operator, and an electric motor, (b) can be powered by the electric motor and/or human power, and (c) has a maximum speed of no more than twenty miles per hour on a paved level surface when powered solely by the electric motor.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.114 - Driveway.

§ 114. Driveway. Every entrance or exit used by vehicular traffic to or from lands or buildings abutting a highway.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.115-A - Fire Vehicle.

§ 115-a. Fire vehicle. Every vehicle operated for fire service purposes owned and identified as being owned by the state, a public authority, a county, town, city, village or fire district, or a fire corporation subject to the provisions of subdivision (e) of section fourteen hundred two of the not-for-profit corporation law or a fire company as defined in section one hundred of the general municipal law. Any of the following vehicles shall be fire vehicles only for the purpose of section one hundred one of this chapter: 1. a vehicle operated by officials of the office of fire prevention and control, 2. a vehicle ordinarily operated by a chief or assistant chief of a fire department, or a county or deputy county fire coordinator, or county or assistant county fire marshall, or town or assistant town fire coordinator, or such vehicle when operated in an official capacity by or under the direction of such person, and 3. a vehicle specially designed and equipped for firefighting purposes which is regularly used for firefighting purposes by a firefighting unit on property used for industrial, institutional or commercial purposes and which vehicle is owned by the owner or lessee of such property.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.115-B - Flagperson.

§ 115-b. Flagperson. The term "flagperson," when used in this chapter means and includes: 1. Any person employed by or on behalf of the state, a county, city, town or village, a public authority, a local authority, or a public utility company, or the agent or contractor of any such entity, who has been assigned to control or direct traffic on public highways in connection with any construction, survey, and/or maintenance work being performed. 2. Any person employed by or on behalf of a railroad corporation who has been assigned to control or direct traffic at a railroad grade crossing. 3. Any person holding a certificate issued by the commissioner, which authorizes such person to operate an escort vehicle, and who has been assigned to control, warn, or direct traffic in connection with the movement of an escort vehicle on a public highway.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.115-C - Emergency Ambulance Service Vehicle.

§ 115-c. Emergency ambulance service vehicle. An emergency ambulance service vehicle shall be defined as an appropriately equipped motor vehicle owned or operated by an ambulance service as defined in section three thousand one of the public health law and used for the purpose of transporting emergency medical personnel and equipment to sick or injured persons.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.115-D - Environmental Emergency Response Vehicle.

§ 115-d. Environmental emergency response vehicle. Every designated vehicle operated by an agency of the state or a political subdivision thereof, charged with the responsibility for environmental protection, while engaged in a response to a report of an emergency resulting from an actual or potential release, spill or leak of, or other exposure to, hazardous substances.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.115 - Explosives.

§ 115. Explosives. Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing

an explosion and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.116 - Flammable Liquid.

§ 116. Flammable liquid. Any liquid which has a flash point of eighty degrees Fahrenheit, or less, as determined by a tagliabue or equivalent open-cup test device.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.117-A - Hazard Vehicle.

§ 117-a. Hazard vehicle. Every vehicle owned and operated or leased by a utility, whether public or private, used in the construction, maintenance and repair of its facilities, every vehicle specially equipped or designed for the towing or pushing of disabled vehicles, every vehicle engaged in highway maintenance, or in ice and snow removal where such operation involves the use of a public highway, vehicles driven by rural letter carriers while in the performance of their official duties, and every sani-van and waste collection vehicle while engaged in the collection of refuse and/or recyclable materials on a public highway.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.117-B - Hazardous Operation.

§ 117-b. Hazardous operation. The operation, or parking, of a vehicle on or immediately adjacent to a public highway while such vehicle is actually engaged in an operation which would restrict, impede or interfere with the normal flow of traffic.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.117-C - Hazardous Materials Emergency Vehicle.

§ 117-c. Hazardous materials emergency vehicle. Every designated vehicle operated by a hazardous materials emergency response team created pursuant to section two hundred nine-y of the general municipal law specifically equipped for and used in response to reports of emergencies resulting from actual or potential releases, spills or leaks of, or other exposure to hazardous substances.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.117-D - Blood Delivery Vehicle.

§ 117-d. Blood delivery vehicle. Every vehicle owned, designated and operated by the not-for-profit corporation incorporated under the name New York blood center specifically equipped for and used in response to reports of the need for transportation of blood or blood products to general hospitals or other health care facilities. No blood delivery vehicle shall be operated as an authorized emergency vehicle engaged in an emergency operation unless the driver of such vehicle has undergone appropriate training for the operation of authorized emergency vehicles during emergency operations.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.117-E - Human Organ Delivery Vehicle.

§ 117-e. Human organ delivery vehicle. 1. Any vehicle which is owned and operated by a certified organ procurement organization for the sole purpose of transporting human organs and/or medical personnel for the purpose of organ recovery or transplantation while engaged in an emergency operation. For the purpose of this chapter, the term "organ procurement organization" shall mean an organ procurement organization as defined in subdivision five of section forty-three hundred sixty of the public health law which is certified as a qualified organ procurement organization by the federal centers for medicare and medicaid services pursuant to section 273(b) of title 42 of the United States code and section 486.303 of title 42 of the code of federal regulations. 2. No human organ delivery vehicle shall be operated as an authorized emergency vehicle unless: (a) the certified organ procurement organization which owns and operates such vehicle is in compliance with article forty-three-B of the public health law and rules and regulations promulgated thereunder; (b) such vehicle is used solely for the purpose of transporting human organs and/or medical personnel for the purpose of organ recovery or transplantation while engaged in an emergency operation; (c) such vehicle is designated and clearly identified as a human organ delivery vehicle, and, prior to its operation as a human organ delivery vehicle the certified organ procurement organization which owns and operates such vehicle has received written authorization from the commissioner of health for the operation of such vehicle as a human organ delivery vehicle; (d) such vehicle is operated in compliance with this chapter and with regulations promulgated pursuant thereto including subdivision three of this section; and (e) the driver of such vehicle has undergone training for the operation of authorized emergency vehicles during emergency operations as approved pursuant to subdivision three of this section, and a defensive driving course. The commissioner of health may revoke or suspend a written authorization issued pursuant to paragraph (c) of this subdivision on proof that a certified organ procurement organization has failed to comply with the provisions of this section or any rules and regulations promulgated pursuant thereto. Provided, however, that any such revocations or suspensions shall be subject to the same requirements for revocations, suspensions, hearings, notice and review

as set forth in subdivision two of section forty-three hundred sixty-six of the public health law. 3. The commissioner of health, in consultation with the commissioner, shall promulgate regulations to establish standards for the operation of human organ delivery vehicles as authorized emergency vehicles pursuant to this chapter. Such regulations shall, at a minimum: (a) establish standards for the issuance of written authorization for the operation of such vehicles; (b) establish standards for human organ delivery vehicle operations, vehicles and equipment including compliance with this chapter, and the training of human organ delivery vehicle drivers for the safe operation of such vehicles during an emergency operation; (c) require certified organ procurement organizations to establish and enforce written policies concerning minimum qualifications and physical requirements for human organ delivery vehicle drivers and for the equipping and maintenance of such vehicles; and (d) include such other standards or requirements as the commissioner of health and the commissioner deem necessary for the safety and well being of the people of the state.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.117 - Gross Weight.

§ 117. Gross weight. The weight of a vehicle without load plus the weight of any load thereon.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.118 - Highway.

§ 118. Highway. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.119-B - Inflatable Restraint System.

§ 119-b. Inflatable restraint system. 1. An inflatable restraint system means an air bag, as defined in subparagraph (b) of S 4.1.5.1 of standard 208 of part 571 of title 49 of the code of federal regulations, that is designed and installed to be activated in a crash. 2. Readiness indicator light means an indicator monitoring the inflatable restraint system's readiness and such light is clearly visible from the driver's designated seating position.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.119 - House Coach.

§ 119. House coach. Any vehicle motivated by a power connected therewith or propelled by a power within itself, which is or can be used as the home or living abode or habitation of one or more persons, either temporarily or permanently. In the application of this chapter to house coaches, a house coach propelled by a power within itself shall be deemed a motor vehicle, a house coach motivated by a power connected therewith shall be deemed a trailer, and all house coaches shall be deemed vehicles.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.120 - Intersection.

(b) Where a highway includes two roadways thirty feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection. (c) A circular intersection contains an island, generally circular in design, located in the center of the intersection where traffic passes to the right of the island.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.121-A - Limited Use Automobile.

§ 121-a. Limited use automobile. A limited use vehicle which, except for the provisions of article forty-eight-A and section four hundred-a of this chapter, would be subject to registration pursuant to subdivision six of section four hundred one of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.121-B - Limited Use Motorcycle.

§ 121-b. Limited use motorcycle. A limited use vehicle having only two or three wheels, with a seat or saddle for the operator. A limited use motorcycle having a maximum performance speed, of more than thirty miles per hour but not more than forty miles per hour shall be a class A limited use motorcycle. A limited use motorcycle having a maximum performance speed of more than twenty miles per hour but not more than thirty miles per hour, shall be a class B limited use motorcycle. A limited use motorcycle having a maximum performance speed of not more than twenty miles per hour shall be a class C limited use motorcycle.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.121-C - Limited Use Vehicle.

§ 121-c. Limited use vehicle. A motor vehicle, other than one registered or capable of being registered pursuant to sections four hundred one or four hundred ten of this chapter, which has a maximum performance speed of not more than forty miles per hour, as

defined in section one hundred twenty-two-b of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.121-D - Leased Vehicle.

§ 121-d. Leased vehicle. A vehicle owned by a person engaged in the business of renting or leasing vehicles which is rented or leased without a driver to a person other than the owner and is registered either in the name of the lessee or renter, or in the name of the owner, in a format prescribed by the commissioner.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.121-E - Livery.

§ 121-e. Livery. Every motor vehicle, other than a taxicab or a bus, used in the business of transporting passengers for compensation. However, it shall not include vehicles which are rented or leased without a driver.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.121-F - Low Speed Vehicle.

§ 121-f. Low speed vehicle. A limited use automobile which has a maximum performance speed of greater than twenty miles an hour, but not greater than twenty-five miles an hour or a truck which has a maximum performance speed of greater than twenty miles an hour, but not greater than twenty-five miles an hour and whose gross vehicle weight rating (GVWR) is less than three thousand pounds. All such vehicles shall comply with the safety standards established in 49 C.F.R. 571.500.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.121 - Laned Roadway.

§ 121. Laned roadway. A roadway which is divided into two or more clearly marked lanes for vehicular traffic.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.122-A - Maximum Gross Weight.

§ 122-a. Maximum gross weight. The weight of the vehicle unladen plus the weight of the maximum load to be carried by such vehicle during the registration period or the maximum gross weight for which the vehicle is registered, whichever is greater.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.122-B - Maximum Performance Speed.

§ 122-b. Maximum performance speed. For the purposes of article forty-eight-A of this chapter, maximum performance speed shall be the greatest speed which can be attained and maintained by a limited use vehicle under conditions prescribed by the commissioner at the time of its manufacture, as certified by the manufacturer and filed with and accepted by the commissioner. The maximum performance speed of a limited use vehicle shall remain as certified regardless of any modification made to such vehicle after such certification.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.122-C - Mobile Home or Manufactured Home.

§ 122-c. Mobile home or manufactured home. A structure, transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length, or when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to required utilities, and includes the plumbing, heating, air-conditioning and electrical systems contained therein.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.122 - Local Authorities.

§ 122. Local authorities. Every county, municipal or other local board, body or officer, county park commission, parkway authority, bridge authority, bridge and tunnel authority, the office of parks and recreation, the New York state thruway authority or similar body or person having authority to enact laws or regulations relating to traffic under the constitution and laws of this state.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.123 - Motorcycle.

§ 123. Motorcycle. Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.125-A - Off-Highway Motorcycle.

§ 125-a. Off-highway motorcycle. Off-highway motorcycle is a motorcycle which is not equipped in conformity with the provisions

of section three hundred eighty-one of this chapter, would not, if properly equipped, qualify as a limited use motorcycle, and which is manufactured and sold for operation primarily on off-highway trails or in off-highway competitions and only incidentally operated on public highways.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.125 - Motor Vehicles.

§ 125. Motor vehicles. Every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except (a) electrically-driven mobility assistance devices operated or driven by a person with a disability, (a-1) electric personal assistive mobility devices operated outside a city with a population of one million or more, (b) vehicles which run only upon rails or tracks, (c) snowmobiles as defined in article forty-seven of this chapter, (d) all terrain vehicles as defined in article forty-eight-B of this chapter, (e) bicycles with electric assist as defined in section one hundred two-c of this article, and (f) electric scooters as defined in section one hundred fourteen-e of this article. For the purposes of title four of this chapter, the term motor vehicle shall exclude fire and police vehicles other than ambulances. For the purposes of titles four and five of this chapter the term motor vehicles shall exclude farm type tractors and all terrain type vehicles used exclusively for agricultural purposes, or for snow plowing, other than for hire, farm equipment, including self-propelled machines used exclusively in growing, harvesting or handling farm produce, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.126 - Omnibus.

§ 126. Omnibus. Any motor vehicle used in the business of transporting passengers for hire, except such a motor vehicle used in the transportation of agricultural workers to and from their employment.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.127 - Overhang.

§ 127. Overhang. That portion of a transported vehicle or boat which extends beyond the front or rear bumper of an automobile transporter or stinger-steered automobile transporter or boat transporter or stinger-steered boat transporter, or that portion of a transported vehicle that extends beyond the rear bumper of a car carrier.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.128 - Owner.

§ 128. Owner. A person, other than a lien holder, having the property in or title to a vehicle or vessel. The term includes a person entitled to the use and possession of a vehicle or vessel subject to a security interest in another person and also includes any lessee or bailee of a motor vehicle or vessel having the exclusive use thereof, under a lease or otherwise, for a period greater than thirty days.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.129-A - Parking Area of a Shopping Center.

§ 129-a. Parking area of a shopping center. An area or areas of private property totaling at least one acre, near or contiguous to and provided in connection with premises having one or more stores or business establishments, and used by the public as a means of access to and egress from such stores and business establishments and for the free parking of motor vehicles of customers and patrons of such stores and business establishments.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.129-B - Parking Lot.

§ 129-b. Parking lot. Any area or areas of private property near or contiguous to and provided in connection with premises having one or more stores or business establishments, and used by the public as a means of access to and egress from such stores and business establishments and for the parking of motor vehicles of customers and patrons of such stores and business establishments.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.129 - Park or Parking.

§ 129. Park or parking. Means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.130-A - Wheelchair.

§ 130-a. Wheelchair. A wheelchair is any manual or electrically driven mobility assistance device, scooter, tricycle or similar device used by a person with a disability as a substitute for walking. An electrically driven mobility assistance device means any wheeled, electrically powered device designed to enable a person with a disability to move from place to place.

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2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.130 - Pedestrian.

§ 130. Pedestrian. Any person afoot or in a wheelchair.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.131-A - Place of Public Assembly.

§ 131-a. Place of public assembly. A place of public assembly shall include (1) a theatre, (2) a moving picture house, or (3) an assembly hall maintained or leased for pecuniary gain where one hundred or more persons may assemble for amusement or recreation.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.131 - Person.

§ 131. Person. Every natural person, firm, copartnership, association, or corporation.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.132-A - Police Vehicle.

§ 132-a. Police vehicle. Every vehicle owned by the state, a public authority, a county, town, city or village, and operated by the police department or law enforcement agency of such governmental unit or by a constable or police constable of a town when acting pursuant to his special duties. Any other vehicle operated by a chief or deputy or assistant chief of a police department, a sheriff, undersheriff or regular deputy sheriff, and a vehicle owned and operated by the law enforcement unit of a public or private corporation authorized by law to maintain a unit for the enforcement of law on the property of such corporation shall be a police vehicle only for the purposes of section one hundred one of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.132 - Police Officer.

§ 132. Police officer. All police officers as defined in subdivision thirty-four of section 1.20 of the criminal procedure law, and every duly designated peace officer as defined in section 2.20 of such law, when such peace officer is acting pursuant to his special duties.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.133 - Private Road.

§ 133. Private road. Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.134-A - Qualifying Highway.

§ 134-a. Qualifying highway. The highways on the national system of interstate and defense highways and federal-aid primary system highways that are designated by the commissioner of transportation pursuant to section sixteen hundred twenty-seven of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.134-B - Radar Detector.

§ 134-b. Radar detector. Any instrument designed to detect the presence of microwaves at frequencies specifically assigned by the federal communications commission for the purpose of maintaining vehicular speed.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.134-C - Laser Detector.

§ 134-c. Laser detector. Any instrument designed to detect the presence of laser speed detection devices.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.134 - Public Highway.

§ 134. Public highway. Any highway, road, street, avenue, alley, public place, public driveway or any other public way.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.135-A - Railroad Grade Crossing.

§ 135-a. Railroad grade crossing. A location where a public highway or private road, including associated sidewalks, crosses one or

more railroad tracks at grade.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.135 - Railroad.

§ 135. Railroad. A carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.136 - Railroad Sign or Signal.

§ 136. Railroad sign or signal. Any sign, signal, or device erected by authority of a public body or official by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.137-A - Rental Vehicle.

§ 137-a. Rental vehicle. A vehicle owned by a person engaged in the business of renting or leasing vehicles which is rented or leased without a driver to a person other than the owner and is registered in the name of such owner.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.137 - Railroad Train.

§ 137. Railroad train. A steam engine, electric or other motor locomotive or car, with or without cars coupled thereto, operated upon rails, except streetcars.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.138 - Residence District.

§ 138. Residence district. The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.139 - Right of Way.

§ 139. Right of way. The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.140-A - In-Line Skate.

§ 140-a. In-line skate. A manufactured or assembled device consisting of an upper portion that is intended to be secured to a human foot, with a frame or chassis attached along the length of the bottom of such upper portion, with such frame or chassis holding two or more wheels that are longitudinally aligned and used to skate or glide, by means of human foot and leg power while having such device attached to each such foot or leg. "Brake" shall mean a part which is secured to an in-line skate, as defined in paragraph (b) of subdivision one of section three hundred ninety-one-m of the general business law and intended to enable the user to control his or her speed and/or come to a stop. "Warning instruction" shall mean a label, hang-tag, shield or plate with substantially the following notice printed in clear and conspicuous type: "WARNING! REDUCE THE RISK OF SERIOUS INJURY, AND ONLY USE THESE SKATES WHILE WEARING FULL PROTECTIVE GEAR - HELMET, WRIST GUARDS, ELBOW PADS, AND KNEE PADS."

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.140-B - Roller Skate.

§ 140-b. Roller skate. A manufactured or assembled device consisting of a frame or shoe having clamps or straps or both for fastening, with a pair of small wheels near the toe and another pair at the heel mounted or permanently attached thereto, for skating or gliding by means of human foot and leg power.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.140-C - Skate Board.

§ 140-c. Skate board. A manufactured or assembled device consisting of a platform having a pair of small wheels near the front and another pair at the rear mounted or permanently attached thereto, for skating or gliding by means of human foot and leg power.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.140-D - Roundabout.

§ 140-d. Roundabout. A circular intersection which is characterized by a circulatory roadway with counterclockwise movement, channelized approaches, low speeds, and yield control of entering traffic. A roundabout encompasses the area bounded by the outermost curb line or, if there is no curb, the edge of the pavement, and includes crosswalks on any entering or exiting roadway.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.140 - Roadway.

§ 140. Roadway. That portion of a highway improved, designed, marked, or ordinarily used for vehicular travel, exclusive of the shoulder and slope. In the event a highway includes two or more separate roadways the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.141-A - Sanitation Patrol Vehicle.

§ 141-a. Sanitation patrol vehicle. Every vehicle operated by an officer or member of the sanitation police of the department of sanitation of the city of New York, duly appointed and designated as a peace officer by such department, when such officer or member is acting pursuant to his special duties.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.141-B - Sani-Vans.

§ 141-b. Sani-vans. Any motor vehicle which is so designed that it contains a rear compaction unit and is intended for use in the collection of refuse. For the purpose of section one hundred seventeen-a of this chapter, the term "sani-van" shall mean any motor vehicle which is so designed that it contains a rear compaction unit and is intended for and is used in the collection of refuse and/or recyclable materials.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.141 - Safety Zone.

§ 141. Safety zone. The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.142 - School Bus.

§ 142. School bus. Every motor vehicle owned by a public or governmental agency or private school and operated for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity, to or from school or school activities or privately owned and operated for compensation for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity to or from school or school activities.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.143-A - Shoulder.

§ 143-a. Shoulder. That improved portion of a highway contiguous with the roadway.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.143 - Semitrailer.

§ 143. Semitrailer. Any trailer which is so designed that when operated the forward end of its body or chassis rests upon the body or chassis of the towing vehicle.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.144-A - Slope.

§ 144-a. Slope. That portion of a highway exclusive of the roadway and shoulder.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.144-B - Snow Emergency.

§ 144-b. Snow emergency. A determination made by the official having jurisdiction of a highway that, because of existing or forecasted weather conditions, pursuant to section sixteen hundred twenty-one, sixteen hundred forty, sixteen hundred fifty or sixteen hundred sixty of this chapter, traffic shall be regulated in accordance with section one hundred forty-five-c of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.144 - Sidewalk.

§ 144. Sidewalk. That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines, intended for the use of pedestrians.

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2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.145-A - State Expressway Routes.

§ 145-a. State expressway routes. Those highways specified and described as such pursuant to section three hundred forty-c of the highway law.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.145-B - State Interstate Routes.

§ 145-b. State interstate routes. Those highways specified and described as such pursuant to section three hundred forty-a of the highway law.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.145-C - Snow Emergency Route.

§ 145-c. Snow emergency route. A street or highway designated as a snow emergency route by the state or municipality having jurisdiction over such street or highway upon which no vehicle shall operate without snow tires and/or tire chains when a snow emergency has been declared by the state or municipality having jurisdiction thereof. Each snow emergency route shall be posted in accordance with the provisions of article forty-four of this chapter. The provisions of this section shall not apply to signs installed and operative prior to the date on which this section takes effect, provided, however, that the provisions of this section shall apply to signs replaced on and after such date.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.145-D - Definition of Snow Tire.

§ 145-d. Definition of snow tire. Snow tires shall include tires in which the ply cords extending to the beads are nearly at right angles to the center line of the tread commonly referred to as radial tires and the commissioner shall promulgate rules and regulations defining the term snow tire with respect to non-radial tires. No person whose motor vehicle is equipped with radial tires or tires which conform to the definition promulgated by the commissioner shall be prosecuted for a violation of any local law or ordinance requiring the equipping of a motor vehicle with snow tires during any period of declared snow emergency.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.145-E - Stinger-Steered Automobile Transporter.

§ 145-e. Stinger-steered automobile transporter. An automobile transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame located behind and below the rear-most axle of the power unit.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.145-F - Stinger-Steered Boat Transporter.

§ 145-f. Stinger-steered boat transporter. A boat transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame located behind and below the rear-most axle of the power unit.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.145 - Stand or Standing.

§ 145. Stand or standing. Means the stopping of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.146 - Stop.

§ 146. Stop. When required means complete cessation from movement.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.147 - Stop or Stopping.

§ 147. Stop or stopping. When prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.148-A - Taxicab.

§ 148-a. Taxicab. Every motor vehicle, other than a bus, used in the business of transporting passengers for compensation, and operated in such business under a license or permit issued by a local authority. However, it shall not include vehicles which are rented or leased without a driver.

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2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.148-B - Tow Truck.

§ 148-b. Tow truck. A motor vehicle that tows or carries a disabled, illegally parked or abandoned motor vehicle or a motor vehicle involved in an accident.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.148 - Street.

§ 148. Street. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.149 - Through Highway.

§ 149. Through highway. Every highway or portion thereof on which vehicular traffic is given preferential right of way, and at the entrances to which vehicular traffic from intersecting highways is controlled by traffic-control signals or is required by law to yield the right of way to vehicles on such through highway in obedience to a flashing red signal, a stop sign or a yield sign, when such signals or signs are erected as provided in this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.151-A - Tractor.

§ 151-a. Tractor. A motor vehicle designed and used as the power unit in combination with a semitrailer or trailer, or two such trailers in tandem. Any such motor vehicle shall not carry cargo except that a tractor and semitrailer engaged in the transportation of automobiles may transport motor vehicles on part of the power unit.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.152 - Traffic.

§ 152. Traffic. Pedestrians, ridden or herded animals, vehicles, bicycles, and other conveyances either singly or together while using any highway for purposes of travel.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.153 - Traffic Control Devices.

§ 153. Traffic control devices. All signs, signals, markings, and devices not inconsistent with this chapter placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.154 - Traffic-Control Signal.

§ 154. Traffic-control signal. Any device, whether manually, electrically, or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.155 - Traffic Infraction.

§ 155. Traffic infraction. The violation of any provision of this chapter, except articles forty-seven and forty-eight, or of any law, ordinance, order, rule or regulation regulating traffic which is not declared by this chapter or other law of this state to be a misdemeanor or a felony. A traffic infraction is not a crime and the punishment imposed therefor shall not be deemed for any purpose a penal or criminal punishment and shall not affect or impair the credibility as a witness or otherwise of any person convicted thereof. This definition shall be retroactive and shall apply to all acts and violations heretofore committed where such acts and violations would, if committed subsequent to the taking effect of this section, be included within the meaning of the term "traffic infraction" as herein defined. Except in those portions of Suffolk county for which a district court has been established, outside of cities having a population in excess of one million in which administrative tribunals have heretofore been established, courts and judicial officers heretofore having jurisdiction over such violations shall continue to do so and for such purpose such violations shall be deemed misdemeanors and all provisions of law relating to misdemeanors except as provided in section eighteen hundred five of this chapter and except as herein otherwise expressly provided shall apply except that no jury trial shall be allowed for traffic infractions. In those portions of Suffolk county for which a district court has been established and in cities having a population in excess of one million in which administrative tribunals have heretofore been established, the criminal courts of such cities or portions of Suffolk county in which a district court has been established shall have jurisdiction to hear and determine any complaint alleging a violation constituting a traffic infraction, except that administrative tribunals heretofore established in such cities or portions of Suffolk county in which a district court has been established shall have jurisdiction to hear and determine any

charge of an offense which is a traffic infraction, except parking, standing or stopping. In cities having a population in excess of two hundred thousand in which administrative tribunals have heretofore been established, and any such administrative tribunal established by the city of Yonkers, the city of Peekskill, or the city of Syracuse, such tribunals shall have jurisdiction to hear and determine any charge of an offense which is a parking, standing or stopping violation. Any fine imposed by an administrative tribunal shall be a civil penalty. For purposes of arrest without a warrant, pursuant to article one hundred forty of the criminal procedure law, a traffic infraction shall be deemed an offense.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.156 - Trailer.

§ 156. Trailer. Any vehicle not propelled by its own power drawn on the public highways by a motor vehicle as defined in section one hundred twenty-five operated thereon, except motorcycle side cars, vehicles being towed by a non-rigid support and vehicles designed and primarily used for other purposes and only occasionally drawn by such a motor vehicle.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.157 - Trolley Bus or Trolley Coach.

§ 157. Trolley bus or trolley coach. Any motor vehicle not operated on rails or tracks which is propelled by electric power received from overhead trolley wires and which is operated by a person or corporation subject to the jurisdiction of the public service commission, pursuant to local consent and a certificate, permission and approval, or authority granted by the commission.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.158-A - U Turn.

§ 158-a. U turn. Any turn executed so as to proceed in the opposite direction.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.158-B - Vanpool Vehicle.

§ 158-b. Vanpool vehicle. Any motor vehicle which is manufactured and equipped in such manner as to provide a seating capacity of not less than six and not more than fifteen passengers, in addition to the driver, and which is owned by, or leased to, a person, firm, corporation, association, municipality or public authority in this state to be used for the purpose of vanpooling, which shall mean the prearranged transport of persons to and from their places of employment or other destinations on a regular daily basis provided that any moneys paid by the passengers to the vanpool vehicle owner, lessee or operator are solely for the recovery of some or all expenses related directly to the transport of the passengers, including tolls, fuel, insurance and depreciation, on a non-profit basis.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.158 - Truck.

§ 158. Truck. Every motor vehicle designed, used, or maintained primarily for the transportation of property.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.159-A - Waste Collection Vehicle.

§ 159-a. Waste collection vehicle. Any motor vehicle which is commonly classified as a garbage truck that is designed for and is used in the collection of refuse and/or recyclable materials.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.159 - Vehicle.

§ 159. Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.160 - Wheel Lift.

§ 160. Wheel lift. Any device that may be extended beyond the rear bumper of a tow truck or car carrier for the purpose of towing another vehicle. Such device may also be referred to as an "under lift".

2024 New York LawsVAT - Vehicle and TrafficTitle 1 - Words and Phrases DefinedArticle 1 - Words and Phrases Defined.161 - Work Area.

§ 161. Work area. That part of a highway being used or occupied for the conduct of highway work, within which workers, vehicles, equipment, materials, supplies, excavations, or other obstructions are present.

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2101 - Definitions.

(a) "Dealer" means a person registered as a dealer under section four hundred fifteen or twenty-two hundred fifty-seven of this chapter. (b) "Commissioner" includes the office and a branch office of the commissioner and, when authorized to receive a document or fee as agent of the commissioner, the clerk of a county. (c) "Identifying number" means the numbers, and letters if any, on a vehicle designated by the commissioner for the purpose of identifying the vehicle. (d) "Implement of husbandry" means a vehicle designed and adapted exclusively for agricultural, horticultural or livestock raising operations or for lifting or carrying an implement of husbandry and in either case not subject to registration if used upon the highways. (e) "Lienholder" means a person holding a security interest in a vehicle. (f) To "mail" means to deposit in the United States mail properly addressed and with postage prepaid. (g) "Owner" means a person, other than a lienholder, having the property in or title to a vehicle. The term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security. (h) "Person" means a natural person, firm, co-partnership, association or corporation. (i) "Pole trailer" means a vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach, or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregularly shaped loads such as logs, poles, pipes, or structural members capable, generally, of sustaining themselves as beams between the supporting connections. (j) "Security agreement" means a written agreement which reserves or creates a security interest. (k) "Security interest" means an interest in a vehicle reserved or created by agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended as security. The term also includes an interest in a vehicle pursuant to a lien arising under section two hundred eleven of the lien law and section one hundred eleven-u of the social services law. A security interest is "perfected" when it is valid against third parties generally, subject only to specific statutory exceptions. (l) "Special mobile equipment" means a vehicle not designed for the transportation of persons or property upon a highway and only incidentally operated or moved over a highway, which if registered would be registered pursuant to schedule F of subdivision seven of section four hundred one of this chapter. (m) "State" means a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of the Dominion of Canada. (n) "Vehicle" means a vehicle as defined in section one hundred fifty-nine of this chapter except that it shall not include a device for which a registration is denied pursuant to section four hundred-a of this chapter and, except with respect to section twenty-one hundred two of this article, shall also mean a vessel as defined in section twenty-two hundred fifty of this chapter. Unless otherwise specified, "vehicle" also means a "mobile home" or a "manufactured home" as defined in section one hundred twenty-two-c of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2102 - Exclusions.

(1) A vehicle owned by the United States unless it is registered in this state; (2) A vehicle owned by a manufacturer or dealer and held for sale, even though incidentally moved on the highway or used for purposes of testing or demonstration; or a vehicle used by a manufacturer solely for testing other than: (i) a vehicle registered by a dealer or manufacturer, or (ii) a vehicle for which a physical examination is required under section four hundred thirty of this chapter before a certificate of title may be issued, or (iii) a vehicle held for sale by a dealer which was purchased by the dealer as a result of sale upon repossession or a sale by a sheriff or marshall to satisfy a judgment, or (iv) a vehicle held for sale by a dealer for which a certificate of title containing an error attributable to processing by the department has been issued, or (v) a vehicle held for sale by a dealer for which ordinarily acceptable proof of ownership cannot be obtained by the dealer with reasonable diligence but for which a certificate of title would ordinarily be issued upon the filing of a bond with the commissioner as prescribed in subdivision (d) of section twenty-one hundred five of this article, or (vi) a vehicle for which a manufacturer or dealer has submitted a notice of repurchase as required by subdivision two of section four hundred seventeen-a of this chapter and regulations of the commissioner, or (vii) a vehicle held for sale by a dealer which was purchased by a dealer as the result of a sale by a police department, or (viii) a vehicle held for sale by a dealer which was purchased by a dealer as the result of a sale by the United States government; (3) A vehicle owned by a non-resident of this state and not required by law to be registered in this state provided, however, that a certificate of title may be issued to such a non-resident for a vehicle purchased by or transferred to such non-resident as a result of a sale after repossession, or a sale by a sheriff or marshall to satisfy a judgement, or a sale to foreclose a garageman's lien, provided such sale was held in this state, or a result of the settlement of an estate of a deceased if such settlement is pursuant to the estates, powers and trusts law of this state or a sale by a police department, provided such sale was held in this state; (4) A vehicle regularly engaged in the interstate transportation of persons or property for which a currently effective certificate of title has been issued in another state; (5) A vehicle moved solely by animal power; (6) An implement of husbandry; (7) Special mobile equipment; (8) A self-propelled wheel chair or an adapted tricycle operated or driven by a person with a disability; (9) A pole trailer or a trailer with an unladen weight of less than one thousand pounds; (10) A vehicle manufactured prior to July first, nineteen hundred seventy-two and designated by the manufacturer as being a nineteen hundred seventy-two or earlier model year vehicle, and any vehicle manufactured or assembled prior to January first, nineteen hundred seventy-three for which the manufacturer or assembler has not designated a model year; (11) Snowmobiles, off-highway motorcycles and limited use motorcycles; (12) A motor vehicle set off to a surviving spouse or surviving minor child pursuant to section 5-3.1 of the estates, powers and trusts law until an application for registration is made by such survivor or until

after the survivor transfers the vehicle, in which case the transferee must apply for a certificate of title; (13) A vessel not required to be registered in this state and which is not registered in this state; (14) A vessel designated by the manufacturer as being a nineteen hundred eighty-six or earlier model year vessel and any vessel manufactured or assembled prior to August first, nineteen hundred eighty-six for which the manufacturer or assembler has not designated a model year; (15) Any vessel having a valid marine document issued by the United States or a foreign government; (16) Any vessel under fourteen feet in length; (17) A vehicle owned or leased by the state of New York and regularly utilized or intended to be utilized for undisclosed or undercover law enforcement purposes; (18) A vehicle owned by a non-resident of this state for which a currently effective certificate of title has been issued in another state and which is leased to a resident of, and registered in, this state. (19) A mobile home or a manufactured home, manufactured prior to July first, nineteen hundred ninety-four and designated by the manufacturer as being a nineteen hundred ninety-four or earlier model year mobile home or manufactured home, and any mobile home or manufactured home manufactured or assembled prior to January first, nineteen hundred ninety-four for which the manufacturer has not designated a model year. (c) A person engaged in the business of selling vehicles who does not place such vehicles in his own consumer use and who is not required to be registered as a dealer under section four hundred fifteen of this chapter, shall not be deemed a dealer with respect to such vehicles and shall not be required to apply for or receive a certificate of title for any such vehicles. A local authority, which acquires title to a vehicle or vehicles under the provisions of section twelve hundred twenty-four of this chapter, and which does not place such vehicle or vehicles in its own consumer use shall not be required to apply for or receive a certificate of title for any such vehicle or vehicles. (d) No certificate of title shall be issued to a vehicle excluded from the provisions of this article. (e) The commissioner may, by regulation, exclude from the provisions of this title vehicles designated by the manufacturer as being of a model year more than nine years prior to the current calendar year. The commissioner may provide that such exclusion shall apply to all such vehicles or to any categories or classes of such vehicles.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2103 - Excepted Liens and Security Interests; Buyer From Manufacturer or Dealer.

(a) A lien given by statute or rule of law to a supplier of services or materials for the vehicle; (b) A lien given by statute to the United States, this state, or any political subdivision of this state except for liens arising pursuant to section two hundred eleven of the lien law and section one hundred eleven-u of the social services law; (c) A security interest in a vehicle created by a manufacturer or dealer who holds the vehicle for sale as distinguished from a person who holds the vehicle for lease, but a buyer in ordinary course of business from a manufacturer or a dealer who holds the vehicle for sale, whether or not he may have held it for lease, takes free of any security interest created by him in the vehicle. (d) A security interest in a vehicle acquired by the state of New York and financed by certificates of participation pursuant to article five-A of the state finance law.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2104 - Certificate of Title Required.

(b) The commissioner shall not register or renew the registration of a vehicle unless a certificate of title has been issued by the commissioner to the owner or an application therefor has been made by the owner and delivered to the commissioner.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2105-A - Liens on Motor Vehicles for Failure to Make Child Support Payments.

(b) Such agreement shall include: (1) the procedures under which the office of temporary and disability assistance shall notify the department of a security interest arising for failure to make payments of child support or combined child and spousal support, including data standards for determining that the person against whom such lien will be imposed is the person owing such arrears; (2) the procedures under which the office of temporary and disability assistance shall notify the department that an individual has satisfied the security interest; (3) the procedure, subject to the approval of the director of the division of the budget, for reimbursement of the department and its agents for the additional costs of carrying out the procedures authorized by this section, section two hundred eleven of the lien law and section one hundred eleven-u of the social services law; (4) such other matters as the parties to such agreement shall deem necessary to carry out the provisions of this section, section two hundred eleven of the lien law and section one hundred eleven-u of the social services law. (c) A security interest arising under section two hundred eleven of the lien law and entered into the records of the department pursuant to this article shall be listed on any subsequent certificate of title issued to such person for the same or any other vehicle. (d) Notwithstanding any other inconsistent provision of law, any purchaser of a vehicle which is subject to a security interest under this section, including a motor vehicle dealer registered under section four hundred fifteen of this chapter, shall take such vehicle unencumbered by such lien which was not recorded on the certificate of title used to transfer the vehicle.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2105 - Application for First Certificate of Title.

(1) The name, residence and mail address and social security number of the owner; (2) A description of the vehicle including, so far as the following data exists: its make, year model, identifying number, type of body if a motor vehicle or hull material if a vessel, and whether new or used, and any other information required by the commissioner; (3) The date of purchase by applicant, the name

and address of the person from whom the vehicle was acquired and the names and addresses of any lienholders in the order of their apparent priority; (4) A statement signed by the applicant, stating either, (i) any facts or information known to him that could reasonably affect the validity of the title of the vehicle or the existence or non-existence of security interests in it; or (ii) that no such facts or information are known to him; and (5) Any other information and documents the commissioner reasonably requires to identify the vehicle and to enable him to determine whether the owner is entitled to a certificate of title and the existence or non-existence of security interests in the vehicle. (b) If the application refers to a vehicle purchased from a dealer, it shall contain the name and address of any lienholder holding a security interest created or reserved at the time of the sale and be signed by the dealer as well as the owner, and the dealer shall promptly mail or deliver the application to the commissioner. (c) If the application refers to a vehicle last previously registered or licensed in another state or country, the application shall contain or be accompanied by: (1) Any certificate of title issued by the other state or country; (2) Any other information and documents the commissioner reasonably requires to establish the ownership of the vehicle and the existence or non-existence of security interests in it. (d) If the commissioner is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the commissioner may register the vehicle but shall either: (1) withhold issuance of a certificate of title until the applicant presents documents reasonably sufficient to satisfy the commissioner as to the applicant's ownership of the vehicle and that there are no undisclosed security interests in it; or (2) as a condition of issuing a certificate of title, require the applicant to file with the commissioner a bond prescribed by the commissioner and executed by the applicant, and by a person authorized to conduct a surety business in this state. The bond shall be in an amount equal to one and one-half times the value of the vehicle as determined by the commissioner and conditioned to indemnify any prior owner and lienholder and any subsequent purchaser of the vehicle or person acquiring any security interest in it, and their respective successors in interest, against any expense, loss or damage by reason of the issuance of the certificate of title of the vehicle or on account of any defect in or undisclosed security interest upon the right, title and interest of the applicant in and to the vehicle. Any such interested person has a right of action to recover on the bond for any breach of its conditions, but the aggregate liability of the surety to all persons shall not exceed the amount of the bond. The bond shall be returned at the end of three years or prior thereto if the currently valid certificate of title is surrendered to the commissioner, but it shall not be returned prior to the end of three years if the commissioner has been notified of the pendency of an action to recover on the bond or if the currently valid certificate of title was surrendered to another state as proof of ownership to obtain a certificate of title from that state. Nothing contained herein shall require the commissioner of motor vehicles to issue a certificate of title upon the presentation of a bond.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2106 - Examination of Records.

§ 2106. Examination of records. The commissioner, upon receiving application for a first certificate of title, shall check the identifying number of the vehicle and the name or other identifier of the owner shown in the application against the appropriate records of vehicles required to be maintained.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2107 - Issuance and Records.

(b) The commissioner shall maintain a record of all certificates of title issued by him: (1) Under a distinctive title number assigned to the vehicle; (2) Under the identifying number of the vehicle; (3) Alphabetically, under the name of the owner, unless he maintains alphabetical records of all owners holding certificates of registration; (4) Under the registration number of the vehicle; and (5) In the discretion of the commissioner, in any other method he determines. (c) When the commissioner issues a certificate of title for a vehicle as a result of an original application for a title or as a result of the filing of a security interest, he shall also issue and mail to the lienholder or lienholders named in the original application, or to the lienholder who filed the subsequent security interest a notice of recorded lien.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2108 - Contents and Effect.

(1) The date issued; (2) The name and address of the owner; (3) The names and addresses of any lienholders, in the order of their apparent priority as shown on the application or, if the application is based on a certificate of title, as shown on the certificate; (4) The title number assigned to the vehicle; (5) A description of the vehicle including, so far as the following data exists: its make, year model, identifying number, type of body if a motor vehicle or hull material if a vessel, and whether new or used, and any other information required by the commissioner; and (6) Any other data the commissioner prescribes. (b) The certificate of title shall contain forms for assignment and warranty of title by the owner, and for assignment and warranty of title by a dealer, and may contain forms for applications for a certificate of title by a transferee, the naming of a lienholder and the assignment or release of the security interest of a lienholder. (c) A certificate of title issued by the commissioner is prima facie evidence of the facts appearing on it. (d) A certificate of title for a vehicle is not subject to garnishment, attachment, execution or other judicial process, but this subsection does not prevent a lawful levy upon the vehicle. (e) Notwithstanding any other provision of law, a certificate of title to a vehicle which is a mobile home or a manufactured home issued by the commissioner is prima facie evidence of the facts appearing on it, notwithstanding the fact that such vehicle, at any time, in any manner, shall have become attached to realty.

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2109 - Delivery.

§ 2109. Delivery. The certificate of title shall be mailed to the owner.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2110 - Registration Without Certificate of Title.

§ 2110. Registration without certificate of title. If the commissioner is not satisfied as to the ownership of the vehicle or that there are no undisclosed security interests in it, the commissioner may register the vehicle but shall withold issuance of a certificate of title until the applicant presents documents reasonably sufficient to satisfy the commissioner as to the applicant's ownership of the vehicle and that there are no undisclosed security interests in it.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2111 - Refusing Certificate of Title.

(a) The applicant is not the owner of the vehicle; (b) The application contains a false or fraudulent statement; or (c) The applicant fails to furnish required information or documents or any additional information the commissioner reasonably requires.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2112 - Lost, Stolen or Mutilated Certificates.

(b) A person recovering an original certificate of title for which a duplicate has been issued shall promptly notify the commissioner of such recovery and shall comply with the directions of the commissioner relating to the disposition of such documents.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2113 - Transfer.

(b) Except as provided in section two thousand one hundred fourteen, the transferee shall, within thirty days after transfer to him of the vehicle, execute the application for a new certificate of title in the space provided therefor on the certificate or as the commissioner prescribes, and cause the certificate and application to be mailed or delivered to the commissioner. The application required by this section shall include a statement similar to that required to be included in an application for a first certificate of title by paragraph (4) of subdivision (a) of section two thousand one hundred five of this chapter. (c) Except as provided in section two thousand one hundred fourteen, a transfer by an owner is not perfected so as to be valid against third parties generally until the provisions of this section and section two thousand one hundred sixteen have been complied with; however, an owner who has delivered possession of the vehicle to a bona fide transferee and has complied with the provisions of this section and section two thousand one hundred sixteen is not deemed an owner within the provisions of section three hundred eighty-eight of this chapter, and, notwithstanding any other provision of law, shall not be presumed to have caused such vehicle to be abandoned for purposes of subdivision seven of section twelve hundred twenty-four of this chapter if the owner has retained a copy of the assignment and warranty of title. Failure to retain such copy shall not preclude such owner from rebutting any presumption contained in such subdivisions.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2114 - Transfer to or From Dealer; Records.

(b) Every dealer shall maintain a record in the form and for a period of time the commissioner prescribes of every vehicle bought, sold or exchanged by him, or received by him for sale or exchange, which shall be open to inspection by a representative of the commissioner, a peace officer, when acting pursuant to his special duties, or a police officer during reasonable business hours.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2115 - Transfer by Operation of Law.

(b) If the interest of the owner is terminated or the vehicle is sold under a security agreement by a lienholder, the transferee shall promptly mail or deliver to the commissioner the last certificate of title if available to him, his application for a new certificate in the form the commissioner prescribes, and an affidavit made by or on behalf of the lienholder that the vehicle was repossessed and that the interest of the owner was lawfully terminated or sold pursuant to the terms of the security agreement. If the lienholder succeeds to the interest of the owner and holds the vehicle for resale, he need not secure a new certificate of title but, upon transfer to another person, shall promptly mail or deliver to the transferee the certificate, if available, affidavit and other documents required to be sent to the commissioner by the transferee. (c) A person holding a certificate of title whose interest in the vehicle has been extinguished or transferred other than by voluntary transfer shall mail or deliver the certificate to the commissioner upon request of the commissioner. The delivery of the certificate pursuant to the request of the commissioner does not affect the rights of the person surrendering the certificate, and the action of the commissioner in issuing a new certificate of title as provided herein is not conclusive upon the rights of an owner or lienholder named in the old certificate.

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2116 - Additional Requirements for Applications.

(b) Except as provided for in subdivision (c) of this section, an application for the naming of a lienholder or his assignee on a certificate of title shall be accompanied by the required fee when mailed or delivered to the commissioner. (c) The filing of a notice of lien by the office of temporary and disability assistance, or a local social services district, or its authorized representative, or a lien of another state agency operating under title IV-D of the social security act, shall constitute an application for the naming of a lienholder on a certificate of title. The filing of an application by any such agency shall be completed without payment of a fee.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2117 - When Commissioner to Issue New Certificate.

(b) The commissioner, upon receipt of an application for a new certificate of title by a transferee other than by voluntary transfer, with proof of the transfer, the required fee and any other documents required by law, shall check the identifying number of the vehicle against the appropriate records of vehicles required to be maintained, issue a new certificate of title in the name of the transferee as owner and mail it to the owner. If the outstanding certificate of title is not delivered to the commissioner, he shall demand it from the holder thereof. (c) The commissioner may require that any vehicle for which an application for a certificate of title is made be inspected in a manner prescribed by him for conformity to the description given in the application before he issues a certificate of title.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2118 - Perfection of Security Interests.

(a) Unless excepted by section two thousand one hundred three of this title, a security interest in a vehicle of a type for which a certificate of title is required is not valid against creditors of the owner or subsequent transferees or lienholders of the vehicle without knowledge of the security interest unless perfected as provided in this section. A purchase money security interest in a vehicle is perfected against the rights of judicial lien creditors and execution creditors on and after the date such purchase money security interest is created. (b) (1) A security interest is perfected: (A) By the delivery to the commissioner of (i) the existing certificate of title, if any, an application for a certificate of title containing the name and address of the lienholder and the required fee or (ii) a notice of lien evidencing a lien arising under section two hundred eleven of the lien law and section one hundred eleven-u of the social services law; (B) As of the time of its creation if the delivery is completed within ten days thereafter, otherwise, as of the time of delivery. (2) A security interest in a vehicle provided for in a security agreement made by a person before he becomes the owner of the vehicle or arising under section two hundred eleven of the lien law and section one hundred eleven-u of the social services law: (A) Is deemed to be created at the time of the sale or transfer of the vehicle to him; (B) If not perfected under paragraph one of this subdivision is perfected by the lienholder delivering to the commissioner a notice of security interest in the form the commissioner prescribes and the required fee or a notice of lien, but only if the delivery is completed before the commissioner issues a certificate of title of the vehicle containing the name of the owner as owner; (C) If so perfected, is perfected as of the time of the sale or transfer of the vehicle to him if the delivery is completed within ten days thereafter, otherwise, as of the time of delivery; (D) Is subject and subordinate to a security interest, perfected in accordance with paragraph one of this subdivision, of a lienholder without knowledge of it. (3) The commissioner shall file each notice of security interest delivered to him with the required fee and shall maintain a record, under the identifying number of the vehicles, of all notices of security interests filed by him. (4) The commissioner shall file each notice of lien delivered to him and shall maintain a record pursuant to the agreement set forth in section twenty-one hundred five-a of this article. (c) If a vehicle is subject to a security interest when brought into this state, the validity of the security interest is determined by the law of the jurisdiction where the vehicle was when the security interest attached, subject to the following: (1) If the parties understood at the time the security interest attached that the vehicle would be kept in this state and it was brought into this state within thirty days thereafter for purposes other than transportation through this state, the validity of the security interest in this state is determined by the law of this state. (2) If the security interest was perfected under the law of the jurisdiction where the vehicle was when the security interest attached, the following rules apply: (A) If the name of the lienholder is shown on a currently effective certificate of title issued by that jurisdiction, his security interest continues perfected in this state. (B) If the name of the lienholder is not shown on a currently effective certificate of title issued by that jurisdiction, the security interest continues perfected in this state for four months after a first certificate of title of the vehicle is issued in this state, and also, thereafter if, within the four month period, it is perfected in this state. The security interest may also be perfected in this state after the expiration of the four month period; in that case perfection dates from the time of perfection in this state. (3) If the security interest was not perfected under the law of the jurisdiction where the vehicle was when the security interest attached, it may be perfected in this state; in that case, perfection dates from the time of perfection in this state. (d) A security interest noted on a certificate of title to a vehicle which is a mobile home or a manufactured home shall have priority over any other subsequent liens or security interests except for those set forth in subdivision (c) of section two thousand one hundred three of this article. (e) After a certificate of title has been issued in this state for a vehicle which is a mobile home or a manufactured home, and as long as the vehicle which is a mobile home or a manufactured home is subject to any security interest perfected pursuant to this section, the commissioner shall not revoke the certificate of title, and, in any event, the

validity and priority of any security interest perfected pursuant to this section shall continue, notwithstanding the provision of any other law, including but not limited to section 9--303 and section 9-313 of the uniform commercial code.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2119 - Security Interest.

(a) The owner shall, if the lienholder so requests, execute the application, in the space provided therefor on the certificate of title or on a separate form the commissioner prescribes, to name the lienholder on the certificate, showing the name and address of the lienholder, and cause the certificate, application and the required fee to be delivered to the lienholder. (b) The lienholder shall, immediately after the owner complies with subdivision (a), cause the certificate, application and the required fee to be mailed or delivered to the commissioner. (c) Upon receipt of the certificate of title, application and the required fee, the commissioner shall either endorse on the certificate, or issue a new certificate containing, the name and address of the new lienholder, and mail the certificate to the owner.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2120 - Assignment by Lienholder.

(b) The assignee may, but need not to perfect the assignment, have the certificate of title endorsed or issued with the assignee named as lienholder, upon delivering to the commissioner an assignment by the lienholder named in the certificate in the form the commissioner prescribes. Upon the request of the assignee the commissioner shall request the owner to deliver to the commissioner the certificate of title.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2121 - Release of Security Interest.

(b) A dealer who receives a motor vehicle for the purposes of resale and who arranges for the satisfaction of any security interest in such vehicle, and for which a release of security interest has not been issued, may submit to the commissioner sufficient evidence to demonstrate that such security interest has been satisfied and shall provide notice to the lienholder two weeks prior to submission to the commissioner. The commissioner shall, upon receipt of such evidence, a proper application and the appropriate fee pursuant to section twenty-one hundred twenty-five of this article, promptly issue, within no more than fifteen business days of receipt by the department of all required information and fees, either a duplicate certificate without such lien included thereon, or a certificate without such lien included thereon. Evidence that a security interest has been satisfied shall include: (i) evidence that an interbank or electronic transfer of funds has been made; or (ii) evidence that a copy of a cashier's or bank check has been delivered; or (iii) other evidence as determined to be satisfactory by the commissioner; and (iv) evidence that the amount delivered to the lienholder is equal to the amount which has been represented to the dealer by the lienholder as sufficient to satisfy such lien. Such evidence shall be accepted by the commissioner as sufficient. Any evidence submitted to the commissioner pursuant to this subdivision may, subject to approval of the commissioner, be submitted in electronic form. In addition to the penalties imposed by section twenty-one hundred thirty of this article, any dealer who alters or forges evidence of payment, or fails to make a payment, shall be liable to any party for any damages resulting from the issuance of a new certificate by the commissioner, plus attorney's fees and costs incurred in recovering such damages, provided however no subsequent purchaser of a vehicle where the security interest was removed by the commissioner under the provisions of this subdivision shall be liable for any errors in the removal of such security interest, and any dealer who so applied for the removal of such security interest on such vehicle shall indemnify any such purchaser and lienholder. The commissioner is authorized to adopt and enforce reasonable rules and regulations necessary to carry out the provisions of this subdivision.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2122 - Duty of Lienholder.

§ 2122. Duty of lienholder. A lienholder named in a certificate of title shall, upon written request of the owner or of another lienholder named on the certificate, disclose any pertinent information as to his security agreement and the indebtedness secured by it. The office of temporary and disability assistance, or a social services district, or its authorized representative shall be deemed to have complied with this section upon disclosing the name of the obligor and the amount of the debt.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2123 - Exclusiveness of Procedure.

§ 2123. Exclusiveness of procedure. The method provided in this article of perfecting and giving notice of security interests subject to this article is exclusive. Security interests subject to this article are hereby exempted from the provisions of law which otherwise relate to the perfection of security interests, including but not limited to section 9-313 of the uniform commercial code.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2124 - Suspension or Revocation of Certificates.

(i) The certificate of title was fraudulently procured or erroneously issued, or (ii) The vehicle has been scrapped, dismantled or

destroyed. (2) Notwithstanding any other provision of law, the commissioner shall not suspend or revoke a certificate of title to a vehicle which is a mobile home or manufactured home by reason of the fact that, at any time, in any manner, it shall have become attached to realty. (b) Suspension or revocation of a certificate of title does not, in itself, affect the validity of a security interest noted on it. (c) When the commissioner suspends or revokes a certificate of title, the owner or person in possession of it shall, immediately upon receiving notice of the suspension or revocation, mail or deliver the certificate to the commissioner. (d) The commissioner may seize and impound any certificate of title which has been suspended or revoked. (e) A certificate of title may be temporarily suspended pending a hearing.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2126 - Powers of Commissioner.

(b) The commissioner may: (1) Make necessary investigations to procure information required to carry out the provisions of this article; and (2) Adopt and enforce reasonable rules and regulations to carry out the provisions of this article; and (3) Upon assigning a new identifying number to a vehicle if it has none, or its identifying number is destroyed or obliterated, shall either issue a new certificate of title showing the new identifying number or make an appropriate indorsement on the original certificate.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2127 - Hearings.

§ 2127. Hearings. A person aggrieved by an act or omission to act of the commissioner under this article is entitled to a hearing. The commissioner shall grant a hearing to an applicant therefor as soon as practicable, except that if a certificate of title is temporarily suspended, within ten days after receipt of a written request for such hearing. No hearing shall be required because of the refusal of the commissioner to issue a certificate of title in a case where the commissioner determines that a request for such hearing is frivolous or based upon sham. The applicant may be heard in person or by counsel. The hearing shall be at such time and place as the commissioner shall prescribe. The commissioner acting by such officer or person in the department of motor vehicles as he may designate, shall have the power to temporarily omit to take any action under this article pending a hearing and to subpoena and bring before the officer or person so designated any person in this state and administer an oath to and take testimony of any person or cause his deposition to be taken with the same fees and mileage in the same manner as prescribed by law in judicial procedure in courts of this state in civil cases.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2128 - Court Review.

§ 2128. Court review. An act or omission to act of the commissioner under this article shall be subject to review by the supreme court in the manner provided in article seventy-eight of the civil practice law and rules.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2129 - Stolen, Converted, Recovered and Unclaimed Vehicles.

(b) Owner's or lienholder's report. An owner or a lienholder may report the theft of a vehicle, or its conversion if a crime, to the commissioner, but the commissioner may disregard the report of a conversion unless a warrant has been issued for the arrest of a person charged with the conversion. A person who has so reported the theft or conversion of a vehicle shall, forthwith after learning of its recovery, report the recovery to the commissioner. (c) Garage operator's report. An operator of a place of business for garaging, parking or storing vehicles for the public, in which a vehicle remains unclaimed for a period of thirty days, shall, within five days after the expiration of that period, report the vehicle as unclaimed to the commissioner. A vehicle left by its owner whose name and address are known to the operator or his employee is not considered unclaimed. A person who fails to report a vehicle as unclaimed in accordance with this subdivision forfeits all claims and liens for its garaging, parking or storing. (d) Commissioner's record. The commissioner shall maintain, and appropriately index appropriate public records of stolen, converted, recovered and unclaimed vehicles reported to him pursuant to this section. The commissioner may make and distribute copies of any such records so maintained to peace officers, when acting pursuant to their special duties, or police officers upon request without fee and to others for the fee, if any, the commissioner prescribes. (e) Commissioner's action. The commissioner may suspend the registration of a vehicle whose theft or conversion is reported to him pursuant to this section; until the commissioner learns of its recovery or that the report of its theft or conversion was erroneous, he shall not issue a certificate of title for the vehicle.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2130 - Offenses Relating to Certificates.

(1) Alters, forges or counterfeits a certificate of title is guilty of a felony; (2) Alters or forges an assignment of a certificate of title, or an assignment or release of a security interest, on a certificate of title or a form the commissioner prescribes is guilty of a felony; (3) Has possession of or uses a certificate of title knowing it to have been altered, forged or counterfeited is guilty of a felony; (4) Uses a false or fictitious name or address, or makes a material false statement, or fails to disclose a security interest, or conceals any other material fact, in an application for a certificate of title, or in any copy of an assignment and warranty of title retained and produced for the purpose of negating any presumption contained in subdivision seven of section twelve hundred twenty-four of this

chapter, is guilty of a felony; or (5) Produces, makes, manufactures, or reproduces any vehicle certificate of origin or any certificate of title or any license plate or tag of any other state, district or territory, or of any foreign country; or possesses any device for producing, making, manufacturing, or reproducing the same is guilty of a felony. (b) Misdemeanors. A person who, with fraudulent intent: (1) Permits another, not entitled thereto, to use or have possession of a certificate of title is guilty of a misdemeanor; (2) Fails to mail or deliver a certificate of title or application therefor to the department within ten days after the time required by this article is guilty of a misdemeanor; or (3) Fails to deliver to his transferee a certificate of title within ten days after the time required by this article is guilty of a misdemeanor. (c) Traffic infractions. A person who wilfully violates any provision of this article except as provided in subdivisions (a) and (b) is guilty of a traffic infraction.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2131 - Evidence of Criminal Intent or Knowledge.

§ 2131. Evidence of criminal intent or knowledge. In a prosecution for a crime specified in this article, evidence that the defendant has committed a prior act or acts of the same kind is admissible to prove criminal intent or knowledge.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2132 - Effect on Other Laws.

§ 2132. Effect on other laws. The penal provisions of this article in no way repeal or modify any existing provision of the penal law but are additional and supplementary thereto.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2133 - Uniformity of Interpretation.

§ 2133. Uniformity of interpretation. This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2134 - Short Title.

§ 2134. Short title. This article may be cited as the uniform vehicle certificate of title act.

2024 New York LawsVAT - Vehicle and TrafficTitle 10 - Uniform Vehicle Certificate of Title ActArticle 46 - Uniform Vehicle Certificate of Title Act2135 - Severability.

§ 2135. Severability. If any provision of this article or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end the provisions of this article are declared to be severable.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 47 - Registration of Snowmobiles2220 - Jurisdiction of Department.

§ 2220. Jurisdiction of department. The registration of snowmobiles shall be under the jurisdiction of the department.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 47 - Registration of Snowmobiles2221 - Definitions.

§ 2221. Definitions. For the purposes of this article, the following terms shall have the following meanings. 1. Snowmobile. Any self-propelled vehicle equipped with a motor, originally manufactured and designed for travel on snow or ice, steered by skis or runners and supported in whole or in part by one or more skis, belts or tracked cleats. 2. Cowling. The forward portion of the snowmobile usually surrounding the motor and clutch assembly. 3. Dealer. Any person engaged in the business of selling snowmobiles at wholesale or retail.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 47 - Registration of Snowmobiles2222 - Registration.

2. The commissioner is authorized to register a snowmobile, issue a registration certificate and assign a registration number to such snowmobile. All such registrations shall be valid until the thirty-first day of August following the date of such registration; except that registrations issued between the first day of April and the thirty-first day of August, inclusive, shall be valid until the thirty-first day of August in the following year; and unless, prior to expiration of the period of registration, it is surrendered, cancelled, revoked or suspended pursuant to the provisions of this article. 3. A number once assigned under this section shall remain with the registered snowmobile until the snowmobile is destroyed, abandoned or permanently removed from the state, or until changed or terminated by the commissioner. 4. Fees. Fees for registration of snowmobiles, to be collected by the commissioner under this article, are as follows:(a) A fee of ten dollars for each individual resident registration.(b) A fee of ten dollars for each individual nonresident registration.(c) A fee of fifty dollars for each two-year dealer registration.(d) A fee of five dollars for each additional dealer demonstrator registration number.(e) A fee of one dollar for replacement of a lost, mutilated or destroyed certificate.4-a. Additional

fee. In addition to the other fees provided for in paragraphs (a), (b) and (c) of subdivision four of this section the commissioner shall, upon application in such cases for the registration of a snowmobile or the renewal thereof, collect the annual one hundred twenty-five dollar fee for residents and one hundred twenty-five dollar fee for nonresidents or a fifty-five dollar fee for residents and fifty-five dollar fee for nonresidents who provide proof, at the time of registration, that such individual is a member of an organized New York state snowmobile club that is a member of the New York state snowmobile association or is a member of an organized New York state snowmobile club that is a trail maintenance entity and a member of the New York state snowmobile association which are imposed by section 21.07 of the parks, recreation and historic preservation law. In the event that an individual seeking snowmobile club membership is unable, for any reason, to secure such club membership, he or she may contact the New York state snowmobile association, who shall secure such membership for such person. This fee shall also be collected from dealers at the time of original registration and at the time of each renewal. The commissioner shall effectuate regulations regarding what is required as proof of membership in an organized New York state snowmobile club that is a trail maintenance entity and a member of the New York state snowmobile association for the purposes of this subdivision.5. Application. The owner of each snowmobile requiring registration under this section shall present an application for registration to the commissioner, on a blank to be prepared and furnished by the commissioner for that purpose. Such application shall contain or be accompanied by such evidence of the ownership of the snowmobile described in the application as may be required by the commissioner.6. Dealers. Any person who is a dealer shall register as a dealer. The commissioner, upon receipt of an application and the required fee, shall assign a distinctive dealer registration number to the registrant and issue an appropriate registration certificate to him and assign two dealer demonstrator registration numbers and upon the payment of the appropriate fee, such additional numbers as shall be requested. Dealer registrations and dealer demonstrator registration numbers shall not be transferable.7. Renewal. After payment of the registration fees as provided in subdivisions four and four-a of this section, every owner of a snowmobile shall renew his or her registration annually on or before September first of each year and every dealer shall renew his or her registration biennially in such form and manner as the commissioner shall prescribe. If a dealer registration is issued for a period of more or less than two years, the fee for such registration shall be prorated on a monthly basis.8. The validating date tag. At the time of the original registration and at the time of each annual renewal thereof, the commissioner shall also issue to said registrant a date tag or tags indicating the validity of the current registration and the expiration date thereof, which validating date tag or tags should be affixed to the snowmobile in such manner as the commissioner may prescribe. Notwithstanding the fact that a snowmobile has been assigned an identifying number, it shall not be considered as validly registered within the meaning of this section unless a validating date tag and current registration certificate have been issued.9. Denial of current registration. In the event that a snowmobile sought to be registered or re-registered does not, after inspection and testing, comply with the provisions respecting equipment established by section 25.17 of the parks and recreation law or by the regulations of the commissioner promulgated pursuant to this title, the commissioner may deny the issuance of a validating date tag and current certificate of registration.10. Snowmobiles owned by governmental agencies. A registration number shall be assigned, without payment of a fee, for snowmobiles owned by governmental agencies, or by volunteer organizations if used exclusively for emergency purposes, provided that each such snowmobile shall display the proper registration number assigned to it.11. Exemption. No registrations shall be required for the following described snowmobiles:(a) Snowmobiles owned and used by the United States.(b) Snowmobiles covered by a valid registration or license of another state, province or country, as provided in subdivision twelve of this section.(c) Snowmobiles operated on lands owned by the owner of such snowmobile, or on lands to which such owner has a contractual right other than as a member of a club or association provided (i) the snowmobile is not operated elsewhere within the state, and (ii) no consideration, either direct or indirect, is paid to the owner of the snowmobile with respect to such operation.12. Out of state snowmobile registration. The registration provisions of this article shall apply to non-resident owners of snowmobiles used in New York state as provided for by the commissioner except when their snowmobile is used on trails which proceed along a New York state border and which, occasionally as dictated by the terrain, cross into another state, in which such snowmobile is registered; such cross border trails on which nonresident owned snowmobiles may proceed without New York state registration shall be designated by the state commissioner of the office of parks, recreation and historic preservation as provided in section 25.04 of the parks, recreation and historic preservation law and he shall publish such trail designation in the New York state register and other publications accessible to the snowmobiling public. Such non-resident registration applications shall be made available at the place of business of all registered dealers and by mail from the department. Nothing in this subdivision shall be construed to authorize the operation of any snowmobile contrary to the provisions of this article.13. State aid. The Lake George park commission shall be entitled to receive state aid in an amount relating to the percentage of fees collected under this section that can be estimated to be attributed to snowmobile use within the Lake George park. The amount of such aid shall be annually determined by the commissioner of parks, recreation and historic preservation and the director of the budget.14. Registration at time of sale. Snowmobiles sold by dealers shall be registered at the time of sale of such snowmobile. Such registration shall be valid until the thirty-first day of August following the date of such sale; provided however that snowmobiles sold after April first of each year shall be issued a registration valid until the thirty-first day of August in the year following that in which the snowmobile is sold. Snowmobiles purchased to be used in accordance with paragraph (c) of subdivision eleven of this section or for use exclusively outside of the state of New York shall not require registration at the time of purchase, and the purchaser of such snowmobile shall sign a declaration, provided by the dealer, which shall state that such purchaser understands the conditions under which a snowmobile must be registered and the penalty for violation of such registration provisions; the form of such declaration shall be provided by the commissioner to each dealer and shall be forwarded to the commissioner. (a) A fee of ten dollars for each individual resident registration. (b) A fee of ten dollars for each individual

nonresident registration. (c) A fee of fifty dollars for each two-year dealer registration. (d) A fee of five dollars for each additional dealer demonstrator registration number. (e) A fee of one dollar for replacement of a lost, mutilated or destroyed certificate. 4-a. Additional fee. In addition to the other fees provided for in paragraphs (a), (b) and (c) of subdivision four of this section the commissioner shall, upon application in such cases for the registration of a snowmobile or the renewal thereof, collect the annual one hundred twenty-five dollar fee for residents and one hundred twenty-five dollar fee for nonresidents or a fifty-five dollar fee for residents and fifty-five dollar fee for nonresidents who provide proof, at the time of registration, that such individual is a member of an organized New York state snowmobile club that is a member of the New York state snowmobile association or is a member of an organized New York state snowmobile club that is a trail maintenance entity and a member of the New York state snowmobile association which are imposed by section 21.07 of the parks, recreation and historic preservation law. In the event that an individual seeking snowmobile club membership is unable, for any reason, to secure such club membership, he or she may contact the New York state snowmobile association, who shall secure such membership for such person. This fee shall also be collected from dealers at the time of original registration and at the time of each renewal. The commissioner shall effectuate regulations regarding what is required as proof of membership in an organized New York state snowmobile club that is a trail maintenance entity and a member of the New York state snowmobile association for the purposes of this subdivision. 5. Application. The owner of each snowmobile requiring registration under this section shall present an application for registration to the commissioner, on a blank to be prepared and furnished by the commissioner for that purpose. Such application shall contain or be accompanied by such evidence of the ownership of the snowmobile described in the application as may be required by the commissioner. 6. Dealers. Any person who is a dealer shall register as a dealer. The commissioner, upon receipt of an application and the required fee, shall assign a distinctive dealer registration number to the registrant and issue an appropriate registration certificate to him and assign two dealer demonstrator registration numbers and upon the payment of the appropriate fee, such additional numbers as shall be requested. Dealer registrations and dealer demonstrator registration numbers shall not be transferable. 7. Renewal. After payment of the registration fees as provided in subdivisions four and four-a of this section, every owner of a snowmobile shall renew his or her registration annually on or before September first of each year and every dealer shall renew his or her registration biennially in such form and manner as the commissioner shall prescribe. If a dealer registration is issued for a period of more or less than two years, the fee for such registration shall be prorated on a monthly basis. 8. The validating date tag. At the time of the original registration and at the time of each annual renewal thereof, the commissioner shall also issue to said registrant a date tag or tags indicating the validity of the current registration and the expiration date thereof, which validating date tag or tags should be affixed to the snowmobile in such manner as the commissioner may prescribe. Notwithstanding the fact that a snowmobile has been assigned an identifying number, it shall not be considered as validly registered within the meaning of this section unless a validating date tag and current registration certificate have been issued. 9. Denial of current registration. In the event that a snowmobile sought to be registered or re-registered does not, after inspection and testing, comply with the provisions respecting equipment established by section 25.17 of the parks and recreation law or by the regulations of the commissioner promulgated pursuant to this title, the commissioner may deny the issuance of a validating date tag and current certificate of registration. 10. Snowmobiles owned by governmental agencies. A registration number shall be assigned, without payment of a fee, for snowmobiles owned by governmental agencies, or by volunteer organizations if used exclusively for emergency purposes, provided that each such snowmobile shall display the proper registration number assigned to it. 11. Exemption. No registrations shall be required for the following described snowmobiles: (a) Snowmobiles owned and used by the United States. (b) Snowmobiles covered by a valid registration or license of another state, province or country, as provided in subdivision twelve of this section. (c) Snowmobiles operated on lands owned by the owner of such snowmobile, or on lands to which such owner has a contractual right other than as a member of a club or association provided (i) the snowmobile is not operated elsewhere within the state, and (ii) no consideration, either direct or indirect, is paid to the owner of the snowmobile with respect to such operation. 12. Out of state snowmobile registration. The registration provisions of this article shall apply to non-resident owners of snowmobiles used in New York state as provided for by the commissioner except when their snowmobile is used on trails which proceed along a New York state border and which, occasionally as dictated by the terrain, cross into another state, in which such snowmobile is registered; such cross border trails on which nonresident owned snowmobiles may proceed without New York state registration shall be designated by the state commissioner of the office of parks, recreation and historic preservation as provided in section 25.04 of the parks, recreation and historic preservation law and he shall publish such trail designation in the New York state register and other publications accessible to the snowmobiling public. Such non-resident registration applications shall be made available at the place of business of all registered dealers and by mail from the department. Nothing in this subdivision shall be construed to authorize the operation of any snowmobile contrary to the provisions of this article. 13. State aid. The Lake George park commission shall be entitled to receive state aid in an amount relating to the percentage of fees collected under this section that can be estimated to be attributed to snowmobile use within the Lake George park. The amount of such aid shall be annually determined by the commissioner of parks, recreation and historic preservation and the director of the budget. 14. Registration at time of sale. Snowmobiles sold by dealers shall be registered at the time of sale of such snowmobile. Such registration shall be valid until the thirty-first day of August following the date of such sale; provided however that snowmobiles sold after April first of each year shall be issued a registration valid until the thirty-first day of August in the year following that in which the snowmobile is sold. Snowmobiles purchased to be used in accordance with paragraph (c) of subdivision eleven of this section or for use exclusively outside of the state of New York shall not require registration at the time of purchase, and the purchaser of such snowmobile shall sign a declaration, provided by the dealer, which shall state that such purchaser understands the conditions under which a snowmobile must be registered and the penalty for violation of such registration

provisions; the form of such declaration shall be provided by the commissioner to each dealer and shall be forwarded to the commissioner.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 47 - Registration of Snowmobiles2223 - Display of Registration Numbers.

§ 2223. Display of registration numbers. 1. The registration numbers assigned to a snowmobile shall be displayed on the vehicle at all times in such manner as the commissioner may, by regulation, prescribe. No number other than the number assigned to a snowmobile by the commissioner or the identification number of the registration in another state should be painted, attached or otherwise displayed on either side of the cowling, except that racing numbers on a snowmobile being operated in special events, approved by the commissioner of parks and recreation, may be temporarily displayed for the duration of the race. 2. Dealer demonstrator registration numbers shall conform to the requirements set forth in subdivision one of this section with the exception that the numbers assigned may be printed upon or attached to a removable plaque or plaques to be temporarily but firmly affixed to the snowmobile being demonstrated or tested. 3. Numbers issued to dealers and manufacturers for the purpose of demonstration or testing shall be used exclusively for these purposes and no other use is permitted.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 47 - Registration of Snowmobiles2224 - Registration Record.

§ 2224. Registration record. Upon receipt of a sufficient application for registration of a snowmobile, as provided in this article, the commissioner shall enter upon the records of the department the registration of such vehicle under the distinctive number assigned to such snowmobile as provided in this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 47 - Registration of Snowmobiles2225 - Certificate of Registration.

§ 2225. Certificate of registration. 1. Certificate. Upon the filing of the application and payment of the fee as provided in this article, the commissioner shall assign to such snowmobile a distinctive number, and, without further expense to the applicant, issue a certificate of registration, in such manner and form as the commissioner shall prescribe. In the event of the loss, mutilation or destruction of any certificate of registration, the owner of the registered snowmobile may file such statement and proof of the facts as the commissioner shall require with a fee of one dollar, with the department, for the issuance of a duplicate or substitute. 2. Carrying certificate. Every person operating a snowmobile registered in accordance with any of the provisions of this article shall, upon demand of any magistrate, police officer or peace officer, when acting pursuant to his special duties, produce for inspection the certificate of registration for such snowmobile and shall furnish to such person any information necessary for the identification of such snowmobile and its owner. The failure to produce the certificate of registration as provided herein shall not be an offense, but shall be presumptive evidence of operating a snowmobile which is not registered as required by this article. 3. Change of residence. It shall be the duty of every owner holding a certificate of registration to notify the department, in writing, of any change of residence of such owner within fifteen days after such change occurs, and to inscribe on such certificate, in the place provided a record of such change of residence. 4. Change of ownership. Whenever a snowmobile is transferred or its use discontinued, the registration portion of the certificate of registration shall be properly signed and executed by the owner showing that the ownership of the snowmobile has been transferred or its use discontinued and such certificate shall be returned to the department within fifteen days after such transfer or discontinuance. In the case of transfer, the new owner shall apply for a new certificate by completing an application for registration, using the original number issued for such snowmobile. Such application shall be submitted to the department together with the renewal or transfer of the old certificate of registration, properly signed by the previous owner, and the required fee of five dollars. The renewal or transfer of the old certificate of registration, properly signed by the previous owner, shall constitute a temporary registration for such new owner for a period determined by the commissioner from the date such snowmobile was transferred to the new owner. In the event that such snowmobile was purchased from a registered dealer, the application must be accompanied by a dealer's form, numbered, completed and signed by the dealer or his agent and signed by the new owner, as prescribed by the commissioner. 5. Destruction, theft or removal from state. It shall be the duty of every owner of a snowmobile registered pursuant to the provisions of this article to notify the department, in writing, of the destruction, theft or permanent removal of such snowmobile from the state, within fifteen days of acquiring knowledge thereof. In the event of destruction or theft, the certificate of registration shall be surrendered with such notice.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 47 - Registration of Snowmobiles2226 - Licensing by Municipalities.

§ 2226. Licensing by municipalities. No municipality shall require licensing or registration of snowmobiles which are covered by the provisions of this article; nor shall it require possession of a valid motor vehicle operator's license as a condition for the operation of a snowmobile on lands owned or controlled by such municipality. Nothing herein shall prohibit the requirement of a permit by the agency having jurisdiction over any state or local park for use of snowmobiles on such park lands. No charge for such use may be made, except the usual charge, if any, for admission to such park, parking privileges or services provided.

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 47 - Registration of Snowmobiles2227 - Rules and Regulations.

§ 2227. Rules and regulations. The commissioner shall make such rules and regulations as he may deem necessary to carry out the provisions of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 47 - Registration of Snowmobiles2228 - Special Events.

§ 2228. Special events. Snowmobiles operated at special events approved by the commissioner of parks and recreation pursuant to section 25.11 of parks and recreation law shall be exempt from the provisions of this article concerning registration.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 47 - Registration of Snowmobiles2229 - Snowmobile, Not a Motor Vehicle.

§ 2229. Snowmobile, not a motor vehicle. Notwithstanding its limited use on highways, a snowmobile shall not be determined a motor vehicle within the meaning of section one hundred twenty-five of this chapter or any other successor statutes.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 47 - Registration of Snowmobiles2230 - Suspension and Revocation of Registrations; Offenses; Penalties.

§ 2230. Suspension and revocation of registrations; offenses; penalties. 1. The commissioner may suspend or revoke a registration issued pursuant to the provisions of this article, upon satisfactory proof of a violation of any provision of this article, or of the parks, recreation and historic preservation law at the request of the commissioner of parks, recreation and historic preservation, or of any rule, regulation, order, local law or ordinance adopted or promulgated pursuant thereto. Such suspension or revocation shall be issued only after a hearing unless such a hearing is waived by the registrant. Upon said suspension or revocation, all rights and privileges accruing to such registrant shall terminate. 2. a. Except as provided in paragraph b of this subdivision, any person who violates any provision of this article or regulation adopted pursuant thereto shall be guilty of a violation punishable by a fine of up to two hundred dollars, and one-half of such fine shall be deposited in the snowmobile trail development and maintenance fund as set forth in section 21.07 of the parks, recreation and historic preservation law. b. Any person who violates the provisions of paragraph a of subdivision one of section twenty-two hundred twenty-two of this article shall be guilty of a violation punishable by a fine of not less than two hundred dollars nor more than five hundred dollars, except if the violation consists of failure to renew a registration which was valid within sixty days the fine shall be not more than fifty dollars. One-half of such fines shall be deposited in the snowmobile trail development and maintenance fund as set forth in section 21.07 of the parks, recreation and historic preservation law.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 47 - Registration of Snowmobiles2231 - Disposition of Fees.

§ 2231. Disposition of fees. 1. The commissioner shall deposit all monies received by him from the registration of snowmobiles and other services provided by the department and all fees otherwise collected by him under this article to the credit of the general fund except that additional fees imposed by section 21.07 of the parks, recreation and historic preservation law received by the commissioner pursuant to section two thousand two hundred twenty-two of this chapter shall be deposited to the credit of the snowmobile trail development and maintenance fund and that monies allocated to the Lake George park commission shall be deposited to the credit of the Lake George park trust fund pursuant to section ninety-seven-h of the state finance law. 2. Notwithstanding subdivision one of this section, the commissioner shall also deposit five dollars of the fees collected pursuant to paragraphs (a), (b) and (c) of subdivision four of section two thousand two hundred twenty-two of this article, to the credit of the snowmobile trail development and maintenance fund.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-A - Registration of Limited Use Vehicles2260 - General Provisions.

§ 2260. General provisions. Except as otherwise expressly provided herein, all of the provisions of this chapter shall apply to a limited use vehicle in the same manner as if such vehicle was not a limited use vehicle.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-A - Registration of Limited Use Vehicles2261 - Registration.

2. A certificate of registration issued pursuant to this article shall indicate that the registration is limited to use as provided in section twenty-two hundred sixty-two of this chapter. No application for registration shall be accepted unless the applicant is at least sixteen years of age. 3. Fees. (a) The fees for the registration, renewal, reregistration or amendment or duplicate of a registration of a limited use automobile shall be the same fees as if such vehicle were registered pursuant to section four hundred one of this chapter.(b) The annual fee for the registration, renewal, reregistration or amendment or duplicate of a registration of a limited use motorcycle shall

be six dollars and twenty-five cents. Any such registration, renewal, or reregistration shall take effect and expire on dates to be determined by the commissioner. A fee for a registration for periods of more or less than one year shall not be prorated.4. Carrying certificate. Every person operating a limited use vehicle registered in accordance with any of the provisions of this article, shall, upon the demand of any magistrate, police officer, peace officer, when acting pursuant to his special duties, or motor vehicle hearing officer produce for inspection the certificate of registration for such limited use vehicle and shall furnish to such person any information necessary for the identification of such limited use vehicle and its owner. The failure to produce the certificate of registration as provided herein shall not be an offense, but shall be presumptive evidence of operating a limited use vehicle which is not registered as required by this article.5. Out-of-state limited use vehicle registration. The registration provisions of this article shall not apply to a non-resident who has registered his limited use vehicle in compliance with the registration or licensing laws of the state, province or country of his residence, provided that the limited use vehicle so registered in accordance with the laws of the state, province or country of residence of such owner is appropriately identified by an identification plate, sticker or other identifying device issued by such state, province or country.6. Registration at time of sale. Every limited use motorcycle, as defined by section one hundred twenty-one-b of this chapter, sold by a dealer shall be registered at the time of sale of such vehicle. Such registration shall take effect and expire on dates to be determined by the commissioner. Any limited use motorcycle purchased for use exclusively outside of the state of New York shall not require registration at the time of purchase, and the purchaser of such limited use motorcycle shall sign a declaration, provided by the dealer, which shall state that such purchaser understands the conditions under which a limited use motorcycle must be registered and the penalty for violation of such registration provisions. Each signed declaration shall be forwarded by the dealer to the commissioner. The form of such declaration shall be provided by the commissioner to each dealer. (b) The annual fee for the registration, renewal, reregistration or amendment or duplicate of a registration of a limited use motorcycle shall be six dollars and twenty-five cents. Any such registration, renewal, or reregistration shall take effect and expire on dates to be determined by the commissioner. A fee for a registration for periods of more or less than one year shall not be prorated. 4. Carrying certificate. Every person operating a limited use vehicle registered in accordance with any of the provisions of this article, shall, upon the demand of any magistrate, police officer, peace officer, when acting pursuant to his special duties, or motor vehicle hearing officer produce for inspection the certificate of registration for such limited use vehicle and shall furnish to such person any information necessary for the identification of such limited use vehicle and its owner. The failure to produce the certificate of registration as provided herein shall not be an offense, but shall be presumptive evidence of operating a limited use vehicle which is not registered as required by this article. 5. Out-of-state limited use vehicle registration. The registration provisions of this article shall not apply to a non-resident who has registered his limited use vehicle in compliance with the registration or licensing laws of the state, province or country of his residence, provided that the limited use vehicle so registered in accordance with the laws of the state, province or country of residence of such owner is appropriately identified by an identification plate, sticker or other identifying device issued by such state, province or country. 6. Registration at time of sale. Every limited use motorcycle, as defined by section one hundred twenty-one-b of this chapter, sold by a dealer shall be registered at the time of sale of such vehicle. Such registration shall take effect and expire on dates to be determined by the commissioner. Any limited use motorcycle purchased for use exclusively outside of the state of New York shall not require registration at the time of purchase, and the purchaser of such limited use motorcycle shall sign a declaration, provided by the dealer, which shall state that such purchaser understands the conditions under which a limited use motorcycle must be registered and the penalty for violation of such registration provisions. Each signed declaration shall be forwarded by the dealer to the commissioner. The form of such declaration shall be provided by the commissioner to each dealer.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-A - Registration of Limited Use Vehicles2262 - Limitations on Registrations.

2. Notwithstanding the foregoing provisions of this section, a registration issued pursuant to this article shall not be valid for operation on any public highway in violation of any state or local ordinance, law, rule or regulation enacted or promulgated pursuant to the provisions of Title VIII of this chapter prohibiting or restricting the use of limited use vehicles, nor on any controlled access highway other than on a bridge or tunnel or other portion of such highway which is specifically designated for use by limited use vehicles by the authority having jurisdiction over such bridge or tunnel or highway. 3. No person shall operate a limited use vehicle on a public highway where such operation is not permitted in accordance with the provisions of this section. 4. No person shall operate a low speed vehicle on any public highway:(a) with a speed limit in excess of thirty-five miles per hour, provided that the provisions of this paragraph shall not prohibit the crossing of a public highway with a speed limit in excess of thirty-five miles per hour where such highway intersects with a highway with a speed limit of thirty-five miles per hour or less; or(b) which, in the interest of public safety, a local authority or the department of transportation has prohibited low speed vehicles. (a) with a speed limit in excess of thirty-five miles per hour, provided that the provisions of this paragraph shall not prohibit the crossing of a public highway with a speed limit in excess of thirty-five miles per hour where such highway intersects with a highway with a speed limit of thirty-five miles per hour or less; or (b) which, in the interest of public safety, a local authority or the department of transportation has prohibited low speed vehicles.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-A - Registration of Limited Use Vehicles2263 - Revocation and Suspension.

§ 2263. Revocation and suspension. In addition to revocation or suspension of a registration pursuant to any other provision of this

chapter, all registrations issued to a registrant pursuant to this article may be revoked where the holder is convicted of a second or subsequent violation committed within a period of twelve months of subdivision three of section twenty-two hundred sixty-two of this chapter. Where a revocation is issued pursuant to this section, no new limited use vehicle registration shall be issued to such person for a period of one year from the date of such revocation.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-A - Registration of Limited Use Vehicles2264 - Display of Registration Number Plate or Plates.

§ 2264. Display of registration number plate or plates. 1. The registration number plate or plates assigned to a limited use vehicle shall be displayed on the vehicle at all times such vehicle is operated on the public highways in such manner as the commissioner may, be regulation, prescribe. One registration number plate shall be issued by the commissioner for a limited use motorcycle. One or two registration number plates, as determined by the commissioner, shall be issued by the commissioner for a limited use automobile. No number other than the registration number plate assigned to a limited use vehicle by the commissioner, or the identification number of the registration issued by another state shall be painted, attached or otherwise displayed on a limited use vehicle when such vehicle is being operated on a public highway. Nothing herein shall prohibit the display of a vehicle identification number plate or number affixed by the manufacturer or his agent in accordance with section twenty-two hundred sixty-seven of this chapter. 2. Dealer demonstrator number plates shall conform to the requirements set forth in subdivision one of this section with the exception that such number plates may be temporarily but firmly affixed to the limited use vehicle being demonstrated or tested. 3. The use of dealer demonstrator number plates shall be subject to the provisions of sections four hundred fifteen and four hundred sixteen of this chapter. 4. No dealer shall permit a dealer demonstrator number plate to be used on any vehicle unless such vehicle would qualify for the issuance of such a number plate when registered.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-A - Registration of Limited Use Vehicles2265 - Equipment, Inspection and Insurance.

2. Inspection. (a) Limited use automobiles and class A limited use motorcycles shall be subject to the inspection requirements of article five of this chapter. The commissioner may, by regulation, provide for different inspection procedures for different types of limited use automobiles.(b) Class B and class C limited use motorcycles shall be exempt from any inspection requirements.3. Insurance. The provisions of articles six, seven and eight of this chapter shall be applicable to limited use vehicles, except that the provisions of article six of this chapter shall not apply to class C limited use motorcycles. (b) Class B and class C limited use motorcycles shall be exempt from any inspection requirements. 3. Insurance. The provisions of articles six, seven and eight of this chapter shall be applicable to limited use vehicles, except that the provisions of article six of this chapter shall not apply to class C limited use motorcycles.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-A - Registration of Limited Use Vehicles2267 - Dealers and Manufacturers.

§ 2267. Dealers and manufacturers. 1. No person shall engage in the business of selling limited use vehicles unless there shall have been issued to him a dealer registration in accordance with section four hundred fifteen of this chapter. The commissioner may, by regulation, provide for identification of dealers as dealers in limited use vehicles, and he shall make provision for the issuance of appropriate dealer demonstrator number plates to such dealers. 2. No dealer shall acquire any limited use vehicle for the purpose of resale for use on the public highways within this state unless such limited use vehicle has a vehicle identification number in a form and manner acceptable to the commissioner permanently affixed to the frame by the manufacturer or authorized agent of the manufacturer. 3. The commissioner may prescribe, by regulation, procedures to be followed by dealers with respect to record keeping and documents required upon the sale of a limited use vehicle, and procedures to be followed by manufacturers with respect to the assignment and affixing of vehicle identification numbers.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-A - Registration of Limited Use Vehicles2268 - Motor-Assisted Vehicle.

§ 2268. Motor-assisted vehicle. Notwithstanding any other provision of this chapter, a vehicle which is primarily designed to be propelled by human power shall not be entitled to registration as a limited use vehicle because of the addition of a motor. The commissioner shall determine whether any vehicle is primarily designed to be propelled by human power.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-A - Registration of Limited Use Vehicles2269 - Exemptions.

§ 2269. Exemptions. 1. Fire and police vehicles are exempt from the provisions of this article, except that the operator of such a vehicle shall be required to be licensed as provided in article nineteen of this chapter. 2. Any limited use vehicle registered pursuant to this article which would be exempt from the payment of registration fees if such vehicle were to be registered pursuant to title four of this chapter, shall be exempt from the payment of registration fees under this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-A - Registration of Limited Use Vehicles2270 - Rules and Regulations.

§ 2270. Rules and regulations. The commissioner is hereby empowered to make such rules and regulations as he may deem necessary to carry out the provisions of this article, including procedures with respect to the certification of maximum performance speed of limited use vehicles.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-B - Registration of All Terrain Vehicles2280 - Jurisdiction of Department.

§ 2280. Jurisdiction of department. 1. The registration of all terrain vehicles shall be under the jurisdiction of the department of motor vehicles. 2. Except as otherwise expressly provided herein, all of the provisions of this chapter shall apply to all terrain vehicles.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-B - Registration of All Terrain Vehicles2281 - Definitions.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, the term "all terrain vehicle" or "ATV" shall not include any vehicle used for agricultural purposes or for snowplowing, other than for hire, provided, however, that any such vehicle shall register as an "all terrain vehicle" or "ATV" pursuant to the provisions of this article if such vehicle is used or is intended to be used for any purpose other than agricultural purposes or for snowplowing and shall be regulated in accordance with provisions governing the operation of "all terrain vehicles" or "ATV's" while in such use. 2. "Dealer" means any person engaged in the business of selling ATVs at wholesale or retail.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-B - Registration of All Terrain Vehicles2282 - Registration and Permit.

2. The commissioner is authorized to register an ATV, issue a registration certificate and assign a registration number to such ATV. All such registrations shall be valid for a period prescribed by the commissioner unless, prior to expiration of the period prescribed by the commissioner, it is surrendered, cancelled, revoked or suspended pursuant to the provisions of this article. 3. Unless otherwise prescribed by regulation of the commissioner, a number once assigned under this section shall remain with the registered ATV until the ATV is destroyed, abandoned or permanently removed from the state, or until changed or terminated by the commissioner. 4. Fees. Fees for registration of ATVs to be collected by the commissioner under this article are as follows.(a) An annual fee of twelve dollars and fifty cents for each individual resident registration.(b) An annual fee of twelve dollars and fifty cents for each individual nonresident registration.(c) An annual fee of twenty-five dollars for each dealer registration.(d) An annual fee of five dollars for each additional dealer demonstrator registration number.(e) A fee of three dollars for replacement of a lost, mutilated or destroyed certificate.(f) Provided, however, that the provisions of paragraphs (c) and (d) of this subdivision with respect to the payment of dealer registration fees shall not apply to dealers registered pursuant to section four hundred fifteen of this chapter.(g) Annual fees shall not be prorated and such fees shall be applicable to a year or any portion of a year. Notwithstanding any inconsistent provision of this section, the difference collected between the fees set forth in paragraphs (a) and (b) of this subdivision in effect on and after September first, two thousand nine and the fees set forth in such paragraphs in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.5. Application. The owner of each ATV requiring registration under this section shall present an application for registration to the commissioner, on a blank to be prepared and furnished by the commissioner for that purpose. Such application shall contain or be accompanied by such evidence of the ownership of the ATV described in the application as may be required by the commissioner.6. Dealers. (a) Any person who is a dealer, and who is not registered as a dealer pursuant to section four hundred fifteen of this chapter, shall register as an ATV dealer and operate in accordance with the rules and regulations of the commissioner for ATV dealers. The commissioner, upon receipt of an application and the required fee, shall assign a distinctive dealer registration number to the registrant and issue an appropriate registration certificate to him and assign two dealer demonstrator registration numbers and upon the payment of the appropriate fee, such additional numbers as shall be requested. Dealer registrations and dealer demonstrator registration numbers shall not be transferable. Provided, however, the commissioner may limit the number of dealer demonstration registration numbers issued to a dealer.(b) No dealer shall sell or offer for retail sale any ATV, other than an ATV identified and sold for use only in off-highway competitions, which is not equipped with all equipment necessary for the registration of an ATV.6-a. Registration at time of sale. Every all terrain vehicle defined by section twenty-two hundred eighty-one of this article sold by a dealer shall be registered at the time of sale of such vehicle. Such registration shall be valid until the thirty-first day of August following the date of such sale; provided, however, that any all terrain vehicle sold after April first of each year shall be issued a registration valid until the thirty-first day of August in the year following that in which the all terrain vehicle is sold. Any all terrain vehicle purchased for use exclusively outside of the state of New York shall not require registration at the time of purchase, and the purchaser of such all terrain vehicle shall sign a declaration, provided by the dealer, which shall state that such purchaser understands the conditions under which an all terrain vehicle must be registered and the penalty for violation of such registration provisions. Each signed declaration shall be forwarded by the dealer to the commissioner. The form of such declaration shall be provided by the commissioner to each dealer.7. Renewal. Every owner of an ATV and dealer shall renew his registration in such manner as the commissioner shall prescribe, on payment of the same registration fees as provided in subdivision four of this section.8. Indicia of registration. At the time of the original registration and at the time of each renewal thereof, the commissioner shall also issue validating forms in a manner he has prescribed indicating the validity of the current registration and the expiration date thereof,

which indicia of registration shall be affixed to the vehicle in such manner as the commissioner may prescribe.No ATV shall be considered as validly registered within the meaning of this section unless a current registration certificate, registration number and current indicia of registration have been issued.9. Equipment required. No ATV shall be registered, nor shall such a registration be renewed, unless the ATV is equipped with brakes, muffler, spark arrester and tires as prescribed in subdivision one of section twenty-four hundred six of this chapter.10. ATVs owned by governmental agencies. A registration number shall be assigned, without payment of a fee, for ATVs owned by governmental agencies, or by volunteer organizations if used exclusively for emergency purposes, provided that each such ATV shall display the proper registration number assigned to it.11. Exemption. No registrations shall be required for the following described ATVs:(a) ATVs owned and used by the United States, another state, or a political subdivision thereof, but such ATV shall display the name of the owner on the vehicle thereof.(b) ATVs covered by a valid registration or license of another state, province or country, as provided in subdivision twelve of this section.12. Out of state ATV registration. The registration provisions of this article shall not apply to non-resident owners who have registered their ATVs in compliance with the registration and licensing laws of the state, province, district or country of residence, provided that the ATV is appropriately identified in accordance with the laws of the state of residence. The provisions of this subdivision shall not apply to a resident of another state, province, district or country which does not have an ATV registration and identification law. Nothing in this subdivision shall be construed to authorize the operation of any ATV contrary to the provisions of this article. (a) An annual fee of twelve dollars and fifty cents for each individual resident registration. (b) An annual fee of twelve dollars and fifty cents for each individual nonresident registration. (c) An annual fee of twenty-five dollars for each dealer registration. (d) An annual fee of five dollars for each additional dealer demonstrator registration number. (e) A fee of three dollars for replacement of a lost, mutilated or destroyed certificate. (f) Provided, however, that the provisions of paragraphs (c) and (d) of this subdivision with respect to the payment of dealer registration fees shall not apply to dealers registered pursuant to section four hundred fifteen of this chapter. (g) Annual fees shall not be prorated and such fees shall be applicable to a year or any portion of a year. Notwithstanding any inconsistent provision of this section, the difference collected between the fees set forth in paragraphs (a) and (b) of this subdivision in effect on and after September first, two thousand nine and the fees set forth in such paragraphs in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. 5. Application. The owner of each ATV requiring registration under this section shall present an application for registration to the commissioner, on a blank to be prepared and furnished by the commissioner for that purpose. Such application shall contain or be accompanied by such evidence of the ownership of the ATV described in the application as may be required by the commissioner. 6. Dealers. (a) Any person who is a dealer, and who is not registered as a dealer pursuant to section four hundred fifteen of this chapter, shall register as an ATV dealer and operate in accordance with the rules and regulations of the commissioner for ATV dealers. The commissioner, upon receipt of an application and the required fee, shall assign a distinctive dealer registration number to the registrant and issue an appropriate registration certificate to him and assign two dealer demonstrator registration numbers and upon the payment of the appropriate fee, such additional numbers as shall be requested. Dealer registrations and dealer demonstrator registration numbers shall not be transferable. Provided, however, the commissioner may limit the number of dealer demonstration registration numbers issued to a dealer. (b) No dealer shall sell or offer for retail sale any ATV, other than an ATV identified and sold for use only in off-highway competitions, which is not equipped with all equipment necessary for the registration of an ATV. 6-a. Registration at time of sale. Every all terrain vehicle defined by section twenty-two hundred eighty-one of this article sold by a dealer shall be registered at the time of sale of such vehicle. Such registration shall be valid until the thirty-first day of August following the date of such sale; provided, however, that any all terrain vehicle sold after April first of each year shall be issued a registration valid until the thirty-first day of August in the year following that in which the all terrain vehicle is sold. Any all terrain vehicle purchased for use exclusively outside of the state of New York shall not require registration at the time of purchase, and the purchaser of such all terrain vehicle shall sign a declaration, provided by the dealer, which shall state that such purchaser understands the conditions under which an all terrain vehicle must be registered and the penalty for violation of such registration provisions. Each signed declaration shall be forwarded by the dealer to the commissioner. The form of such declaration shall be provided by the commissioner to each dealer. 7. Renewal. Every owner of an ATV and dealer shall renew his registration in such manner as the commissioner shall prescribe, on payment of the same registration fees as provided in subdivision four of this section. 8. Indicia of registration. At the time of the original registration and at the time of each renewal thereof, the commissioner shall also issue validating forms in a manner he has prescribed indicating the validity of the current registration and the expiration date thereof, which indicia of registration shall be affixed to the vehicle in such manner as the commissioner may prescribe. No ATV shall be considered as validly registered within the meaning of this section unless a current registration certificate, registration number and current indicia of registration have been issued. 9. Equipment required. No ATV shall be registered, nor shall such a registration be renewed, unless the ATV is equipped with brakes, muffler, spark arrester and tires as prescribed in subdivision one of section twenty-four hundred six of this chapter. 10. ATVs owned by governmental agencies. A registration number shall be assigned, without payment of a fee, for ATVs owned by governmental agencies, or by volunteer organizations if used exclusively for emergency purposes, provided that each such ATV shall display the proper registration number assigned to it. 11. Exemption. No registrations shall be required for the following described ATVs: (a) ATVs owned and used by the United States, another state, or a political subdivision thereof, but such ATV shall display the name of the owner on the vehicle thereof. (b) ATVs covered by a valid registration or license of another state, province or country, as provided in subdivision twelve of this section. 12. Out of state ATV registration. The registration provisions of this article shall not apply to non-resident owners who have registered their ATVs in compliance with the registration and licensing laws of the state, province, district or country of residence, provided that the ATV is appropriately identified in accordance

with the laws of the state of residence. The provisions of this subdivision shall not apply to a resident of another state, province, district or country which does not have an ATV registration and identification law. Nothing in this subdivision shall be construed to authorize the operation of any ATV contrary to the provisions of this article.

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§ 2283. Display of registration. 1. The registration number with indicia of registration assigned to an ATV shall be displayed on the vehicle at all times in such a manner as the commissioner may, by regulation, prescribe. 2. Dealer demonstrator registration numbers shall conform to the requirements set forth in subdivision one of this section with the exception that, unless otherwise prescribed by regulation of the commissioner, the numbers assigned may be printed upon or attached to a removable plaque or plaques to be temporarily but firmly affixed to the ATV being demonstrated or tested. 3. Numbers issued to dealers and manufacturers for the purpose of demonstration or testing shall be used exclusively for these purposes and no other use is permitted.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-B - Registration of All Terrain Vehicles2284 - Registration Record.

§ 2284. Registration record. Upon receipt of sufficient application for registration of an ATV, as provided in this article, the commissioner shall enter upon the records of the department the registration of such vehicle under the distinctive number assigned to such ATV as provided in this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-B - Registration of All Terrain Vehicles2285 - Certificate of Registration.

§ 2285. Certificate of registration. 1. Certificate. Upon the filing of the application and payment of the fee as provided in this article, the commissioner shall assign to such ATV a distinctive number, and, without further expense to the applicant, issue a certificate of registration, in such manner and form as the commissioner shall prescribe. In the event of the loss, mutilation or destruction of any certificate of registration, the owner of the registered ATV may file such statement and proof of the facts as the commissioner shall require with a fee of three dollars, with the department, for the issuance of a duplicate or substitute. 2. Carrying certificate. Every person operating an ATV registered in accordance with any of the provisions of this article shall, upon demand of any magistrate, police officer or peace officer, when acting pursuant to his special duties, produce for inspection the certificate of registration for such ATV and shall furnish to such person any information necessary for the identification of such ATV and its owner. The failure to produce the certificate of registration as provided herein shall not be an offense, but shall be presumptive evidence of operating an ATV which is not registered as required by this article. 3. Change of residence. It shall be the duty of every owner holding a certificate of registration to notify the department, in writing, of any change of residence of such owner within ten days after such change occurs, and to inscribe on such certificate, in the place provided a record of such change of residence. 4. Change of ownership. Whenever an ATV is transferred, the certificate of registration shall be properly signed and executed by the owner showing that the ownership of the ATV has been transferred and such certificate shall be given to the new owner. In the case of transfer, except a transfer to a registered dealer, the new owner shall apply for a new certificate by completing an application for registration. Such application shall be submitted to the department together with old certificate of registration, properly signed by the previous owner, and the required fee of ten dollars. The old certificate of registration, properly signed by the previous owner or other indicia as prescribed by regulation of the commissioner, shall constitute a temporary registration for such new owner for a period determined by the commissioner from the date such ATV was transferred to the new owner. In the event that such ATV was purchased from a registered dealer, the application must be accompanied by the old certificate of registration transferred to the dealer, the required fee, and by any other forms or documents completed and submitted as prescribed by the commissioner. 5. Destruction, theft or removal from state. It shall be the duty of every owner of an ATV registered pursuant to the provisions of this article to notify the department, in writing, of the destruction, theft or permanent removal of such ATV from the state, within fifteen days of acquiring knowledge thereof. In the event of destruction or theft, the certificate or registration shall be surrendered with such notice.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-B - Registration of All Terrain Vehicles2286 - Licensing by Municipalities.

§ 2286. Licensing by municipalities. No municipality shall require licensing or registration of ATVs which are covered by the provisions of this article. Nothing herein shall prohibit the requirement of a permit by the agency or municipality having jurisdiction over any state or local park or any other public lands for use of ATVs on such public lands. A municipality may charge a fee for use of ATVs on such public lands.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-B - Registration of All Terrain Vehicles2287 - Special Events.

§ 2287. Special events. ATVs operated at special events pursuant to section twenty-four hundred eight of this chapter may be exempted from the provisions of this article concerning registration.

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-B - Registration of All Terrain Vehicles2288 - Responsibility for Operation by Minors.

§ 2288. Responsibility for operation by minors. No owner or other person in possession of any ATV shall authorize or knowingly permit any person under sixteen years of age to operate such ATV in violation of any provision of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-B - Registration of All Terrain Vehicles2289 - Violations.

§ 2289. Violations. Any person who violates any provision of this article or regulation adopted pursuant thereto shall be guilty of a traffic infraction.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-B - Registration of All Terrain Vehicles2290 - Rules and Regulations.

§ 2290. Rules and regulations. The commissioner shall make such rules and regulations as he may deem necessary to carry out the provisions of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-B - Registration of All Terrain Vehicles2291 - Disposition of Fees.

§ 2291. Disposition of fees. The commissioner shall deposit all monies received from the registration of ATVs and all fees otherwise collected under this article to the credit of the general fund, as prescribed by section twenty-two hundred eighty-two of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-C - Rules for Operation of All Terrain Vehicles2400 - Legislative Purpose.

§ 2400. Legislative purpose. It is the purpose of this article to promote the safe and proper use of ATVs for recreation and commerce in this state, to ensure the safety and well-being of all persons concerning the use of ATVs, to minimize detrimental effects of such use upon the environment, and to provide a method whereby municipalities shall consider the designation of appropriate public lands for ATV use and regulation thereof.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-C - Rules for Operation of All Terrain Vehicles2401 - Definitions.

§ 2401. Definitions. As used in this article, unless the context requires otherwise: 1. "Governmental agency" means any agency of the state of New York and all municipalities within the state. 2. "All terrain vehicle" or "ATV" means an all terrain vehicle or ATV as defined in section twenty-two hundred eighty-one of this chapter. 3. "Owner" means any person having a title to an ATV. If an ATV is sold under a contract of conditional sale whereby the title remains in the vendor, such vendor or his assignee shall not, after delivery of such ATV, be deemed an owner within the provisions of this section, but the vendee or his assignee, upon receipt of possession thereof, shall be deemed such owner notwithstanding the terms of such contract, until the vendor or his assignee shall retake possession. A person holding only a security interest in an ATV shall not be deemed an owner unless such person also has possession of such ATV. 4. "Operate" means to ride in or on, other than as a passenger, or use or control the operation of an ATV in any manner, whether or not said ATV is under way. 5. "Operator" means every person who operates or is in actual physical control of an ATV. 6. "Special event" shall mean an organized rally, race, exhibition or demonstration of limited duration which is conducted according to a prearranged schedule and in which general public interest is manifested. 7. "Authorized emergency ATV" shall mean an ATV designated as such in writing by the chief executive officer of any duly organized volunteer ambulance company, fire department, or paid fire department, operated by a member thereof and equipped with emergency lights as provided in section twenty-four hundred six of this article. 8. "Authorized police ATV" shall mean an ATV operated by a police or other peace officer while engaged in the performance of his official duties within the area of his territorial jurisdiction. 9. "Authorized civil defense ATV" shall mean an ATV designated as such in writing by the chief executive officer of a municipality and operated by a member of a civil defense organization of the municipality and equipped with emergency lights as provided in section twenty-four hundred six of this article. 10. "Operation as emergency vehicle" shall mean the operation or parking of an authorized emergency ATV, police or civil defense ATV, including attendant equipment, displaying emergency lights as provided in section twenty-four hundred six of this article and which ATV is engaged in transporting a sick or injured person to the nearest medical facility or appropriate site for transfer to an ambulance as defined in article thirty of the public health law, transporting emergency medical services, personnel and equipment to sick or injured persons, pursuing an actual or suspected violator of the law or responding to, or working or assisting at the scene of an accident, disaster, police call, alarm or other emergency but shall not include returning from such service.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-C - Rules for Operation of All Terrain Vehicles2402 - Rules and Regulations.

1. The commissioner may adopt rules and regulations:(a) for conducting special events as provided in section twenty-four hundred eight of this article;(b) for the administration and enforcement of the provisions of section twenty-four hundred seven of this article relating to liability insurance;(c) establishing a comprehensive ATV information and safety education and training program or programs including provision for issuance of ATV safety certificates for operation of ATVs by youthful operators;(d) with respect to uniform signs or markers to be used by governmental agencies which are necessary or desirable to control, direct or regulate the operation and use of ATVs. Such signs as may be designated for use on highways shall also be approved by the commissioner of transportation; and(e) with respect to such other matters as may be necessary or desirable to provide for the effective administration and enforcement of the provisions of this article.2. Any state agency may adopt rules and regulations not inconsistent with the provisions of the vehicle and traffic law in a manner appropriate to such agency to permit or regulate the use of ATVs on specifically designated land, including highways, under its jurisdiction. (a) for conducting special events as provided in section twenty-four hundred eight of this article; (b) for the administration and enforcement of the provisions of section twenty-four hundred seven of this article relating to liability insurance; (c) establishing a comprehensive ATV information and safety education and training program or programs including provision for issuance of ATV safety certificates for operation of ATVs by youthful operators; (d) with respect to uniform signs or markers to be used by governmental agencies which are necessary or desirable to control, direct or regulate the operation and use of ATVs. Such signs as may be designated for use on highways shall also be approved by the commissioner of transportation; and (e) with respect to such other matters as may be necessary or desirable to provide for the effective administration and enforcement of the provisions of this article. 2. Any state agency may adopt rules and regulations not inconsistent with the provisions of the vehicle and traffic law in a manner appropriate to such agency to permit or regulate the use of ATVs on specifically designated land, including highways, under its jurisdiction.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-C - Rules for Operation of All Terrain Vehicles2403 - Operation of Atvs; Where Permitted.

(a) An ATV may make a direct crossing on a highway other than an interstate highway or a controlled access highway, provided: (i) the crossing is made at an angle of approximately ninety degrees to the direction of the highway and at a place where no obstruction prevents a quick and safe crossing; (ii) the vehicle is brought to a complete stop before crossing the shoulder or main travelled way of the highway; (iii) the driver yields the right-of-way to all oncoming traffic that constitutes an immediate hazard; (iv) in crossing a divided highway, the crossing is made only at an intersection of the highway with another public street or highway, and (v) if the crossing is made between the hours of one-half hour after sunset to one-half hour before sunrise or in conditions of reduced visibility, only if both front and rear lights are lighted. (b) An ATV may be operated on any highway which has been designated and posted as open for travel by ATVs in accordance with the provisions of section twenty-four hundred five of this article. 2. Public lands other than highways. No person shall operate an ATV on any public lands, waters and property other than a highway, except that an ATV may be operated on any such lands which have been designated and posted for travel by ATVs in accordance with the provisions of section twenty-four hundred five of this article. 3. Private property. No person shall operate an ATV on the private property of another without the consent of the owner or lessee thereof. 3-a. Real property of a farm operation. No person shall operate an ATV on the real property of a farm operation, as defined in subdivision eleven of section three hundred one of the agriculture and markets law, without the consent of the owner or lessee thereof, where such owner or lessee has erected or maintained any sign, structure, display, or device prohibiting the trespass thereon, and which shall include a sign stating: "No Trespassing". A violation of this subdivision shall be a traffic infraction, and shall, upon a conviction of a first violation be punishable by a fine of not more than two hundred fifty dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; upon a conviction of a second violation, both of which were committed within a period of eighteen months, shall be punishable by a fine of not more than four hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, shall be punishable by a fine of not more than five hundred fifty dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment. 4. Emergency vehicle. The provisions of subdivisions one, two and three of this section shall not apply to operation as emergency vehicle by any authorized emergency, police or civil defense all terrain vehicle.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-C - Rules for Operation of All Terrain Vehicles2404 - Operating Rules.

(a) at a rate of speed greater than is reasonable and prudent under the conditions and having regard to the actual and potential hazards then existing; (b) in a careless, reckless or negligent manner so as to unreasonably endanger the person or property of another or cause injury or damage thereto; (c) on the tracks or right-of-way of an operating railroad; (d) in any tree nursery or planting in a manner that damages or destroys growing stock, or creates a substantial risk thereto; (e) while pulling a person on skis or drawing or towing a sleigh, sled, toboggan, inflatable device or trailer which carries or transports any person unless attached by a rigid support, connection or towbar; (f) on the frozen surface of public waters: within one hundred feet of any person other than a person riding on an ATV except at the minimum speed required to maintain forward movement of the ATV, nor within one hundred feet of a fishing shanty or shelter except at the minimum speed required to maintain forward movement of the ATV nor on an area which has been cleared of snow for skating purposes unless the area is necessary for access to the public water; (g) within one hundred feet of a dwelling between midnight and six a.m., at a speed greater than minimum required to maintain forward movement of the ATV; (h) on public lands, other than highways, or on private property of another while in an intoxicated condition or under

the influence of narcotics or drugs. 2. The operator of an ATV shall: (a) stop and yield to an authorized ambulance, civil defense, or police ATV or police vehicle being operated as an emergency vehicle and approaching from any direction; (b) comply with any lawful order or direction of any police officer or other person duly empowered to enforce the laws relating to ATVs. 3. No person shall ride on or in a sleigh, sled, toboggan, inflatable device or trailer which is being towed or trailed by an ATV unless attached by a rigid support, connection or towbar. 4. A person operating an ATV shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on an ATV unless such ATV is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the ATV at the rear or side of the operator. 5. For the purposes of title seven of this chapter, an ATV shall be a motor vehicle and the provisions of such title shall be applicable to ATVs. 6. Local laws and ordinances. Nothing contained in this article shall be deemed to limit the authority of a county, city, town or village from adopting or amending a local law or ordinance which imposes stricter restrictions and conditions on the operation of ATVs than are provided or authorized by this section so long as such local law or ordinance is consistent with its authority to protect the order, conduct, health, safety and general welfare of persons or property.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-C - Rules for Operation of All Terrain Vehicles2405 - Designation of Highways and Public Lands for Travel by Atvs.

2. Public lands other than highways. A governmental agency other than a municipality, by regulation or order, and a municipality, by ordinance or local law, may designate any appropriate public lands, waters and properties other than highways under its jurisdiction as a place open for travel by ATVs upon written request for such designation by any person, and may impose restrictions and conditions for the regulation and safe operation of ATVs on such public property, such as travel on designated trails and hours of operation. In addition thereto, such agency or municipality may not require the operator of an ATV to possess a motor vehicle operator's license. A municipality may charge a fee for use of ATVs on such public lands. 3. Signs and markers. (a) Such designated highways or portions thereof or designated lands shall be identified by markers in such manner as may be provided by rules and regulations of the commissioner.(b) All signs or markers shall be erected at the expense of the state or municipality, provided, however, that the municipality may accept funds or contributions therefor from private persons, clubs or associations interested in the promotion of ATVs.4. Any regulation, order, local law or ordinance which designates a highway or portion thereof or designated lands which may be used for ATV operations may include rules and impose restrictions and conditions for the regulation and safe operation of ATVs on the highways and lands so designated, such as travel on designated trails and hours of operation. Any restriction or condition not contained in this chapter must be posted.5. Copies of orders, regulations, local laws or ordinances adopted by governmental agencies pursuant to this section shall be filed with the commissioner. (b) All signs or markers shall be erected at the expense of the state or municipality, provided, however, that the municipality may accept funds or contributions therefor from private persons, clubs or associations interested in the promotion of ATVs. 4. Any regulation, order, local law or ordinance which designates a highway or portion thereof or designated lands which may be used for ATV operations may include rules and impose restrictions and conditions for the regulation and safe operation of ATVs on the highways and lands so designated, such as travel on designated trails and hours of operation. Any restriction or condition not contained in this chapter must be posted. 5. Copies of orders, regulations, local laws or ordinances adopted by governmental agencies pursuant to this section shall be filed with the commissioner.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-C - Rules for Operation of All Terrain Vehicles2406 - Equipment.

(a) brakes in good operating condition; (b) a muffler system in good operating condition which meets federal standards as established in 40 CFR (Code of Federal Regulations) Part 205.166, sub Part E; (c) a spark arrester approved by the United States Forest Service; (d) tires having at least two-thirty seconds of an inch of tread with no visible breaks, cuts, exposed cords, bumps or bulges; (e) a lighted white headlight approved by the commissioner and a lighted red taillight approved by the commissioner when operated for one-half hour after sunset to one-half hour before sunrise. 2. No person shall operate an ATV or ride as a passenger on an ATV unless he is wearing a protective helmet of a type approved by the commissioner pursuant to subdivision six of section three hundred eighty-one of this chapter. 3. No person shall operate an ATV: (a) on a highway with tires equipped with any studs other than automotive studs; (b) except as an authorized emergency ATV, police, or civil defense ATV as an emergency vehicle, while displaying one or more lighted red or a combination red or white lights which are revolving, rotating, flashing, oscillating or constantly moving; (c) as an authorized emergency ATV or civil defense ATV, as an emergency vehicle unless it is equipped with one or more lighted, red or combination red or white light or lights which is or are revolving, rotating, flashing, oscillating or constantly moving and which has or have minimum candle power of sufficient intensity to be plainly visible from a distance of five hundred feet in all directions under normal atmospheric conditions.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-C - Rules for Operation of All Terrain Vehicles2407 - Liability Insurance.

§ 2407. Liability insurance. 1. An ATV which is operated anywhere in this state other than on lands of the owner of the ATV shall be covered by a policy of insurance, in such language and form as shall be determined and established by the superintendent of

financial services, issued by an insurance carrier authorized to do business in this state. Such policy shall provide for coverages required of an "owner's policy of liability insurance" as set forth in paragraph (a) of subdivision four of section three hundred eleven of this chapter. In lieu of such insurance coverage as hereinabove provided, the commissioner, in his discretion and upon application of a governmental agency having registered in its name one or more ATVs, may waive the requirement of insurance by a private insurance carrier and issue a certificate of self-insurance, when he is satisfied that such governmental agency is possessed of financial ability to respond to judgments obtained against it, arising out of the ownership, use or operation of such ATVs. The commissioner may also waive the requirement of insurance by a private insurance carrier and issue a certificate of self-insurance upon application of any person or any other corporation, having registered in its name, one or more ATVs and furnishing of proof that a certificate of self-insurance has been issued and is in effect pursuant to the provisions of section three hundred sixteen of this chapter. 2. Proof of insurance as required by this section shall be produced and displayed by the owner or operator of such ATV upon the request of any magistrate or any person having authority to enforce the provisions of this chapter. The failure to produce such proof upon the request of any such person shall not be an offense but shall be presumptive evidence that the ATV is being operated without having such insurance in force and effect. 3. Proof of insurance as required by this section shall be produced and displayed by the owner or operator of such ATV to any person who has suffered or claims to have suffered either personal injury or property damage as a result of the operation of such ATV by the owner or operator, if such insurance coverage was required under the circumstances of such operation. It shall be an affirmative defense to any prosecution for a violation of this subdivision that such proof was so produced or displayed within twenty-four hours of receiving notice of such injury or damage, or the claim of such injury or damage. 4. No owner of an ATV shall operate or permit the same to be operated anywhere in this state other than on lands of the owner of the ATV without having in full force and effect the liability insurance coverage required by this section, and no person shall operate an ATV anywhere in this state other than on lands of the owner of the ATV with the knowledge that such insurance is not in full force and effect.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-C - Rules for Operation of All Terrain Vehicles2408 - Special Events.

§ 2408. Special events. 1. The commissioner shall adopt and may, from time to time, amend rules and regulations determining the special events which shall be subject to permit and designating the equipment and facilities necessary for safe operation of ATVs and for the safety of operators, participants, and observers in such special events. Copies of such regulations shall be furnished by the commissioner to any person making an application therefor. 2. Whenever a special event is proposed to be held, the person in charge thereof shall, at least thirty days prior thereto, file an application with appropriate governmental agencies having jurisdiction over the site of such event to hold such special event. The application shall set forth the date and location of the proposed special event and such other information as the governmental agencies may require, and such event shall not be conducted without written authorization from such governmental agencies. Governmental agencies shall either grant or deny authorization to hold a special event within thirty days after receipt of an application for authorization. The commissioner shall be furnished with a copy of all such applications. No permit shall be required for a closed-circuit special event held entirely on private property, but appropriate governmental agencies shall be notified of such event at least thirty days prior thereto. 3. ATVs operated at special events shall be exempted from the provisions of this article concerning mufflers, lights and tires during the time of such event, including all pre-race practice at the location of said event.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-C - Rules for Operation of All Terrain Vehicles2409 - Atv Safety Course and Safety Certificate.

§ 2409. ATV safety course and safety certificate. 1. Safety course or courses. The commissioner shall establish a curriculum or curricula for an ATV safety training course or courses. Any such curriculum may include, but not be limited to, on-vehicle training and safe riding practices. The commissioner may establish different courses and curricula for different types of all terrain vehicles. The commissioner may permit any such safety training course to be given by any private person, club, association or municipality which meets standards established by the commissioner. The commissioner may establish a reasonable fee which any such person or entity may charge for such course or courses. 2. Safety certificate. Upon successful completion of a safety course given in conformity with subdivision one of this section by a person fourteen years of age or over, the person or entity which gave the course shall notify the commissioner of such completion in a manner prescribed by the commissioner. The commissioner shall, upon receipt of such information, issue an ATV safety certificate to the person who has successfully completed the course. Such certificate may be limited to the type of vehicle for which the course was given.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-C - Rules for Operation of All Terrain Vehicles2410 - Operation by Minors.

§ 2410. Operation by minors. 1. Except as provided by subdivision two of this section, no person under the age of sixteen years shall operate an ATV except upon lands owned or leased by his or her parent or guardian, unless he or she is under general supervision of a person eighteen years of age or over. "Leased lands" as herein used shall not include lands leased by an organization of which said operator or his or her parent or guardian is a member. 2. A person fourteen years of age but less than sixteen years of age who has received safety training as prescribed by the commissioner and has received the appropriate ATV safety certificate issued by the commissioner may operate an ATV in the same manner as a person who is sixteen years of age or older. 3. The failure of a person to

exhibit an ATV safety certificate upon demand to any magistrate or any other officer having authority to enforce the provisions of this article shall not be an offense, but shall be presumptive evidence that such person is not the holder of such certificate. 4. No parent or guardian shall authorize or knowingly permit his child or ward, if under sixteen years of age, to operate an ATV in violation of any provision of this article, any rules or regulations promulgated thereunder, or the provisions of any local law or ordinance. 5. No owner or other person in possession of any ATV shall authorize or knowingly permit any person under sixteen years of age to operate such an ATV in violation of any provision of this article, any rules or regulations promulgated thereunder, or the provisions of any local law or ordinance.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-C - Rules for Operation of All Terrain Vehicles2411 - Liability for Negligence.

§ 2411. Liability for negligence. Negligence in the use of operation of an ATV shall be attributable to the owner. Every owner of an ATV used or operated in this state shall be liable and responsible for death or injury to person or damage to property resulting from negligence in the use or operation of such ATV by any person using or operating the same with the permission, express or implied, of such owner, provided, however, that such operator's negligence shall not be attributed to the owner as to any claim or cause of action accruing to the operator or his legal representative for such injuries or death.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-C - Rules for Operation of All Terrain Vehicles2412 - Service on Nonresidents and Certain Residents, Administrators or Executors.

§ 2412. Service on nonresidents and certain residents, administrators or executors. For the purposes of section two hundred fifty-two of this chapter, an ATV shall be a vehicle and the provisions of that section and section two hundred fifty-three of this chapter shall apply to ATVs.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48-C - Rules for Operation of All Terrain Vehicles2413 - Accidents; Reports.

§ 2413. Accidents; reports. 1. The operator of any ATV involved in any accident resulting in injuries to or death of any person or in which property damage in the estimated amount of six hundred dollars or more is sustained, shall immediately notify the nearest law enforcement agency and shall within ten days after such accident report the matter in writing to the department, with a copy thereof to the sheriff or police commissioner of the county in which said accident occurred. If such operator is physically incapable of making such report and there is another participant in the accident not so incapacitated such participant shall make the report within the allotted time after such accident. In the event that there is no other participant and the operator is other than the owner, then the owner shall within the prescribed period of time, after learning of the facts of such accident, report the matter to the department, together with such information as may have come to his knowledge relating to such accident. Every such operator of an ATV, or participant of any such accident, or the owner, of the ATV involved in any such accident, shall make such other and additional reports as the commissioner shall require. 2. Whenever any ATV meets with an accident involving a loss of life, personal injury or damage to property and the operator thereof has knowledge of such accident, he shall stop and give his name and address, the name and address of the owner thereof and the registration number assigned to said ATV to the injured person or the person sustaining the damage, or to a peace or police officer. In the event the person sustaining the damage is not present at the place where the damage occurred, the operator shall, as soon as physically able, report the same to the nearest law enforcement agency. 3. A peace, police, or judicial officer who investigates or receives information of an accident involving an ATV shall make a written report of the investigation or information received, and such additional facts relating to the accident as may come to his knowledge and mail the same within forty-eight hours to the department and keep a record thereof in his office. 4. Failure of any person to report an accident as herein provided or failure to give correctly the information required of him by the commissioner in connection with such report shall be a misdemeanor and shall constitute a ground for suspension or revocation of the ATV safety certificate of any person or the certificate of registration of any ATV involved in the accident. The commissioner may temporarily suspend the ATV safety certificate of the person failing to make such report or the certificate of registration of the ATV involved in the accident until such report has been filed.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48 - Registration of Vessels2250 - Jurisdiction of Department.

§ 2250. Jurisdiction of department. The registration of vessels shall be under the jurisdiction of the department. For the purposes of this article, a vessel shall be every description of watercraft, other than a seaplane, used or capable of being used as a means of transportation on water. A vessel propelled by an outboard motor shall include the hull, but shall not include the outboard motor.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48 - Registration of Vessels2251 - Registration.

§ 2251. Registration. 1. No person shall operate or permit the operation of a vessel on the navigable waters of the state, or on any other waters within the boundaries of the state, except waters which are privately owned, unless such vessel is registered and

numbered and bears a current validation sticker in accordance with the provisions of this article. 2. Issuance and period of validity. The commissioner is authorized to register a vessel, issue a registration certificate, validation sticker or stickers and assign a registration number to such vessel. Unless otherwise prescribed by the commissioner, any such registration shall be valid for a period of three years unless, prior to such expiration date, it is surrendered, cancelled, revoked or suspended pursuant to the provisions of this article, or the vessel is transferred to another owner. 3. Fees. The triennial fee for registration of a vessel shall be: twenty-two dollars and fifty cents if less than sixteen feet in length; forty-five dollars if sixteen feet or over but less than twenty-six feet in length; seventy-five dollars if twenty-six feet or over. 4. Application. The owner of each vessel requiring registration under this section shall present an application for registration to the commissioner, or an agent designated by the commissioner, on a blank to be prepared and furnished by the commissioner for that purpose. Such application shall contain or be accompanied by such evidence of the ownership of the vessel described in the application as may be required by the commissioner. 5. Renewal. Every owner of a vessel shall renew his registration at such times and in such manner as the commissioner shall prescribe, on payment of the same registration fees as are provided in subdivision three of this section except that, in implementing the purposes of this act, the commissioner may schedule the commencement dates, duration and expiration dates of such renewals to provide for a cycle of registration renewals through the course of a fiscal year. For registrations issued for less than the three year registration period, a portion of a month shall be considered a month and the registration fee shall be levied on a prorated basis. 6. Change of address. The owner of any vessel registered pursuant to the provisions of this section shall notify the commissioner in writing of any change in his address within ten days after such change occurs and the new address of such owner shall be noted by him on the certificate of registration for such vessel. 7. Change of ownership. Upon the change in ownership of a vessel registered pursuant to this section, unless otherwise provided by regulation of the commissioner, the certificate of registration shall be signed and dated by the owner and surrendered to the new owner and at the same time the commissioner shall be notified by the former owner, in a manner prescribed by the commissioner, of the name and address of the purchaser, the date of transfer and the identification number. 8. Destruction, theft, loss or abandonment of vessel. The owner of any vessel registered pursuant to the provisions of this section shall notify the commissioner in writing of the destruction, theft, loss or abandonment of such vessel within fifteen days thereafter, and in the event of the loss, destruction or abandonment of such vessel, the certificate of registration shall be surrendered with such notice. 9. Duplicate certificates of registration or validating stickers. In the event of loss, mutilation or destruction of any certificate of registration or validation sticker, the owner of the registered vessel may file with the department such statement and proof of the facts as the commissioner shall require with a fee of two dollars, with the department, for the issuance of a duplicate or substitute.

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(a) Vessels having a valid marine document issued by the United States or a foreign government, while being used for commercial purposes. (b) Vessels displaying a valid identification or registration number issued by another state under a numbering system which has been approved in accordance with the provisions of federal law, provided such vessel shall not have been within this state for a period in excess of ninety consecutive days. (c) Vessels owned by residents of foreign countries temporarily using the waters of the state. (d) Vessels owned by the United States, a state, or a subdivision thereof. (e) Boats which are "lifeboats." No vessel which is used for other than lifesaving purposes shall be deemed a "lifeboat" for purposes of this subdivision. (f) Vessels used exclusively for racing. (g) Any vessel which is not equipped with a motor by which it may be mechanically propelled. 2. Notwithstanding the provisions of subdivision one of this section, the owner of a vessel which is exempt from the provisions of section twenty-two hundred fifty-one of this article may apply for, and the commissioner may issue, a registration for such vessel. If such a registration is issued, and while such registration is in effect, the provisions of this article relating to certificates of registration, registration numbers and validating stickers shall apply to such vessel. Upon the expiration of the registration of any such vessel, the registration number assigned to it shall be effectively removed from such vessel.

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§ 2253. Certificates of registration, registration numbers, and validating stickers. 1. Issuance. Upon the approval of an application for registration and payment of the fee as provided in this article, the commissioner shall assign to a vessel a registration number, and, without further expense to the applicant, issue a certificate of registration and, effective April first, nineteen hundred eighty-six, a validating sticker or stickers, in such manner and form as the commissioner shall prescribe. 2. Certificate of registration. The certificate of registration issued by the commissioner shall be available at all times for inspection on the vessel for which it is issued whenever such vessel is in operation, unless otherwise provided by a rule or regulation of the commissioner. Every person operating a vessel shall, upon demand of any peace officer, federal officer or other person having the authority to enforce the provisions of this chapter, produce the certificate of registration for inspection. The failure to produce the certificate of registration, as provided herein, shall not be an offense, but shall be presumptive evidence of operating a vessel which is not registered as required by this article. 3. Registration number. A registration number once assigned under this section shall remain with the vessel until the vessel is destroyed, abandoned or permanently removed from the state, or until changed or terminated by the commissioner. The registration number assigned to the vessel shall be painted on or attached to each side of the forward half of the vessel by the owner in such a position as to be displayed in a conspicuous manner with figures and letters at least three inches in height. The registration number

shall be maintained in a legible condition so that the figures and letters are readily discernible during daylight hours at a distance of one hundred feet. No other number shall be carried on the forward half of such vessel. Notwithstanding the foregoing provisions of this subdivision, a vessel having a valid marine document issued by the United States or a foreign government shall not be required to display its assigned registration number on the vessel. 4. Validating stickers. Effective April first, nineteen hundred eighty-six, at the time of the original registration and at the time of each renewal thereof, the commissioner shall also issue to said registrant a validating sticker or stickers indicating the validity of the current registration and the expiration date thereof, which validating sticker or stickers shall be affixed to the vessel in such manner as the commissioner may prescribe provided, however, that where the hull of a vessel equipped with a windshield is constructed of wood, such validating sticker or stickers may be affixed to the windshield of the vessel. From that time and notwithstanding the fact that a vessel has been assigned a registration number, it shall not be considered as validly registered within the meaning of this article unless a validating sticker and current registration certificate have been issued. In addition, the commissioner may issue a validating sticker or stickers to the holder of a certificate of registration issued prior to April first, nineteen hundred eighty-six, without further expense to the holder, indicating the validity of the current registration and the expiration date thereof, which validating sticker or stickers shall be affixed to the vessel in such a manner as the commissioner may prescribe. The commissioner shall establish by regulation such terms and conditions as may be necessary to accomplish the issuance of such validating sticker or stickers and the date upon which their issuance shall be completed. From thirty days after such date and notwithstanding the fact that a vessel has been assigned a registration number and has a current certificate of registration, it shall not be considered as validly registered within the meaning of this article unless a validating sticker or stickers is displayed on the vessel.

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§ 2254. Registration record. Upon the issuance of a registration for a vessel, as provided in this article, the commissioner shall enter upon the records of the department the registration of such vessel under the registration number assigned to such vessel as provided in this article, and in any other manner which he deems appropriate.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48 - Registration of Vessels2255 - Temporary Registration.

§ 2255. Temporary registration. A temporary registration may be issued by a dealer registered in accordance with the provisions of this article to the purchaser of a vessel sold by the dealer provided the dealer makes application on behalf of the owner for a registration under section twenty-two hundred fifty-one of this article no later than five calendar days after the issuance of the temporary registration. Such temporary registration shall be valid, if issued and used in accordance with regulations promulgated by the commissioner, for the operation of the vessel for which it is issued for thirty days after the date of issuance. Such temporary registration may be extended by the commissioner for an additional thirty days. The commissioner shall provide registered boat dealers with documents and forms to be used in the issuance of such temporary registrations.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48 - Registration of Vessels2256 - Suspension and Revocation of Registrations; Offenses; Penalties.

§ 2256. Suspension and revocation of registrations; offenses; penalties. 1. The commissioner may suspend any registration pursuant to this article for violation of this article or a violation of the navigation law upon the recommendation of the commissioner of parks, recreation and historic preservation by the holder thereof. Such suspension or revocation shall be ordered only after a hearing, unless waived. However, the commissioner may temporarily suspend a registration pending a hearing. 2. Any person who violates any provisions of this article or regulation adopted pursuant thereto shall be guilty of a violation punishable as provided in the penal law except the maximum fine may not exceed one hundred dollars.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48 - Registration of Vessels2257-A - Suspension, Revocation or Refusal to Issue Dealer Registration; Suspension or Revocation of Dealer Demonstrator Number or Trailer Plate; Suspension Of

(a) has made a material false statement or concealed a material fact in connection with his application; (b) has used or permitted the use of demonstrator numbers or number plates contrary to law; (c) has been guilty of fraud or fraudulent or deceptive practices, or has practiced dishonest or misleading advertising; (d) does not have a place of business as defined by regulation of the commissioner; (e) was the former holder, or was an officer, director, stockholder, or partner, in a corporation or partnership which was the former holder of a dealer's registration, which was suspended or revoked by the commissioner; or (f) has failed to comply with any of the rules and regulations of the commissioner for the enforcement of this article or with any provision of this chapter applicable thereto. 2. In lieu of suspending or revoking the certificate of registration of a dealer, the commissioner may, for any of the grounds specified in subdivision one of this section, suspend the authority of a dealer to issue temporary registrations pursuant to section twenty-two hundred fifty-five of this article. 3. Civil penalty. The commissioner, or any person deputized by him, in addition to or in lieu of revoking or suspending the certificate of registration, or in addition to suspending the authority to issue temporary registrations, may in any one proceeding by order require the registrant to pay to the people of this state a penalty in a sum not

exceeding one thousand dollars for each violation and upon the failure of such registrant to pay such penalty within twenty days after the mailing of such order, postage prepaid, registered, and addressed to the last known place of business of such registrant, unless such order is stayed by an order of a court of competent jurisdiction, the commissioner may suspend the certificate of registration of such registrant until such penalty is paid. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgment of a court of record. 4. No certificate of registration, demonstrator number or number plate shall be suspended or revoked, civil penalty imposed or authority to issue temporary registrations suspended until such registrant shall have been given the opportunity to be heard, upon written notice to the registrant, before an officer or employee of the department designated for such purpose by the commissioner. However, the commissioner may temporarily suspend a registration, demonstrator numbers or number plates and/or the authority to issue temporary registrations pending a hearing. Upon the denial of an application for a certificate of registration, the applicant shall, upon written request made within ten days after the applicant is notified of such denial, be entitled to a hearing before an officer or employee of the department designated for such purpose by the commissioner. 5. Following the suspension or revocation of the certificate of registration of a dealer, demonstrator numbers or number plates, or the suspension of the authority to issue temporary registrations, pursuant to this section, the failure of the holder or any other person possessing the certificate of registration, demonstrator numbers, number plates or temporary registrations, issued to a dealer pursuant to the regulations of the commissioner, to deliver the same to the suspending or revoking officer is a misdemeanor. Failure of the holder or any person possessing the certificate of registration to deliver the same to any peace officer acting pursuant to his special duties, directed by the commissioner to secure possession thereof shall be a misdemeanor.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48 - Registration of Vessels2257-B - Yacht Brokers.

§ 2257-b. Yacht brokers. 1. A yacht broker is any person who, for a fee or commission, acts as an agent for either the buyer or seller of a vessel. On and after April first, nineteen hundred eighty-six, a person who engages in business as a yacht broker shall certify to the commissioner that he is a yacht broker. The failure of a person engaged in business as a yacht broker to certify to the commissioner that he is a yacht broker shall be a violation. 2. A yacht broker shall be required to keep records of all transactions concerning the purchase and sale of any vessel in which he acted as agent for either the buyer or seller. Such records shall be maintained in a manner prescribed by the commissioner and shall be available upon request during business hours to any peace officer or agent of the commissioner. The failure to produce such records as required by this section shall be a violation.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48 - Registration of Vessels2257 - Registration of Dealers.

2. Application for registration. Every dealer shall file an application for registration as a dealer with the commissioner of motor vehicles, together with all required fees, in such form and detail and containing such information as the commissioner shall reasonably prescribe. 3. Issuance of certificate. If the commissioner approves the application, he shall issue a certificate of registration in such form as he may prescribe. For the purposes of implementing this article, the commissioner may, in his discretion, issue such certificates of registration and number plates on a staggered expiration basis, in which event the fees set forth in subdivision five of this section for such certificate shall be prorated on a monthly basis. 4. Demonstrator numbers and trailer number plates. (a) Upon payment of the required fee, a dealer shall be entitled to receive one or more demonstrator numbers, which may be used in lieu of a registration issued under section twenty-two hundred fifty-one of this article for the operation of any vessel owned or controlled by the registrant and held for sale or demonstration. Demonstrator numbers shall be displayed in a manner prescribed by the commissioner.(b) Upon payment of the required fee, a dealer shall be entitled to receive one or more number plates which may be used in lieu of any registration issued under section four hundred one of this chapter for the operation of any boat trailer owned or controlled by the dealer and held for the purpose of sale or demonstration, provided such operation is directly related to the sale or demonstration of any boat trailer or vessel. The provisions of section four hundred two of this chapter with respect to the care and display of number plates shall apply to number plates issued under this subdivision.(c) The commissioner may, in his discretion, limit the number of demonstrator numbers or number plates which shall be issued to any registrant. The fee for the replacement of lost, mutilated, or destroyed demonstrator numbers or number plates shall be two dollars.5. Fees. Every application, other than a renewal application, shall be accompanied by an application fee of ten dollars, which shall in no event be refunded. The triennial fee for such registration or renewal thereof shall be seventy-five dollars. The triennial fee for demonstrator numbers or number plates shall be sixty dollars for each number or number plate. The application for registration, demonstrator numbers and number plates shall be accompanied by the required fees. There shall be no refund of any registration fee or any fee for demonstrator numbers or number plates.6. No dealer shall sell a vessel except in accordance with regulations established by the commissioner. The commissioner may, in his discretion, require a registrant to maintain a record in a prescribed form of all vessels received or disposed of by him. Upon request of an agent of the commissioner or of any peace officer acting pursuant to his special

duties, a registrant shall produce such records and permit said agent or peace officer to examine them, and any vessels on the premises subject to the record keeping requirements of this section during usual business hours or while the registrant is conducting business. The failure to produce such records or to permit such inspection as required by this subdivision shall be a violation. (b) Upon payment of the required fee, a dealer shall be entitled to receive one or more number plates which may be used in lieu of any registration issued under section four hundred one of this chapter for the operation of any boat trailer owned or controlled by the dealer and held for the purpose of sale or demonstration, provided such operation is directly related to the sale or demonstration of any boat trailer or vessel. The provisions of section four hundred two of this chapter with respect to the care and display of number plates shall apply to number plates issued under this subdivision. (c) The commissioner may, in his discretion, limit the number of demonstrator numbers or number plates which shall be issued to any registrant. The fee for the replacement of lost, mutilated, or destroyed demonstrator numbers or number plates shall be two dollars. 5. Fees. Every application, other than a renewal application, shall be accompanied by an application fee of ten dollars, which shall in no event be refunded. The triennial fee for such registration or renewal thereof shall be seventy-five dollars. The triennial fee for demonstrator numbers or number plates shall be sixty dollars for each number or number plate. The application for registration, demonstrator numbers and number plates shall be accompanied by the required fees. There shall be no refund of any registration fee or any fee for demonstrator numbers or number plates. 6. No dealer shall sell a vessel except in accordance with regulations established by the commissioner. The commissioner may, in his discretion, require a registrant to maintain a record in a prescribed form of all vessels received or disposed of by him. Upon request of an agent of the commissioner or of any peace officer acting pursuant to his special duties, a registrant shall produce such records and permit said agent or peace officer to examine them, and any vessels on the premises subject to the record keeping requirements of this section during usual business hours or while the registrant is conducting business. The failure to produce such records or to permit such inspection as required by this subdivision shall be a violation.

2024 New York LawsVAT - Vehicle and TrafficTitle 11 - Registration of Snowmobiles, Motorboats and Limited Use VehiclesArticle 48 - Registration of Vessels2258 - Rules and Regulations.

§ 2258. Rules and regulations. The commissioner is hereby empowered to make such rules and regulations as he may deem necessary to carry out the provisions of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2-A - Adjudication of Traffic Infractions225 - Jurisdiction; Transfer of Cases; Hearing Officers; Regulations.

§ 225. Jurisdiction; transfer of cases; hearing officers; regulations. 1. Notwithstanding any inconsistent provision of law, all violations of this chapter or of a law, ordinance, order, rule or regulation relating to traffic, except parking, standing, stopping or pedestrian offenses, which occur within a city having a population of one million or more in which administrative tribunals have heretofore, been established, and which are classified as traffic infractions, may be heard and determined pursuant to the regulations of the commissioner as provided in this article. Whenever a crime and a traffic infraction arise out of the same transaction or occurrence, a charge alleging both offenses may be made returnable before the court having jurisdiction over the crime. Nothing herein provided shall be construed to prevent a court, having jurisdiction over a criminal charge relating to traffic or a traffic infraction, from lawfully entering a judgment of conviction, whether or not based on a plea of guilty, for any offense classified as a traffic infraction. 2. Whenever the commissioner or his deputy determines that a charge alleges an offense other than a traffic infraction, he shall, and where a charge cannot be disposed of because of the non-appearance of the motorist, he may notify the court of appropriate jurisdiction and request removal of the case to such court. Prior notice of such request need not be given the motorist involved. Upon receipt of such request, the court may grant an order transferring such case, provided that the date on which the charge or charges must be answered before the court shall not be earlier than the return date which appears on the complaint alleging the offense. Notice of transfer of cases involving other than traffic infractions shall be mailed to the motorist at the address appearing on such complaint not less than ten days before the date of appearance indicated on his summons and not less than fifteen days before his scheduled appearance in such court. Notice of transfer of cases which cannot be disposed of because of the non-appearance of the motorist shall be mailed to the motorist at the address appearing on such complaint not less than fifteen days before his scheduled appearance in such court. Such mailing shall constitute due notice of such transfer. Thereafter, such case shall be treated in the same manner as if the complaint had initially been filed with such court. 3. The commissioner shall appoint such hearing officers as shall be necessary to hear and determine cases as provided by this article and may promulgate such regulations as shall be necessary or desirable to effect the purposes of this article. Such regulations may provide for a schedule of monetary penalties to be used where an answer is made, other than before a hearing officer, admitting a charge, provided that no such penalty shall exceed the maximum fine established by law for the traffic infraction involved.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2-A - Adjudication of Traffic Infractions226 - Summons; Answer.

1-a. Return date notifications. The commissioner shall notify any person who receives a summons and complaint for any traffic violation specified in subdivision one of section two hundred twenty-five of this article of the time and place of the return date for such summons, no later than one week prior to such return date. The commissioner shall send such notification by first class mail at the address of such person on file with the department or at the current address provided by the United States postal service in accordance with section two hundred fourteen of this title. 2. Answer. (a) General. Any person who receives a summons for a

violation described in subdivision one of section two hundred twenty-five of this chapter shall answer such summons by personally appearing on the return date at the time and place specified therein. Provided, however, that an answer may be made as provided in paragraphs (b) and (c) of this subdivision and the regulations of the commissioner.(b) Answer by mail -- admitting charge. If a person charged with the violation admits to the violation as charged in the summons, he may complete an appropriate form prescribed by the commissioner and forward such form and summons, together with the appropriate part of his license, if required by the commissioner's regulations, to the office of the department specified on such summons. If a schedule of penalties for violations has been established, and such schedule appears on the answer form, a check or money order in the amount of the penalty for the violation charged if included in such schedule, must also be submitted with such answer. Unless permitted by the regulations of the commissioner, such plea may not be made by mail for any offense for which suspension or revocation of a driver's license is required by law, or for any other offense if the conviction thereof would result in a hearing pursuant to a highway safety program established under the provisions of subdivision three of section five hundred ten of this chapter.(c) Answer by mail - denial of charges. If the person charged with the violation denies part or all of the violation as charged in the summons, he may complete an appropriate form prescribed by the commissioner for that purpose and forward such form and summons to the office of the department specified on such summons. Upon receipt, such answer shall be entered and a hearing date established by the department. The department shall notify such person by return mail of the date of such hearing.3. Failure to answer or appear; entry of order. (a) If the person charged with the violation shall fail to answer the summons as provided herein, the commissioner may suspend such person's license or driving privilege or, if the charge involves a violation of section three hundred eighty-five, section four hundred one or section five hundred eleven-a of this chapter by a registrant who was not the operator of the vehicle, the registration of such vehicle or the privilege of operation of any motor vehicle owned by such registrant may be suspended, until such person shall answer as provided in subdivision two of this section, or has paid or has entered into an installment payment plan to pay the fine associated with a conviction entered as a result of the failure to appear in response to such summons, or the defendant has been acquitted of the charge that led to the suspension or such charge was otherwise dismissed. If a person shall fail to appear at a hearing, when such is provided for pursuant to this section, such person's license, or registration or privilege of operating or of operation, as appropriate, may be suspended pending appearance at a subsequent hearing, or the disposition of the charges involved. Any suspension permitted by this subdivision, if already in effect, may be terminated or if not yet in effect, may be withdrawn or withheld, prior to the disposition of the charges involved if such person shall appear and post security in the amount of forty dollars to guarantee his or her appearance at any required hearing. The security posted pursuant to this subdivision shall be returned upon appearance at the scheduled hearing or an adjourned hearing which results in a final disposition of the charge, and otherwise shall be forfeited. If a suspension has been imposed pursuant to this subdivision and the case is subsequently transferred pursuant to subdivision two of section two hundred twenty-five of this article, such suspension shall remain in effect until the person answers the charges in the court to which the case was transferred. Any suspension issued pursuant to this paragraph shall be subject to the provisions of paragraph (j-1) of subdivision two of section five hundred three of this chapter.(b) Failure to answer or appear in accordance with the requirements of this section and any regulations promulgated hereunder shall be deemed an admission to the violation as charged, and an appropriate order may be entered in the department's records, and a fine consistent with the provisions of this chapter and regulations of the commissioner may be imposed by the commissioner or person designated by the commissioner. Prior to entry of an order and imposition of a fine, the commissioner shall notify such person by mail at the address of such person on file with the department or at the current address provided by the United States postal service in accordance with section two hundred fourteen of this title: (i) of the violation charged; (ii) of the impending entry of such order and fine; (iii) that such order and fine may be filed as a judgment with the county clerk of the county in which the operator or registrant is located; and (iv) that entry of such order and imposition of such fine may be avoided by entering a plea or making an appearance within thirty days of the sending of such notice. In no case shall such an order and fine be entered and imposed more than two years after the date of the alleged violation. Upon application in such manner and form as the commissioner shall prescribe an order and fine shall be vacated upon the ground of excusable default. (b) Answer by mail -- admitting charge. If a person charged with the violation admits to the violation as charged in the summons, he may complete an appropriate form prescribed by the commissioner and forward such form and summons, together with the appropriate part of his license, if required by the commissioner's regulations, to the office of the department specified on such summons. If a schedule of penalties for violations has been established, and such schedule appears on the answer form, a check or money order in the amount of the penalty for the violation charged if included in such schedule, must also be submitted with such answer. Unless permitted by the regulations of the commissioner, such plea may not be made by mail for any offense for which suspension or revocation of a driver's license is required by law, or for any other offense if the conviction thereof would result in a hearing pursuant to a highway safety program established under the provisions of subdivision three of section five hundred ten of this chapter. (c) Answer by mail - denial of charges. If the person charged with the violation denies part or all of the violation as charged in the summons, he may complete an appropriate form prescribed by the commissioner for that purpose and forward such form and summons to the office of the department specified on such summons. Upon receipt, such answer shall be entered and a hearing date established by the department. The department shall notify such person by return mail of the date of such hearing. 3. Failure to answer or appear; entry of order. (a) If the person charged with the violation shall fail to answer the summons as provided herein, the commissioner may suspend such person's license or driving privilege or, if the charge involves a violation of section three hundred eighty-five, section four hundred one or section five hundred eleven-a of this chapter by a registrant who was not the operator of the vehicle, the registration of such vehicle or the privilege of operation of any motor vehicle owned by such registrant may be suspended, until such person shall answer as provided in subdivision two of this section, or has

paid or has entered into an installment payment plan to pay the fine associated with a conviction entered as a result of the failure to appear in response to such summons, or the defendant has been acquitted of the charge that led to the suspension or such charge was otherwise dismissed. If a person shall fail to appear at a hearing, when such is provided for pursuant to this section, such person's license, or registration or privilege of operating or of operation, as appropriate, may be suspended pending appearance at a subsequent hearing, or the disposition of the charges involved. Any suspension permitted by this subdivision, if already in effect, may be terminated or if not yet in effect, may be withdrawn or withheld, prior to the disposition of the charges involved if such person shall appear and post security in the amount of forty dollars to guarantee his or her appearance at any required hearing. The security posted pursuant to this subdivision shall be returned upon appearance at the scheduled hearing or an adjourned hearing which results in a final disposition of the charge, and otherwise shall be forfeited. If a suspension has been imposed pursuant to this subdivision and the case is subsequently transferred pursuant to subdivision two of section two hundred twenty-five of this article, such suspension shall remain in effect until the person answers the charges in the court to which the case was transferred. Any suspension issued pursuant to this paragraph shall be subject to the provisions of paragraph (j-1) of subdivision two of section five hundred three of this chapter. (b) Failure to answer or appear in accordance with the requirements of this section and any regulations promulgated hereunder shall be deemed an admission to the violation as charged, and an appropriate order may be entered in the department's records, and a fine consistent with the provisions of this chapter and regulations of the commissioner may be imposed by the commissioner or person designated by the commissioner. Prior to entry of an order and imposition of a fine, the commissioner shall notify such person by mail at the address of such person on file with the department or at the current address provided by the United States postal service in accordance with section two hundred fourteen of this title: (i) of the violation charged; (ii) of the impending entry of such order and fine; (iii) that such order and fine may be filed as a judgment with the county clerk of the county in which the operator or registrant is located; and (iv) that entry of such order and imposition of such fine may be avoided by entering a plea or making an appearance within thirty days of the sending of such notice. In no case shall such an order and fine be entered and imposed more than two years after the date of the alleged violation. Upon application in such manner and form as the commissioner shall prescribe an order and fine shall be vacated upon the ground of excusable default.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2-A - Adjudication of Traffic Infractions227 - Hearings; Determinations.

§ 227. Hearings; determinations. 1. Every hearing for the adjudication of a traffic infraction, as provided by this article, shall be held before a hearing officer appointed by the commissioner. The burden of proof shall be upon the people, and no charge may be established except by clear and convincing evidence. The commissioner may prescribe, by rule or regulation, the procedures for the conduct of such hearings. 2. In any case wherein the people are not ready for the hearing on the scheduled hearing date, the hearing officer may order a dismissal of the charge or the adjournment of the hearing to a subsequent time. In any case wherein the people are not ready for the hearing at an ordered adjourned time and do not provide a minimum of seven days' notice to the department after having been not ready for a hearing on the charge for any reason previously, the charge shall be dismissed unless the hearing officer determines that a substantial traffic safety hazard would result from the dismissal. The commissioner shall promulgate regulations concerning the adjournment of hearings which may permit the dismissal of cases by a hearing officer for reasons not prescribed herein. 3. After due consideration of the evidence and arguments offered in a contested case, the hearing officer shall determine whether the charges have been established. Where the charges have not been established, an order dismissing the charges shall be entered. Where a determination is made that a charge has been established, either in a contested case or in an uncontested case where there is an appearance before a hearing officer, or if an answer admitting the charge otherwise has been received, an appropriate order shall be entered in the department's records. 4. a. An order entered upon the failure to answer or appear or after the receipt of an answer admitting the charge or where a determination is made that the charge has been established shall be civil in nature, but shall be treated as a conviction for the purposes of this chapter. The commissioner or his designee may include in such order an imposition of any penalty authorized by any provision of this chapter for a conviction of such violation, except that no penalty therefore shall include imprisonment, nor, if monetary, exceed the amount of the fine which could have been imposed had the charge been heard by a court. If the charge involves a violation of section three hundred eighty-five of this chapter, the driver's license or privileges may be suspended pending the payment of any penalty so imposed, or, if the charge involves a violation of section three hundred eighty-five of this chapter by a registrant who was not the operator of the vehicle, the registration of such vehicle or privilege of operation of any motor vehicle owned by such registrant may be suspended pending the payment of any penalty so imposed. Any suspension issued pursuant to this paragraph shall be subject to the provisions of paragraph (j-1) of subdivision two of section five hundred three of this chapter. b. Unpaid fines may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action, and provided that no appeal is pending, the commissioner may file with the county clerk of the county in which the person resides a final order of the commissioner containing the amount of the fine or fines. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to execution issued against property upon judgments of a court of record. No such civil action shall be commenced nor shall such final order be filed until at least thirty days after the department has posted by ordinary mail to the person at the address of such person on file with the department or at the current address provided by the United States postal service notice of the amount of such fine or fines and that such fine or fines are due and owing. * 5. All penalties and forfeited security collected pursuant to the provisions of this article shall be paid to the department of audit and control to the credit of the justice court fund and shall be subject to the

applicable provisions of section eighteen hundred three of this chapter. After such audit as shall reasonably be required by the comptroller, such penalties and forfeited security shall be paid quarterly or, in the discretion of the comptroller, monthly, to the appropriate jurisdiction in which the violation occurred in accordance with the provisions of section ninety-nine-a of the state finance law, except that the sum of four dollars for each violation occurring in such jurisdiction for which a complaint has been filed with the administrative tribunal established pursuant to this article shall be retained by the state. Notwithstanding any law to the contrary an additional annual sum of three million dollars collected from fines and assessed to the city of New York, shall be deposited into the general fund. Provided, however, that if the full costs of administering this article shall exceed the amounts received and retained by the state for any period specified by the commissioner, then such additional sums as shall be required to offset such costs shall be retained by the state out of the penalties and forfeited security collected pursuant to this article. * NB Effective until April 1, 2019 * 5. All penalties and forfeited security collected pursuant to the provisions of this article shall be paid to the department of audit and control to the credit of the justice court fund and shall be subject to the applicable provisions of section eighteen hundred three of this chapter. After such audit as shall reasonably be required by the comptroller, such penalties and forfeited security shall be paid quarterly or, in the discretion of the comptroller, monthly, to the appropriate jurisdiction in which the violation occurred in accordance with the provisions of section ninety-nine-a of the state finance law, except that the sum of four dollars for each violation occurring in such jurisdiction for which a complaint has been filed with the administrative tribunal established pursuant to this article shall be retained by the state. Provided, however, that if the full costs of administering this article shall exceed the amounts received and retained by the state for any period specified by the commissioner, then such additional sums as shall be required to offset such costs shall be retained by the state out of the penalties and forfeited security collected pursuant to this article. * NB Effective April 1, 2019 6. Unless a hearing officer shall determine that a substantial traffic safety hazard would result therefrom, he shall, pursuant to the regulations of the commissioner, delay for a period of thirty days the effective date of any suspension or revocation of a drivers license or vehicle registration imposed after a hearing pursuant to this article, unless such suspension was imposed because of the failure to pay a monetary penalty. Provided, however, the commissioner's regulations may provide for the immediate surrender of any item to be suspended or revoked and the issuance of appropriate temporary documentation to be used during such thirty day period.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2-A - Adjudication of Traffic Infractions228 - Administrative Review.

2. Right of appeal. (a) Any person who is aggrieved by a determination of a hearing officer may appeal such determination pursuant to the provisions of this article.(b) Except as otherwise provided in this subdivision, a transcript of the hearing resulting in the determination appealed from must be submitted on any such appeal.(c) If the only issue raised on appeal is the appropriateness of the penalty imposed, the appellant, in his discretion, may submit such appeal without a transcript of the hearing. In such event, the decision of the appeals board may be based solely on the appeal papers and the records of the department, and such decision shall not be subject to judicial review.(d) Where a transcript of the hearing is submitted at the time an appeal is filed, the determination of the appeals board will be subject to judicial review as prescribed in subdivision nine of this section.3. Appeals boards. Each appeal filed pursuant to this section shall be reviewed by an appeals board, which shall make a determination of such appeal, and shall cause an appropriate order to be entered in the records of the department.4. Time limitations. No appeal shall be reviewed if it is filed more than thirty days after notice was given of the determination appealed from.5. Appeal procedures. Any person desiring to file an appeal from an adverse determination pursuant to this section, shall do so in a form and manner provided by the commissioner. The transcript of any hearing which formed the basis for such determination will be reviewed only if it is submitted by the appellant. An appeal shall not be deemed to be finally submitted until the appellant has submitted all forms or documents required to be submitted by the commissioner or this section.6. Transcript of hearings. Transcripts of the record of any hearing may be obtained at the cost to the department, if prepared by the department, or at the rate specified in the contract between the department and the contractor, if prepared by a private contractor. The amount paid at such cost or rate by a person convicted who submits, upon an appeal from the determination of guilt, or upon such appeal and upon a review pursuant to the provisions of article seventy-eight of the civil practice law and rules, a transcript of the hearing or hearings which resulted in such determination, shall be refunded by the department upon a final determination by the appeals board, dismissing the charges, or if the charges were sustained by the appeals board, upon a final determination by the court, dismissing the charges.7. Fees. The fee for filing an appeal shall be ten dollars. No appeal shall be accepted unless the required fee has been paid. Such fees shall be paid by the appeals board to the department of audit and control to the credit of the justice court fund. After such audit as shall be required by the comptroller, such fees shall be credited to the general fund of the state.8. Stays pending appeal. Whenever a determination has not been made within thirty days after an appeal has been finally submitted, a stay of execution will be deemed granted by operation of law, and the license, certificate, permit or privilege affected will be automatically restored pending final determination.9. Judicial review. (a) No determination of a hearing officer which is appealable under the provisions of this section shall be reviewed in any court unless an appeal has been filed and determined in accordance with this section.(b) A determination of the appeals board in any case where a transcript of the hearing has been submitted shall be subject to review pursuant to the provisions of article seventy-eight of the civil practice law and rules. Provided, however, a statement by the hearing officer at the conclusion of the hearing indicating that the charges have been sustained and announcing the penalty imposed, together with a summary of the reasons the appeal was denied by the appeals board, shall constitute sufficient findings for the purpose of such review. (b) Except as otherwise provided in this subdivision, a transcript of the hearing resulting in the determination appealed from must be submitted on any such appeal. (c) If the

only issue raised on appeal is the appropriateness of the penalty imposed, the appellant, in his discretion, may submit such appeal without a transcript of the hearing. In such event, the decision of the appeals board may be based solely on the appeal papers and the records of the department, and such decision shall not be subject to judicial review. (d) Where a transcript of the hearing is submitted at the time an appeal is filed, the determination of the appeals board will be subject to judicial review as prescribed in subdivision nine of this section. 3. Appeals boards. Each appeal filed pursuant to this section shall be reviewed by an appeals board, which shall make a determination of such appeal, and shall cause an appropriate order to be entered in the records of the department. 4. Time limitations. No appeal shall be reviewed if it is filed more than thirty days after notice was given of the determination appealed from. 5. Appeal procedures. Any person desiring to file an appeal from an adverse determination pursuant to this section, shall do so in a form and manner provided by the commissioner. The transcript of any hearing which formed the basis for such determination will be reviewed only if it is submitted by the appellant. An appeal shall not be deemed to be finally submitted until the appellant has submitted all forms or documents required to be submitted by the commissioner or this section. 6. Transcript of hearings. Transcripts of the record of any hearing may be obtained at the cost to the department, if prepared by the department, or at the rate specified in the contract between the department and the contractor, if prepared by a private contractor. The amount paid at such cost or rate by a person convicted who submits, upon an appeal from the determination of guilt, or upon such appeal and upon a review pursuant to the provisions of article seventy-eight of the civil practice law and rules, a transcript of the hearing or hearings which resulted in such determination, shall be refunded by the department upon a final determination by the appeals board, dismissing the charges, or if the charges were sustained by the appeals board, upon a final determination by the court, dismissing the charges. 7. Fees. The fee for filing an appeal shall be ten dollars. No appeal shall be accepted unless the required fee has been paid. Such fees shall be paid by the appeals board to the department of audit and control to the credit of the justice court fund. After such audit as shall be required by the comptroller, such fees shall be credited to the general fund of the state. 8. Stays pending appeal. Whenever a determination has not been made within thirty days after an appeal has been finally submitted, a stay of execution will be deemed granted by operation of law, and the license, certificate, permit or privilege affected will be automatically restored pending final determination. 9. Judicial review. (a) No determination of a hearing officer which is appealable under the provisions of this section shall be reviewed in any court unless an appeal has been filed and determined in accordance with this section. (b) A determination of the appeals board in any case where a transcript of the hearing has been submitted shall be subject to review pursuant to the provisions of article seventy-eight of the civil practice law and rules. Provided, however, a statement by the hearing officer at the conclusion of the hearing indicating that the charges have been sustained and announcing the penalty imposed, together with a summary of the reasons the appeal was denied by the appeals board, shall constitute sufficient findings for the purpose of such review.

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2. Notwithstanding any inconsistent provision of any general, special or local law or administrative code to the contrary, any city with a population in excess of one hundred thousand persons according to the nineteen hundred eighty United States census hereinafter referred to as a city shall provide notice of parking violations and of the imposition of additional penalties whenever the person who is liable therefor fails to respond to the parking ticket in the manner designated thereon. Such notice shall be in substantial conformance with the following provisions: a. Notice. (1) Whenever a city issues a notice of violation for a parking violation, it shall be served in the manner prescribed by subdivision two of section two hundred thirty-eight of this article.(2) Whenever a person has been issued a notice of violation for a parking violation and has not responded in the manner described in the notice, a city shall give the owner a second notice of the violation by regular first class mail: (i) within forty days of issuance of the first notice of violation for a parking violation where the vehicle is a vehicle registered in this state; or (ii) within forty days of the receipt by such city of the name and address of the owner of the vehicle where the vehicle is a vehicle registered in any other state. Such second notice shall include, but not be limited to, the following information:(A) that the owner has a period of twenty days from issuance of the second notice in which to respond to the notice of violation for a parking violation;(B) that failure to respond to the notice of violation for a parking violation may result in the suspension and non-renewal of the owner's registration;(C) that failure to respond to the notice of violation for a parking violation may subject the owner to additional penalties as provided in paragraph b of this subdivision;(D) that failure to respond to the notice of violation for a parking violation shall subject the owner to a default judgment as provided in paragraph c of this subdivision and the additional penalties imposed upon parking violations pursuant to paragraph b of this subdivision; and(E) that submission of a plea of guilty to the parking violation makes the owner liable for payment of the stated fine and additional penalties imposed pursuant to paragraph b of this subdivision and the mandatory surcharge of fifteen dollars imposed upon parking violations pursuant to section eighteen hundred nine-a of this chapter.b. Additional penalties. (1) For the purposes of this paragraph, each locality shall determine an initial response date of not less than eight days nor more than thirty days, after which time a penalty may be imposed. The liability for such initial penalty shall commence on the date following the initial response date.(2) Failure to respond to a notice of violation for a parking violation by the initial response date may result in the liability for a penalty in an amount of the fine indicated on the notice of violation for a parking violation; where a city has given a second notice pursuant to paragraph a of this subdivision, the following schedule of additional penalties may apply:(A) failure to respond to a notice of violation for a parking violation by the initial response date may result in the liability for an additional penalty not to exceed ten dollars or, if the first penalty assessed by a city does not exceed five dollars, such city may assess an additional penalty within thirty-one to seventy-five days not to exceed ten dollars; and(B) where a city has

given a second notice pursuant to paragraph a of this subdivision failure to respond to a notice of violation for a parking violation within seventy-five days may result in the liability, commencing on the seventy-sixth day, for an additional penalty not to exceed twenty dollars.(3) Where the additional penalty schedule set forth in subparagraph two of this paragraph, as interpreted in 9 New York Code of Rules and Regulations Part 6180, has not been implemented by a city and is not in effect in such city on or before January first, nineteen hundred ninety-three, the provisions of this paragraph shall not apply. For the purposes of this subdivision, the provisions of this paragraph shall not be considered to have been implemented and in effect unless the penalty schedule contained herein shall have been applied to parking violations issued in such city on or before January first, nineteen hundred ninety-three.b-1. Alternate additional penalty schedule. In any city in which the schedule of penalties contained in subparagraph two of paragraph b of this subdivision, as interpreted in 9 New York Code of Rules and Regulations Part 6180, has not been implemented and was not in effect on or before January first, nineteen hundred ninety-three, the provisions of this paragraph shall only apply upon enactment of a local law containing the penalty schedule provided in this paragraph prior to March 28, 1993. Following the enactment of such a local law, such city may elect to impose the additional penalties set forth in subparagraphs one and two of this paragraph for failure to respond to a notice of violation for a parking violation in accordance with this paragraph. In the event that no such local law was enacted prior to March 28, 1993, the alternate additional penalty schedule set forth in paragraph b-2 of this subdivision shall apply.(1) Failure to respond to a notice of violation for a parking violation within thirty days shall result in liability, commencing on the thirty-first day, for an additional penalty in an amount not to exceed ten dollars, indicated on the notice of violation for a parking violation; where a city has given a second notice pursuant to paragraph a of this subdivision failure to respond to a notice of violation for a parking violation within forty-five days may result in liability, commencing on the forty-sixth day, for the penalty prescribed above for failure to respond within thirty days and an additional penalty not to exceed twenty dollars; and where a city has given a second notice pursuant to paragraph a of this subdivision failure to respond to a notice of violation for a parking violation within seventy-five days may result in liability, commencing on the seventy-sixth day, for the penalties prescribed above for failure to respond within thirty days and for failure to respond within forty-five days and an additional penalty not to exceed thirty dollars.(2) Notwithstanding the foregoing schedule of alternative additional penalties, if an owner makes a plea or appears within twenty days after issuance of a second notice of violation in accordance with paragraph a of this subdivision, or prior to such mailing, such additional penalty shall not exceed ten dollars.b-2. Alternate additional penalty schedule. In any city in which the schedule of penalties contained in paragraph b of this subdivision, as interpreted in 9 New York Code of Rules and Regulations Part 6180, has not been implemented and was not in effect on or before January first, nineteen hundred ninety-three and which has not enacted a local law pursuant to paragraph b-1 of this subdivision prior to March 28, 1993, the following alternate additional penalty schedule shall apply:(1) Failure to respond to a notice of violation for a parking violation within eight days may result in the liability, commencing on the ninth day, for an additional penalty in an amount not to exceed five dollars;(2) Failure to respond to a notice of violation for a parking violation within thirty days may result in the liability, commencing on the thirty-first day, for the penalty prescribed above for failure to respond within eight days and an additional penalty not to exceed ten dollars or, if the first penalty assessed by the city does not exceed five dollars, such city may assess an additional penalty within thirty-one to seventy-five days not to exceed ten dollars;(3) Where a city has given a second notice pursuant to paragraph a of this subdivision failure to respond to a notice of violation for a parking violation within seventy-five days may result in the liability, commencing on the seventy-sixth day, for the penalties prescribed above for failure to respond within eight days and for failure to respond within thirty days and an additional penalty not to exceed twenty dollars; and(4) Notwithstanding the foregoing schedule of alternate penalties, if an owner makes a plea or appears within twenty days after issuance of a second notice of violation in accordance with paragraph a of this subdivision, or prior to such mailing, such additional penalty shall not exceed five dollars.c. Default judgment. Where a city has given notice pursuant to paragraph a of this subdivision, failure to respond to a notice of violation for a parking violation within ninety days shall be deemed an admission of liability and shall subject the owner to a default judgment being entered thereon in an amount not greater than the amount of the original fine and accrued penalties plus any applicable surcharges. Such default shall be reported to the department which department shall cause a suspension and non-renewal of the owner's registration pursuant to the provisions of subdivision four-c of section five hundred ten of this chapter.3. Nothing set forth in this article shall be construed to authorize the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof to comply with any provision of law, rule or regulation through the installation and operation of a photo enforcement device or system, except as otherwise explicitly authorized by article twenty-four, twenty-nine or thirty of this chapter, by section two thousand nine hundred eighty-five of the public authorities law, or by sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, nor be construed to grant any municipality the authority to establish by local law, ordinance, order, rule, regulation, resolution or any other means, an administrative tribunal to hear and determine complaints of traffic infractions or jurisdiction to adjudicate any liability set forth in subdivision one of this section. (2) Whenever a person has been issued a notice of violation for a parking violation and has not responded in the manner described in the notice, a city shall give the owner a second notice of the violation by regular first class mail: (i) within forty days of issuance of the first notice of violation for a parking violation where the vehicle is a vehicle registered in this state; or (ii) within forty days of the receipt by such city of the name and address of the owner of the vehicle where the vehicle is a vehicle registered in any other state. Such second notice shall include, but not be limited to, the following information: (A) that the owner has a period of twenty days from issuance of the second notice in which to respond to the notice of violation for a parking violation; (B) that failure to respond to the notice of violation for a parking violation may result in the suspension and non-renewal of the owner's registration; (C) that failure to respond to the notice of violation for a parking violation may subject the

owner to additional penalties as provided in paragraph b of this subdivision; (D) that failure to respond to the notice of violation for a parking violation shall subject the owner to a default judgment as provided in paragraph c of this subdivision and the additional penalties imposed upon parking violations pursuant to paragraph b of this subdivision; and (E) that submission of a plea of guilty to the parking violation makes the owner liable for payment of the stated fine and additional penalties imposed pursuant to paragraph b of this subdivision and the mandatory surcharge of fifteen dollars imposed upon parking violations pursuant to section eighteen hundred nine-a of this chapter. b. Additional penalties. (1) For the purposes of this paragraph, each locality shall determine an initial response date of not less than eight days nor more than thirty days, after which time a penalty may be imposed. The liability for such initial penalty shall commence on the date following the initial response date. (2) Failure to respond to a notice of violation for a parking violation by the initial response date may result in the liability for a penalty in an amount of the fine indicated on the notice of violation for a parking violation; where a city has given a second notice pursuant to paragraph a of this subdivision, the following schedule of additional penalties may apply: (A) failure to respond to a notice of violation for a parking violation by the initial response date may result in the liability for an additional penalty not to exceed ten dollars or, if the first penalty assessed by a city does not exceed five dollars, such city may assess an additional penalty within thirty-one to seventy-five days not to exceed ten dollars; and (B) where a city has given a second notice pursuant to paragraph a of this subdivision failure to respond to a notice of violation for a parking violation within seventy-five days may result in the liability, commencing on the seventy-sixth day, for an additional penalty not to exceed twenty dollars. (3) Where the additional penalty schedule set forth in subparagraph two of this paragraph, as interpreted in 9 New York Code of Rules and Regulations Part 6180, has not been implemented by a city and is not in effect in such city on or before January first, nineteen hundred ninety-three, the provisions of this paragraph shall not apply. For the purposes of this subdivision, the provisions of this paragraph shall not be considered to have been implemented and in effect unless the penalty schedule contained herein shall have been applied to parking violations issued in such city on or before January first, nineteen hundred ninety-three. b-1. Alternate additional penalty schedule. In any city in which the schedule of penalties contained in subparagraph two of paragraph b of this subdivision, as interpreted in 9 New York Code of Rules and Regulations Part 6180, has not been implemented and was not in effect on or before January first, nineteen hundred ninety-three, the provisions of this paragraph shall only apply upon enactment of a local law containing the penalty schedule provided in this paragraph prior to March 28, 1993. Following the enactment of such a local law, such city may elect to impose the additional penalties set forth in subparagraphs one and two of this paragraph for failure to respond to a notice of violation for a parking violation in accordance with this paragraph. In the event that no such local law was enacted prior to March 28, 1993, the alternate additional penalty schedule set forth in paragraph b-2 of this subdivision shall apply. (1) Failure to respond to a notice of violation for a parking violation within thirty days shall result in liability, commencing on the thirty-first day, for an additional penalty in an amount not to exceed ten dollars, indicated on the notice of violation for a parking violation; where a city has given a second notice pursuant to paragraph a of this subdivision failure to respond to a notice of violation for a parking violation within forty-five days may result in liability, commencing on the forty-sixth day, for the penalty prescribed above for failure to respond within thirty days and an additional penalty not to exceed twenty dollars; and where a city has given a second notice pursuant to paragraph a of this subdivision failure to respond to a notice of violation for a parking violation within seventy-five days may result in liability, commencing on the seventy-sixth day, for the penalties prescribed above for failure to respond within thirty days and for failure to respond within forty-five days and an additional penalty not to exceed thirty dollars. (2) Notwithstanding the foregoing schedule of alternative additional penalties, if an owner makes a plea or appears within twenty days after issuance of a second notice of violation in accordance with paragraph a of this subdivision, or prior to such mailing, such additional penalty shall not exceed ten dollars. b-2. Alternate additional penalty schedule. In any city in which the schedule of penalties contained in paragraph b of this subdivision, as interpreted in 9 New York Code of Rules and Regulations Part 6180, has not been implemented and was not in effect on or before January first, nineteen hundred ninety-three and which has not enacted a local law pursuant to paragraph b-1 of this subdivision prior to March 28, 1993, the following alternate additional penalty schedule shall apply: (1) Failure to respond to a notice of violation for a parking violation within eight days may result in the liability, commencing on the ninth day, for an additional penalty in an amount not to exceed five dollars; (2) Failure to respond to a notice of violation for a parking violation within thirty days may result in the liability, commencing on the thirty-first day, for the penalty prescribed above for failure to respond within eight days and an additional penalty not to exceed ten dollars or, if the first penalty assessed by the city does not exceed five dollars, such city may assess an additional penalty within thirty-one to seventy-five days not to exceed ten dollars; (3) Where a city has given a second notice pursuant to paragraph a of this subdivision failure to respond to a notice of violation for a parking violation within seventy-five days may result in the liability, commencing on the seventy-sixth day, for the penalties prescribed above for failure to respond within eight days and for failure to respond within thirty days and an additional penalty not to exceed twenty dollars; and (4) Notwithstanding the foregoing schedule of alternate penalties, if an owner makes a plea or appears within twenty days after issuance of a second notice of violation in accordance with paragraph a of this subdivision, or prior to such mailing, such additional penalty shall not exceed five dollars. c. Default judgment. Where a city has given notice pursuant to paragraph a of this subdivision, failure to respond to a notice of violation for a parking violation within ninety days shall be deemed an admission of liability and shall subject the owner to a default judgment being entered thereon in an amount not greater than the amount of the original fine and accrued penalties plus any applicable surcharges. Such default shall be reported to the department which department shall cause a suspension and non-renewal of the owner's registration pursuant to the provisions of subdivision four-c of section five hundred ten of this chapter. 3. Nothing set forth in this article shall be construed to authorize the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof to comply with any provision of law, rule or regulation through the installation and

operation of a photo enforcement device or system, except as otherwise explicitly authorized by article twenty-four, twenty-nine or thirty of this chapter, by section two thousand nine hundred eighty-five of the public authorities law, or by sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, nor be construed to grant any municipality the authority to establish by local law, ordinance, order, rule, regulation, resolution or any other means, an administrative tribunal to hear and determine complaints of traffic infractions or jurisdiction to adjudicate any liability set forth in subdivision one of this section.

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2. Personnel. a. The head of such bureau shall be the director, who shall be appointed by the commissioner. The director may exercise or delegate any of the functions, powers and duties conferred upon him or the bureau by the commissioner to any qualified officer or employee of the bureau. b. The commissioner may appoint such number of deputy directors as he shall deem necessary, but in no event to exceed four and may employ such officers and employees as may be required to perform the work of the bureau, within the amounts available therefor by appropriation. c. The commissioner shall appoint supervising hearing examiners not to exceed six in number and senior hearing examiners, not to exceed six in number. Every supervising hearing examiner shall have been admitted to the practice of law in the state for at least seven years and every senior hearing examiner for at least six years. The duties of each supervising hearing examiner and senior hearing examiner shall include, but not be limited to: (1) presiding at hearings for the adjudication of charges of parking violations; (2) the supervision and administration of the work of the bureau; and (3) membership on the appeals board of the bureau, as herein provided. d. The commissioner shall appoint hearing examiners who shall preside at hearings for the adjudication of charges of parking violations. Hearing examiners shall be appointed and shall serve for such number of sessions as may be determined by the commissioner and shall receive therefor, such remuneration as may be fixed. Such hearing examiners shall not be considered employees of the city in which the administrative tribunal has been established. Every hearing examiner shall have been admitted to the practice of law in this state for a period of at least five years, except in cities having a population of one million or more persons where they shall have been admitted to such practice for a period of at least three years. Hearing examiners shall be appointed from a list of eligible candidates who have satisfied the standards established by a duly constituted committee of the bar association of the county in which the city is located or, the association of the bar of that city. 2-a. Notwithstanding any other provision of law, in cities with a population of one million or more, for purposes of this article a parking violation shall include a violation of section eleven hundred seventy-five of this chapter, provided that notice to the operator of the vehicle is provided in like manner as any other violation under this article. 3. Notwithstanding any inconsistent provision of any general, special or local law to the contrary, the city of Rochester may provide by local law for the administrative adjudication in the parking violations bureau of the city of Rochester of violations of article seven of the agriculture and markets law or of any local law or ordinance adopted pursuant thereto relating to the licensing, identification and control of dogs. Such violations shall be heard and determined in the same manner as charges of parking violations and a person charged with any such violation shall have all the rights to a hearing, administrative adjudication and judicial review which a person charged with a parking violation has. The parking violations bureau shall have all the functions, powers and duties with respect to such violations as are granted with respect to parking violations. Such violations shall be punishable by a civil penalty which shall not exceed the amounts set out in article seven of the agriculture and markets law. All moneys collected shall be the property of the city of Rochester. 4. Notwithstanding any inconsistent provision of any general, special or local law to the contrary, the city of Buffalo may provide by local law for the administrative adjudication in the parking violations bureau of the city of Buffalo of violations of the city's ordinances relating to the maintenance and utilization of streets and sidewalks in the city of Buffalo. Such violations shall be heard and determined in the same manner as charges of parking violations and a person charged with any such violation shall have all the rights to a hearing, administrative adjudication and judicial review which a person charged with a parking violation has. The parking violations bureau shall have all the functions, powers and duties with respect to such violations as are granted with respect to parking violations. Such violations shall be punishable by a civil penalty. All moneys collected shall be the property of the city of Buffalo. 5. Release of an illegally parked vehicle. a. A parking violations bureau of a city with a population of one million or more persons may impose vehicle release penalties in accordance with the provisions of paragraph b of this subdivision, provided that the commissioner of transportation of such city has established a procedure for the towing and impoundment of illegally parked vehicles which permits the release, at the site of the underlying parking violation, of an illegally parked vehicle which has been hooked to a tow truck in preparation for towing from such site if:(1) the owner or other person lawfully entitled to the possession of such vehicle appears and requests the release of such vehicle before the tow truck is in motion,(2) such owner or other person has a current valid driver's license,(3) such owner or other person presents either a registration card or title for the vehicle, and(4) such owner or other person consents, in writing, to the imposition of a vehicle release penalty for the underlying parking violation in accordance with paragraph b of this subdivision.b. Where a vehicle that is illegally parked is released from a tow truck under the circumstances described in paragraph a of this subdivision, a vehicle release penalty, in an amount which shall not exceed one-half of the fee charged by the department of transportation of such city for the towing of illegally parked vehicles shall, upon a plea of guilty, a final determination sustaining the charges or upon default, be added to the amount of fines and penalties imposed for the underlying parking violation. The provisions of subdivision two of section two hundred thirty-seven of this article that limit the amount of monetary penalties which may be imposed for a parking violation shall not apply to such vehicle release penalty. In no event shall a vehicle release penalty be imposed pursuant to this subdivision if the underlying parking violation is dismissed. The parking

violations bureau of such city may prescribe penalties for non-payment of such vehicle release penalty which shall be consistent with section two hundred thirty-five of this article. (1) the owner or other person lawfully entitled to the possession of such vehicle appears and requests the release of such vehicle before the tow truck is in motion, (2) such owner or other person has a current valid driver's license, (3) such owner or other person presents either a registration card or title for the vehicle, and (4) such owner or other person consents, in writing, to the imposition of a vehicle release penalty for the underlying parking violation in accordance with paragraph b of this subdivision. b. Where a vehicle that is illegally parked is released from a tow truck under the circumstances described in paragraph a of this subdivision, a vehicle release penalty, in an amount which shall not exceed one-half of the fee charged by the department of transportation of such city for the towing of illegally parked vehicles shall, upon a plea of guilty, a final determination sustaining the charges or upon default, be added to the amount of fines and penalties imposed for the underlying parking violation. The provisions of subdivision two of section two hundred thirty-seven of this article that limit the amount of monetary penalties which may be imposed for a parking violation shall not apply to such vehicle release penalty. In no event shall a vehicle release penalty be imposed pursuant to this subdivision if the underlying parking violation is dismissed. The parking violations bureau of such city may prescribe penalties for non-payment of such vehicle release penalty which shall be consistent with section two hundred thirty-five of this article.

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2. A notice of violation shall be served personally upon the operator of a motor vehicle who is present at the time of service, and his name, together with the plate designation and the plate type as shown by the registration plates of said vehicle and the expiration date; the make or model, and body type of said vehicle; a description of the charged violation, including but not limited to a reference to the applicable traffic rule or provision of this chapter; information as to the days and hours the applicable rule or provision of this chapter is in effect, unless always in effect pursuant to rule or this chapter and where appropriate the word ALL when the days and/or hours in effect are everyday and/or twenty-four hours a day; the meter number for a meter violation, where appropriate; and the date, time and particular place of occurrence of the charged violation, shall be inserted therein. A mere listing of a meter number in cases of charged meter violations shall not be deemed to constitute a sufficient description of a particular place of occurrence for purposes of this subdivision. The notice of violation shall be served upon the owner of the motor vehicle if the operator is not present, by affixing such notice to said vehicle in a conspicuous place. Whenever such notice is so affixed, in lieu of inserting the name of the person charged with the violation in the space provided for the identification of said person, the words "owner of the vehicle bearing license" may be inserted to be followed by the plate designation and plate type as shown by the registration plates of said vehicle together with the expiration date; the make or model, and body type of said vehicle; a description of the charged violation, including but not limited to a reference to the applicable traffic rule or provision of this chapter; information as to the days and hours the applicable rule or provision of this chapter is in effect unless always in effect pursuant to rule or this chapter and where appropriate the word ALL when the days and/or hours in effect are every day and/or twenty-four hours a day; the meter number for a meter violation where appropriate; and the date, time and particular place of occurrence of the charged violation. Service of the notice of violation, or a duplicate thereof by affixation as herein provided shall have the same force and effect and shall be subject to the same penalties for disregard thereof as though the same was personally served with the name of the person charged with the violation inserted therein. 2-a. (a) Notwithstanding any inconsistent provision of subdivision two of this section, where the plate type or the expiration date are not shown on either the registration plates or sticker of a vehicle or where the registration sticker is covered, faded, defaced or mutilated so that it is unreadable, the plate type or the expiration date may be omitted from the notice of violation; provided, however, such condition must be so described and inserted on the notice of violation.(b) If any information which is required to be inserted on a notice of violation is omitted from the notice of violation, misdescribed, or illegible, the violation shall be dismissed upon application of the person charged with the violation.(c) (i) A determination dismissing a charged parking violation that has been procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or his or her agent, employee, or representative may be set aside by a hearing examiner as hereinafter provided.(ii) Notice shall be served on the owner by mail to the last known registered address within two years of the time that the enforcing authority discovers, or could with reasonable diligence have discovered, that the dismissal was procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or his or her agent, employee, or representative. Such notice shall fix a time when and place where a hearing shall be held before a hearing examiner to determine whether or not dismissal of a charged parking violation shall be set aside. Such notice shall set forth the basis for setting aside the dismissal and advise the owner that failure to appear at the date and time indicated in such notice shall be deemed an admission of liability and shall result in the setting aside of the dismissal and entry of a determination on the charged parking violation. Such notice shall also contain a warning that civil penalties may be imposed for the violation pursuant to this paragraph and that a default judgment may be entered thereon.(iii) Upon a finding by a hearing examiner that the dismissal of a charged parking violation has been procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or his or her agent, employee, or representative, the dismissal shall be set aside and a determination may be rendered against the owner on the charged parking violation. The hearing examiner may impose monetary penalties for the charged parking violation of up to three times the scheduled fine for the violation and three times the additional penalties that may be imposed for failure to respond to a notice of violation pursuant to section two

hundred thirty-five of this article. For purposes of determining the amount of such additional penalties, the hearing examiner shall disregard the plea that procured the dismissal that has been set aside and shall calculate such penalties as if there had been no plea or appearance in the proceeding. In any proceeding under this paragraph to set aside a determination and to impose penalties for the violation, it shall not be necessary for the hearing examiner to find that the owner personally committed the unlawful acts that procured the dismissal of the violation.(iv) Failure to appear at a hearing in response to a notice issued pursuant to this paragraph shall be deemed to be an admission of liability for the charged parking violation as set forth in the original notice of violation and a default judgment may be entered against the owner in the maximum amount set forth in subparagraph (iii) of this paragraph.(v) Notwithstanding any inconsistent provision of section two hundred forty-one of this article, a default judgment may be entered pursuant to this paragraph more than two years after the expiration of the time prescribed for entering a plea or contesting an allegation, but no more than two years of the time that the enforcing authority discovers, or could with reasonable diligence have discovered, that the dismissal was procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation.3. For purposes of this section, an operator of a vehicle who is not the owner thereof but who uses or operates such vehicle with the permission of the owner, express or implied, shall be deemed to be the agent of such owner to receive notices of violation, whether personally served on such operator or served by affixation in the manner aforesaid, and service made in either manner as herein provided shall also be deemed to be lawful service upon such owner. (b) If any information which is required to be inserted on a notice of violation is omitted from the notice of violation, misdescribed, or illegible, the violation shall be dismissed upon application of the person charged with the violation. (c) (i) A determination dismissing a charged parking violation that has been procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or his or her agent, employee, or representative may be set aside by a hearing examiner as hereinafter provided. (ii) Notice shall be served on the owner by mail to the last known registered address within two years of the time that the enforcing authority discovers, or could with reasonable diligence have discovered, that the dismissal was procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or his or her agent, employee, or representative. Such notice shall fix a time when and place where a hearing shall be held before a hearing examiner to determine whether or not dismissal of a charged parking violation shall be set aside. Such notice shall set forth the basis for setting aside the dismissal and advise the owner that failure to appear at the date and time indicated in such notice shall be deemed an admission of liability and shall result in the setting aside of the dismissal and entry of a determination on the charged parking violation. Such notice shall also contain a warning that civil penalties may be imposed for the violation pursuant to this paragraph and that a default judgment may be entered thereon. (iii) Upon a finding by a hearing examiner that the dismissal of a charged parking violation has been procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation, by the person so charged or his or her agent, employee, or representative, the dismissal shall be set aside and a determination may be rendered against the owner on the charged parking violation. The hearing examiner may impose monetary penalties for the charged parking violation of up to three times the scheduled fine for the violation and three times the additional penalties that may be imposed for failure to respond to a notice of violation pursuant to section two hundred thirty-five of this article. For purposes of determining the amount of such additional penalties, the hearing examiner shall disregard the plea that procured the dismissal that has been set aside and shall calculate such penalties as if there had been no plea or appearance in the proceeding. In any proceeding under this paragraph to set aside a determination and to impose penalties for the violation, it shall not be necessary for the hearing examiner to find that the owner personally committed the unlawful acts that procured the dismissal of the violation. (iv) Failure to appear at a hearing in response to a notice issued pursuant to this paragraph shall be deemed to be an admission of liability for the charged parking violation as set forth in the original notice of violation and a default judgment may be entered against the owner in the maximum amount set forth in subparagraph (iii) of this paragraph. (v) Notwithstanding any inconsistent provision of section two hundred forty-one of this article, a default judgment may be entered pursuant to this paragraph more than two years after the expiration of the time prescribed for entering a plea or contesting an allegation, but no more than two years of the time that the enforcing authority discovers, or could with reasonable diligence have discovered, that the dismissal was procured due to the knowing fraud, false testimony, misrepresentation, or other misconduct, or the knowing alteration of a notice of parking violation. 3. For purposes of this section, an operator of a vehicle who is not the owner thereof but who uses or operates such vehicle with the permission of the owner, express or implied, shall be deemed to be the agent of such owner to receive notices of violation, whether personally served on such operator or served by affixation in the manner aforesaid, and service made in either manner as herein provided shall also be deemed to be lawful service upon such owner.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2-B - Adjudication of Parking Infractions240 - Hearings, Notice and Conduct.

1-a. Fines and penalties. Whenever a plea of not guilty has been entered, or the bureau has been notified that an allegation of liability in accordance with provisions of law specifically authorizing the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof: to comply with traffic-control indications in violation of subdivision (d) of section eleven hundred eleven of this chapter through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; or to comply with certain posted maximum speed limits in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; or to comply with bus lane restrictions as

defined by article twenty-four of this chapter through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; or to comply with toll collection regulations of certain public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty; or to stop for a school bus displaying a red visual signal in violation of section eleven hundred seventy-four of this chapter through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; or to comply with certain posted maximum speed limits in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; or to comply with gross vehicle weight and/or axle weight restrictions in violation of section three hundred eighty-five of this chapter and the rules of the department of transportation of the city of New York through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; or to comply with bus operation-related traffic regulations as defined by article twenty-four of this chapter in violation of the rules of the department of transportation of the city of New York through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, is being contested, by a person in a timely fashion and a hearing upon the merits has been demanded, but has not yet been held, the bureau shall not issue any notice of fine or penalty to that person prior to the date of the hearing. 1-b. (a) In a city having a population of one million or more, at every hearing for the adjudication of a notice of liability, as provided by this article, there shall be a rebuttable presumption that the owner of a first-response emergency vehicle alleged to be liable in accordance with any provisions of law specifically authorizing the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof: to comply with traffic-control indications in violation of subdivision (d) of section eleven hundred eleven of this chapter through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; or to comply with certain posted maximum speed limits in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; or to comply with bus lane restrictions as defined by article twenty-four of this chapter through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; or to comply with bus operation-related traffic regulations as defined by article twenty-four of this chapter in violation of the rules of the department of transportation of the city of New York through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter is not liable for such alleged violation if such owner of the first-response emergency vehicle provides the hearing officer with:(i) a signed and affirmed affidavit attesting that the operator of the first-response emergency vehicle at the time of the alleged violation is a medically-trained first responder and that the alleged violation occurred while the operator of the first-response emergency vehicle was involved in an emergency operation in such vehicle in response to a medical emergency call; and(ii) documentation supporting the dispatch of the medical emergency call and the dispatch of the operator and the first-response emergency vehicle to the scene of the medical emergency.(b) As used in this subdivision, "first-response emergency vehicle" shall mean ambulances as defined in section one hundred-b of this chapter and emergency ambulance service vehicles as defined in section one hundred fifteen-c of this chapter.2. Conduct of hearings. a. Every hearing for the adjudication of a charge of parking violation or an allegation of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter, or an allegation of liability of an owner for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with certain posted maximum speed limits through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter, or an allegation of liability of an owner for a violation of bus lane restrictions as defined by article twenty-four of this chapter imposed pursuant to a bus rapid transit program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus lane restrictions through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter, or an allegation of liability of an owner for a violation of toll collection regulations imposed by certain public authorities pursuant to the law authorizing such public authorities to impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with toll collection regulations of such public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, or an allegation of liability of an owner for a violation of section eleven hundred seventy-four of this chapter when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with school bus red visual signals through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter, or an allegation of liability of an owner for a violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with certain posted maximum speed limits within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter,

or an allegation of liability of an owner for a violation of section three hundred eighty-five of this chapter and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight violations imposed pursuant to a weigh in motion demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such gross vehicle weight and/or axle weight restrictions through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter, or an allegation of liability of an owner for a violation of bus operation-related traffic regulations as defined by article twenty-four of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus operation-related traffic regulations through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, shall be held before a hearing examiner in accordance with rules and regulations promulgated by the bureau.b. No charge may be established except upon proof by substantial evidence.c. The hearing examiner shall not be bound by the rules of evidence in the conduct of the hearing, except rules relating to privileged communications.d. The hearing examiner shall at the request of the person charged on a showing of good cause and need therefor, or in his own discretion, issue a subpoena to compel the appearance at a hearing of the officer who served the notice of violation or of other persons to give testimony, and may issue a subpoena duces tecum to compel the production for examination or introduction into evidence, of any book, paper or other thing relevant to the charges.e. In the case of a refusal to obey a subpoena, the bureau may make application to the Supreme Court pursuant to section twenty-three hundred eight of the civil practice law and rules, for an order requiring such appearance, testimony or production of evidence.f. The hearing examiner shall not examine the prior violation record of a person charged before making a determination.g. A record shall be made of a hearing on a plea of not guilty or of a hearing at which liability in accordance with any provisions of law specifically authorizing the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof: to comply with traffic-control indications in violation of subdivision (d) of section eleven hundred eleven of this chapter through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with bus lane restrictions as defined by article twenty-four of this chapter through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; to comply with toll collection regulations of certain public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty; to stop for a school bus displaying a red visual signal in violation of section eleven hundred seventy-four of this chapter through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with gross vehicle weight and/or axle weight restrictions in violation of section three hundred eighty-five of this chapter and the rules of the department of transportation of the city of New York through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; or to comply with bus operation-related traffic regulations as defined by article twenty-four of this chapter in violation of the rules of the department of transportation of the city of New York through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, is contested. Recording devices may be used for the making of the record. (i) a signed and affirmed affidavit attesting that the operator of the first-response emergency vehicle at the time of the alleged violation is a medically-trained first responder and that the alleged violation occurred while the operator of the first-response emergency vehicle was involved in an emergency operation in such vehicle in response to a medical emergency call; and (ii) documentation supporting the dispatch of the medical emergency call and the dispatch of the operator and the first-response emergency vehicle to the scene of the medical emergency. (b) As used in this subdivision, "first-response emergency vehicle" shall mean ambulances as defined in section one hundred-b of this chapter and emergency ambulance service vehicles as defined in section one hundred fifteen-c of this chapter. 2. Conduct of hearings. a. Every hearing for the adjudication of a charge of parking violation or an allegation of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter, or an allegation of liability of an owner for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with certain posted maximum speed limits through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter, or an allegation of liability of an owner for a violation of bus lane restrictions as defined by article twenty-four of this chapter imposed pursuant to a bus rapid transit program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus lane restrictions through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter, or an allegation of liability of an owner for a violation of toll collection regulations imposed by certain public authorities pursuant to the law authorizing such public authorities to impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with toll collection regulations of such public authorities through the installation and operation of photo-monitoring systems, in accordance with the

provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty, or an allegation of liability of an owner for a violation of section eleven hundred seventy-four of this chapter when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with school bus red visual signals through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter, or an allegation of liability of an owner for a violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with certain posted maximum speed limits within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter, or an allegation of liability of an owner for a violation of section three hundred eighty-five of this chapter and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight violations imposed pursuant to a weigh in motion demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such gross vehicle weight and/or axle weight restrictions through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter, or an allegation of liability of an owner for a violation of bus operation-related traffic regulations as defined by article twenty-four of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus operation-related traffic regulations through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, shall be held before a hearing examiner in accordance with rules and regulations promulgated by the bureau. b. No charge may be established except upon proof by substantial evidence. c. The hearing examiner shall not be bound by the rules of evidence in the conduct of the hearing, except rules relating to privileged communications. d. The hearing examiner shall at the request of the person charged on a showing of good cause and need therefor, or in his own discretion, issue a subpoena to compel the appearance at a hearing of the officer who served the notice of violation or of other persons to give testimony, and may issue a subpoena duces tecum to compel the production for examination or introduction into evidence, of any book, paper or other thing relevant to the charges. e. In the case of a refusal to obey a subpoena, the bureau may make application to the Supreme Court pursuant to section twenty-three hundred eight of the civil practice law and rules, for an order requiring such appearance, testimony or production of evidence. f. The hearing examiner shall not examine the prior violation record of a person charged before making a determination. g. A record shall be made of a hearing on a plea of not guilty or of a hearing at which liability in accordance with any provisions of law specifically authorizing the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof: to comply with traffic-control indications in violation of subdivision (d) of section eleven hundred eleven of this chapter through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with bus lane restrictions as defined by article twenty-four of this chapter through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; to comply with toll collection regulations of certain public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty; to stop for a school bus displaying a red visual signal in violation of section eleven hundred seventy-four of this chapter through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with gross vehicle weight and/or axle weight restrictions in violation of section three hundred eighty-five of this chapter and the rules of the department of transportation of the city of New York through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; or to comply with bus operation-related traffic regulations as defined by article twenty-four of this chapter in violation of the rules of the department of transportation of the city of New York through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, is contested. Recording devices may be used for the making of the record.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2-B - Adjudication of Parking Infractions241-A - Complaint Procedure for Satisfied or Wrongfully Imposed Fine or Penalty.

(b) If, after this thirty day period, the bureau continues to demand payment from this person of the fine or penalty previously satisfied or wrongfully imposed, or if the bureau does not render a determination, the person within six months from the date of his or her complaint shall have the right to an expedited review before a panel of three administrative law judges. Such panel shall be empowered to compel the bureau to produce records and other evidence relevant and material to the complaint. The complainant shall be required to submit, together with his or her request for a review, a copy of all the materials submitted with the original complaint. The panel of administrative law judges shall be empowered to direct that the bureau's records be changed, as appropriate, to insure that no further demand is made for the fine or penalty previously satisfied or wrongfully imposed, and the bureau shall

comply with such directive. Further, the panel of administrative law judges, upon petition by the complainant, may at its sole discretion, direct the parking violations bureau to pay the complainant who receives a wrongfully imposed fine or has previously satisfied an outstanding fine such out-of-pocket expenses as the panel deems reasonable only in such cases where the complainant sufficiently demonstrates that he or she has notified the bureau of his or her complaint under this section and the bureau has failed, in the panel's opinion, to remove the wrongfully imposed fine or the previously satisfied fine; however, payment of such expenses shall not exceed the amount of the original fine. (c) Any other city authorized to establish a parking violations bureau may create a panel to resolve complaints relating to satisfied penalties and wrongfully imposed penalties. The composition of such a panel shall be determined by local option. 2. This section shall not apply to parking violation fines or penalties relating to commercial, taxi, common or contract carriers or livery vehicles. 3. In cities required to create a review panel under this section, the parking violations bureau shall keep a record of all complaints submitted under this section for a minimum of three years, and shall issue a public report every year containing the number of complaints heard each year according to category, the number of dispositions favorable to complainants, the average compensation awarded in such favorable dispositions, and any other appropriate information. Such information shall also be published annually and placed in the municipal reference library, in such cities where applicable. 4. The proof that must be submitted in connection with a complaint made under this section is, as appropriate, a copy of the receipt, money order or front and back of cancelled check; a copy of a police report of stolen vehicle or stolen or lost plates or proof of an insurance company payment for a stolen vehicle, or a department of motor vehicles receipt for surrendered plates. As used in this section, a "wrongfully imposed" fine or penalty shall mean a fine or penalty which is imposed after the respective vehicle has been stolen or after the license plates were stolen, lost or surrendered to the department of motor vehicles. 5. Every such parking violations bureau shall adopt and promulgate rules and regulations not inconsistent with any applicable provision of law, to carry out the purposes of this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2-B - Adjudication of Parking Infractions241-B - Muni-Meter Receipts; Affirmative Defense.

§ 241-b. Muni-meter receipts; affirmative defense. In any prosecution or proceeding alleging a muni-meter parking violation, it shall be an affirmative defense to such violation, with the burden of proof on the person who received the summons, that he or she did in fact purchase a muni-meter ticket prior to or up to five minutes thereafter from the issuance of the summons and that the receipt is valid for use at the time and location where such summons was issued. Such defense shall be deemed established if such person produces the actual muni-meter receipt or a copy thereof at such prosecution or proceeding. For the purposes of this section, "muni-meter" shall mean an electronic parking meter that dispenses timed receipts showing the amount of parking time purchased.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2-B - Adjudication of Parking Infractions241 - Final Determinations, Judgments.

§ 241. Final determinations, judgments. 1. The hearing examiner shall make a determination on the charges, either sustaining or dismissing them. Where the hearing examiner determines that the charges have been sustained he or she may examine either the prior parking violations record or the record of liabilities incurred in accordance with any provisions of law specifically authorizing the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof: to comply with traffic-control indications in violation of subdivision (d) of section eleven hundred eleven of this chapter through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with bus lane restrictions as defined by article twenty-four of this chapter through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; to comply with toll collection regulations of certain public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty; to stop for a school bus displaying a red visual signal in violation of section eleven hundred seventy-four of this chapter through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with gross vehicle weight and/or axle weight restrictions in violation of section three hundred eighty-five of this chapter and the rules of the department of transportation of the city of New York through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; or to comply with bus operation-related traffic regulations as defined by article twenty-four of this chapter in violation of the rules of the department of transportation of the city of New York through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, of the person charged, as applicable prior to rendering a final determination. Final determinations sustaining or dismissing charges shall be entered on a final determination roll maintained by the bureau together with records showing payment and nonpayment of penalties. 2. Where an operator or owner fails to enter a plea to a charge of a parking violation or contest an allegation of liability in accordance with any provisions of law specifically authorizing the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof: to comply with traffic-control indications in violation of subdivision (d) of

section eleven hundred eleven of this chapter through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with bus lane restrictions as defined by article twenty-four of this chapter through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; to comply with toll collection regulations of certain public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty; to stop for a school bus displaying a red visual signal in violation of section eleven hundred seventy-four of this chapter through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with gross vehicle weight and/or axle weight restrictions in violation of section three hundred eighty-five of this chapter and the rules of the department of transportation of the city of New York through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; or to comply with bus operation-related traffic regulations as defined by article twenty-four of this chapter in violation of the rules of the department of transportation of the city of New York through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, or fails to appear on a designated hearing date or subsequent adjourned date or fails after a hearing to comply with the determination of a hearing examiner, as prescribed by this article or by rule or regulation of the bureau, such failure to plead or contest, appear or comply shall be deemed, for all purposes, an admission of liability and shall be grounds for rendering and entering a default judgment in an amount provided by the rules and regulations of the bureau. However, after the expiration of the original date prescribed for entering a plea and before a default judgment may be rendered, in such case the bureau shall pursuant to the applicable provisions of law notify such operator or owner, by such form of first class mail as the commission may direct; (1) of the violation charged, or liability alleged in accordance with any provisions of law specifically authorizing the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof: to comply with traffic-control indications in violation of subdivision (d) of section eleven hundred eleven of this chapter through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with bus lane restrictions as defined by article twenty-four of this chapter through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; to comply with toll collection regulations of certain public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty; to stop for a school bus displaying a red visual signal in violation of section eleven hundred seventy-four of this chapter through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with gross vehicle weight and/or axle weight restrictions in violation of section three hundred eighty-five of this chapter and the rules of the department of transportation of the city of New York through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; or to comply with bus operation-related traffic regulations as defined by article twenty-four of this chapter in violation of the rules of the department of transportation of the city of New York through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, (2) of the impending default judgment, (3) that such judgment will be entered in the Civil Court of the city in which the bureau has been established, or other court of civil jurisdiction or any other place provided for the entry of civil judgments within the state of New York, and (4) that a default may be avoided by entering a plea or contesting an allegation of liability in accordance with any provisions of law specifically authorizing the imposition of monetary liability on the owner of a vehicle for failure of an operator thereof: to comply with traffic-control indications in violation of subdivision (d) of section eleven hundred eleven of this chapter through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; to comply with certain posted maximum speed limits in violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with bus lane restrictions as defined by article twenty-four of this chapter through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; to comply with toll collection regulations of certain public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty; to stop for a school bus displaying a red visual signal in violation of section eleven hundred seventy-four of this chapter through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; to comply with

certain posted maximum speed limits in violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; to comply with gross vehicle weight and/or axle weight restrictions in violation of section three hundred eighty-five of this chapter and the rules of the department of transportation of the city of New York through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; or to comply with bus operation-related traffic regulations as defined by article twenty-four of this chapter in violation of the rules of the department of transportation of the city of New York through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter; or making an appearance within thirty days of the sending of such notice. Pleas entered and allegations contested within that period shall be in the manner prescribed in the notice and not subject to additional penalty or fee. Such notice of impending default judgment shall not be required prior to the rendering and entry thereof in the case of operators or owners who are non-residents of the state of New York. In no case shall a default judgment be rendered or, where required, a notice of impending default judgment be sent, more than two years after the expiration of the time prescribed for entering a plea or contesting an allegation. When a person has demanded a hearing, no fine or penalty shall be imposed for any reason, prior to the holding of the hearing. If the hearing examiner shall make a determination on the charges, sustaining them, he or she shall impose no greater penalty or fine than those upon which the person was originally charged. 3. A judgment entered pursuant to the provisions of this section shall remain in full force and effect for eight years notwithstanding any other provision of law.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2-B - Adjudication of Parking Infractions242 - Administrative Review.

§ 242. Administrative review. 1. There shall be an appeals board within the bureau which shall consist of three or more hearing examiners but in no event shall the hearing examiner from whose decision the appeal is taken be included in the panel determining said appeal. 2. An appeal from a determination of any hearing examiner after a hearing on a plea denying liability, or from a determination denying a motion to reopen any matter shall be submitted to the appeals board, which shall have power to review the facts and the law, and shall have power to reverse or modify any determination appealed from for error of fact or law. 3. A party aggrieved by the final determination of a hearing examiner may obtain a review thereof by serving, either personally in writing or by certified or registered mail, return receipt requested, upon the bureau, within thirty days of the entry of such final determination, a notice of appeal setting forth the reasons why the final determination should be reversed or modified. Upon receipt of such notice of appeal, the bureau shall furnish to the appellant, at his request and at his own expense, a transcript of the original hearing. No appeal shall be conducted less than ten days after the mailing of the transcript to the appellant or his attorney. When the questions presented by an appeal can be determined without an examination of all the pleadings and proceedings, the appellant may prepare and submit a statement showing how the questions arose and were decided by the hearing examiner and setting forth only so much of the facts averred and proved or sought to be proved as are necessary to a decision of the questions. 4. Appeals shall be conducted in the presence of the appellant or his attorney or both, if such right of appearance is expressly requested by the appellant in his notice of appeal and upon his complying with the regulations of the bureau. If the appellant elects to appear, the bureau within thirty days after the receipt of the notice of appeal shall advise the appellant, either personally or by ordinary first class mail of the date on which he shall appear. No appeal shall be conducted less than ten days after the mailing of such notification. The appellant shall be notified in writing of the decision of the appeals board. 5. The service of a notice of appeal shall not stay the enforcement of a judgment upon the determination appealed from unless the appellant shall have posted a bond in the amount of such determination, at the time of, or before the service of such notice of appeal unless the enforcement of such judgment shall have been stayed by the appeals board. 6. When charges have been overturned by a court or any other administrative body or officer, the party in whose favor the appeal is decided shall be entitled to have returned an amount equal to any fine or penalty imposed and collected from the parking violations bureau within thirty days of the entry of the judgement; provided, however, that such court, administrative body or officer shall have the authority to lessen from such amount any debt owed by such party and shall apply this amount to any outstanding fines and penalties owed by the same individual. If payment is not made within thirty days, a penalty shall accrue at the same rate as that imposed for failure to make timely payment of a fine and shall be paid by the parking violations bureau.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2-B - Adjudication of Parking Infractions243 - Judicial Review.

§ 243. Judicial review. The order of the appeals board shall be the final determination of the bureau. Judicial review may be sought pursuant to article seventy-eight of the civil practice law and rules.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2-B - Adjudication of Parking Infractions244 - Separability.

§ 244. Separability. If any provision of this article or the application of such provision to any person or circumstances shall be held unconstitutional or invalid, the constitutionality or validity of the remainder of this article and the applicability of such provision to other persons or circumstances shall not be affected thereby.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2 - Department of Motor Vehicles; Commissioner210 - Highway Safety Powers and Duties.

§ 210. Highway safety powers and duties. The commissioner of motor vehicles shall have power to: 1. Formulate uniform highway safety programs and coordinate the efforts of all interested individuals and agencies engaged in safety-education. 2. Conduct a highway safety and driver training program, in conjunction with any interested public or private agencies, as an aid to the national defense.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2 - Department of Motor Vehicles; Commissioner211 - Continuity of Authority.

§ 211. Continuity of authority. The department of motor vehicles shall be deemed to constitute a continuation of the powers and duties of the bureau of motor vehicles in the department of taxation and finance and not a new authority for the purpose of succession to the rights, powers and duties and obligations hereby assigned to the department.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2 - Department of Motor Vehicles; Commissioner212 - Transfer of Records and Property.

§ 212. Transfer of records and property. All books, papers and records of the bureau of motor vehicles in the department of taxation and finance shall be transmitted to the department of motor vehicles and the commissioner shall take possession thereof.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2 - Department of Motor Vehicles; Commissioner213 - Terms Occurring in Contracts and Other Documents.

§ 213. Terms occurring in contracts and other documents. Whenever the bureau of motor vehicles in the department of taxation and finance is referred to or designated in any contract or document, such reference or designation shall be deemed to mean and refer to the department of motor vehicles.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2 - Department of Motor Vehicles; Commissioner214 - Proof of Mailing of Notice or Order.

§ 214. Proof of mailing of notice or order. The production of a copy of a notice or order issued by the department, together with an electronically-generated record of entry of such order or notice upon the appropriate driver's license or registration file of the department and an affidavit by an employee designated by the commissioner as having responsibility for the issuance of such order or notice issued by the department setting forth the procedure for the issuance and the mailing of such notice or order at the address of such person on file with the department or at the current address provided by the United States postal service shall be presumptive evidence that such notice of suspension, revocation or order was produced and mailed in accordance with such procedures. The foregoing procedure shall not preclude the use of an affidavit of service by mail, a certificate of mailing or proof of certified or registered mail as proof of mailing of any such order or notice.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2 - Department of Motor Vehicles; Commissioner215 - Rules and Regulations.

(b) Vehicle equipment. If the commissioner and the attorney general shall determine that any provision of this chapter relating to required vehicle equipment has been preempted by a federal regulation or standard, the commissioner may, in his discretion, promulgate a regulation governing such item or items of equipment, in a manner consistent with such federal regulation or standard. Such regulation, when filed with the secretary of state, shall supersede the provisions of this chapter relating to the same item or items of equipment, provided that such regulation shall only remain in force and effect until thirty days after the next adjournment of a regular session of the legislature provided, however, that the authority to promulgate such regulation shall only be exercised if the federal regulation or standard involved does not take effect at a time when the legislature is in regular session, and the commissioner's regulation is promulgated and takes effect prior to the next ensuing regular session of the legislature. (c) The commissioner shall determine the degree to which an identification card issued to veterans by the United States department of veterans affairs may be used as proof of name and/or age for the purpose of obtaining a driver's license or non-driver identification card under this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2 - Department of Motor Vehicles; Commissioner216-A - Statistics on Driving While Intoxicated.

§ 216-a. Statistics on driving while intoxicated. 1. The commissioner shall collect and analyze statistical information and data with respect to: (i) the number of persons charged with violating any of the provisions of section eleven hundred ninety-two of this chapter prohibiting the operation of a motor vehicle while under the influence of alcohol or drugs, or the provisions of section eleven hundred ninety-two-a of this chapter prohibiting persons under the age of twenty-one from operating a motor vehicle after having consumed alcohol, or the provisions of section forty-nine-b of the navigation law prohibiting persons under the age of twenty-one from operating a vessel after having consumed alcohol; and (ii) the disposition of such charge and (iii) if a conviction or finding was had thereon, the category of the offense for which such conviction or finding was had, whether it resulted from a plea of guilty or after trial or after a hearing before a hearing officer and the sentence thereon; and (iv) such other information as the commissioner shall deem relevant. Provided, however, that nothing herein shall be deemed to authorize the reporting or collecting of

any information relating to the identity of any person so charged, and no such information shall be so reported to or collected by the commissioner except for the purposes of assisting courts or hearing officers in the suspension of licenses pursuant to sections five hundred ten and five hundred fourteen of this chapter or the suspension of operating privileges pursuant to section forty-nine-b of the navigation law, and no such information may be disseminated except to such courts or hearing officers. 2. The commissioner shall from time to time make reports and recommendations to the governor and the legislature based upon the compilation and analysis of the information and data made pursuant to this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2 - Department of Motor Vehicles; Commissioner216 - Automotive-Medical Research Division.

§ 216 Automotive-medical research division. The commissioner shall establish an automotive-medical research division with such facilities and such expert assistants as are necessary to do medical and engineering research in the field of motor vehicle safety. The commissioner shall from time to time make reports and recommendations to the governor, and the legislature on the findings and studies of the agency. The commissioner shall be empowered to contract with the department of health for medical research necessary to carry out the purposes of this section, and, subject to the provisions of the state finance law, to take and administer for the state any grant, gift or bequest to be applied, principal or income, or both, for the purposes specified in such grant, to the maintenance and operation of a research program under this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2 - Department of Motor Vehicles; Commissioner217 - Record of Hearings.

§ 217. Record of hearings. At any hearing held by the commissioner, or a person deputized by him to conduct a hearing to determine whether any license or registration issued pursuant to this chapter or any privilege of operating or privilege of operation should be suspended or revoked, a mechanical or electronic recording device may be used for the making of a record of the proceedings.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2 - Department of Motor Vehicles; Commissioner218 - Special Classification of Vehicles.

§ 218. Special classification of vehicles. Notwithstanding any other provision of this chapter, any vehicle or class of vehicles may, by regulation of the commissioner, be added to or exempted from any of the definitions or classifications contained in this chapter, where such addition or exemption is deemed, in his discretion, either necessary, desirable or equitable because of the particular characteristics of such vehicle or class of vehicles; provided, however, that no vehicle which is exempted from registration by any provision of this chapter may be reclassified pursuant to this section to require registration, and no vehicle which is specifically enumerated in schedule F of subdivision seven of section four hundred one of this chapter may be reclassified pursuant to this section to require registration at an increased fee.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2 - Department of Motor Vehicles; Commissioner219 - Interstate Compacts.

§ 219. Interstate compacts. Whenever any provision of this chapter shall provide for or establish a compact or reciprocal recognition of vehicle registrations with another state or states, the governor or commissioner may enter into a written agreement or compact with any state authorized to be a party to such compact or affected by such reciprocal provisions, provided that the conditions and terms of such agreement or compact are consistent with the provisions of this chapter pertaining to such compact or reciprocal recognition of vehicle registrations.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2 - Department of Motor Vehicles; Commissioner220 - Exemptions for Safety Equipment.

(2) Where an exemption is granted pursuant to the provisions of subdivision one, the commissioner may, by regulation, establish standards for the manufacture and use of any equipment for which the exemption is granted.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2 - Department of Motor Vehicles; Commissioner221 - Annual Compilation of This Chapter.

§ 221. Annual compilation of this chapter. The commissioner shall cause to be published by the department, and make available to the public, an annual paperback compilation of all of the provisions of this chapter. The commissioner shall establish a reasonable fee, chargeable on a per copy basis, sufficient to cover the cost of preparation and distribution of such books.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2 - Department of Motor Vehicles; Commissioner222 - Exemptions for Testing, Demonstration or Experimentation.

§ 222. Exemptions for testing, demonstration or experimentation. The commissioner, upon application of a person, or upon his own application, may grant an exemption from any requirement of this chapter relating to registration or equipment to any designated vehicle for the purpose of testing, demonstration or experimentation. Any such exemption shall be limited to specific areas and times, and such exemptions shall be evidenced by a certificate issued by the commissioner or his designated agent, which certificate

shall contain a description of the vehicle, the exemptions granted, and the areas and times to which the exemptions apply. For the purposes of this section, testing, demonstration or experimentation shall be limited to such activities being performed at the request of, or with the consent of a governmental agency. For the purposes of articles six, seven and eight of this chapter, a certificate issued pursuant to this section shall be deemed to be a registration, and all the provisions of articles six, seven and eight of this chapter with regard to proof of financial security at the time of registration and all the penalties found in said articles with respect to the failure to maintain such financial security shall apply to vehicles for which a certificate is issued pursuant to this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2 - Department of Motor Vehicles; Commissioner223-A - School Bus Motorist Education Program.

§ 223-a. School bus motorist education program. The commissioner shall, in conjunction with the governor's traffic safety committee, the departments of education and transportation, the division of state police, and the state comprehensive school bus driver safety training council, design and implement a public education program to educate motorists of the dangers of passing a school bus in violation of section eleven hundred seventy-four of this chapter, to reduce the number of such incidents, and to promote school bus safety.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2 - Department of Motor Vehicles; Commissioner223 - Motor Vehicle Theft Prevention Program.

2. It shall be the duty of such investigators to conduct detailed investigations, in cooperation with law enforcement officials, of those entities which may be possible sources for the disposal of stolen vehicles or major component parts; to determine the reliability of applicants required to be registered under provisions of the vehicle and traffic law; to provide assistance to law enforcement personnel in determining sources of outlets for stolen motor vehicles and stolen motor vehicle parts; to cooperate with law enforcement personnel relative to the investigation of organized motor vehicle theft rings; to examine motor vehicles prior to the issuance of a New York state motor vehicle title at the discretion of the commissioner; and to inspect motor vehicles for which a notice of acquisition is required to be filed pursuant to section four hundred twenty-nine of this chapter whenever such a vehicle is to be registered for use upon the public highway. 3. The commissioner, in consultation with the commissioner of the division of criminal justice services, shall establish a motor vehicle theft prevention program to be known as the "Watch Your Car Program," which shall include the issuance of official decals to identify motor vehicles that are not normally operated between the hours of 1:00 A.M. and 5:00 A.M. Participation in the program shall be voluntary in nature and shall involve the following:(a) In the presence of a duly authorized police officer in any law enforcement agency participating in such program, the registered owner of a motor vehicle shall sign an informed consent statement indicating that the motor vehicle registered to such owner is not normally operated between the hours of 1:00 A.M. and 5:00 A.M. The form of such informed consent statement shall be promulgated by the commissioner after consultation with the commissioner of the division of criminal justice services.(b) (i) Upon signing such informed consent statement, the registered owner shall be issued decals approved by the commissioner and such decals shall be affixed to the owner's vehicle in a conspicuous place as prescribed by the commissioner. The decals shall be issued by the law enforcement agency participating in the program.(ii) The law enforcement agency issuing the decals shall make a record of the decals issued to each registered owner. Such records shall be maintained by the law enforcement agencies participating in the program and shall be available to the commissioner, to the superintendent of state police, to the commissioner of the division of criminal justice services and to law enforcement agencies.(c) Informed consent statement forms shall be available at all participating law enforcement agencies throughout the state. The commissioner may accept the format used for the decal and application used by local police officials in municipalities that implemented such programs prior to the effective date of this subdivision.4. The commissioner shall, no later than January first, nineteen hundred eighty-two, submit to the governor and the legislature a report on the results and operation of the motor vehicle theft prevention program.5. The expenses incurred by the commissioner in implementing the motor vehicle theft prevention program created by this section shall be funded from revenues collected pursuant to sections four hundred fifteen-a, four hundred twenty-one, subdivision five of section four hundred twenty-three-a and four hundred thirty of this chapter. (a) In the presence of a duly authorized police officer in any law enforcement agency participating in such program, the registered owner of a motor vehicle shall sign an informed consent statement indicating that the motor vehicle registered to such owner is not normally operated between the hours of 1:00 A.M. and 5:00 A.M. The form of such informed consent statement shall be promulgated by the commissioner after consultation with the commissioner of the division of criminal justice services. (b) (i) Upon signing such informed consent statement, the registered owner shall be issued decals approved by the commissioner and such decals shall be affixed to the owner's vehicle in a conspicuous place as prescribed by the commissioner. The decals shall be issued by the law enforcement agency participating in the program. (ii) The law enforcement agency issuing the decals shall make a record of the decals issued to each registered owner. Such records shall be maintained by the law enforcement agencies participating in the program and shall be available to the commissioner, to the superintendent of state police, to the commissioner of the division of criminal justice services and to law enforcement agencies. (c) Informed consent statement forms shall be available at all participating law enforcement agencies throughout the state. The commissioner may accept the format used for the decal and application used by local police officials in municipalities that implemented such programs prior to the effective date of this subdivision. 4. The commissioner shall, no later than January first, nineteen hundred eighty-two, submit to the governor and the legislature a report on the results and operation of the motor vehicle theft prevention program. 5. The expenses incurred by the commissioner in implementing the motor vehicle theft prevention program created by this section shall be funded from revenues

collected pursuant to sections four hundred fifteen-a, four hundred twenty-one, subdivision five of section four hundred twenty-three-a and four hundred thirty of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2 - Department of Motor Vehicles; Commissioner224-A - Establishment of the Highway Construction and Maintenance Safety Education Program.

§ 224-a. Establishment of the highway construction and maintenance safety education program. 1. The commissioner of transportation, after consultation with the commissioner of the department, shall promulgate rules and regulations regarding the establishment and implementation of a highway construction and maintenance safety education program. The highway construction and maintenance safety education program shall be established for the purpose of providing education, advocacy and increased awareness of laws pertaining to protecting the safety of highway construction and maintenance workers. The program shall provide funding for activities such as public service announcements, public education and awareness campaigns, distribution of literature, and any other activities that are consistent with such purposes. 2. It shall be the duty of the commissioner of transportation to make a biennial report to the governor, the temporary president of the senate and the speaker of the assembly which shall be due on the first of April every second year following implementation of the program and shall include an assessment of the effectiveness of the program, recommendations for expanding or improving the program and any problems or other matters related to the administration of the program.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 2 - Department of Motor Vehicles; Commissioner224 - Simplification of Business Application Procedures and Administration.

§ 224. Simplification of business application procedures and administration. 1. For the purposes of reducing the amount of paperwork required of businesses which are licensed or registered pursuant to this chapter, and to provide for the most efficient servicing of such businesses, the commissioner shall, to the extent administratively feasible, provide that: (i) applications for licenses or registrations, or renewals thereof, to be issued pursuant to sections three hundred three, three hundred ninety-eight-c, four hundred fifteen and four hundred fifteen-a of this chapter simultaneously made by the same entity shall be made on one application, (ii) all such licenses and registrations issued to the same entity shall expire at the same time, and (iii) the expiration dates for all licensees and registrants subject to such sections shall be staggered as effectively as possible over a two year period. 2. The provisions of the sections set forth in subdivision one of this section shall be construed to achieve the purposes enunciated in that subdivision. 3. Notwithstanding any other provisions of this chapter, only one original application fee shall be required of the same applicant who simultaneously makes application for the issuance of more than one license or registration pursuant to section three hundred three, three hundred ninety-eight-c, four hundred fifteen or four hundred fifteen-a of this chapter. Such fee shall be the highest application fee for any one of the licenses or registrations being applied for.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 3-A - Administrative Appeals260 - Appeals Board; Functions.

§ 260. Appeals board; functions. 1. Appeals board. The appeals board established pursuant to article two-A of this chapter shall also constitute the appeals board for the purposes of this article. 2. Functions. Each appeal filed pursuant to this article shall be reviewed by the appeals board, which shall make a determination of such appeal, and shall cause an appropriate order to be entered in the records of the department.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 3-A - Administrative Appeals261 - Right of Appeal; Time Limitations; Appeal Procedures; Fees.

§ 261. Right of appeal; time limitations; appeal procedures; fees. 1. Right of appeal. Whenever a license, certificate, permit or any privilege is denied, suspended or revoked by the commissioner pursuant to this chapter, except where such action is based upon a conviction as a result of which such action is required by statute or is based upon a determination rendered under the provisions of article two-A of the vehicle and traffic law, the holder thereof may appeal such determination pursuant to the provisions of this article and such regulations as may be promulgated by the commissioner. In addition, following an adjudicatory proceeding conducted pursuant to section four hundred seventy-one-a of this chapter, an aggrieved party may appeal the commissioner's decision pursuant to the provisions of this article and such regulations as may be promulgated by the commissioner. Notwithstanding the provisions of this subdivision, appeals from determinations made pursuant to article twelve-A of this chapter shall be governed in accordance with the provisions of that article. 2. Time limitations. No appeal shall be reviewed if it is filed more than sixty days after written notice was given of the determination appealed from. 3. Appeal procedures. Any person desiring to file an appeal pursuant to this article shall do so in a form and manner provided by the commissioner. If a hearing was held prior to such determination, the transcript of the hearing will only be reviewed if it is submitted by the appellant. An appeal shall not be deemed to be finally submitted until the appellant has submitted all forms or documents required to be submitted by the commissioner or this article, including the transcript when such is requested to be reviewed; provided, however, such appeal shall be deemed to have been finally submitted if the appeal is filed and the transcript is ordered prior to the expiration of the time limitations imposed by subdivision two of this section. 4. Fees. The fee for filing an appeal shall be ten dollars. No appeal shall be deemed filed

unless any required fee has been paid.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 3-A - Administrative Appeals262 - Stays Pending Appeal.

§ 262. Stays pending appeal. The appeals board, or chairman thereof, upon the request of any person who has filed an appeal, may, in its discretion, grant a stay pending a determination of the appeal. Whenever a determination has not been made within thirty days after an appeal has been finally submitted, a stay of execution will be deemed granted by operation of law, and the license, certificate, permit or privilege affected will be automatically restored pending final determination.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 3-A - Administrative Appeals263 - Judicial Review.

§ 263. Judicial review. No determination of the commissioner or a member of the department which is appealable under the provisions of this article shall be reviewed in any court unless an appeal has been filed and determined in accordance with this article. The determination of the appeals board shall be subject to review by the supreme court in the manner provided in article seventy-eight of the civil practice law and rules; provided, however, the refusal of an appeals board to grant a stay pending appeal shall be deemed a final determination for purposes of appeal.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 3 - Exemption of Non-Resident Owners and Operators250 - Exemption of Non-Resident Owners and Operators.

A person, firm, association or corporation having a place of business in a foreign country, state, territory or federal district and owning a motor vehicle, motorcycle or trailer used in connection with and garaged at such place of business which such owner is compelled to register in such foreign jurisdiction shall be deemed a resident of such foreign jurisdiction and a non-resident of this state within the meaning of this subdivision for the purpose of enjoying the privileges of this subdivision with respect to such vehicle. In case a non-resident becomes a resident of this state, he shall be entitled for a period not exceeding thirty days from the date he becomes a resident to the same exemption from registering his vehicles in this state as he would have enjoyed had he remained a non-resident. 2. A person of the age of sixteen years and upwards who shall be a nonresident of this state, and a resident of a state, territory, federal district or foreign country having laws, with which such person has complied, which require such person, in order to operate a motor vehicle or motorcycle therein, to be licensed, may operate or drive a motor vehicle or motorcycle on the public highways of this state without being so licensed under this chapter, provided, however, that the recognition granted under this subdivision shall, with respect to a person under the age of eighteen years, only permit the operation of a motor vehicle or motorcycle in this state in accordance with the same restrictions imposed upon New York residents operating or driving motor vehicles or motorcycles with class DJ or MJ licenses under subdivision three of section five hundred one of this chapter. A nonresident entitled to operate a motor vehicle or motorcycle as herein provided who shall become a resident of this state may operate or drive a motor vehicle or motorcycle on the public highways of this state for a period not exceeding thirty days from the date he becomes a resident pending the obtaining of a license to operate such motor vehicle or motorcycle in this state. The exemption granted in this subdivision shall not apply to persons whose privilege of operating a motor vehicle in this state, or whose former license to drive in this state, has been suspended or revoked, until such suspension or revocation has been terminated or privilege of operating a motor vehicle restored. 3. (a) The exemptions provided in subdivisions one and four of this section shall not apply to a motor vehicle, motorcycle or trailer, other than a semitrailer drawn by a tractor registered in this state which is operated on any public highway of this state to transport persons or property for hire or profit from one point in this state to another point in this state or which is operated in doing any work performed under a contract for a public improvement to which the state, a municipal corporation, a school district or a commission appointed pursuant to law is a party, except to transport machinery, tools or other plant equipment to be used in the performance of such a contract; provided, however, that the mere makeup or breakup of a tandem trailer combination on the New York state thruway shall not, with respect to the tractor hauling such tandem trailer combination, constitute, in and of itself, a point in this state for the purpose of determining whether there has been a transportation of property for hire or profit from one point in this state to another point in this state; provided, further, however, that the transportation by any tractor not registered in the state of New York of a trailer carrying property for profit, placed thereon within this state and consigned for delivery herein, shall be prohibited.(b) The commissioner may, in his discretion, waive the provisions of this subdivision with respect to any motor vehicle, motorcycle, trailer or semitrailer, duly registered in another state, territory, federal district or foreign country, provided that the owner thereof has registered annually in this state a number of vehicles equal to or in excess of the average number of vehicles said owner will have available annually in this state for hire or operation therein. The commissioner is hereby authorized and empowered to adopt and amend rules and regulations to effectuate the provisions of this paragraph. Such regulations may include a requirement that the owner file annually and at such time and in such manner as shall be prescribed by the commissioner, a sworn statement including, but not limited to the following information: (1) the owner's total number of motor vehicles, motorcycles, trailers and/or semitrailers registered in Canada and the United States; (2) the owner's total annual registration of such vehicles in this state; and (3) the total number of such vehicles which are rented, leased or used in this state for the preceding twelve month period or in the absence of any past experience, the total anticipated number of such vehicles that will be rented, leased or used in this state. Nothing herein contained shall be construed as requiring the granting of the waiver authorized by this paragraph.(c) The provisions of paragraph (a) of this subdivision, insofar as they require display of number plates

issued by the commissioner, shall not apply to any motor vehicle, other than a bus, which is duly registered in another state and displays registration and number plates as required by that state, which registration and number plates permit the transportation of persons for-hire within that state, provided the registrant has been issued a registration for such motor vehicle by the commissioner, has paid the appropriate annual fee as provided in schedule C of subdivision seven of section four hundred one of this chapter and displays proof of such registration on such vehicle in accordance with regulations promulgated by the commissioner. Notwithstanding any other provision of this chapter, the commissioner need not issue number plates to the registrant when issuing a registration intended to secure the authorization for operation within this state as provided by this paragraph.4. a. The provisions of this chapter relative to the registration of motor vehicles, motorcycles and trailers and the display of registration numbers shall not apply to a motor vehicle, motorcycle or trailer owned by a non-resident of the state who is a seasonal farm laborer, for a period extending from the first day of April to and including the thirtieth day of November in each year, provided that the owner thereof shall have complied with the provisions of the law of the foreign country, state, territory or federal district of his residence relative to registration of such motor vehicle, motorcycle or trailer, as the case may be, and the display of registration numbers thereof, and provided further that the owner thereof shall furnish proof to the commissioner that such owner has in effect with respect to such motor vehicle an automobile liability policy issued by an insurance company authorized to do business in this state or by an unauthorized insurer authorized to transact business in the jurisdiction of his residence in at least the amount of twenty-five thousand dollars because of bodily injury to or fifty thousand dollars because of death of one person in any one accident and, subject to said limit for one person, in at least the amount of fifty thousand dollars because of bodily injury to or one hundred thousand dollars because of death of two or more persons in any accident, and in at least the amount of ten thousand dollars because of injury to or destruction of property of others in any one accident.b. Upon filing of such proof of financial security, the commissioner shall issue to the owner of said motor vehicle, motorcycle or trailer, upon payment of a fee of two dollars, a certificate, which certificate shall be affixed to a prominent place on the interior of said motor vehicle, motorcycle or trailer, and shall bear the following information: (1) name and address of the owner of said motor vehicle, motorcycle or trailer, (2) make and year of said motor vehicle, motorcycle or trailer, (3) state of registration and registration number thereof, (4) date of expiration of the exemption period provided in this subdivision and (5) such other information as the commissioner may direct.c. The exemption provided in this subdivision shall in no way affect the non-resident status of the owner of said motor vehicle, motorcycle or trailer and he shall be subject to the provisions of all other laws, rules, codes and regulations with respect to the ownership and/or operation by a non-resident of a motor vehicle, motorcycle or trailer in this state. However, all said motor vehicles, motorcycles and trailers shall be subject to the provisions of article five of this chapter in the same manner as if they are registered in this state.d. A non-resident of the state who is a seasonal farm laborer shall be entitled to a period not exceeding thirty days from the date of his entrance into the state within which to file proof of financial security and pay the fee required and secure the certificate authorized in paragraph b of subdivision four of this section, provided, however, that the limitations contained in subdivision three of this section shall be applicable until such time as the certificate authorized in paragraph b of this subdivision is obtained.5. As used in this section, the term "resident" shall mean domiciliary, that is, one who lives in this state with the intention of making it a fixed and permanent abode. It shall be presumptive evidence that a person who maintains a place of abode in this state for a period of at least ninety days is a resident of this state. (b) The commissioner may, in his discretion, waive the provisions of this subdivision with respect to any motor vehicle, motorcycle, trailer or semitrailer, duly registered in another state, territory, federal district or foreign country, provided that the owner thereof has registered annually in this state a number of vehicles equal to or in excess of the average number of vehicles said owner will have available annually in this state for hire or operation therein. The commissioner is hereby authorized and empowered to adopt and amend rules and regulations to effectuate the provisions of this paragraph. Such regulations may include a requirement that the owner file annually and at such time and in such manner as shall be prescribed by the commissioner, a sworn statement including, but not limited to the following information: (1) the owner's total number of motor vehicles, motorcycles, trailers and/or semitrailers registered in Canada and the United States; (2) the owner's total annual registration of such vehicles in this state; and (3) the total number of such vehicles which are rented, leased or used in this state for the preceding twelve month period or in the absence of any past experience, the total anticipated number of such vehicles that will be rented, leased or used in this state. Nothing herein contained shall be construed as requiring the granting of the waiver authorized by this paragraph. (c) The provisions of paragraph (a) of this subdivision, insofar as they require display of number plates issued by the commissioner, shall not apply to any motor vehicle, other than a bus, which is duly registered in another state and displays registration and number plates as required by that state, which registration and number plates permit the transportation of persons for-hire within that state, provided the registrant has been issued a registration for such motor vehicle by the commissioner, has paid the appropriate annual fee as provided in schedule C of subdivision seven of section four hundred one of this chapter and displays proof of such registration on such vehicle in accordance with regulations promulgated by the commissioner. Notwithstanding any other provision of this chapter, the commissioner need not issue number plates to the registrant when issuing a registration intended to secure the authorization for operation within this state as provided by this paragraph. 4. a. The provisions of this chapter relative to the registration of motor vehicles, motorcycles and trailers and the display of registration numbers shall not apply to a motor vehicle, motorcycle or trailer owned by a non-resident of the state who is a seasonal farm laborer, for a period extending from the first day of April to and including the thirtieth day of November in each year, provided that the owner thereof shall have complied with the provisions of the law of the foreign country, state, territory or federal district of his residence relative to registration of such motor vehicle, motorcycle or trailer, as the case may be, and the display of registration numbers thereof, and provided further that the owner thereof shall furnish proof to the commissioner that such owner has in effect with respect to such motor vehicle an automobile liability

policy issued by an insurance company authorized to do business in this state or by an unauthorized insurer authorized to transact business in the jurisdiction of his residence in at least the amount of twenty-five thousand dollars because of bodily injury to or fifty thousand dollars because of death of one person in any one accident and, subject to said limit for one person, in at least the amount of fifty thousand dollars because of bodily injury to or one hundred thousand dollars because of death of two or more persons in any accident, and in at least the amount of ten thousand dollars because of injury to or destruction of property of others in any one accident. b. Upon filing of such proof of financial security, the commissioner shall issue to the owner of said motor vehicle, motorcycle or trailer, upon payment of a fee of two dollars, a certificate, which certificate shall be affixed to a prominent place on the interior of said motor vehicle, motorcycle or trailer, and shall bear the following information: (1) name and address of the owner of said motor vehicle, motorcycle or trailer, (2) make and year of said motor vehicle, motorcycle or trailer, (3) state of registration and registration number thereof, (4) date of expiration of the exemption period provided in this subdivision and (5) such other information as the commissioner may direct. c. The exemption provided in this subdivision shall in no way affect the non-resident status of the owner of said motor vehicle, motorcycle or trailer and he shall be subject to the provisions of all other laws, rules, codes and regulations with respect to the ownership and/or operation by a non-resident of a motor vehicle, motorcycle or trailer in this state. However, all said motor vehicles, motorcycles and trailers shall be subject to the provisions of article five of this chapter in the same manner as if they are registered in this state. d. A non-resident of the state who is a seasonal farm laborer shall be entitled to a period not exceeding thirty days from the date of his entrance into the state within which to file proof of financial security and pay the fee required and secure the certificate authorized in paragraph b of subdivision four of this section, provided, however, that the limitations contained in subdivision three of this section shall be applicable until such time as the certificate authorized in paragraph b of this subdivision is obtained. 5. As used in this section, the term "resident" shall mean domiciliary, that is, one who lives in this state with the intention of making it a fixed and permanent abode. It shall be presumptive evidence that a person who maintains a place of abode in this state for a period of at least ninety days is a resident of this state.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 3 - Exemption of Non-Resident Owners and Operators251 - Exemption for Members of the Armed Forces and Their Dependents.

§ 251. Exemption for members of the armed forces and their dependents. 1. The provisions of this chapter relative to the registration of motor vehicles and motorcycles and the display of number plates shall not apply to motor vehicles or motorcycles having registrations and displaying plates issued by the armed forces of the United States for vehicles owned by members of the armed forces or their dependents, but such exemption shall be valid only for a period of forty-five days after the owner thereof has entered this state for the purpose of traveling to either his place of residence or a point of military duty. 2. A member of the armed forces who has been issued a license to operate a motor vehicle or motorcycle by the armed forces of the United States may operate a motor vehicle or motorcycle on the public highways of this state without being licensed under this chapter for a period of sixty days after such person has entered this state. 2-a. A member of the armed forces and any dependent of such person sixteen years of age or older who has complied with the laws of a state, territory, federal district or foreign country which require such person, in order to operate a motor vehicle or motorcycle therein, to be licensed, may operate or drive a motor vehicle or motorcycle on the public highways of this state without being so licensed under this chapter. Provided, however, that the recognition granted under this subdivision shall, with respect to a person under the age of eighteen years, only permit the operation of a motor vehicle or motorcycle in this state in accordance with the same restrictions imposed upon New York residents operating or driving motor vehicles or motorcycles with class DJ or MJ licenses under subdivision three of section five hundred one of this chapter. The exemption granted in this subdivision shall not apply to persons whose privilege of operating a motor vehicle in this state, or whose former license to drive in this state, has been suspended or revoked, until such suspension or revocation has been terminated or privilege of operating a motor vehicle restored. Notwithstanding the provisions of subdivision four of this section, for purposes of this subdivision, "member of the armed forces" shall mean a person on active duty, other than annual active duty for training, in a branch of the armed forces of the United States and "dependent" shall mean a spouse or child of a member of the armed forces residing in the same household and dependent upon such member of the armed forces for support. 3. The provisions of this chapter relative to the registration and equipment of motor vehilces, motorcycles and trailers and the display of registration numbers shall not apply to motor vehicles, motorcycles or trailers owned by members of the armed forces or their dependents who are non-residents of this state, provided that the owner thereof shall have complied with the provisions of the law of the foreign country, state, territory or federal district of his residence relative to registration and equipment of such motor vehicles, motorcycles or trailers, as the case may be, and the display of registration numbers thereon, and shall conspicuously display his registration numbers as required thereby. 4. For the purposes of this section "member of the armed forces" shall mean a person on active duty, other than annual active duty for training, in a branch of the armed forces of the United States or a person who has been discharged from such active duty within the preceding sixty days, and "dependent" shall mean a spouse or child of a member of the armed forces or other person residing in the same household and dependent upon such member of the armed forces for support.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 3 - Exemption of Non-Resident Owners and Operators252 - Exemption of Certain In-Transit Vehicle Registrations.

§ 252. Exemption of certain in-transit vehicle registrations. The provisions of this chapter relative to the registration of motor vehicles and motorcycles and the display of number plates shall not apply to motor vehicles or motorcycles having a temporary in-transit or transporter registration or permit issued by another state directly to the purchaser of such motor vehicle or motorcycle,

but such exemption shall be valid until the expiration date appearing on such registration or permit or for a period of thirty days from the date of issuance of such registration or permit, whichever is less, for the purpose of transporting the vehicle to the jurisdiction in which it will be regularly registered.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 3 - Exemption of Non-Resident Owners and Operators253 - Service of Summons on Non-Residents.

§ 253. Service of summons on non-residents. 1. The use or operation by a non-resident of a vehicle in this state, or the use or operation in this state of a vehicle in the business of a non-resident, or the use or operation in this state of a vehicle owned by a non-resident if so used or operated with his permission, express or implied, shall be deemed equivalent to an appointment by such non-resident of the secretary of state to be his true and lawful attorney upon whom may be served the summons in any action against him, growing out of any accident or collision in which such non-resident may be involved while using or operating such vehicle in this state or in which such vehicle may be involved while being used or operated in this state in the business of such non-resident or with the permission, express or implied, of such non-resident owner; and such use or operation shall be deemed a signification of his agreement that any such summons against him which is so served shall be of the same legal force and validity as if served on him personally within the state and within the territorial jurisdiction of the court from which the summons issues, and that such appointment of the secretary of state shall be irrevocable and binding upon his executor or administrator. Where such non-resident has died prior to the commencement of an action brought pursuant to this section, service of process shall be made on the executor or administrator of such non-resident in the same manner and on the same notice as is provided in the case of the non-resident himself. Where an action has been duly commenced under the provisions of this section against a non-resident who dies thereafter, the court must allow the action to be continued against his executor or administrator upon motion with such notice as the court deems proper. 2. A summons in an action described in this section may issue in any court in the state having jurisdiction of the subject matter and be served as hereinafter provided. Service of such summons shall be made by mailing a copy thereof to the secretary of state at his office in the city of Albany, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of ten dollars, and such service shall be sufficient service upon such non-resident provided that notice of such service and a copy of the summons and complaint are forthwith sent by or on behalf of the plaintiff to the defendant by certified mail or registered mail with return receipt requested. The plaintiff shall file with the clerk of the court in which the action is pending, or with the judge or justice of such court in case there be no clerk, an affidavit of compliance herewith, a copy of the summons and complaint, and either a return receipt purporting to be signed by the defendant or a person qualified to receive his certified mail or registered mail, in accordance with the rules and customs of the post-office department; or, if acceptance was refused by the defendant or his agent, the original envelope bearing a notation by the postal authorities that receipt was refused, and an affidavit by or on behalf of the plaintiff that notice of such mailing and refusal was forthwith sent to the defendant by ordinary mail; or, if the registered or certified letter was returned to the post office unclaimed, the original envelope bearing a notation by the postal authorities of such mailing and return, an affidavit by or on behalf of the plaintiff that the summons was posted again by ordinary mail and proof of mailing certificate of ordinary mail. Where the summons is mailed to a foreign country, other official proof of the delivery of the mail may be filed in case the post-office department is unable to obtain such a return receipt. The foregoing papers shall be filed within thirty days after the return receipt or other official proof of delivery or the original envelope bearing a notation of refusal, as the case may be, is received by the plaintiff. Service of process shall be complete when such papers are filed. The return receipt or other official proof of delivery shall constitute presumptive evidence that the summons mailed was received by the defendant or a person qualified to receive his certified mail or registered mail; and the notation of refusal shall constitute presumptive evidence that the refusal was by the defendant or his agent. Service of such summons also may be made by mailing a copy thereof to the secretary of state at his office in the city of Albany, or by personally delivering a copy thereof to one of his regularly established offices, with a fee of ten dollars, and by delivering a duplicate copy thereof with the complaint annexed thereto, to the defendant personally without the state by a resident or citizen of the state of New York or a sheriff, under-sheriff, deputy-sheriff or constable of the county or other political subdivision in which the personal service is made, or an officer authorized by the laws of this state, to take acknowledgements of deeds to be recorded in this state, or an attorney and/or counselor at law, solicitor, advocate or barrister duly qualified to practice in the state or country where such service is made, or by a United States marshall or deputy United States marshall. Proof of personal service without the state shall be filed with the clerk of the court in which the action is pending within thirty days after such service. Personal service without the state is complete when proof thereof is filed. The court in which the action is pending may order such extensions as may be necessary to afford the defendant reasonable opportunity to defend the action. 3. As used in this section, the term "vehicle" means a "motor vehicle," "motorcycle," "semitrailer," and "trailer" as defined in sections one hundred twenty-five, one hundred twenty-three, one hundred forty-three and one hundred fifty-six, respectively, of this chapter, whether or not such vehicles are used or operated upon a public highway.

2024 New York LawsVAT - Vehicle and TrafficTitle 2 - Department of Motor Vehicles; CommissionerArticle 3 - Exemption of Non-Resident Owners and Operators254 - Service of Summons on Residents Who Depart From State and on Residents' Executors or Administrators Who Are Nonresidents or Who Depart From State.

§ 254. Service of summons on residents who depart from state and on residents' executors or administrators who are nonresidents or who depart from state. The provisions of section two hundred fifty-three of this chapter shall also apply (a) to a resident who departs from the state subsequent to the accident or collision and remains absent therefrom for thirty days continuously, whether such

absence is intended to be temporary or permanent, and to any executor or administrator of such resident, and (b) to an executor or administrator of a resident if such executor or administrator is a nonresident or if, being a resident, he departs from the state and remains absent therefrom for thirty days continuously, whether such absence is intended to be temporary or permanent.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 10 - Dimensions and Weights of Vehicles385 - Dimensions and Weights of Vehicles.

1. (a) (i) The width of a vehicle, inclusive of load, shall be not more than ninety-six inches plus safety devices, except that the maximum width of a vehicle, inclusive of load, shall be one hundred two inches, plus safety devices, on any qualifying or access highway. Except in a city not wholly included within one county, the maximum width of a vehicle, inclusive of load shall not be more than one hundred two inches plus safety devices on any other highway with traffic lanes designed to be a width of ten feet or more.(ii) If the legislative body of a county not wholly contained within a city determines that any specific segment of the state highway system is not capable of safely accommodating motor vehicles with a width of one hundred two inches, plus safety devices, such body may notify the commissioner of transportation of such determination and request that the commissioner designate such segment as one where the width of motor vehicles may not exceed ninety-six inches, plus safety devices.Before making such notification, such county legislative body shall consult with units of local government within the county in which the specific segment of such system is located, as well as the county legislative body of any county adjacent to the requesting county that might be directly affected by such exemption. As part of such consultations, consideration shall be given to any potential alternative route that:(A) can safely accommodate motor vehicles having the widths set forth in this paragraph; and(B) serves the area in which such segment is located.The county legislative body shall transmit with such notification specific evidence of safety problems that supports such determination and the results of consultations regarding any alternative route.If the commissioner of transportation determines, upon request by a county legislative body or on the commissioner's own initiative, that any segment of the state highway system is not capable of safely accommodating motor vehicles having the widths set forth in this paragraph, the commissioner shall exempt such segment from the provisions of this paragraph.(b) The provisions of paragraph (a) of this subdivision shall not apply to vehicles and implements or combinations thereof, not over twelve feet in width and used solely for farm purposes, except upon any highway at any time on which operation is prohibited by order of the department of transportation.(c) The provisions of paragraph (a) of this subdivision shall not apply to vehicles and implements or combinations thereof, between twelve and up to seventeen feet in width, used solely for farm purposes when the following requirements are met:(i) the vehicle and implement or combination thereof is operated during the period from one-half hour before sunrise to one-half hour after sunset;(ii) red or orange fluorescent flags not smaller than eighteen inches square, and reflectors are placed on the extreme corners of the load;(iii) two flashing amber lights in compliance with regulations prescribed by the commissioner of transportation are attached to the rear of the load or, if the vehicle hauling such implement is equipped with hazard lights which are visible from the rear of the load, such lights are flashing; and(iv) if the vehicle or load extends beyond the center line of a highway or if the vehicle is being operated during any time when, due to rain, sleet, snow, hail, fog, insufficient light, or for any other reason, visibility for a distance of one thousand feet ahead is not clear, the vehicle is preceded by an escort vehicle which is equipped with a warning sign and flashing lights in compliance with regulations prescribed by the commissioner of transportation.(d) The provisions of paragraph (a) of this subdivision shall not apply to vehicles and implements or combinations thereof, not over thirteen feet in width and designed and intended for use solely for farm purposes when owned or in the possession of a dealer in farm implements and equipment, during the same period and under the same conditions and restrictions as set forth in paragraph (b) of this subdivision; nor shall paragraph (a) of this subdivision apply to the transportation of such vehicles, implements and combinations thereof as a load on another vehicle, such vehicle and load not to exceed thirteen feet in width, during the same period and under the same conditions and restrictions as set forth in paragraph (b) of this subdivision.(e) The provisions of paragraph (a) of this subdivision shall not apply to omnibuses or buses used solely for the transportation of children to and from school, but the width of such omnibuses shall not exceed ninety-eight inches.(f) Notwithstanding the provisions of paragraph (a) of this subdivision, the maximum width for omnibuses or buses having a carrying capacity of more than seven passengers shall not exceed one hundred two inches, provided, however, that when omnibuses or buses are operated wholly within a city, such city may, by local law or ordinance but subject to paragraph (h) of this subdivision, limit the width of omnibuses or buses to not more than ninety-eight inches.(g) Notwithstanding the provisions of paragraph (a) of this subdivision, racks for carrying hay, straw or unthreshed grain may have a width of ten feet at the top of the rack. In no case shall the width at the base of the rack exceed one hundred two inches, nor shall the width of a rack exceed one hundred two inches at any portion thereof while on any qualifying highway.(h) Notwithstanding the provisions of paragraph (a) of this subdivision, a house coach used for non-commercial purposes may exceed the maximum width applicable on the highway upon which such house coach is traveling if such excess width is wholly attributable to an awning and its support hardware that is no less than seven and one-half feet off the ground and extends no more than six inches beyond the body of the vehicle on the passenger side and four inches beyond the body of the vehicle on the driver's side. A fifth wheel trailer designed to provide temporary living quarters for recreational, camping, or travel use not to exceed four hundred square feet in the set-up mode and used for non-commercial purposes may exceed the maximum width applicable on the highway upon which such fifth wheel trailer is traveling if such excess width is wholly attributable to an awning and its support hardware that is no less than seven and one-half feet off the ground and extends no more than six inches beyond the body of the vehicle on the passenger side. This provision shall not apply to any city not wholly included within one county except such house coaches and fifth wheel trailers used for non-commercial purposes may be

operated on that portion of interstate ninety-five which connects interstate two hundred eighty-seven with interstate two hundred ninety-five, that portion of interstate two hundred ninety-five which connects interstate ninety-five with interstate four hundred ninety-five and that portion of interstate four hundred ninety-five between interstate ninety-five and the Nassau-Queens county line.(i) The commissioner of transportation may promulgate such rules and regulations as shall be necessary or desirable to effectuate the provisions of this subdivision.2. The height of a vehicle from under side of tire to top of vehicle, inclusive of load, shall be not more than thirteen and one-half feet. Any damage to highways, bridges or highway structures resulting from the use of a vehicle exceeding thirteen feet in height where such excess height is the proximate cause of the accident shall be compensated for by the owner and operator of such vehicle.3. (a) The length of a single vehicle, inclusive of load and bumpers, shall be not more than forty feet unless otherwise provided in this subdivision.(b) The length of a semitrailer or trailer shall not exceed forty-eight feet provided, however, that the length of any trailer or semitrailer being operated in combination with another trailer or semitrailer shall not exceed twenty-eight and one-half feet. A B-train assembly shall be excluded from the measurement of the length of a semitrailer when such semitrailer is in use between the tractor and the second semitrailer in a tractor-semitrailer-semitrailer combination of vehicles.(c) The length of buses having a carrying capacity of more than seven passengers shall not exceed forty-five feet, except that the length of articulated buses shall not exceed sixty-two feet. A house coach shall not exceed forty-five feet in length, provided however, that if a house coach exceeds forty feet in length, its wall-to-wall turning diameter shall not exceed ninety feet three inches and moreover, such house coach shall have permanently affixed to its body on the front passenger side door jamb, a data-plate on which the house coach manufacturer indicates the vehicle identification number and wall-to-wall turning diameter and attests to the fact that the wall-to-wall turning diameter is calculated in accordance with the Society of Automotive Engineers J-695 Standard as such standard existed on June first, two thousand three, regarding turning capability. In the event such a house coach exceeds either twenty-six thousand pounds gross vehicle weight rating, is greater than forty feet in length or exceeds both, the operator of such house coach must have a driver's license with a personal use vehicle endorsement as set forth in subparagraph (vii) of paragraph (b) of subdivision two of section five hundred one of the this chapter. This provision shall not apply to any city not wholly included within one county except such house coaches and fifth wheel trailers used for non-commercial purposes may be operated on that portion of interstate ninety-five which connects interstate two hundred eighty-seven with interstate two hundred ninety-five, that portion of interstate two hundred ninety-five which connects interstate ninety-five with interstate four hundred ninety-five and that portion of interstate four hundred ninety-five between interstate ninety-five and the Nassau-Queens county line.(d) The provisions of this subdivision shall not apply to fire vehicles.(e) Except in any city not wholly included within one county, any semitrailer with a length in excess of forty-eight feet, but not exceeding fifty-three feet, may be operated on any qualifying highway or specifically designated access highway if the distance between the kingpin of the semitrailer and the centerline of the rear axle does not exceed forty-three feet and if the semitrailer is equipped with a rear-end protective device of substantial construction consisting of a continuous lateral beam extending to within four inches of the lateral extremities of the semitrailer and located not more than twenty-two inches from the surface as measured with the vehicle empty and on a level surface. In addition, such vehicles may be operated on that portion of interstate ninety-five which connects interstate two hundred eighty-seven with interstate two hundred ninety-five, that portion of interstate two hundred ninety-five which connects interstate ninety-five with interstate four hundred ninety-five and that portion of interstate four hundred ninety-five between interstate ninety-five and the Nassau-Queens county line.(f) The length of any center panel of an altered livery shall not exceed one hundred inches unless the owner of such vehicle can demonstrate that the livery conforms to all applicable federal and state motor vehicle safety standards at the time of registration in accordance with section four hundred one of this chapter.(g) The length of a specialized material delivery vehicle, inclusive of load and bumpers, shall not be more than forty feet provided, however, that the portion of an attached boom or forklift that extends beyond the rear bumper by not more than five feet shall be excluded from the measurement of the length of a specialized material delivery vehicle. For the purposes of this paragraph, "specialized material delivery vehicle" shall mean a single unit truck having an attached boom or forklift for the purpose of hoisting, swinging, loading or unloading material from such truck. The provisions of this paragraph authorizing the exclusion from the measurement of the length of a specialized material delivery vehicle shall not apply unless the operator of such vehicle holds a valid commercial driver's license as defined by subdivision one of section five hundred one-a of this chapter.* NB There are 2 par (g)'s* (g) The length of a tow truck or car carrier, inclusive of load and bumpers, shall be not more than forty feet, except that a car carrier may have an overhang that extends beyond the rear bumper of such car carrier by not more than three feet and except, further, that a wheel lift that is less than fifteen feet in length shall not be included as part of the length of a tow truck or car carrier when such wheel lift is in use by such tow truck or car carrier to tow another motor vehicle.* NB There are 2 par (g)'s(h) The commissioner of motor vehicles in consultation with the commissioner of transportation may promulgate such rules and regulations as shall be necessary or desirable to effectuate the provisions of this subdivision.4. (a) The total length of a combination of vehicles, inclusive of load and bumpers, shall not be more than sixty-five feet.(b) The provisions of paragraph (a) of this subdivision shall not apply to:1. A combination of vehicles being operated on any qualifying highway or access highway;2. Vehicles of a corporation which is subject to the jurisdiction of the interstate commerce commission, the public service commission or other regulatory body and which are used in the construction, reconstruction, repair or maintenance of its property or facilities, provided that any such vehicle complies with the safety requirements of the laws and regulations of the United States and of this state pertaining to overlength vehicles;3. Vehicles hauling poles, girders, columns, or other similar objects of great length provided that any such vehicle complies with the safety requirements of the laws and regulations of the United States and of this state pertaining to such overlength vehicles;4. Fire vehicles;5. A vehicle or combination of vehicles which is disabled and unable to proceed under its own power and is being towed for a distance not in excess of ten miles

for the purpose of repairs or removal from the highway, except that the distance to the nearest exit of a controlled-access highway shall not be considered in determining such ten mile distance;6. Stinger-steered automobile transporters or stinger-steered boat transporters, while operating on qualifying and access highways. Stinger-steered boat transporters shall not, however, exceed seventy-five feet exclusive of an overhang of not more than three feet on the front and four feet on the rear of the vehicle and stinger-steered automobile transporters shall not exceed eighty feet exclusive of an overhang of not more than four feet on the front and six feet on the rear of the vehicle; and7. A combination of vehicles operating on any qualifying or access highways consisting of a power unit and two trailers or semitrailers with a total weight that shall not exceed twenty-six thousand pounds when the overall length is greater than sixty-five feet but shall not exceed eighty-two feet in which the trailers or semitrailers carry no property and constitute inventory property of a manufacturer, distributor, or dealer of such trailers or semitrailers.(c) Notwithstanding the provisions of paragraph (a) of this subdivision, an overhang of not more than three feet on the front and four feet on the rear of an automobile transporter or an overhang of not more than four feet on the front and six feet on the rear of a stinger-steered automobile transporter or an overhang of not more than three feet on the front and four feet on the rear of a boat transporter or stinger-steered boat transporter shall be permitted.5. In determining the number of wheels and axles on any vehicle or combination of vehicles within the meaning of this section, only two wheels shall be counted for each axle, and axles which are less than forty-six inches apart, from center to center, shall be counted as one axle. However, in the case of multiple tires or multiple wheels, the sum of the widths of all the tires on a wheel or combination of wheels shall be taken in determining tire width.6. The weight per inch width of tire on any one wheel of a single vehicle or a combination of vehicles equipped with pneumatic tires, when loaded, shall be not more than eight hundred pounds.7. The weight on any one wheel of a single vehicle or a combination of vehicles, equipped with pneumatic tires, when loaded, shall be not more than eleven thousand two hundred pounds.8. The weight on any one axle of a single vehicle or a combination of vehicles, equipped with pneumatic tires, when loaded, shall be not more than twenty-two thousand four hundred pounds.9. The weight on any two consecutive axles of a single vehicle or a combination of vehicles, equipped with pneumatic tires, when loaded, and when such axles are spaced less than eight feet from center to center, shall be not more than thirty-six thousand pounds, except where axles are spaced eight feet or greater, but less than ten feet, the weight on those two axles shall not exceed that permitted by paragraph (b) of subdivision ten of this section and, in addition, shall not exceed forty thousand pounds. Axles to be counted as provided in subdivision five of this section.10. A single vehicle or a combination of vehicles having three axles or more and equipped with pneumatic tires, when loaded, may have a total weight on all axles not to exceed thirty-four thousand pounds, plus one thousand pounds for each foot and major fraction of a foot of the distance from the center of the foremost axle to the center of the rearmost axle. Axles to be counted as provided in subdivision five of this section. In no case, however, shall the total weight exceed eighty thousand pounds except for a vehicle if operated by an engine fueled primarily by natural gas which may have a maximum gross weight of up to eighty-two thousand pounds. For any vehicle or combination of vehicles having a total gross weight less than seventy-one thousand pounds, the higher of the following shall apply:(a) the total weight on all axles shall not exceed thirty-four thousand pounds plus one thousand pounds for each foot and major fraction of a foot of the distance from the center of the foremost axle to the center of the rearmost axle, or(b) the overall gross weight on a group of two or more consecutive axles shall not exceed the weight produced by application of the following formula:W = 500 ((LxN)/(N-1) + (12xN)+36) where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet from the center of the foremost axle to the center of the rearmost axle of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more.For any vehicle or combination of vehicles having a total gross weight of seventy-one thousand pounds or greater, paragraph (b) shall apply to determine maximum gross weight which is permitted hereunder.10-a. (a) Notwithstanding the provisions of subdivisions seven, eight, nine, ten, eleven and twelve of this section, the calculation of weight pursuant to such subdivisions shall exclude the actual weight, not to exceed four hundred pounds, of a fully-functioning idle reduction device installed on a vehicle or combination of vehicles that are subject to such subdivisions, provided that the operator of such vehicle: (i) maintains written certification of the actual weight of such device and acceptable proof that it is fully functional; and (ii) provides such certification and proof, upon request, to a law enforcement officer or any other officer or employee authorized to enforce this section. Acceptable proof of the functionality of such device shall consist of written certification from the manufacturer of such idle reduction device, physical demonstration, or any other documentation acceptable to the commissioner of transportation as may be set forth in regulations promulgated by such commissioner after consultation with the commissioner of environmental conservation.(b) For the purposes of this subdivision, the following terms shall have the following meanings: (i) "auxiliary power unit" shall mean an integrated system that (A) provides heat, air conditioning, engine warming, or electricity to components on a vehicle which is subject to the provisions of this section and (B) is certified under part eighty-nine of title forty of the code of federal regulations (as may from time to time be amended) as meeting applicable emission standards; and (ii) "idle reduction device" shall mean an auxiliary power unit or other technology that is used to reduce long-duration idling (as such term is defined in paragraph seven of subdivision (a) of section 16104 of the United States code as may from time to time be amended) and allows for the main drive engine or auxiliary refrigeration engine to be shut down.11. A vehicle or combination of vehicles equipped with any solid rubber tires shall not have weights more than eighty per centum of those permitted in this section for pneumatic tires. Notwithstanding the provisions of this section, vehicles equipped with solid rubber tires and registered in this state prior to January first, nineteen hundred thirty-two shall be permitted to operate until January first, nineteen hundred thirty-three under tire and axle loadings prescribed by chapter four hundred ninety-eight of the laws of nineteen hundred thirty.12. Motor vehicles or vehicles

drawn by motor vehicles when equipped with metal tires shall not have weights more than forty per centum of those permitted in this section for pneumatic tires.13. For the purpose of this section, the width of pneumatic tires shall be ascertained by measuring the greatest width of the tire casing when tire is inflated. The width of solid rubber tires shall be ascertained by measuring the width of the tire base channel or between the flanges of the metal rim, provided that no vehicle equipped with solid rubber tires shall be operated upon a public highway, which has at any point less than one inch of rubber above the top or beyond the flange or rim. The width of metal tires shall be ascertained by measuring the width of contact of the tire with the road surface.14. No person shall operate or move a vehicle or a combination of vehicles over, on or through any bridge or structure on any highway if the weight of such vehicle, or combination of vehicles, and load, is greater than the posted capacity of the structure or exceeds the height of the posted clearance as shown by an official sign.15. Except where inconsistent with federal law, rules and regulations: (a) The commissioner of transportation is hereby authorized to continue to grant permits, and to charge fees therefor, for the operation or movement of a vehicle or combination of vehicles having weights or dimensions which exceed the limitations provided for in this section upon any highway under his or her jurisdiction except that such permit shall not be valid for the operation or movement of such vehicles on any state or other highway within any city not wholly included within one county. Such permits shall be issued in accordance with the terms and conditions contained in rules and regulations governing special hauling permits which have been or shall be promulgated by the commissioner of transportation and which may include, but not be limited to, a requirement that a vehicle or combination of vehicles being issued a permit shall be accompanied by one or more escort vehicles which is being operated by an individual having a valid escort certificate issued by the commissioner. The commissioner of transportation is authorized to promulgate rules and regulations governing the operation, use and equipment of escort vehicles and the duties and responsibilities of the operator of an escort vehicle. Any finding by the commissioner of transportation that an individual has violated such rules and regulations shall be grounds for the cancellation of an individual's escort certificate and a penalty not to exceed five hundred dollars per occurrence for the first violation and not to exceed one thousand dollars per occurrence for each subsequent violation. Prior to issuing such a finding, the commissioner of transportation shall afford an individual the right to a hearing pursuant to section one hundred forty-five of the transportation law. Such rules and regulations shall take into consideration, but shall not be limited to, the safety of the traveling public and the protection of the highways and the environment. Such rules and regulations shall also contain a schedule of fees to be charged for the issuance of such permits which fees shall cover, but shall not be limited to, the costs to the department of transportation for the administration of the permit program, and shall permit the commissioner of transportation to levy a surcharge of up to twenty dollars for the issuance and distribution of special hauling permits at regional offices of the department of transportation. The annual vehicle fee for a permit issued pursuant to subparagraphs (i), (ii), (ii-a) and (iii) of paragraph (f) of this subdivision shall be three hundred sixty dollars for vehicles with less than five axles, seven hundred fifty dollars for vehicles with five or six axles and nine hundred dollars for vehicles with seven or more axles. The annual vehicle fee for a permit issued pursuant to subparagraphs (iv), (v), and (vi) of paragraph (f) of this subdivision shall be four hundred eighty dollars for vehicles with less than five axles and one thousand dollars for vehicles with five or more axles. Additionally, the commissioner shall establish a fee schedule for the permitting of extra non-power combination units that may not exceed twenty-five dollars per vehicle and may offer discounts for multi-trailer registrations. Such fees shall not be charged to municipalities in this state. A permit issued by the commissioner to a municipality pursuant to this subdivision, that would otherwise be annual, shall not expire until such municipality removes such permitted vehicle from operation; provided, however, that any amendment to such permit shall remain subject to the commissioner's approval and nothing contained in this paragraph shall be deemed to alter the authority of the commissioner to revoke any such permit as authorized by this chapter. If the permit has routing requirements, such rules and regulations shall provide that if the routing anticipates the use of highways not under the jurisdiction of the commissioner of transportation, then he or she shall immediately notify the municipality or municipalities, having jurisdiction over such highway that an application for a permit has been received and request comment thereon. Said municipality or municipalities shall not have less than fifteen days to comment. Such rules and regulations shall also contain any other requirements deemed necessary by the commissioner of transportation.(b) Upon application in writing and good cause being shown, the department of transportation may issue a permit pursuant to this subdivision to operate or move a vehicle or a combination of vehicles, the weights or the dimensions of which exceed the limitations provided for in this section upon any highway under its jurisdiction except that such permit shall not be valid for the operation or movement of such vehicles on any state or other highway within any city not wholly included within one county. For any other public highway in any county not wholly included within a city which is not on the state system of highways the authority having jurisdiction over same may issue a similar permit, provided that the fee charged for such permit shall not exceed ten dollars.(c) Upon application in writing and good cause being shown, the city department of transportation of a city not wholly included within one county may issue a permit pursuant to this subdivision to operate or move a vehicle or a combination of vehicles the weights or the dimensions of which exceed the limitations provided for in the rules and regulations of the city department of transportation of such city upon all highways within such city including highways which are on the state system of highways. The rules and regulations of such city department of transportation shall contain a schedule of fees to be charged for the issuance of such permits which fees shall cover, but shall not be limited to, the costs to the city for the administration of the permit program. Such rules and regulations shall also contain any other requirements deemed necessary by the city commissioner of transportation.(d) Except during storms, floods, fires or other public emergencies, no such permit may be issued to include a towing operation involving more than two vehicles except three vehicle combinations consisting of a tractor, semitrailer and trailer or a tractor and two trailers within legal weight and width limits proceeding to or from any qualifying highway or access highway. Every such permit may designate the route to be traversed and contain any other restrictions

or conditions deemed necessary by the issuing authority. Every such permit shall be carried on the vehicle to which it refers and shall be open to the inspection of any peace officer, acting pursuant to his special duties, or police officer, or any other officer or employee authorized to enforce this section. All permits issued shall be revocable by the authority issuing them at the discretion of the authority without a hearing or the necessity of showing cause. Except for a vehicle having a maximum gross weight not exceeding eighty thousand pounds without regard to any axle weight limitation set forth herein or the maximum gross weight established by the formula commonly referred to as the bridge formula as set forth in subdivision ten of this section and except for state or municipally-owned single vehicles engaged in snow and ice control operations, or designed or fitted for snow and ice control operations while engaged in other public works operations on public highways which do not exceed the weight limits contained in subdivision seventeen-a of this section, no permit shall be issued to allow operation or movement of any vehicle or combination of vehicles whose weight exceeds the limitations otherwise prescribed in this section other than an annual permit issued pursuant to paragraph (f) of this subdivision except upon a finding by the department of transportation or the appropriate authority, as the case may be, that the load proposed is of one piece or item or otherwise cannot be separated into units of less weight provided, however, that any such permit issued upon such finding shall not be valid for the operation or movement of such vehicles on any state or other highway within any city not wholly included within one county. Bulk milk may be considered one piece or item.(e) The department of transportation or the issuing authority, as the case may be, shall establish criteria by rule or regulation under which any vehicle, combination of vehicles, or specified cargoes in specified circumstances or specified sites, routing or projects may be considered one piece or item for the purpose of a permit under this subdivision.(f) The department of transportation, or other issuing authority, may issue an annual permit for a vehicle designed and constructed to carry loads that are not of one piece or item, which is registered in this state. Motor carriers having apportioned vehicles registered under the international registration plan must either have a currently valid permit at the time this provision becomes effective or shall have designated New York as its base state or one of the eligible jurisdictions of operation under the international registration plan in order to be eligible to receive a permit issued pursuant to subparagraph (i), (ii) or (ii-a) of this paragraph. No permit issued pursuant to this paragraph shall be valid for the operation or movement of vehicles on any state or other highway within any city not wholly included within one county unless such permit was issued by the city department of transportation of such city.Effective January first, two thousand five, no vehicle or combination of vehicles issued a permit pursuant to this paragraph shall cross a bridge designated as an R-posted bridge by the commissioner of transportation or any other permit issuing authority absent a determination by such commissioner or permit issuing authority that the permit applicant has demonstrated special circumstances warranting the crossing of such bridge or bridges and a determination by such commissioner or permit issuing authority that such bridge or bridges may be crossed safely, provided, however, that in no event shall a vehicle or combination of vehicles issued a permit under this paragraph be permitted to cross a bridge designated as an R-posted bridge if such vehicle or combination of vehicles has a maximum gross weight exceeding one hundred two thousand pounds, and provided further, however, that nothing contained herein shall be deemed to authorize any vehicle or combination of vehicles to cross any such bridge within any city not wholly included within one county unless such vehicle or combination of vehicles has been issued a valid permit by the city department of transportation of such city pursuant to this subdivision.No vehicle having a model year of two thousand six or newer shall be issued a permit pursuant to this paragraph unless each axle of such vehicle or combination of vehicles, other than steerable or trackable axles, is equipped with two tires on each side of the axle, any air pressure controls for lift axles are located outside the cab of the vehicle and are beyond the reach of occupants of the cab while the vehicle is in motion, the weight on any grouping of two or more axles is distributed such that no axle in the grouping carries less than eighty percent of any other axle in the grouping and any liftable axle is steerable or trackable; and, further provided, after December thirty-first, two thousand nineteen, no permit shall be issued pursuant to this paragraph to a vehicle of any model year that does not meet the requirements of this provision, except that such permits may be issued prior to January first, two thousand twenty to a vehicle that does not meet the requirement concerning axle grouping weight distribution, but meets all other requirements of this section.A divisible load permit may only be transferred to a replacement vehicle by the same registrant or transferred with the permitted vehicle as part of the sale or transfer of the permit holder's business; or, if the divisible load permit is issued pursuant to subparagraph (iv), (v) or (vi) of this paragraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess and has been effective for the five years preceding a transfer of such permit, the permit may be transferred with the permitted vehicle in the sale of the permitted vehicle to the holder of a permit issued pursuant to subparagraph (iv), (v) or (vi) of this paragraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess.If a permit holder operates a vehicle or combination of vehicles in violation of any posted weight restriction, the permit issued to such vehicle or combination of vehicles shall be deemed void as of the next day and shall not be reissued for a period of twelve calendar months.Until June thirtieth, nineteen hundred ninety-four, no more than sixteen thousand power units shall be issued annual permits by the department for any twelve-month period in accordance with this paragraph. After June thirtieth, nineteen hundred ninety-four, no more than sixteen thousand five hundred power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, nineteen hundred ninety-five, no more than seventeen thousand power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, two thousand three, no more than twenty-one thousand power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, two thousand five, no more than twenty-two thousand power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, two thousand six, no more than twenty-three thousand power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, two thousand seven, no more than twenty-four thousand power units shall be issued annual permits by the department for

any twelve-month period. After December thirty-first, two thousand eight, no more than twenty-five thousand power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, two thousand sixteen, no more than twenty-seven thousand power units shall be issued annual permits by the department for any twelve-month period.Whenever permit application requests exceed permit availability, the department shall renew annual permits that have been expired for less than four years which meet program requirements, and then shall issue permit applicants having less than three divisible load permits such additional permits as the applicant may request, providing that the total of existing and new permits does not exceed three. Remaining permits shall be allocated by lottery in accordance with procedures established by the commissioner in rules and regulations.The department of transportation may issue a seasonal agricultural permit in accordance with subparagraphs (i), (ii) and (iii) of this paragraph that will be valid for four consecutive months with a fee equal to one-half the annual permit fees established under this subdivision.For a vehicle issued a permit in accordance with subparagraphs (iii), (iv), (v) and (vi) of this paragraph, such a vehicle must have been registered in this state prior to January first, nineteen hundred eighty-six or be a vehicle or combination of vehicles which replace such type of vehicle which was registered in this state prior to such date provided that the manufacturer's recommended maximum gross weight of the replacement vehicle or combination of vehicles does not exceed the weight for which a permit may be issued and the maximum load to be carried on the replacement vehicle or combination of vehicles does not exceed the maximum load which could have been carried on the vehicle being replaced or the registered weight of such vehicle, whichever is lower, in accordance with the following subparagraphs:(i) A permit may be issued for a vehicle having at least three axles and a wheelbase not less than sixteen feet and for a vehicle with a trailer not exceeding forty-eight feet. The maximum gross weight of such a vehicle shall not exceed forty-two thousand five hundred pounds plus one thousand two hundred fifty pounds for each foot and major fraction of a foot of the distance from the center of the foremost axle to the center of the rearmost axle, or one hundred two thousand pounds, whichever is more restrictive provided, however, that any four axle group weight shall not exceed sixty-two thousand pounds, any tridem axle group weight shall not exceed fifty-seven thousand pounds, any tandem axle weight does not exceed forty-seven thousand pounds and any single axle weight shall not exceed twenty-five thousand pounds.Any additional special authorizations contained in a currently valid annual permit shall cease upon the expiration of such current annual permit.(ii) A permit may be issued subject to bridge restrictions for a vehicle or a combination of vehicles having at least six axles and a wheel base of at least thirty-six and one-half feet. The maximum gross weight of such vehicle or combination of vehicles shall not exceed one hundred seven thousand pounds and any tridem axle group weight shall not exceed fifty-eight thousand pounds and any tandem axle group weight shall not exceed forty-eight thousand pounds.(ii-a) A permit may be issued subject to bridge restrictions for a combination of vehicles having at least seven axles and a wheelbase of at least forty-three feet. The maximum gross weight of such combination of vehicles shall not exceed one hundred seventeen thousand pounds, any four axle group weight shall not exceed sixty-three thousand pounds, any tridem axle group weight shall not exceed fifty-eight thousand pounds, any tandem axle group weight shall not exceed forty-eight thousand pounds, and any single axle weight shall not exceed twenty-five thousand pounds.Each axle of such combination of vehicles, other than steerable or trackable axles, shall be equipped with two tires on each side of the axle, any air pressure controls for lift axles shall be located outside the cab of the combination of vehicles and shall be beyond the reach of occupants of the cab while the combination of vehicles is in motion, the weight on any grouping of two or more axles shall be distributed such that no axle in the grouping carries less than eighty percent of any other axle in the grouping, and any liftable axle of such combination of vehicles shall be steerable or trackable.(iii) A permit may be issued for a vehicle having two axles and a wheelbase not less than ten feet, with the maximum gross weight not in excess of one hundred twenty-five percent of the total weight limitation as set forth in subdivision ten of this section. Furthermore, until December thirty-first, nineteen hundred ninety-four, any single rear axle weight shall not exceed twenty-eight thousand pounds. After December thirty-first, nineteen hundred ninety-four, any axle weight shall not exceed twenty-seven thousand pounds.(iv) Within a city not wholly included within one county and the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess, a permit may be issued for a vehicle having at least three axles and a wheelbase not exceeding forty-four feet nor less than seventeen feet or for a vehicle with a trailer not exceeding forty feet.Until December thirty-first, nineteen hundred ninety-four, a permit may only be issued for such a vehicle having a maximum gross weight not exceeding eighty-two thousand pounds and any tandem axle group weight shall not exceed sixty-two thousand pounds.After January first, nineteen hundred ninety-five, the operation of such a vehicle shall be further limited and a permit may only be issued for such a vehicle having a maximum gross weight not exceeding seventy-nine thousand pounds and any tandem axle group weight shall not exceed fifty-nine thousand pounds, and any tridem shall not exceed sixty-four thousand pounds.A permit may be issued only until December thirty-first, nineteen hundred ninety-four for a vehicle having at least three axles and a wheelbase between fifteen and seventeen feet. The maximum gross weight of such a vehicle shall not exceed seventy-three thousand two hundred eighty pounds and any tandem axle group weight shall not exceed fifty-four thousand pounds.No vehicle having a model year of two thousand six or newer shall be issued a permit pursuant to this subparagraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess unless it is equipped with at least four axles, and further provided, after December thirty-first, two thousand fourteen, no permit shall be issued pursuant to this subparagraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess to a vehicle of any model year unless the vehicle is equipped with at least four axles.(v) Within a city not wholly included within one county and the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange or Dutchess, a permit may be issued only until December thirty-first, nineteen hundred ninety-nine for a vehicle or combination of vehicles that has been permitted within the past four years having five axles and a wheelbase of at least thirty-six and one-half feet. The maximum gross weight of such a vehicle or combination of vehicles shall not exceed one hundred five thousand pounds and any tandem axle group weight shall not exceed

fifty-one thousand pounds.Within a city not wholly included within one county and the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess, a permit may be issued for a vehicle or combination of vehicles having at least five axles and a wheelbase of at least thirty feet. The maximum gross weight of such vehicle or combination of vehicles shall not exceed ninety-three thousand pounds and any tridem axle group weight shall not exceed fifty-seven thousand pounds and any tandem axle group weight shall not exceed forty-five thousand pounds.(vi) Within a city not wholly included within one county and the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess, a permit may be issued for a vehicle or combination of vehicles having at least five axles or more and a wheelbase of at least thirty-six and one-half feet, provided such permit contains routing restrictions.Until December thirty-first, nineteen hundred ninety-four, the maximum gross weight of a vehicle or combination of vehicles permitted under this subparagraph shall not exceed one hundred twenty thousand pounds and any tandem or tridem axle group weight shall not exceed sixty-nine thousand pounds, provided, however, that any replacement vehicle or combination of vehicles permitted after the effective date of this subparagraph shall have at least six axles, any tandem axle group shall not exceed fifty thousand pounds and any tridem axle group shall not exceed sixty-nine thousand pounds.After December thirty-first, nineteen hundred ninety-four, the tridem axle group weight of any vehicle or combination of vehicles issued a permit under this subparagraph shall not exceed sixty-seven thousand pounds, any tandem axle group weight shall not exceed fifty thousand pounds and any single axle weight shall not exceed twenty-five thousand seven hundred fifty pounds.After December thirty-first, nineteen hundred ninety-nine, all vehicles issued a permit under this subparagraph must have at least six axles.After December thirty-first, two thousand fourteen, all combinations of vehicles issued a permit under this subparagraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess must have at least seven axles and a wheelbase of at least forty-three feet.After December thirty-first, two thousand six, no permits shall be issued under this subparagraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess for a vehicle or combination of vehicles having less than seven axles or having a wheelbase of less than forty-three feet, provided, however, that permits may be issued for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess for vehicles or combinations of vehicles where the permit applicant demonstrates that the applicant acquired the vehicle or combination of vehicles prior to December thirty-first, two thousand six, and that if the vehicle or combination of vehicles was acquired by the applicant after the effective date of this provision, such vehicle or combination of vehicles is less than fifteen years old. In instances where the application is for a combination of vehicles, the applicant shall demonstrate that the power unit of such combination satisfies the conditions of this subparagraph. In no event shall a permit be issued under this subparagraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess for a vehicle or combination of vehicles having less than seven axles or having a wheelbase of less than forty-three feet after December thirty-first, two thousand fourteen.Except as otherwise provided by this subparagraph for the period ending December thirty-first, two thousand fourteen, after December thirty-first, two thousand three, any combination of vehicles issued a permit under this subparagraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess shall not exceed one hundred twenty thousand pounds, shall have at least seven axles, shall have a wheelbase of at least forty-three feet, and single axle weight shall not exceed twenty-five thousand seven hundred fifty pounds, any tandem axle group weight shall not exceed forty-eight thousand pounds, any tridem axle group weight shall not exceed sixty-three thousand pounds and any four axle group shall not exceed sixty-five thousand pounds.From the date of enactment of this paragraph, permit applications under subparagraphs (i), (ii), (ii-a), (iii), (iv), (v) and (vi) of this paragraph for vehicles registered in this state may be honored by the commissioner of transportation or other appropriate authority. The commissioner of transportation and other appropriate authorities may confer and develop a system through rules and regulations to assure compliance herewith.(g) A sani-van vehicle, as defined in section one hundred forty-one-a of this chapter for which a permit has been issued pursuant to this subdivision is authorized to operate or move on all public highways or bridges within this state in accordance with any weight limitations specified in such permit.(h) In any action brought for damage or destruction of any highway or bridge including an action pursuant to section three hundred twenty of the highway law, there shall be a presumption that the operation of a vehicle or combination of vehicles in excess of the maximum weight limits established by this section or, in a city not wholly included within one county, in excess of the maximum weight limits prescribed by the rules and regulations of the city department of transportation of such city, is the proximate cause of such damage or destruction to the highway bridge or appurtenant structure, whether or not a permit to exceed such weight limits was issued by the appropriate authority.(i) All moneys collected by the commissioner of transportation pursuant to this subdivision shall be deposited by the comptroller into the special obligation reserve and payment account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law.(j) The commissioner of transportation is authorized to conduct hearings with regard to the issuance or revocation of any permit issued by the commissioner of transportation pursuant to this section and relating to the violation of any condition applicable to such permit as provided in subdivision three of section one hundred forty-five of the transportation law. If a permit issued by the department of transportation is seized and the holder of the permit makes a written request to the department of transportation for a hearing, the commissioner of transportation shall schedule a hearing within twenty days of the receipt of such request.(k) Any permit issued pursuant to this section that is seized shall be forwarded to the issuing authority as soon as practicable.15-a. In furtherance of the authority to issue permits pursuant to subdivision fifteen of this section, the department of transportation and the New York state thruway authority are authorized to enter into a cooperative agreement relative to permits to operate or move vehicles or combinations of vehicles the weights or the dimensions of which exceed the limitations otherwise provided for in this section along the thruway system and state highway system, routes 5 and 49 between the relocated thruway interchanges, including the Edic road interchange, and River road in the vicinity of Edic road in the

vicinity of the city of Utica. Permits issued hereunder may be of a joint or reciprocal type for operations or movements on such highway systems and shall not be limited to loads proposed as one piece or item or otherwise cannot be separated into units of less weight.16. The provisions of this section relating to the maximum dimension and weight limitations of vehicles shall not be applicable to any vehicle or combination of vehicles proceeding to or from the New York state thruway while being operated at the following locations, provided, however, that the maximum dimensions and weight limitations of such a vehicle or combination of vehicles are in compliance with those applicable to the New York state thruway;(a) Within a radius of fifteen hundred feet of any New York state thruway toll booth at Fultonville, New York;(b) Within a radius of two thousand feet of any exit or entrance designated B-3 to the New York state thruway, Berkshire section, at New York state route twenty-two;(c) Over a route extending north and south on New York state route 332 between New York state thruway exit no. 44 and its intersection with Collett road, and east and west on Collett road between said intersection and no. 6070 Collett road, a distance of approximately .8 miles.(d) Within a radius of 1.2 miles from New York state thruway toll booth no. 56 on access road to be built between such toll booth no. 56 and the present eastern terminus of route 179 at South Park avenue, over route 179 and old Mile Strip road to the truck terminal entrance on old Mile Strip road at a point approximately two thousand four hundred thirty feet southeast of the intersection of old Mile Strip road and Route 5 as measured along old Mile Strip road, or across Lake Avenue at the northern end of the truck terminal;(e) Within a distance of 1.5 miles measured along that portion of the River Road, New York state touring route 266, also known as state highway 129, lying generally northerly of the South Grand Island Bridges, such distance to be measured from the point where the southernmost access road to New York state thruway station no. 17 intersects with said River Road;(f) Within a distance of two miles measured along New York state route 400, such distance to be measured from the point where said route 400 intersects with the New York state thruway, and .5 miles measured along New York state route 277, such distance to be measured in a northerly direction from the point where New York state route 277 intersects with New York state route 400;(g) Within a distance of .8 miles measured along Walden Avenue in the Town of Cheektowaga, such distance to be measured in a westerly direction from the point where said Walden Avenue intersects with the New York state thruway, .5 miles measured along said Walden Avenue, such distance to be measured in an easterly direction from the point where said Walden Avenue intersects with the New York state thruway, 1,640 feet measured along a roadway purchased by the Town of Cheektowaga from Sorrento Cheese, Inc., such distance to be measured in a southerly direction from the point where said roadway intersects with Walden Avenue, and .9 miles measured along New York state route 240, such distance to be measured in a southerly direction from the point where New York state route 240 intersects with said Walden Avenue;(h) Within a distance of .1 miles measured along Sheridan Drive, New York state route 324, such distance to be measured in an easterly direction from the point where said Sheridan Drive intersects with New York state thruway interchange N-15, and .4 miles measured along Kenmore Avenue, such distance to be measured in a southerly direction from the point where Sheridan Drive intersects with said Kenmore Avenue;(i) Within a distance of .8 miles measured along Dingens street in the city of Buffalo such distance to be measured in a westerly direction from the Ogden street exit of the Niagara section of the New York state thruway;(j) Within a distance of .25 miles along South street in the city of Buffalo between Hamburg street and Louisiana street;(k) Within a distance of .7 miles measured along Louisiana street in the city of Buffalo such distance to be measured in a southerly direction from the Louisiana street entrance of the Niagara section of the New York state thruway; and(l) Within a distance of 1700 feet measured along that portion of the River Road, New York state touring route 266, also known as state highway 129, lying generally southerly of the South Grand Island Bridges, such distance to be measured from the point where the southern most access road to New York state thruway station no. 17 intersects with said River Road; and(m) Within a distance of 0.6 miles extending north along New York state route 233 from a point where such route 233 intersects with the exit or entrance designated number thirty-two of the New York state thruway at Westmoreland in Oneida county.(n) Within a route from the thruway toll booth at the New York state thruway exit 21-B and along the access road to route 9-W, and thence 1500 feet along route 9-W to be measured in a northerly direction from the point where such thruway access road intersects route 9-W.(o) (i) Within a distance of 0.8 miles from exit B-1 of the New York state thruway Berkshire Spur, such distance to be measured in a northerly direction from the point where state route 9 intersects the southern most access ramp leading to the New York state thruway.(ii) Within a distance of 1.6 miles from the exit B-1 of the New York state thruway Berkshire Spur, with such distance being measured in a northerly direction from the point where state route 9 intersects the southern most access ramp leading to the New York state thruway, upon a determination by the commissioner of transportation that the vehicle or combination of vehicles could operate safely upon such route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.(p) Within a distance of .45 miles measured along James E. Casey Drive in the city of Buffalo such distance to be measured in a northerly direction from Dingens street.(q) Within approximately one mile of the thruway toll booth at the New York state thruway exit 23 in a northerly direction along interstate route 787 to the first "Port of Albany" exit, and right on Church street south approximately one-half mile to the south end of the Mobil terminal facility and return from Church street entering interstate route 787 in a southerly direction to interchange 23 of the New York state thruway.(r) On any route designated by the commissioner of transportation within a radius of six thousand six hundred feet of any exit or entrance designated interchange 26 of the New York state thruway, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.* (s) Over a route extending east and west across New York state route 414 from the New York state thruway exit 41 to the terminus of the exit 41 on and off ramps for a distance of approximately 100 feet across route 414 and within approximately .1 miles of the on and off ramp of exit 41 of the New York state thruway. Nothing contained in this provision shall be construed to permit these vehicles or combination of vehicles to turn on to

route 414 or to travel along route 414.* NB There are 2 ■(s)'s* (s) Within a distance of three hundred twenty-five feet, measured along Stew Leonard drive in the city of Yonkers, such distance to be measured in a west-east direction from the point where Stew Leonard drive intersects with the southbound off-ramp and the northbound on-ramp of interchange 6A of the New York state thruway.* NB There are 2 ■(s)'s(t) Over a route extending south on New York state route 332 between New York state thruway exit number 44 and its intersection with Gateway drive and west on Gateway Drive to its intersection with Plastermill Road and east on Plastermill Road to its intersection with Loomis Road and east on Loomis road between said intersection and no. 5923 Loomis road, a distance of approximately 1.6 miles, and west on Loomis road between 5923 Loomis road and its intersection with New York state route 332 and thence north on New York state route 332 to New York state thruway exit number 44, a distance of approximately 1.1 miles, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.(u) Over a route extending north and on New York state route 77 between New York state thruway exit number 48-a and the overpass of the New York state thruway, and south on New York state route 77, a distance of approximately .5 miles, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.(v) Within a distance of approximately one mile from the New York state thruway interchange 24 traveling along interstate route 90 to interchange 2 Washington avenue, and to Washington avenue traveling westbound to Fuller road in a northerly direction to interstate route 90 traveling to interchange 24 of the New York state thruway, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.(w) Within a distance of approximately 1.9 miles from the New York state thruway interchange 25A, traveling in a westbound direction along interstate route 88 to exit 25 to state route 7, and to a left on Becker road traveling in a southbound direction on Becker road for approximately .2 miles to the New York state thruway interchange 25A tandem lot access road, or to the intersection of Becker road and state route 7, and traveling in an eastbound direction for approximately 1.4 miles on state route 7 to the intersection of state route 7 and Dunnsville road and then traveling in a southbound direction on Dunnsville road for approximately .3 miles where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.(x) Within a distance of approximately 2.2 miles from the New York state thruway interchange 34A traveling in a southbound direction along interstate route 481 to interstate 481 exit 5E Kirkville road east along state route 53 Kirkville road in an eastbound direction to interstate route 481 traveling northbound to exit 6 to interchange 34A of the New York state thruway, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.(y) Within a distance of approximately .8 miles from the New York state thruway interchange 35, traveling approximately 200 feet around Carrier circle to traveling northbound on Thompson road for approximately 1000 feet, or traveling southbound on Thompson road approximately 100 feet, to traveling westbound on Tarbell road for approximately .5 miles to reenter at the Dewitt service area of the New York state thruway where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.(z) Within a distance of approximately one mile from the New York state thruway interchange 36 traveling in a southbound direction on interstate 81 to interstate 81 exit 25 7th North street, and traveling eastbound on 7th North street to interstate 81 traveling in a northbound direction to interchange 36 of the New York state thruway, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.(aa) Within a distance of approximately .6 miles from the New York state thruway interchange 39 traveling eastbound on interstate 690 to interstate 690 exit 2 Jones road in a northbound direction to state route 690 north to interchange 39 of the New York state thruway, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.(bb) Within a distance of approximately .5 miles from the New York state thruway interchange 45, traveling on interstate 490 to interstate 490 exit 29, in a southwesterly direction along New York state route 96 to the point where New York state route 96 intersects with the entrance ramp to the New York state thruway interchange 45, and for approximately .2 miles along this entrance ramp to the New York state thruway interchange 45, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.(cc) Within a distance of approximately .6 miles from the New York state thruway interchange 46, traveling in a northeasterly direction on the ramp from the New York state thruway interchange 46 to interstate 390 north exit to New York state route 253, Lehigh Station road, for a distance of approximately .5 miles along the ramp from interstate 390 north exit to New York state route 253, Lehigh Station road, for a distance of approximately .6 miles in a westerly direction along New York state route 253, Lehigh Station road, to the intersection of New York state route 253 with New York state route 15, then for a distance of approximately .6 miles in a southerly direction along New York state route 15, to the New York state thruway interchange 46 maintenance facility entrance, where the commissioner of transportation determines that the

vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.(dd) Within a distance of approximately .3 miles from the New York state thruway interchange 47, traveling on interstate 490 to interstate 490 exit 1, to a distance of approximately .2 miles along the ramp from interstate 490 exit 1, for a distance of approximately .4 miles in a southwesterly direction to the entrance ramp of the New York state thruway interchange 47, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.(ee) Within a distance of approximately .6 miles from the New York state thruway interchange 19, traveling in a westbound direction along route 28 to route 209, and traveling in a southbound direction on route 209 for approximately .1 miles to route 28, and traveling in an eastbound direction on route 28 for approximately .8 miles to the New York state thruway interchange 19 where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.(ff) Within a distance of approximately .5 miles from the New York state thruway interchange 31, traveling onto the ramp to Genesee street south for approximately 2800 feet to Genesee street north for approximately 275 feet to interchange 31 of the New York state thruway where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.(gg) Within a distance of approximately .2 miles from the New York state thruway interchange 33 traveling westbound on state route 365 for approximately 900 feet to interchange 33 of the New York state thruway where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.(hh) Within a distance of approximately .15 miles from the New York state thruway interchange 42 traveling on state route 14 for approximately 750 feet for travel to and from the thruway tandem lot and interchange 42 where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.(ii) Within a distance of approximately .1 miles from the New York state interchange 43 traveling on state route 21 for approximately 600 feet for travel to and from the thruway tandem lot and interchange 43 where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route.17-a. Except over any highway which is a part of a state interstate route:(i) The following weight limits shall apply to any state or municipally owned single vehicle, equipped with pneumatic tires, engaged in snow and ice control operations on public highways, including the stockpiling of materials and abrasives therefor, with a plow, leveling wing, or material hopper installed:(a) The total weight on any one wheel, shall not be more than sixteen thousand pounds.(b) The total weight on a single axle, shall not be more than thirty-two thousand pounds.(c) The total weight on two consecutive axles, when such axles are spaced less than ten feet from center to center, shall not be more than forty-two thousand pounds.(d) The total weight on all axles of a two axle vehicle shall not be more than fifty-two thousand pounds; the total weight on all axles of a three axle vehicle shall not be more than sixty-two thousand pounds.(ii) The overall width of any state or municipally owned single vehicle, equipped with pneumatic tires, engaged in snow and ice control operations on public highways, shall not be more than twenty-five feet.(iii) The following weight limits shall apply to any state or municipally owned single vehicle, equipped with pneumatic tires, designed or fitted for snow and ice control operations, while engaged in other public works operations on public highways:(a) The total weight on any one wheel, shall not be more than sixteen thousand pounds.(b) The total weight on a single axle, shall not be more than thirty-two thousand pounds.(c) The total weight on two consecutive axles, when such axles are spaced less than ten feet from center to center, shall not be more than thirty-eight thousand pounds.(d) The total weight on all axles of a two axle vehicle shall not be more than fifty-two thousand pounds; the total weight on all axles of a three axle vehicle shall not be more than fifty-eight thousand pounds.17-b. Except over any highway which is a part of a state interstate route, the following weight limits shall apply to any fire vehicle equipped with pneumatic tires.(a) The total weight on any one wheel shall not be more than sixteen thousand pounds.(b) The total weight on a single axle shall not be more than thirty-two thousand pounds.(c) The total weight on two consecutive axles, when such axles are spaced less than ten feet from center to center, shall not be more than forty-two thousand pounds.(d) The total weight on all axles of a two axle vehicle shall not be more than fifty-two thousand pounds.18. Except as provided in subdivisions eighteen-a or nineteen of this section, the violation of the provisions of this section including a violation related to the operation, within a city not wholly included within one county, of a vehicle which exceeds the limitations provided for in the rules and regulations of the city department of transportation of such city, shall be punishable by a fine of not less than two hundred nor more than five hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment, for the first offense; by a fine of not less than five hundred nor more than one thousand dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment, for the second or subsequent offense; provided that a sentence or execution thereof for any violation under this subdivision may not be suspended. For any violation of the provisions of this section, including a violation related to the operation, within a city not wholly included within one county, of a vehicle which exceeds the limitations provided for in the rules and regulations of the city department of transportation of such city, the registration of the vehicle may be suspended for a period not to exceed one year whether at the time of the violation the vehicle was in charge of the owner or his agent. The provisions of section five hundred ten of this chapter shall apply to such suspension except as otherwise provided herein.18-a. A violation of the

provisions of subdivisions two or fourteen of this section, where the violation relates to the height of the vehicle, including a violation related to the operation, within a city not wholly included within one county, of a vehicle which exceeds the limitations provided for in the rules and regulations of the city department of transportation of such city, shall be punishable by a fine of not more than one thousand dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment, for the first offense; by a fine of not more than two thousand dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment, for the second or subsequent offense; provided that a sentence or execution thereof for any violation under this subdivision may not be suspended. For any violation of the provisions of subdivisions two or fourteen of this section where the violation relates to the height of the vehicle, including a violation related to the operation, within a city not wholly included within one county, of a vehicle which exceeds the limitations provided for in the rules and regulations of the city department of transportation of such city, the registration of the vehicle may be suspended for a period not to exceed one year whether at the time of the violation the vehicle was in charge of the owner or his agent. The provisions of section five hundred ten of this chapter shall apply to such suspension except as otherwise provided herein.19. (a) A violation of the provisions of subdivision eight, nine, or ten of this section by any vehicle or combination of vehicles whose weight exceeds the weight limitations as set forth in this section, or a violation of such rules and regulations, by any vehicle or combination of vehicles whose weight exceeds the weight limitations as set forth in this section or such rules and regulations, or a violation of the weight limitations specified by permit issued pursuant to subdivision fifteen of this section shall be punishable by fines levied on the registered owner of the vehicle or vehicles, whether at the time of the violation the vehicle was in the charge of the registered owner or the owner's agent or lessee in accordance with the following schedule:Percent of excess weight Amount of fine(percentage)(dollars)greater than less than or equal to0 2.0 1502.0 4.0 3004.0 6.0 4506.0 7.0 5257.0 8.0 6008.0 10.0 75010.0 12.0 95012.0 14.0 1,15014.0 16.0 1,35016.0 18.0 1,55018.0 20.0 1,75020.0 22.0 1,95022.0 24.0 2,15024.0 26.0 2,35026.0 28.0 2,55028.0 30.0 2,75030.0 32.0 2,95032.0 34.0 3,15034.0 36.0 3,35036.0 38.0 3,55038.0 40.0 3,75040.0 3,750or greater plus $125 foreach percentover 40 percent (NOTE: Where the total weight, axle weight or axle grouping weight is greater than seven percent including any applicable enforcement scale tolerance in excess of the limits specified by a permit in areas outside a city not wholly contained in one county, the permit shall be deemed voided and then the amount of fine shall be determined in accordance with the maximum weight which would have been in effect for the operation of such vehicle if the permit to exceed such maximum weight had not been issued.(b) For violations to which the penalties set forth in paragraph (a) of this subdivision apply, in connection with the weighing of a vehicle or combination of vehicles, if it is found that there is a violation of subdivision ten of this section and also of subdivision eight or nine of this section, or both subdivisions eight and nine of this section, there shall be a single fine imposed and the maximum amount of such fine shall not exceed the highest fine that could be imposed under this subdivision.(c) Notwithstanding paragraphs (a) and (b) of this subdivision, a violation of the provisions of subdivision ten of this section in a city not wholly included within one county or of the provisions of the rules or regulations of the city department of transportation setting forth the maximum allowable gross weight for the operation of a vehicle in such city without a permit for such vehicle, by any vehicle or combination of vehicles whose weight exceeds the weight limitations as set forth in this section, or such rules and regulations, or the weight limitations specified by permit issued pursuant to subdivision fifteen of this section (excluding enforcement scale tolerance not to exceed five percent) shall be punishable by fines levied on the registered owner of the vehicle or vehicles, whether at the time of the violation the vehicle was in the charge of the registered owner or his agent or lessee in accordance with the following schedule: Excess Total Weight(pounds) Amount of Finegreater than less than or equal to(dollars)0 2,000 502,000 3,000 753,000 4,000 1004,000 5,000 2005,000 6,000 3006,000 7,000 4007,000 8,000 5008,000 9,000 6009,000 10,000 70010,000 15,000 1,20015,000 20,000 1,70020,000 25,000 2,20025,000 30,000 2,70030,000 35,000 3,20035,000 40,000 3,70040,000 45,000 4,20045,000 50,000 or greater 4,700 (NOTE: Where the excess total weight is greater than the limits specified by a permit, the permit shall be deemed voided and then the amount of fine shall be determined in accordance with the maximum weight which would have been in effect for the operation of such vehicle if the permit to exceed such maximum weight had not been issued.)(d) Notwithstanding paragraphs (a) and (b) of this subdivision, a violation of the provisions of subdivisions eight and nine of this section in a city not wholly included within one county or of the provisions of the rules or regulations of the city department of transportation setting forth the maximum allowable axle or tandem axle weight for the operation of a vehicle in such city without a permit for such vehicle, by any vehicle or combination of vehicles whose weight exceeds the weight limitations as set forth in this section, or such rules or regulations, or the weight limitations specified by permit issued pursuant to subdivision fifteen of this section shall be punishable by fines levied on the registered owner of the vehicle or vehicles, whether at the time of the violation the vehicle was in the charge of the registered owner, or his agent, or lessee, in accordance with the following schedule: Percentage of excess weight(percentage) Amount of Finegreater than less than or equal to(dollars)0 5.0 1005.0 10.0 20010.0 15.0 35015.0 20.0 60020.0 25.0 100025.0 30.0 160030.0 35.0 245035.0 40.0 360040.0 45.0 510045.0 7000 (NOTE: Where the excess axle or axles weight is greater than the limits specified by a permit, the permit shall be deemed voided and then the amount of fine shall be determined in accordance with the maximum weight which would have been in effect for the operation of such vehicle if the permit to exceed such maximum weight had not been issued.)(e) In addition to the fines imposed by paragraphs (a), (c) and (d) of this subdivision, the registration of the vehicle may be suspended for a period not to exceed one year, whether at the time of the violation of this section the vehicle was in charge of the owner or the owner's agent, or lessee. The provisions of section five hundred ten of this chapter shall apply to such suspension, except as otherwise provided herein.(f) If the vehicle is the subject of a permit issued pursuant to paragraph (f) of subdivision fifteen of this section and if the registered owner of a vehicle fails to appear on the return date or subsequent adjourned date of a summons, appearance ticket or notice of violation issued pursuant to this subdivision or fails to pay a fine imposed pursuant to this subdivision, the registration of

the vehicle or the privilege of operating the vehicle in this state shall be suspended for a period not to exceed one year. The suspension shall remain in effect until the registered owner's appearance or payment of the fine. The commissioner or the commissioner's agent may deny a registration application of any other person for the same vehicle where the commissioner has reasonable grounds to believe that such registration will have the effect of defeating the purpose of this paragraph.20. Notwithstanding the provisions of sections three hundred eighty-five, sixteen hundred thirty, sixteen hundred thirty-one, sixteen hundred forty, sixteen hundred forty-two, sixteen hundred fifty and sixteen hundred sixty of this chapter, nor of any other law, statute, ordinance, rule or regulation, the state, a city, county, town, village, public authority, including the port of New York and New Jersey authority, or commission, or any department, agency, subdivision or other entity thereof, shall not enact nor enforce any law, statute, ordinance, rule or regulation with respect to vehicle dimensions or weights which shall violate any of the provisions of the federal surface transportation assistance act of nineteen hundred eighty-two. Any such law, statute, ordinance, rule or regulation which results in a notification of an imminent loss or withholding of federal highway aid to the state shall to the degree inconsistent hereafter be deemed null and void and shall not be enforced.20-a. If a vehicle or combination of vehicles is operated in violation of this section, an appearance ticket or summons may be issued to the registrant of the vehicle, or if a combination of vehicles, to the registrant of the hauling vehicle rather than the operator. In the event the vehicle is operated by a person other than the registrant, any appearance ticket or summons issued to the registrant shall be served upon the operator, who shall be deemed the agent of the registrant for the purpose of receiving such appearance ticket or summons. Such operator-agent shall transmit such ticket or summons to the registrant of the vehicle or the hauling vehicle. If the registrant does not appear on the return date, a notice establishing a new return date and either containing all pertinent information relating to the charge which is contained on the summons or appearance ticket or accompanied by a copy of the information or complaint shall also be mailed by certified or registered mail by or on behalf of the court or administrative tribunal before whom the appearance ticket or summons is returnable to the registrant at the address given on the registration certificate for the vehicle, or if no registration certificate is produced at the time the appearance ticket or summons is issued, to the address of the registrant on file with the department or given to the person issuing the appearance ticket or summons. Whenever proceedings in a court or administrative tribunal of this state result in a conviction for a violation of this section, and the court or administrative tribunal has made the mailing specified herein, the court or administrative tribunal shall levy a mandatory surcharge, in addition to any sentence or other surcharge required or permitted by law, in the amount of thirty dollars. This mandatory surcharge shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the mandatory surcharge by a town or village court, the court shall pay such money to the state comptroller who shall, pursuant to subdivision two of section ninety-nine-a of the state finance law, credit such money to the account of the town or village which sent the mandatory surcharge. If such collecting authority is any other court of the unified system or administrative tribunal it shall, within such period, pay such money to the state comptroller who shall deposit such money into the state treasury. The provisions of this subdivision shall not apply to owner-operators of any motor vehicle or to any motor vehicle or trailer which is registered in the name of a person whose principal business is the lease or rental of motor vehicles or trailers unless the motor vehicle or trailer is being operated by an employee of the registrant or for a community of interest other than the lease or rental agreement between the parties to the lease or rental agreement.21. The court may impose any sentence authorized by this chapter provided, however, any such sentence must include a fine as provided in this section.22. In any case wherein the charge laid before the court alleges a violation of this section, any plea of guilty thereafter entered in satisfaction of such charge must include at least a plea of guilty to a violation of one of the subdivisions of this section. No other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized. Provided, however, if the district attorney upon reviewing the available evidence determines that the charge of a violation of this section is not warranted, or suspension of registration is not, under the circumstances, appropriate he may consent, and the court may allow, a disposition by plea of guilty to that or another charge in satisfaction of such charge and, may waive suspension of registration as required by this section, provided, however, the court must impose at least the minimum fine as authorized in this section for the offense of conviction.23. Except on highways designated as part of the interstate system, the provisions of subdivisions six, seven, eight, nine, ten, eleven and twelve of this section shall not apply to any fire vehicle, as such term is defined in section one hundred fifteen-a of this chapter.24. The provisions of subdivisions six, seven, eight, nine, ten, eleven and twelve of this section shall not apply to any tow truck that is transporting a disabled vehicle from the place where such vehicle became disabled to the nearest appropriate repair facility and has a gross vehicle weight that is equal to or exceeds the gross vehicle weight of the disabled vehicle being transported. (ii) If the legislative body of a county not wholly contained within a city determines that any specific segment of the state highway system is not capable of safely accommodating motor vehicles with a width of one hundred two inches, plus safety devices, such body may notify the commissioner of transportation of such determination and request that the commissioner designate such segment as one where the width of motor vehicles may not exceed ninety-six inches, plus safety devices. Before making such notification, such county legislative body shall consult with units of local government within the county in which the specific segment of such system is located, as well as the county legislative body of any county adjacent to the requesting county that might be directly affected by such exemption. As part of such consultations, consideration shall be given to any potential alternative route that: (A) can safely accommodate motor vehicles having the widths set forth in this paragraph; and (B) serves the area in which such segment is located. The county legislative body shall transmit with such notification specific evidence of safety problems that supports such determination and the results of consultations regarding any alternative route. If the commissioner of transportation determines, upon request by a county legislative body or on the commissioner's own initiative, that any segment of the state highway system is not capable of safely accommodating motor vehicles having the widths set forth in this paragraph, the

commissioner shall exempt such segment from the provisions of this paragraph. (b) The provisions of paragraph (a) of this subdivision shall not apply to vehicles and implements or combinations thereof, not over twelve feet in width and used solely for farm purposes, except upon any highway at any time on which operation is prohibited by order of the department of transportation. (c) The provisions of paragraph (a) of this subdivision shall not apply to vehicles and implements or combinations thereof, between twelve and up to seventeen feet in width, used solely for farm purposes when the following requirements are met: (i) the vehicle and implement or combination thereof is operated during the period from one-half hour before sunrise to one-half hour after sunset; (ii) red or orange fluorescent flags not smaller than eighteen inches square, and reflectors are placed on the extreme corners of the load; (iii) two flashing amber lights in compliance with regulations prescribed by the commissioner of transportation are attached to the rear of the load or, if the vehicle hauling such implement is equipped with hazard lights which are visible from the rear of the load, such lights are flashing; and (iv) if the vehicle or load extends beyond the center line of a highway or if the vehicle is being operated during any time when, due to rain, sleet, snow, hail, fog, insufficient light, or for any other reason, visibility for a distance of one thousand feet ahead is not clear, the vehicle is preceded by an escort vehicle which is equipped with a warning sign and flashing lights in compliance with regulations prescribed by the commissioner of transportation. (d) The provisions of paragraph (a) of this subdivision shall not apply to vehicles and implements or combinations thereof, not over thirteen feet in width and designed and intended for use solely for farm purposes when owned or in the possession of a dealer in farm implements and equipment, during the same period and under the same conditions and restrictions as set forth in paragraph (b) of this subdivision; nor shall paragraph (a) of this subdivision apply to the transportation of such vehicles, implements and combinations thereof as a load on another vehicle, such vehicle and load not to exceed thirteen feet in width, during the same period and under the same conditions and restrictions as set forth in paragraph (b) of this subdivision. (e) The provisions of paragraph (a) of this subdivision shall not apply to omnibuses or buses used solely for the transportation of children to and from school, but the width of such omnibuses shall not exceed ninety-eight inches. (f) Notwithstanding the provisions of paragraph (a) of this subdivision, the maximum width for omnibuses or buses having a carrying capacity of more than seven passengers shall not exceed one hundred two inches, provided, however, that when omnibuses or buses are operated wholly within a city, such city may, by local law or ordinance but subject to paragraph (h) of this subdivision, limit the width of omnibuses or buses to not more than ninety-eight inches. (g) Notwithstanding the provisions of paragraph (a) of this subdivision, racks for carrying hay, straw or unthreshed grain may have a width of ten feet at the top of the rack. In no case shall the width at the base of the rack exceed one hundred two inches, nor shall the width of a rack exceed one hundred two inches at any portion thereof while on any qualifying highway. (h) Notwithstanding the provisions of paragraph (a) of this subdivision, a house coach used for non-commercial purposes may exceed the maximum width applicable on the highway upon which such house coach is traveling if such excess width is wholly attributable to an awning and its support hardware that is no less than seven and one-half feet off the ground and extends no more than six inches beyond the body of the vehicle on the passenger side and four inches beyond the body of the vehicle on the driver's side. A fifth wheel trailer designed to provide temporary living quarters for recreational, camping, or travel use not to exceed four hundred square feet in the set-up mode and used for non-commercial purposes may exceed the maximum width applicable on the highway upon which such fifth wheel trailer is traveling if such excess width is wholly attributable to an awning and its support hardware that is no less than seven and one-half feet off the ground and extends no more than six inches beyond the body of the vehicle on the passenger side. This provision shall not apply to any city not wholly included within one county except such house coaches and fifth wheel trailers used for non-commercial purposes may be operated on that portion of interstate ninety-five which connects interstate two hundred eighty-seven with interstate two hundred ninety-five, that portion of interstate two hundred ninety-five which connects interstate ninety-five with interstate four hundred ninety-five and that portion of interstate four hundred ninety-five between interstate ninety-five and the Nassau-Queens county line. (i) The commissioner of transportation may promulgate such rules and regulations as shall be necessary or desirable to effectuate the provisions of this subdivision. 2. The height of a vehicle from under side of tire to top of vehicle, inclusive of load, shall be not more than thirteen and one-half feet. Any damage to highways, bridges or highway structures resulting from the use of a vehicle exceeding thirteen feet in height where such excess height is the proximate cause of the accident shall be compensated for by the owner and operator of such vehicle. 3. (a) The length of a single vehicle, inclusive of load and bumpers, shall be not more than forty feet unless otherwise provided in this subdivision. (b) The length of a semitrailer or trailer shall not exceed forty-eight feet provided, however, that the length of any trailer or semitrailer being operated in combination with another trailer or semitrailer shall not exceed twenty-eight and one-half feet. A B-train assembly shall be excluded from the measurement of the length of a semitrailer when such semitrailer is in use between the tractor and the second semitrailer in a tractor-semitrailer-semitrailer combination of vehicles. (c) The length of buses having a carrying capacity of more than seven passengers shall not exceed forty-five feet, except that the length of articulated buses shall not exceed sixty-two feet. A house coach shall not exceed forty-five feet in length, provided however, that if a house coach exceeds forty feet in length, its wall-to-wall turning diameter shall not exceed ninety feet three inches and moreover, such house coach shall have permanently affixed to its body on the front passenger side door jamb, a data-plate on which the house coach manufacturer indicates the vehicle identification number and wall-to-wall turning diameter and attests to the fact that the wall-to-wall turning diameter is calculated in accordance with the Society of Automotive Engineers J-695 Standard as such standard existed on June first, two thousand three, regarding turning capability. In the event such a house coach exceeds either twenty-six thousand pounds gross vehicle weight rating, is greater than forty feet in length or exceeds both, the operator of such house coach must have a driver's license with a personal use vehicle endorsement as set forth in subparagraph (vii) of paragraph (b) of subdivision two of section five hundred one of the this chapter. This provision shall not apply to any city not wholly included within one county except such house coaches and fifth wheel trailers

used for non-commercial purposes may be operated on that portion of interstate ninety-five which connects interstate two hundred eighty-seven with interstate two hundred ninety-five, that portion of interstate two hundred ninety-five which connects interstate ninety-five with interstate four hundred ninety-five and that portion of interstate four hundred ninety-five between interstate ninety-five and the Nassau-Queens county line. (d) The provisions of this subdivision shall not apply to fire vehicles. (e) Except in any city not wholly included within one county, any semitrailer with a length in excess of forty-eight feet, but not exceeding fifty-three feet, may be operated on any qualifying highway or specifically designated access highway if the distance between the kingpin of the semitrailer and the centerline of the rear axle does not exceed forty-three feet and if the semitrailer is equipped with a rear-end protective device of substantial construction consisting of a continuous lateral beam extending to within four inches of the lateral extremities of the semitrailer and located not more than twenty-two inches from the surface as measured with the vehicle empty and on a level surface. In addition, such vehicles may be operated on that portion of interstate ninety-five which connects interstate two hundred eighty-seven with interstate two hundred ninety-five, that portion of interstate two hundred ninety-five which connects interstate ninety-five with interstate four hundred ninety-five and that portion of interstate four hundred ninety-five between interstate ninety-five and the Nassau-Queens county line. (f) The length of any center panel of an altered livery shall not exceed one hundred inches unless the owner of such vehicle can demonstrate that the livery conforms to all applicable federal and state motor vehicle safety standards at the time of registration in accordance with section four hundred one of this chapter. (g) The length of a specialized material delivery vehicle, inclusive of load and bumpers, shall not be more than forty feet provided, however, that the portion of an attached boom or forklift that extends beyond the rear bumper by not more than five feet shall be excluded from the measurement of the length of a specialized material delivery vehicle. For the purposes of this paragraph, "specialized material delivery vehicle" shall mean a single unit truck having an attached boom or forklift for the purpose of hoisting, swinging, loading or unloading material from such truck. The provisions of this paragraph authorizing the exclusion from the measurement of the length of a specialized material delivery vehicle shall not apply unless the operator of such vehicle holds a valid commercial driver's license as defined by subdivision one of section five hundred one-a of this chapter. * NB There are 2 par (g)'s * (g) The length of a tow truck or car carrier, inclusive of load and bumpers, shall be not more than forty feet, except that a car carrier may have an overhang that extends beyond the rear bumper of such car carrier by not more than three feet and except, further, that a wheel lift that is less than fifteen feet in length shall not be included as part of the length of a tow truck or car carrier when such wheel lift is in use by such tow truck or car carrier to tow another motor vehicle. * NB There are 2 par (g)'s (h) The commissioner of motor vehicles in consultation with the commissioner of transportation may promulgate such rules and regulations as shall be necessary or desirable to effectuate the provisions of this subdivision. 4. (a) The total length of a combination of vehicles, inclusive of load and bumpers, shall not be more than sixty-five feet. (b) The provisions of paragraph (a) of this subdivision shall not apply to: 1. A combination of vehicles being operated on any qualifying highway or access highway; 2. Vehicles of a corporation which is subject to the jurisdiction of the interstate commerce commission, the public service commission or other regulatory body and which are used in the construction, reconstruction, repair or maintenance of its property or facilities, provided that any such vehicle complies with the safety requirements of the laws and regulations of the United States and of this state pertaining to overlength vehicles; 3. Vehicles hauling poles, girders, columns, or other similar objects of great length provided that any such vehicle complies with the safety requirements of the laws and regulations of the United States and of this state pertaining to such overlength vehicles; 4. Fire vehicles; 5. A vehicle or combination of vehicles which is disabled and unable to proceed under its own power and is being towed for a distance not in excess of ten miles for the purpose of repairs or removal from the highway, except that the distance to the nearest exit of a controlled-access highway shall not be considered in determining such ten mile distance; 6. Stinger-steered automobile transporters or stinger-steered boat transporters, while operating on qualifying and access highways. Stinger-steered boat transporters shall not, however, exceed seventy-five feet exclusive of an overhang of not more than three feet on the front and four feet on the rear of the vehicle and stinger-steered automobile transporters shall not exceed eighty feet exclusive of an overhang of not more than four feet on the front and six feet on the rear of the vehicle; and 7. A combination of vehicles operating on any qualifying or access highways consisting of a power unit and two trailers or semitrailers with a total weight that shall not exceed twenty-six thousand pounds when the overall length is greater than sixty-five feet but shall not exceed eighty-two feet in which the trailers or semitrailers carry no property and constitute inventory property of a manufacturer, distributor, or dealer of such trailers or semitrailers. (c) Notwithstanding the provisions of paragraph (a) of this subdivision, an overhang of not more than three feet on the front and four feet on the rear of an automobile transporter or an overhang of not more than four feet on the front and six feet on the rear of a stinger-steered automobile transporter or an overhang of not more than three feet on the front and four feet on the rear of a boat transporter or stinger-steered boat transporter shall be permitted. 5. In determining the number of wheels and axles on any vehicle or combination of vehicles within the meaning of this section, only two wheels shall be counted for each axle, and axles which are less than forty-six inches apart, from center to center, shall be counted as one axle. However, in the case of multiple tires or multiple wheels, the sum of the widths of all the tires on a wheel or combination of wheels shall be taken in determining tire width. 6. The weight per inch width of tire on any one wheel of a single vehicle or a combination of vehicles equipped with pneumatic tires, when loaded, shall be not more than eight hundred pounds. 7. The weight on any one wheel of a single vehicle or a combination of vehicles, equipped with pneumatic tires, when loaded, shall be not more than eleven thousand two hundred pounds. 8. The weight on any one axle of a single vehicle or a combination of vehicles, equipped with pneumatic tires, when loaded, shall be not more than twenty-two thousand four hundred pounds. 9. The weight on any two consecutive axles of a single vehicle or a combination of vehicles, equipped with pneumatic tires, when loaded, and when such axles are spaced less than eight feet from center to center, shall be not more than thirty-six thousand pounds, except where axles are spaced eight feet or

greater, but less than ten feet, the weight on those two axles shall not exceed that permitted by paragraph (b) of subdivision ten of this section and, in addition, shall not exceed forty thousand pounds. Axles to be counted as provided in subdivision five of this section. 10. A single vehicle or a combination of vehicles having three axles or more and equipped with pneumatic tires, when loaded, may have a total weight on all axles not to exceed thirty-four thousand pounds, plus one thousand pounds for each foot and major fraction of a foot of the distance from the center of the foremost axle to the center of the rearmost axle. Axles to be counted as provided in subdivision five of this section. In no case, however, shall the total weight exceed eighty thousand pounds except for a vehicle if operated by an engine fueled primarily by natural gas which may have a maximum gross weight of up to eighty-two thousand pounds. For any vehicle or combination of vehicles having a total gross weight less than seventy-one thousand pounds, the higher of the following shall apply: (a) the total weight on all axles shall not exceed thirty-four thousand pounds plus one thousand pounds for each foot and major fraction of a foot of the distance from the center of the foremost axle to the center of the rearmost axle, or (b) the overall gross weight on a group of two or more consecutive axles shall not exceed the weight produced by application of the following formula: W = 500 ((LxN)/(N-1) + (12xN)+36) where W equals overall gross weight on any group of two or more consecutive axles to the nearest five hundred pounds, L equals distance in feet from the center of the foremost axle to the center of the rearmost axle of any group of two or more consecutive axles, and N equals number of axles in group under consideration, except that two consecutive sets of tandem axles may carry a gross load of thirty-four thousand pounds each providing the overall distance between the first and last axles of such consecutive sets of tandem axles is thirty-six feet or more. For any vehicle or combination of vehicles having a total gross weight of seventy-one thousand pounds or greater, paragraph (b) shall apply to determine maximum gross weight which is permitted hereunder. 10-a. (a) Notwithstanding the provisions of subdivisions seven, eight, nine, ten, eleven and twelve of this section, the calculation of weight pursuant to such subdivisions shall exclude the actual weight, not to exceed four hundred pounds, of a fully-functioning idle reduction device installed on a vehicle or combination of vehicles that are subject to such subdivisions, provided that the operator of such vehicle: (i) maintains written certification of the actual weight of such device and acceptable proof that it is fully functional; and (ii) provides such certification and proof, upon request, to a law enforcement officer or any other officer or employee authorized to enforce this section. Acceptable proof of the functionality of such device shall consist of written certification from the manufacturer of such idle reduction device, physical demonstration, or any other documentation acceptable to the commissioner of transportation as may be set forth in regulations promulgated by such commissioner after consultation with the commissioner of environmental conservation. (b) For the purposes of this subdivision, the following terms shall have the following meanings: (i) "auxiliary power unit" shall mean an integrated system that (A) provides heat, air conditioning, engine warming, or electricity to components on a vehicle which is subject to the provisions of this section and (B) is certified under part eighty-nine of title forty of the code of federal regulations (as may from time to time be amended) as meeting applicable emission standards; and (ii) "idle reduction device" shall mean an auxiliary power unit or other technology that is used to reduce long-duration idling (as such term is defined in paragraph seven of subdivision (a) of section 16104 of the United States code as may from time to time be amended) and allows for the main drive engine or auxiliary refrigeration engine to be shut down. 11. A vehicle or combination of vehicles equipped with any solid rubber tires shall not have weights more than eighty per centum of those permitted in this section for pneumatic tires. Notwithstanding the provisions of this section, vehicles equipped with solid rubber tires and registered in this state prior to January first, nineteen hundred thirty-two shall be permitted to operate until January first, nineteen hundred thirty-three under tire and axle loadings prescribed by chapter four hundred ninety-eight of the laws of nineteen hundred thirty. 12. Motor vehicles or vehicles drawn by motor vehicles when equipped with metal tires shall not have weights more than forty per centum of those permitted in this section for pneumatic tires. 13. For the purpose of this section, the width of pneumatic tires shall be ascertained by measuring the greatest width of the tire casing when tire is inflated. The width of solid rubber tires shall be ascertained by measuring the width of the tire base channel or between the flanges of the metal rim, provided that no vehicle equipped with solid rubber tires shall be operated upon a public highway, which has at any point less than one inch of rubber above the top or beyond the flange or rim. The width of metal tires shall be ascertained by measuring the width of contact of the tire with the road surface. 14. No person shall operate or move a vehicle or a combination of vehicles over, on or through any bridge or structure on any highway if the weight of such vehicle, or combination of vehicles, and load, is greater than the posted capacity of the structure or exceeds the height of the posted clearance as shown by an official sign. 15. Except where inconsistent with federal law, rules and regulations: (a) The commissioner of transportation is hereby authorized to continue to grant permits, and to charge fees therefor, for the operation or movement of a vehicle or combination of vehicles having weights or dimensions which exceed the limitations provided for in this section upon any highway under his or her jurisdiction except that such permit shall not be valid for the operation or movement of such vehicles on any state or other highway within any city not wholly included within one county. Such permits shall be issued in accordance with the terms and conditions contained in rules and regulations governing special hauling permits which have been or shall be promulgated by the commissioner of transportation and which may include, but not be limited to, a requirement that a vehicle or combination of vehicles being issued a permit shall be accompanied by one or more escort vehicles which is being operated by an individual having a valid escort certificate issued by the commissioner. The commissioner of transportation is authorized to promulgate rules and regulations governing the operation, use and equipment of escort vehicles and the duties and responsibilities of the operator of an escort vehicle. Any finding by the commissioner of transportation that an individual has violated such rules and regulations shall be grounds for the cancellation of an individual's escort certificate and a penalty not to exceed five hundred dollars per occurrence for the first violation and not to exceed one thousand dollars per occurrence for each subsequent violation. Prior to issuing such a finding, the commissioner of transportation shall afford an individual the right to a hearing pursuant to section one hundred forty-five of the transportation law.

Such rules and regulations shall take into consideration, but shall not be limited to, the safety of the traveling public and the protection of the highways and the environment. Such rules and regulations shall also contain a schedule of fees to be charged for the issuance of such permits which fees shall cover, but shall not be limited to, the costs to the department of transportation for the administration of the permit program, and shall permit the commissioner of transportation to levy a surcharge of up to twenty dollars for the issuance and distribution of special hauling permits at regional offices of the department of transportation. The annual vehicle fee for a permit issued pursuant to subparagraphs (i), (ii), (ii-a) and (iii) of paragraph (f) of this subdivision shall be three hundred sixty dollars for vehicles with less than five axles, seven hundred fifty dollars for vehicles with five or six axles and nine hundred dollars for vehicles with seven or more axles. The annual vehicle fee for a permit issued pursuant to subparagraphs (iv), (v), and (vi) of paragraph (f) of this subdivision shall be four hundred eighty dollars for vehicles with less than five axles and one thousand dollars for vehicles with five or more axles. Additionally, the commissioner shall establish a fee schedule for the permitting of extra non-power combination units that may not exceed twenty-five dollars per vehicle and may offer discounts for multi-trailer registrations. Such fees shall not be charged to municipalities in this state. A permit issued by the commissioner to a municipality pursuant to this subdivision, that would otherwise be annual, shall not expire until such municipality removes such permitted vehicle from operation; provided, however, that any amendment to such permit shall remain subject to the commissioner's approval and nothing contained in this paragraph shall be deemed to alter the authority of the commissioner to revoke any such permit as authorized by this chapter. If the permit has routing requirements, such rules and regulations shall provide that if the routing anticipates the use of highways not under the jurisdiction of the commissioner of transportation, then he or she shall immediately notify the municipality or municipalities, having jurisdiction over such highway that an application for a permit has been received and request comment thereon. Said municipality or municipalities shall not have less than fifteen days to comment. Such rules and regulations shall also contain any other requirements deemed necessary by the commissioner of transportation. (b) Upon application in writing and good cause being shown, the department of transportation may issue a permit pursuant to this subdivision to operate or move a vehicle or a combination of vehicles, the weights or the dimensions of which exceed the limitations provided for in this section upon any highway under its jurisdiction except that such permit shall not be valid for the operation or movement of such vehicles on any state or other highway within any city not wholly included within one county. For any other public highway in any county not wholly included within a city which is not on the state system of highways the authority having jurisdiction over same may issue a similar permit, provided that the fee charged for such permit shall not exceed ten dollars. (c) Upon application in writing and good cause being shown, the city department of transportation of a city not wholly included within one county may issue a permit pursuant to this subdivision to operate or move a vehicle or a combination of vehicles the weights or the dimensions of which exceed the limitations provided for in the rules and regulations of the city department of transportation of such city upon all highways within such city including highways which are on the state system of highways. The rules and regulations of such city department of transportation shall contain a schedule of fees to be charged for the issuance of such permits which fees shall cover, but shall not be limited to, the costs to the city for the administration of the permit program. Such rules and regulations shall also contain any other requirements deemed necessary by the city commissioner of transportation. (d) Except during storms, floods, fires or other public emergencies, no such permit may be issued to include a towing operation involving more than two vehicles except three vehicle combinations consisting of a tractor, semitrailer and trailer or a tractor and two trailers within legal weight and width limits proceeding to or from any qualifying highway or access highway. Every such permit may designate the route to be traversed and contain any other restrictions or conditions deemed necessary by the issuing authority. Every such permit shall be carried on the vehicle to which it refers and shall be open to the inspection of any peace officer, acting pursuant to his special duties, or police officer, or any other officer or employee authorized to enforce this section. All permits issued shall be revocable by the authority issuing them at the discretion of the authority without a hearing or the necessity of showing cause. Except for a vehicle having a maximum gross weight not exceeding eighty thousand pounds without regard to any axle weight limitation set forth herein or the maximum gross weight established by the formula commonly referred to as the bridge formula as set forth in subdivision ten of this section and except for state or municipally-owned single vehicles engaged in snow and ice control operations, or designed or fitted for snow and ice control operations while engaged in other public works operations on public highways which do not exceed the weight limits contained in subdivision seventeen-a of this section, no permit shall be issued to allow operation or movement of any vehicle or combination of vehicles whose weight exceeds the limitations otherwise prescribed in this section other than an annual permit issued pursuant to paragraph (f) of this subdivision except upon a finding by the department of transportation or the appropriate authority, as the case may be, that the load proposed is of one piece or item or otherwise cannot be separated into units of less weight provided, however, that any such permit issued upon such finding shall not be valid for the operation or movement of such vehicles on any state or other highway within any city not wholly included within one county. Bulk milk may be considered one piece or item. (e) The department of transportation or the issuing authority, as the case may be, shall establish criteria by rule or regulation under which any vehicle, combination of vehicles, or specified cargoes in specified circumstances or specified sites, routing or projects may be considered one piece or item for the purpose of a permit under this subdivision. (f) The department of transportation, or other issuing authority, may issue an annual permit for a vehicle designed and constructed to carry loads that are not of one piece or item, which is registered in this state. Motor carriers having apportioned vehicles registered under the international registration plan must either have a currently valid permit at the time this provision becomes effective or shall have designated New York as its base state or one of the eligible jurisdictions of operation under the international registration plan in order to be eligible to receive a permit issued pursuant to subparagraph (i), (ii) or (ii-a) of this paragraph. No permit issued pursuant to this paragraph shall be valid for the operation or movement of vehicles on any state or other highway within any city not wholly

included within one county unless such permit was issued by the city department of transportation of such city. Effective January first, two thousand five, no vehicle or combination of vehicles issued a permit pursuant to this paragraph shall cross a bridge designated as an R-posted bridge by the commissioner of transportation or any other permit issuing authority absent a determination by such commissioner or permit issuing authority that the permit applicant has demonstrated special circumstances warranting the crossing of such bridge or bridges and a determination by such commissioner or permit issuing authority that such bridge or bridges may be crossed safely, provided, however, that in no event shall a vehicle or combination of vehicles issued a permit under this paragraph be permitted to cross a bridge designated as an R-posted bridge if such vehicle or combination of vehicles has a maximum gross weight exceeding one hundred two thousand pounds, and provided further, however, that nothing contained herein shall be deemed to authorize any vehicle or combination of vehicles to cross any such bridge within any city not wholly included within one county unless such vehicle or combination of vehicles has been issued a valid permit by the city department of transportation of such city pursuant to this subdivision. No vehicle having a model year of two thousand six or newer shall be issued a permit pursuant to this paragraph unless each axle of such vehicle or combination of vehicles, other than steerable or trackable axles, is equipped with two tires on each side of the axle, any air pressure controls for lift axles are located outside the cab of the vehicle and are beyond the reach of occupants of the cab while the vehicle is in motion, the weight on any grouping of two or more axles is distributed such that no axle in the grouping carries less than eighty percent of any other axle in the grouping and any liftable axle is steerable or trackable; and, further provided, after December thirty-first, two thousand nineteen, no permit shall be issued pursuant to this paragraph to a vehicle of any model year that does not meet the requirements of this provision, except that such permits may be issued prior to January first, two thousand twenty to a vehicle that does not meet the requirement concerning axle grouping weight distribution, but meets all other requirements of this section. A divisible load permit may only be transferred to a replacement vehicle by the same registrant or transferred with the permitted vehicle as part of the sale or transfer of the permit holder's business; or, if the divisible load permit is issued pursuant to subparagraph (iv), (v) or (vi) of this paragraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess and has been effective for the five years preceding a transfer of such permit, the permit may be transferred with the permitted vehicle in the sale of the permitted vehicle to the holder of a permit issued pursuant to subparagraph (iv), (v) or (vi) of this paragraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess. If a permit holder operates a vehicle or combination of vehicles in violation of any posted weight restriction, the permit issued to such vehicle or combination of vehicles shall be deemed void as of the next day and shall not be reissued for a period of twelve calendar months. Until June thirtieth, nineteen hundred ninety-four, no more than sixteen thousand power units shall be issued annual permits by the department for any twelve-month period in accordance with this paragraph. After June thirtieth, nineteen hundred ninety-four, no more than sixteen thousand five hundred power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, nineteen hundred ninety-five, no more than seventeen thousand power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, two thousand three, no more than twenty-one thousand power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, two thousand five, no more than twenty-two thousand power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, two thousand six, no more than twenty-three thousand power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, two thousand seven, no more than twenty-four thousand power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, two thousand eight, no more than twenty-five thousand power units shall be issued annual permits by the department for any twelve-month period. After December thirty-first, two thousand sixteen, no more than twenty-seven thousand power units shall be issued annual permits by the department for any twelve-month period. Whenever permit application requests exceed permit availability, the department shall renew annual permits that have been expired for less than four years which meet program requirements, and then shall issue permit applicants having less than three divisible load permits such additional permits as the applicant may request, providing that the total of existing and new permits does not exceed three. Remaining permits shall be allocated by lottery in accordance with procedures established by the commissioner in rules and regulations. The department of transportation may issue a seasonal agricultural permit in accordance with subparagraphs (i), (ii) and (iii) of this paragraph that will be valid for four consecutive months with a fee equal to one-half the annual permit fees established under this subdivision. For a vehicle issued a permit in accordance with subparagraphs (iii), (iv), (v) and (vi) of this paragraph, such a vehicle must have been registered in this state prior to January first, nineteen hundred eighty-six or be a vehicle or combination of vehicles which replace such type of vehicle which was registered in this state prior to such date provided that the manufacturer's recommended maximum gross weight of the replacement vehicle or combination of vehicles does not exceed the weight for which a permit may be issued and the maximum load to be carried on the replacement vehicle or combination of vehicles does not exceed the maximum load which could have been carried on the vehicle being replaced or the registered weight of such vehicle, whichever is lower, in accordance with the following subparagraphs: (i) A permit may be issued for a vehicle having at least three axles and a wheelbase not less than sixteen feet and for a vehicle with a trailer not exceeding forty-eight feet. The maximum gross weight of such a vehicle shall not exceed forty-two thousand five hundred pounds plus one thousand two hundred fifty pounds for each foot and major fraction of a foot of the distance from the center of the foremost axle to the center of the rearmost axle, or one hundred two thousand pounds, whichever is more restrictive provided, however, that any four axle group weight shall not exceed sixty-two thousand pounds, any tridem axle group weight shall not exceed fifty-seven thousand pounds, any tandem axle weight does not exceed forty-seven thousand pounds and any single axle weight shall not exceed twenty-five thousand pounds. Any additional special authorizations contained in a currently valid annual permit shall cease upon the expiration of such current annual permit. (ii)

A permit may be issued subject to bridge restrictions for a vehicle or a combination of vehicles having at least six axles and a wheel base of at least thirty-six and one-half feet. The maximum gross weight of such vehicle or combination of vehicles shall not exceed one hundred seven thousand pounds and any tridem axle group weight shall not exceed fifty-eight thousand pounds and any tandem axle group weight shall not exceed forty-eight thousand pounds. (ii-a) A permit may be issued subject to bridge restrictions for a combination of vehicles having at least seven axles and a wheelbase of at least forty-three feet. The maximum gross weight of such combination of vehicles shall not exceed one hundred seventeen thousand pounds, any four axle group weight shall not exceed sixty-three thousand pounds, any tridem axle group weight shall not exceed fifty-eight thousand pounds, any tandem axle group weight shall not exceed forty-eight thousand pounds, and any single axle weight shall not exceed twenty-five thousand pounds. Each axle of such combination of vehicles, other than steerable or trackable axles, shall be equipped with two tires on each side of the axle, any air pressure controls for lift axles shall be located outside the cab of the combination of vehicles and shall be beyond the reach of occupants of the cab while the combination of vehicles is in motion, the weight on any grouping of two or more axles shall be distributed such that no axle in the grouping carries less than eighty percent of any other axle in the grouping, and any liftable axle of such combination of vehicles shall be steerable or trackable. (iii) A permit may be issued for a vehicle having two axles and a wheelbase not less than ten feet, with the maximum gross weight not in excess of one hundred twenty-five percent of the total weight limitation as set forth in subdivision ten of this section. Furthermore, until December thirty-first, nineteen hundred ninety-four, any single rear axle weight shall not exceed twenty-eight thousand pounds. After December thirty-first, nineteen hundred ninety-four, any axle weight shall not exceed twenty-seven thousand pounds. (iv) Within a city not wholly included within one county and the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess, a permit may be issued for a vehicle having at least three axles and a wheelbase not exceeding forty-four feet nor less than seventeen feet or for a vehicle with a trailer not exceeding forty feet. Until December thirty-first, nineteen hundred ninety-four, a permit may only be issued for such a vehicle having a maximum gross weight not exceeding eighty-two thousand pounds and any tandem axle group weight shall not exceed sixty-two thousand pounds. After January first, nineteen hundred ninety-five, the operation of such a vehicle shall be further limited and a permit may only be issued for such a vehicle having a maximum gross weight not exceeding seventy-nine thousand pounds and any tandem axle group weight shall not exceed fifty-nine thousand pounds, and any tridem shall not exceed sixty-four thousand pounds. A permit may be issued only until December thirty-first, nineteen hundred ninety-four for a vehicle having at least three axles and a wheelbase between fifteen and seventeen feet. The maximum gross weight of such a vehicle shall not exceed seventy-three thousand two hundred eighty pounds and any tandem axle group weight shall not exceed fifty-four thousand pounds. No vehicle having a model year of two thousand six or newer shall be issued a permit pursuant to this subparagraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess unless it is equipped with at least four axles, and further provided, after December thirty-first, two thousand fourteen, no permit shall be issued pursuant to this subparagraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess to a vehicle of any model year unless the vehicle is equipped with at least four axles. (v) Within a city not wholly included within one county and the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange or Dutchess, a permit may be issued only until December thirty-first, nineteen hundred ninety-nine for a vehicle or combination of vehicles that has been permitted within the past four years having five axles and a wheelbase of at least thirty-six and one-half feet. The maximum gross weight of such a vehicle or combination of vehicles shall not exceed one hundred five thousand pounds and any tandem axle group weight shall not exceed fifty-one thousand pounds. Within a city not wholly included within one county and the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess, a permit may be issued for a vehicle or combination of vehicles having at least five axles and a wheelbase of at least thirty feet. The maximum gross weight of such vehicle or combination of vehicles shall not exceed ninety-three thousand pounds and any tridem axle group weight shall not exceed fifty-seven thousand pounds and any tandem axle group weight shall not exceed forty-five thousand pounds. (vi) Within a city not wholly included within one county and the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess, a permit may be issued for a vehicle or combination of vehicles having at least five axles or more and a wheelbase of at least thirty-six and one-half feet, provided such permit contains routing restrictions. Until December thirty-first, nineteen hundred ninety-four, the maximum gross weight of a vehicle or combination of vehicles permitted under this subparagraph shall not exceed one hundred twenty thousand pounds and any tandem or tridem axle group weight shall not exceed sixty-nine thousand pounds, provided, however, that any replacement vehicle or combination of vehicles permitted after the effective date of this subparagraph shall have at least six axles, any tandem axle group shall not exceed fifty thousand pounds and any tridem axle group shall not exceed sixty-nine thousand pounds. After December thirty-first, nineteen hundred ninety-four, the tridem axle group weight of any vehicle or combination of vehicles issued a permit under this subparagraph shall not exceed sixty-seven thousand pounds, any tandem axle group weight shall not exceed fifty thousand pounds and any single axle weight shall not exceed twenty-five thousand seven hundred fifty pounds. After December thirty-first, nineteen hundred ninety-nine, all vehicles issued a permit under this subparagraph must have at least six axles. After December thirty-first, two thousand fourteen, all combinations of vehicles issued a permit under this subparagraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess must have at least seven axles and a wheelbase of at least forty-three feet. After December thirty-first, two thousand six, no permits shall be issued under this subparagraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess for a vehicle or combination of vehicles having less than seven axles or having a wheelbase of less than forty-three feet, provided, however, that permits may be issued for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess for vehicles or combinations of vehicles where the permit applicant demonstrates that the applicant acquired the vehicle or combination of vehicles prior to December thirty-first,

two thousand six, and that if the vehicle or combination of vehicles was acquired by the applicant after the effective date of this provision, such vehicle or combination of vehicles is less than fifteen years old. In instances where the application is for a combination of vehicles, the applicant shall demonstrate that the power unit of such combination satisfies the conditions of this subparagraph. In no event shall a permit be issued under this subparagraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess for a vehicle or combination of vehicles having less than seven axles or having a wheelbase of less than forty-three feet after December thirty-first, two thousand fourteen. Except as otherwise provided by this subparagraph for the period ending December thirty-first, two thousand fourteen, after December thirty-first, two thousand three, any combination of vehicles issued a permit under this subparagraph for use within the counties of Westchester, Rockland, Nassau, Suffolk, Putnam, Orange and Dutchess shall not exceed one hundred twenty thousand pounds, shall have at least seven axles, shall have a wheelbase of at least forty-three feet, and single axle weight shall not exceed twenty-five thousand seven hundred fifty pounds, any tandem axle group weight shall not exceed forty-eight thousand pounds, any tridem axle group weight shall not exceed sixty-three thousand pounds and any four axle group shall not exceed sixty-five thousand pounds. From the date of enactment of this paragraph, permit applications under subparagraphs (i), (ii), (ii-a), (iii), (iv), (v) and (vi) of this paragraph for vehicles registered in this state may be honored by the commissioner of transportation or other appropriate authority. The commissioner of transportation and other appropriate authorities may confer and develop a system through rules and regulations to assure compliance herewith. (g) A sani-van vehicle, as defined in section one hundred forty-one-a of this chapter for which a permit has been issued pursuant to this subdivision is authorized to operate or move on all public highways or bridges within this state in accordance with any weight limitations specified in such permit. (h) In any action brought for damage or destruction of any highway or bridge including an action pursuant to section three hundred twenty of the highway law, there shall be a presumption that the operation of a vehicle or combination of vehicles in excess of the maximum weight limits established by this section or, in a city not wholly included within one county, in excess of the maximum weight limits prescribed by the rules and regulations of the city department of transportation of such city, is the proximate cause of such damage or destruction to the highway bridge or appurtenant structure, whether or not a permit to exceed such weight limits was issued by the appropriate authority. (i) All moneys collected by the commissioner of transportation pursuant to this subdivision shall be deposited by the comptroller into the special obligation reserve and payment account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law. (j) The commissioner of transportation is authorized to conduct hearings with regard to the issuance or revocation of any permit issued by the commissioner of transportation pursuant to this section and relating to the violation of any condition applicable to such permit as provided in subdivision three of section one hundred forty-five of the transportation law. If a permit issued by the department of transportation is seized and the holder of the permit makes a written request to the department of transportation for a hearing, the commissioner of transportation shall schedule a hearing within twenty days of the receipt of such request. (k) Any permit issued pursuant to this section that is seized shall be forwarded to the issuing authority as soon as practicable. 15-a. In furtherance of the authority to issue permits pursuant to subdivision fifteen of this section, the department of transportation and the New York state thruway authority are authorized to enter into a cooperative agreement relative to permits to operate or move vehicles or combinations of vehicles the weights or the dimensions of which exceed the limitations otherwise provided for in this section along the thruway system and state highway system, routes 5 and 49 between the relocated thruway interchanges, including the Edic road interchange, and River road in the vicinity of Edic road in the vicinity of the city of Utica. Permits issued hereunder may be of a joint or reciprocal type for operations or movements on such highway systems and shall not be limited to loads proposed as one piece or item or otherwise cannot be separated into units of less weight. 16. The provisions of this section relating to the maximum dimension and weight limitations of vehicles shall not be applicable to any vehicle or combination of vehicles proceeding to or from the New York state thruway while being operated at the following locations, provided, however, that the maximum dimensions and weight limitations of such a vehicle or combination of vehicles are in compliance with those applicable to the New York state thruway; (a) Within a radius of fifteen hundred feet of any New York state thruway toll booth at Fultonville, New York; (b) Within a radius of two thousand feet of any exit or entrance designated B-3 to the New York state thruway, Berkshire section, at New York state route twenty-two; (c) Over a route extending north and south on New York state route 332 between New York state thruway exit no. 44 and its intersection with Collett road, and east and west on Collett road between said intersection and no. 6070 Collett road, a distance of approximately .8 miles. (d) Within a radius of 1.2 miles from New York state thruway toll booth no. 56 on access road to be built between such toll booth no. 56 and the present eastern terminus of route 179 at South Park avenue, over route 179 and old Mile Strip road to the truck terminal entrance on old Mile Strip road at a point approximately two thousand four hundred thirty feet southeast of the intersection of old Mile Strip road and Route 5 as measured along old Mile Strip road, or across Lake Avenue at the northern end of the truck terminal; (e) Within a distance of 1.5 miles measured along that portion of the River Road, New York state touring route 266, also known as state highway 129, lying generally northerly of the South Grand Island Bridges, such distance to be measured from the point where the southernmost access road to New York state thruway station no. 17 intersects with said River Road; (f) Within a distance of two miles measured along New York state route 400, such distance to be measured from the point where said route 400 intersects with the New York state thruway, and .5 miles measured along New York state route 277, such distance to be measured in a northerly direction from the point where New York state route 277 intersects with New York state route 400; (g) Within a distance of .8 miles measured along Walden Avenue in the Town of Cheektowaga, such distance to be measured in a westerly direction from the point where said Walden Avenue intersects with the New York state thruway, .5 miles measured along said Walden Avenue, such distance to be measured in an easterly direction from the point where said Walden Avenue intersects with the New York state thruway, 1,640 feet measured along a roadway purchased by the Town of Cheektowaga

from Sorrento Cheese, Inc., such distance to be measured in a southerly direction from the point where said roadway intersects with Walden Avenue, and .9 miles measured along New York state route 240, such distance to be measured in a southerly direction from the point where New York state route 240 intersects with said Walden Avenue; (h) Within a distance of .1 miles measured along Sheridan Drive, New York state route 324, such distance to be measured in an easterly direction from the point where said Sheridan Drive intersects with New York state thruway interchange N-15, and .4 miles measured along Kenmore Avenue, such distance to be measured in a southerly direction from the point where Sheridan Drive intersects with said Kenmore Avenue; (i) Within a distance of .8 miles measured along Dingens street in the city of Buffalo such distance to be measured in a westerly direction from the Ogden street exit of the Niagara section of the New York state thruway; (j) Within a distance of .25 miles along South street in the city of Buffalo between Hamburg street and Louisiana street; (k) Within a distance of .7 miles measured along Louisiana street in the city of Buffalo such distance to be measured in a southerly direction from the Louisiana street entrance of the Niagara section of the New York state thruway; and (l) Within a distance of 1700 feet measured along that portion of the River Road, New York state touring route 266, also known as state highway 129, lying generally southerly of the South Grand Island Bridges, such distance to be measured from the point where the southern most access road to New York state thruway station no. 17 intersects with said River Road; and (m) Within a distance of 0.6 miles extending north along New York state route 233 from a point where such route 233 intersects with the exit or entrance designated number thirty-two of the New York state thruway at Westmoreland in Oneida county. (n) Within a route from the thruway toll booth at the New York state thruway exit 21-B and along the access road to route 9-W, and thence 1500 feet along route 9-W to be measured in a northerly direction from the point where such thruway access road intersects route 9-W. (o) (i) Within a distance of 0.8 miles from exit B-1 of the New York state thruway Berkshire Spur, such distance to be measured in a northerly direction from the point where state route 9 intersects the southern most access ramp leading to the New York state thruway. (ii) Within a distance of 1.6 miles from the exit B-1 of the New York state thruway Berkshire Spur, with such distance being measured in a northerly direction from the point where state route 9 intersects the southern most access ramp leading to the New York state thruway, upon a determination by the commissioner of transportation that the vehicle or combination of vehicles could operate safely upon such route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route. (p) Within a distance of .45 miles measured along James E. Casey Drive in the city of Buffalo such distance to be measured in a northerly direction from Dingens street. (q) Within approximately one mile of the thruway toll booth at the New York state thruway exit 23 in a northerly direction along interstate route 787 to the first "Port of Albany" exit, and right on Church street south approximately one-half mile to the south end of the Mobil terminal facility and return from Church street entering interstate route 787 in a southerly direction to interchange 23 of the New York state thruway. (r) On any route designated by the commissioner of transportation within a radius of six thousand six hundred feet of any exit or entrance designated interchange 26 of the New York state thruway, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route. * (s) Over a route extending east and west across New York state route 414 from the New York state thruway exit 41 to the terminus of the exit 41 on and off ramps for a distance of approximately 100 feet across route 414 and within approximately .1 miles of the on and off ramp of exit 41 of the New York state thruway. Nothing contained in this provision shall be construed to permit these vehicles or combination of vehicles to turn on to route 414 or to travel along route 414. * NB There are 2 ■(s)'s * (s) Within a distance of three hundred twenty-five feet, measured along Stew Leonard drive in the city of Yonkers, such distance to be measured in a west-east direction from the point where Stew Leonard drive intersects with the southbound off-ramp and the northbound on-ramp of interchange 6A of the New York state thruway. * NB There are 2 ■(s)'s (t) Over a route extending south on New York state route 332 between New York state thruway exit number 44 and its intersection with Gateway drive and west on Gateway Drive to its intersection with Plastermill Road and east on Plastermill Road to its intersection with Loomis Road and east on Loomis road between said intersection and no. 5923 Loomis road, a distance of approximately 1.6 miles, and west on Loomis road between 5923 Loomis road and its intersection with New York state route 332 and thence north on New York state route 332 to New York state thruway exit number 44, a distance of approximately 1.1 miles, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route. (u) Over a route extending north and on New York state route 77 between New York state thruway exit number 48-a and the overpass of the New York state thruway, and south on New York state route 77, a distance of approximately .5 miles, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route. (v) Within a distance of approximately one mile from the New York state thruway interchange 24 traveling along interstate route 90 to interchange 2 Washington avenue, and to Washington avenue traveling westbound to Fuller road in a northerly direction to interstate route 90 traveling to interchange 24 of the New York state thruway, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route. (w) Within a distance of approximately 1.9 miles from the New York state thruway interchange 25A, traveling in a westbound direction along interstate route 88 to exit 25 to state route 7, and to a left on Becker road traveling in a southbound direction on Becker road for approximately .2 miles to the New York state thruway interchange 25A tandem lot access road, or to the intersection of Becker road and state route 7, and traveling in an eastbound direction for approximately 1.4 miles on state route 7 to the intersection of state route 7 and

Dunnsville road and then traveling in a southbound direction on Dunnsville road for approximately .3 miles where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route. (x) Within a distance of approximately 2.2 miles from the New York state thruway interchange 34A traveling in a southbound direction along interstate route 481 to interstate 481 exit 5E Kirkville road east along state route 53 Kirkville road in an eastbound direction to interstate route 481 traveling northbound to exit 6 to interchange 34A of the New York state thruway, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route. (y) Within a distance of approximately .8 miles from the New York state thruway interchange 35, traveling approximately 200 feet around Carrier circle to traveling northbound on Thompson road for approximately 1000 feet, or traveling southbound on Thompson road approximately 100 feet, to traveling westbound on Tarbell road for approximately .5 miles to reenter at the Dewitt service area of the New York state thruway where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route. (z) Within a distance of approximately one mile from the New York state thruway interchange 36 traveling in a southbound direction on interstate 81 to interstate 81 exit 25 7th North street, and traveling eastbound on 7th North street to interstate 81 traveling in a northbound direction to interchange 36 of the New York state thruway, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route. (aa) Within a distance of approximately .6 miles from the New York state thruway interchange 39 traveling eastbound on interstate 690 to interstate 690 exit 2 Jones road in a northbound direction to state route 690 north to interchange 39 of the New York state thruway, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route. (bb) Within a distance of approximately .5 miles from the New York state thruway interchange 45, traveling on interstate 490 to interstate 490 exit 29, in a southwesterly direction along New York state route 96 to the point where New York state route 96 intersects with the entrance ramp to the New York state thruway interchange 45, and for approximately .2 miles along this entrance ramp to the New York state thruway interchange 45, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route. (cc) Within a distance of approximately .6 miles from the New York state thruway interchange 46, traveling in a northeasterly direction on the ramp from the New York state thruway interchange 46 to interstate 390 north exit to New York state route 253, Lehigh Station road, for a distance of approximately .5 miles along the ramp from interstate 390 north exit to New York state route 253, Lehigh Station road, for a distance of approximately .6 miles in a westerly direction along New York state route 253, Lehigh Station road, to the intersection of New York state route 253 with New York state route 15, then for a distance of approximately .6 miles in a southerly direction along New York state route 15, to the New York state thruway interchange 46 maintenance facility entrance, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route. (dd) Within a distance of approximately .3 miles from the New York state thruway interchange 47, traveling on interstate 490 to interstate 490 exit 1, to a distance of approximately .2 miles along the ramp from interstate 490 exit 1, for a distance of approximately .4 miles in a southwesterly direction to the entrance ramp of the New York state thruway interchange 47, where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route. (ee) Within a distance of approximately .6 miles from the New York state thruway interchange 19, traveling in a westbound direction along route 28 to route 209, and traveling in a southbound direction on route 209 for approximately .1 miles to route 28, and traveling in an eastbound direction on route 28 for approximately .8 miles to the New York state thruway interchange 19 where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route. (ff) Within a distance of approximately .5 miles from the New York state thruway interchange 31, traveling onto the ramp to Genesee street south for approximately 2800 feet to Genesee street north for approximately 275 feet to interchange 31 of the New York state thruway where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route. (gg) Within a distance of approximately .2 miles from the New York state thruway interchange 33 traveling westbound on state route 365 for approximately 900 feet to interchange 33 of the New York state thruway where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route. (hh) Within a distance of approximately .15 miles from the New York state thruway interchange 42 traveling on state route 14 for approximately 750 feet for travel to and from the thruway tandem lot and interchange 42 where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle

or combination of vehicles on such route. (ii) Within a distance of approximately .1 miles from the New York state interchange 43 traveling on state route 21 for approximately 600 feet for travel to and from the thruway tandem lot and interchange 43 where the commissioner of transportation determines that the vehicle or combination of vehicles could operate safely along the designated route and that no applicable federal law, regulation or other requirement prohibits the operation of such vehicle or combination of vehicles on such route. 17-a. Except over any highway which is a part of a state interstate route: (i) The following weight limits shall apply to any state or municipally owned single vehicle, equipped with pneumatic tires, engaged in snow and ice control operations on public highways, including the stockpiling of materials and abrasives therefor, with a plow, leveling wing, or material hopper installed: (a) The total weight on any one wheel, shall not be more than sixteen thousand pounds. (b) The total weight on a single axle, shall not be more than thirty-two thousand pounds. (c) The total weight on two consecutive axles, when such axles are spaced less than ten feet from center to center, shall not be more than forty-two thousand pounds. (d) The total weight on all axles of a two axle vehicle shall not be more than fifty-two thousand pounds; the total weight on all axles of a three axle vehicle shall not be more than sixty-two thousand pounds. (ii) The overall width of any state or municipally owned single vehicle, equipped with pneumatic tires, engaged in snow and ice control operations on public highways, shall not be more than twenty-five feet. (iii) The following weight limits shall apply to any state or municipally owned single vehicle, equipped with pneumatic tires, designed or fitted for snow and ice control operations, while engaged in other public works operations on public highways: (a) The total weight on any one wheel, shall not be more than sixteen thousand pounds. (b) The total weight on a single axle, shall not be more than thirty-two thousand pounds. (c) The total weight on two consecutive axles, when such axles are spaced less than ten feet from center to center, shall not be more than thirty-eight thousand pounds. (d) The total weight on all axles of a two axle vehicle shall not be more than fifty-two thousand pounds; the total weight on all axles of a three axle vehicle shall not be more than fifty-eight thousand pounds. 17-b. Except over any highway which is a part of a state interstate route, the following weight limits shall apply to any fire vehicle equipped with pneumatic tires. (a) The total weight on any one wheel shall not be more than sixteen thousand pounds. (b) The total weight on a single axle shall not be more than thirty-two thousand pounds. (c) The total weight on two consecutive axles, when such axles are spaced less than ten feet from center to center, shall not be more than forty-two thousand pounds. (d) The total weight on all axles of a two axle vehicle shall not be more than fifty-two thousand pounds. 18. Except as provided in subdivisions eighteen-a or nineteen of this section, the violation of the provisions of this section including a violation related to the operation, within a city not wholly included within one county, of a vehicle which exceeds the limitations provided for in the rules and regulations of the city department of transportation of such city, shall be punishable by a fine of not less than two hundred nor more than five hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment, for the first offense; by a fine of not less than five hundred nor more than one thousand dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment, for the second or subsequent offense; provided that a sentence or execution thereof for any violation under this subdivision may not be suspended. For any violation of the provisions of this section, including a violation related to the operation, within a city not wholly included within one county, of a vehicle which exceeds the limitations provided for in the rules and regulations of the city department of transportation of such city, the registration of the vehicle may be suspended for a period not to exceed one year whether at the time of the violation the vehicle was in charge of the owner or his agent. The provisions of section five hundred ten of this chapter shall apply to such suspension except as otherwise provided herein. 18-a. A violation of the provisions of subdivisions two or fourteen of this section, where the violation relates to the height of the vehicle, including a violation related to the operation, within a city not wholly included within one county, of a vehicle which exceeds the limitations provided for in the rules and regulations of the city department of transportation of such city, shall be punishable by a fine of not more than one thousand dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment, for the first offense; by a fine of not more than two thousand dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment, for the second or subsequent offense; provided that a sentence or execution thereof for any violation under this subdivision may not be suspended. For any violation of the provisions of subdivisions two or fourteen of this section where the violation relates to the height of the vehicle, including a violation related to the operation, within a city not wholly included within one county, of a vehicle which exceeds the limitations provided for in the rules and regulations of the city department of transportation of such city, the registration of the vehicle may be suspended for a period not to exceed one year whether at the time of the violation the vehicle was in charge of the owner or his agent. The provisions of section five hundred ten of this chapter shall apply to such suspension except as otherwise provided herein. 19. (a) A violation of the provisions of subdivision eight, nine, or ten of this section by any vehicle or combination of vehicles whose weight exceeds the weight limitations as set forth in this section, or a violation of such rules and regulations, by any vehicle or combination of vehicles whose weight exceeds the weight limitations as set forth in this section or such rules and regulations, or a violation of the weight limitations specified by permit issued pursuant to subdivision fifteen of this section shall be punishable by fines levied on the registered owner of the vehicle or vehicles, whether at the time of the violation the vehicle was in the charge of the registered owner or the owner's agent or lessee in accordance with the following schedule: Percent of excess weight Amount of fine (percentage) (dollars) greater than less than or equal to 0 2.0 150 2.0 4.0 300 4.0 6.0 450 6.0 7.0 525 7.0 8.0 600 8.0 10.0 750 10.0 12.0 950 12.0 14.0 1,150 14.0 16.0 1,350 16.0 18.0 1,550 18.0 20.0 1,750 20.0 22.0 1,950 22.0 24.0 2,150 24.0 26.0 2,350 26.0 28.0 2,550 28.0 30.0 2,750 30.0 32.0 2,950 32.0 34.0 3,150 34.0 36.0 3,350 36.0 38.0 3,550 38.0 40.0 3,750 40.0 3,750 or greater plus $125 for each percent over 40 percent (NOTE: Where the total weight, axle weight or axle grouping weight is greater than seven percent including any applicable enforcement scale tolerance in excess of the limits specified by a permit in areas outside a city not wholly contained in one county, the permit shall be deemed voided and then the amount of fine shall be determined in accordance with the maximum weight which would have been in effect

for the operation of such vehicle if the permit to exceed such maximum weight had not been issued. (b) For violations to which the penalties set forth in paragraph (a) of this subdivision apply, in connection with the weighing of a vehicle or combination of vehicles, if it is found that there is a violation of subdivision ten of this section and also of subdivision eight or nine of this section, or both subdivisions eight and nine of this section, there shall be a single fine imposed and the maximum amount of such fine shall not exceed the highest fine that could be imposed under this subdivision. (c) Notwithstanding paragraphs (a) and (b) of this subdivision, a violation of the provisions of subdivision ten of this section in a city not wholly included within one county or of the provisions of the rules or regulations of the city department of transportation setting forth the maximum allowable gross weight for the operation of a vehicle in such city without a permit for such vehicle, by any vehicle or combination of vehicles whose weight exceeds the weight limitations as set forth in this section, or such rules and regulations, or the weight limitations specified by permit issued pursuant to subdivision fifteen of this section (excluding enforcement scale tolerance not to exceed five percent) shall be punishable by fines levied on the registered owner of the vehicle or vehicles, whether at the time of the violation the vehicle was in the charge of the registered owner or his agent or lessee in accordance with the following schedule: Excess Total Weight (pounds) Amount of Fine greater than less than or equal to (dollars) 0 2,000 50 2,000 3,000 75 3,000 4,000 100 4,000 5,000 200 5,000 6,000 300 6,000 7,000 400 7,000 8,000 500 8,000 9,000 600 9,000 10,000 700 10,000 15,000 1,200 15,000 20,000 1,700 20,000 25,000 2,200 25,000 30,000 2,700 30,000 35,000 3,200 35,000 40,000 3,700 40,000 45,000 4,200 45,000 50,000 or greater 4,700 (NOTE: Where the excess total weight is greater than the limits specified by a permit, the permit shall be deemed voided and then the amount of fine shall be determined in accordance with the maximum weight which would have been in effect for the operation of such vehicle if the permit to exceed such maximum weight had not been issued.) (d) Notwithstanding paragraphs (a) and (b) of this subdivision, a violation of the provisions of subdivisions eight and nine of this section in a city not wholly included within one county or of the provisions of the rules or regulations of the city department of transportation setting forth the maximum allowable axle or tandem axle weight for the operation of a vehicle in such city without a permit for such vehicle, by any vehicle or combination of vehicles whose weight exceeds the weight limitations as set forth in this section, or such rules or regulations, or the weight limitations specified by permit issued pursuant to subdivision fifteen of this section shall be punishable by fines levied on the registered owner of the vehicle or vehicles, whether at the time of the violation the vehicle was in the charge of the registered owner, or his agent, or lessee, in accordance with the following schedule: Percentage of excess weight (percentage) Amount of Fine greater than less than or equal to (dollars) 0 5.0 100 5.0 10.0 200 10.0 15.0 350 15.0 20.0 600 20.0 25.0 1000 25.0 30.0 1600 30.0 35.0 2450 35.0 40.0 3600 40.0 45.0 5100 45.0 7000 (NOTE: Where the excess axle or axles weight is greater than the limits specified by a permit, the permit shall be deemed voided and then the amount of fine shall be determined in accordance with the maximum weight which would have been in effect for the operation of such vehicle if the permit to exceed such maximum weight had not been issued.) (e) In addition to the fines imposed by paragraphs (a), (c) and (d) of this subdivision, the registration of the vehicle may be suspended for a period not to exceed one year, whether at the time of the violation of this section the vehicle was in charge of the owner or the owner's agent, or lessee. The provisions of section five hundred ten of this chapter shall apply to such suspension, except as otherwise provided herein. (f) If the vehicle is the subject of a permit issued pursuant to paragraph (f) of subdivision fifteen of this section and if the registered owner of a vehicle fails to appear on the return date or subsequent adjourned date of a summons, appearance ticket or notice of violation issued pursuant to this subdivision or fails to pay a fine imposed pursuant to this subdivision, the registration of the vehicle or the privilege of operating the vehicle in this state shall be suspended for a period not to exceed one year. The suspension shall remain in effect until the registered owner's appearance or payment of the fine. The commissioner or the commissioner's agent may deny a registration application of any other person for the same vehicle where the commissioner has reasonable grounds to believe that such registration will have the effect of defeating the purpose of this paragraph. 20. Notwithstanding the provisions of sections three hundred eighty-five, sixteen hundred thirty, sixteen hundred thirty-one, sixteen hundred forty, sixteen hundred forty-two, sixteen hundred fifty and sixteen hundred sixty of this chapter, nor of any other law, statute, ordinance, rule or regulation, the state, a city, county, town, village, public authority, including the port of New York and New Jersey authority, or commission, or any department, agency, subdivision or other entity thereof, shall not enact nor enforce any law, statute, ordinance, rule or regulation with respect to vehicle dimensions or weights which shall violate any of the provisions of the federal surface transportation assistance act of nineteen hundred eighty-two. Any such law, statute, ordinance, rule or regulation which results in a notification of an imminent loss or withholding of federal highway aid to the state shall to the degree inconsistent hereafter be deemed null and void and shall not be enforced. 20-a. If a vehicle or combination of vehicles is operated in violation of this section, an appearance ticket or summons may be issued to the registrant of the vehicle, or if a combination of vehicles, to the registrant of the hauling vehicle rather than the operator. In the event the vehicle is operated by a person other than the registrant, any appearance ticket or summons issued to the registrant shall be served upon the operator, who shall be deemed the agent of the registrant for the purpose of receiving such appearance ticket or summons. Such operator-agent shall transmit such ticket or summons to the registrant of the vehicle or the hauling vehicle. If the registrant does not appear on the return date, a notice establishing a new return date and either containing all pertinent information relating to the charge which is contained on the summons or appearance ticket or accompanied by a copy of the information or complaint shall also be mailed by certified or registered mail by or on behalf of the court or administrative tribunal before whom the appearance ticket or summons is returnable to the registrant at the address given on the registration certificate for the vehicle, or if no registration certificate is produced at the time the appearance ticket or summons is issued, to the address of the registrant on file with the department or given to the person issuing the appearance ticket or summons. Whenever proceedings in a court or administrative tribunal of this state result in a conviction for a violation of this section, and the court or administrative tribunal has made the mailing specified herein, the court or

administrative tribunal shall levy a mandatory surcharge, in addition to any sentence or other surcharge required or permitted by law, in the amount of thirty dollars. This mandatory surcharge shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the mandatory surcharge by a town or village court, the court shall pay such money to the state comptroller who shall, pursuant to subdivision two of section ninety-nine-a of the state finance law, credit such money to the account of the town or village which sent the mandatory surcharge. If such collecting authority is any other court of the unified system or administrative tribunal it shall, within such period, pay such money to the state comptroller who shall deposit such money into the state treasury. The provisions of this subdivision shall not apply to owner-operators of any motor vehicle or to any motor vehicle or trailer which is registered in the name of a person whose principal business is the lease or rental of motor vehicles or trailers unless the motor vehicle or trailer is being operated by an employee of the registrant or for a community of interest other than the lease or rental agreement between the parties to the lease or rental agreement. 21. The court may impose any sentence authorized by this chapter provided, however, any such sentence must include a fine as provided in this section. 22. In any case wherein the charge laid before the court alleges a violation of this section, any plea of guilty thereafter entered in satisfaction of such charge must include at least a plea of guilty to a violation of one of the subdivisions of this section. No other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized. Provided, however, if the district attorney upon reviewing the available evidence determines that the charge of a violation of this section is not warranted, or suspension of registration is not, under the circumstances, appropriate he may consent, and the court may allow, a disposition by plea of guilty to that or another charge in satisfaction of such charge and, may waive suspension of registration as required by this section, provided, however, the court must impose at least the minimum fine as authorized in this section for the offense of conviction. 23. Except on highways designated as part of the interstate system, the provisions of subdivisions six, seven, eight, nine, ten, eleven and twelve of this section shall not apply to any fire vehicle, as such term is defined in section one hundred fifteen-a of this chapter. 24. The provisions of subdivisions six, seven, eight, nine, ten, eleven and twelve of this section shall not apply to any tow truck that is transporting a disabled vehicle from the place where such vehicle became disabled to the nearest appropriate repair facility and has a gross vehicle weight that is equal to or exceeds the gross vehicle weight of the disabled vehicle being transported.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 10 - Dimensions and Weights of Vehicles386 - Motor Vehicle Sound Level Limits.

§ 386. Motor vehicle sound level limits. 1. As used in this section; a. A-weighted sound level shall mean the sound pressure level measured by the use of an instrument with the metering characteristics and A-weighting frequency response prescribed for sound level meters. b. Combination of vehicles shall mean any device consisting of a motor vehicle and one or more trailers drawn by such motor vehicle. c. Sound pressure level shall mean twenty times the logarithm to the base ten of the ratio of the root mean squared pressure of a sound to a reference pressure of twenty micropascals. The unit applied to this measure shall be the decibel (dB). 2. This section shall apply to the total sound level emitted from a motor vehicle or a combination of vehicles. 3. Unlawful acts. a. It shall be unlawful for any person to operate or cause to be operated on a public highway any motor vehicle or combination of vehicles with a maximum gross weight in excess of ten thousand pounds, at any time, under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the applicable A-weighted sound level set forth in table I. The maximum allowable sound levels in table I are based on a sound level measured at, or adjusted to, a distance of fifty feet from the center of the lane in which the motor vehicle is traveling. TABLE I MAXIMUM ALLOWABLE A-WEIGHTED SOUND LEVELS Maximum Speed Limit 35 miles per hour over 35 or less miles per hour 86dB (A) 90 dB (A) b. In addition, it shall be unlawful for any person to operate or cause to be operated on a public highway any motor vehicle or combination of vehicles with a maximum gross weight in excess of ten thousand pounds and equipped with an engine speed governor, which generates an A-weighted sound level in excess of eighty-eight dB(A) measured at, or adjusted to, a distance of fifty feet from the longitudinal centerline of the vehicle, when the engine of such vehicle is accelerated from idle with a wide open throttle to governed speed with the vehicle stationary, transmission in neutral and clutch engaged. c. It shall be unlawful for any person to operate or cause to be operated on a public highway any motor vehicle or combination of vehicles, except motorcycles, with a maximum gross weight of ten thousand pounds or less, at any time, under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the applicable A-weighted sound level set forth in table II. The maximum allowable sound levels in table II are based on a sound level measured at, or adjusted to, a distance of fifty feet from the center of the lane in which the motor vehicle is traveling: TABLE II MAXIMUM ALLOWABLE A-WEIGHTED SOUND LEVELS Maximum Speed Limit 35 miles per hour over 35 or less miles per hour 76 dB(A) 82 dB(A) d. It shall be unlawful for any person to operate or cause to be operated on a public highway any motorcycle, at any time, under any condition of grade, load, acceleration or deceleration in such a manner as to exceed the applicable A-weighted sound level set forth in table III. The maximum allowable sound levels in table III are based on a sound level measured at, or adjusted to, a distance of fifty feet from the center of the lane in which the motorcycle is traveling. TABLE III MAXIMUM ALLOWABLE A-WEIGHTED SOUND LEVELS Maximum Speed Limit 35 miles per hour over 35 or less miles per hour 82 dB(A) 86 dB(A) 4. The commissioner of environmental conservation shall promulgate regulations establishing the measurement procedures and instrumentation to be utilized in the enforcement of this section. a. These procedures shall allow, to the extent feasible, motor vehicle sound measurements to be accomplished in reasonably confined areas such as residential areas of urban cities, and may provide for sound measurement at distances other than fifty feet and in the vicinity of sound reflecting surfaces. b. The regulations shall take into consideration

recognized scientific and professional standards for the measurement of vehicular sound levels. 5. The provisions of this section shall not apply to vehicles and implements or combinations thereof used solely for farm purposes, nor to authorized emergency vehicles. 6. Nothing in this section shall be construed as limiting or precluding the enforcement of equipment requirements or any other provisions of law relating to motor vehicle noise. 7. At intervals of not more than two years, the commissioner of environmental conservation shall report to the governor and the legislature on the current state of the art of motor vehicle sound level limitations and recommend changes as necessary.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 11 - Civil Liability388 - Negligence in Use or Operation of Vehicle Attributable to Owner.

§ 388. Negligence in use or operation of vehicle attributable to owner. 1. Every owner of a vehicle used or operated in this state shall be liable and responsible for death or injuries to person or property resulting from negligence in the use or operation of such vehicle, in the business of such owner or otherwise, by any person using or operating the same with the permission, express or implied, of such owner. Whenever any vehicles as hereinafter defined shall be used in combination with one another, by attachment or tow, the person using or operating any one vehicle shall, for the purposes of this section, be deemed to be using or operating each vehicle in the combination, and the owners thereof shall be jointly and severally liable hereunder. 2. As used in this section, "vehicle" means a "motor vehicle", as defined in section one hundred twenty-five of this chapter, except fire and police vehicles, self-propelled combines, self-propelled corn and hay harvesting machines and tractors used exclusively for agricultural purposes, and shall also include "semitrailer" and "trailer" as defined in article one of this chapter, whether or not such vehicles are used or operated upon a public highway; provided, however, that for purposes of paragraph two of subdivision (f) of section three thousand four hundred twenty of the insurance law, the term "motor vehicle" shall include fire vehicles, as defined in section one hundred fifteen-a of this chapter, and police vehicles, as defined in section one hundred thirty-two-a of this chapter. For the purpose of this section, self-propelled caterpillar or crawler-type equipment while being operated on the contract site, shall not be defined as motor vehicles. 3. As used in this section, "owner" shall be as defined in section one hundred twenty-eight of this chapter and their liability under this section shall be joint and several. If a vehicle be sold under a contract of sale which reserves a security interest in the vehicle in favor of the vendor, such vendor or his assignee shall not, after delivery of such vehicle, be deemed an owner within the provisions of this section, but the vendee, or his assignee, receiving possession thereof, shall be deemed such owner notwithstanding the terms of such contract, until the vendor or his assignee shall retake possession of such vehicle. A secured party in whose favor there is a security interest in any vehicle out of his possession, shall not be deemed an owner within the provisions of this section. 4. All bonds executed by or policies of insurance issued to the owner of any vehicle subject to the provisions of this section shall contain a provision for indemnity or security against the liability and responsibility provided in this section; but, except as provided in paragraphs one and two of subsection (g) of section three thousand four hundred twenty of the insurance law, this provision shall not be construed as requiring that such a policy include insurance against any liability of the insured, being an individual, for death of or injuries to his or her spouse or for injury to property of his or her spouse, where the injured spouse, to be entitled to recover, must prove the culpable conduct of the insured spouse.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12-A - Motor Vehicle Repair Shop Registration Act398-A - Statement of Purpose.

§ 398-a. Statement of purpose. The purposes of this article are to further highway safety by promoting the proper and efficient repair of malfunctioning or disabled motor vehicles and to protect the consumers of this state from dishonest, deceptive and fraudulent practices in the repair of such motor vehicles. These purposes will be accomplished by the enactment of legislation which require the registration of those engaged in the business of repairing malfunctioning or disabled motor vehicles and to exclude from that business those persons who engage in dishonest or fraudulent practice or who otherwise demonstrate unfitness for that business. That further, the purpose of this article is to protect the motoring public from improper repairs made to its vehicles to set standards for quality repairs to be made to motor vehicles for fair and reasonable fees and to eliminate unqualified automotive repair shops from engaging in the business of automotive repair to malfunctioning or disabled vehicles.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12-A - Motor Vehicle Repair Shop Registration Act398-B - Definitions.

2. As used in this article the term "motor vehicle repair shop" means any person who, for compensation, is wholly or partially engaged in the business of repairing or diagnosing motor vehicle malfunctions or repairing motor vehicle bodies, fenders or other components damaged by accident or otherwise, except that such term does not include:(a) an employee of a motor vehicle repair shop who engages in the business of repairing motor vehicles solely by reason of his employment;(b) any person who is solely engaged in the business of repairing the motor vehicles of a single commercial or industrial establishment, or of the federal, state or a local government or any agency thereof; or(c) any person whose activities consist solely of fueling, changing oil, water, batteries or tires, replacing fan belts, air filters or oil filters, installing windshield wiper blades or light bulbs, or such other minor repair and servicing functions as the commissioner shall by rule prescribe; or(d) any person solely engaged in the business of repairing farm or road building machines, or such other utility vehicles as the commissioner may by regulation designate.The term "motor vehicle

repair shop" shall also include any shop, drive-in station, or garage operated by any person, firm, corporation or association at which motor vehicles are inspected for the purposes of appraising, evaluating or estimating the extent or value of motor vehicle damage or the necessity or cost of motor vehicle repairs. (a) an employee of a motor vehicle repair shop who engages in the business of repairing motor vehicles solely by reason of his employment; (b) any person who is solely engaged in the business of repairing the motor vehicles of a single commercial or industrial establishment, or of the federal, state or a local government or any agency thereof; or (c) any person whose activities consist solely of fueling, changing oil, water, batteries or tires, replacing fan belts, air filters or oil filters, installing windshield wiper blades or light bulbs, or such other minor repair and servicing functions as the commissioner shall by rule prescribe; or (d) any person solely engaged in the business of repairing farm or road building machines, or such other utility vehicles as the commissioner may by regulation designate. The term "motor vehicle repair shop" shall also include any shop, drive-in station, or garage operated by any person, firm, corporation or association at which motor vehicles are inspected for the purposes of appraising, evaluating or estimating the extent or value of motor vehicle damage or the necessity or cost of motor vehicle repairs.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12-A - Motor Vehicle Repair Shop Registration Act398-C - Registration Required; Application; Fees and Issuance of Certificate of Registration.

2. Application. An application for a certificate of registration under this section shall be filed with the commissioner, in such form and detail as the commissioner shall prescribe, setting forth:(a) the name and the residence address of the applicant; if an individual, the name under which he intends to conduct business; if a co-partnership, the name and residence address of each member thereof, and the name under which the business is to be conducted; if a corporation where stock is not sold to the public on a stock exchange or over-the-counter market, the name of the corporation, the name and residence address of each of the officers, directors and stockholders of the corporation holding more than ten percent of the outstanding stock and the name under which the business is to be conducted if different from the name of the corporation; if a corporation whose stock is sold to the public on a stock exchange or over-the-counter market, the name and business address of the corporation, the name under which the business is to be conducted if different from the corporate name and a separate statement that the corporation is either registered in New York or is authorized to do business in this state.(a-1) appropriate certification or documentation from the municipality where the repair shop is located that the facility is in compliance with applicable zoning and planning regulations, fire regulations and building codes. It shall be the responsibility of the applicant to provide such documentation for the commissioner. The commissioner may waive this requirement for applicants from municipalities without such codes or regulations.(b) the place or places, including the complete address or addresses, where the business is to be conducted.(c) on and after January first, nineteen hundred ninety-one, an indication as to whether the applicant services motor vehicle air-conditioning systems and, if so, whether the applicant has purchased approved motor vehicle refrigerant recycling equipment or approved motor vehicle refrigerant recapturing equipment in accordance with section 38-0107 of the environmental conservation law. Applicants who indicate that they have purchased approved motor vehicle refrigerant recycling equipment must submit along with their application either a manufacturer's certificate issued upon purchase or an invoice with proof of payment. All such documents shall contain the name and address of the repair shop and manufacturer, the date purchased, and the serial numbers of the units acquired.(d) such further information as the commissioner may by rule prescribe.The commissioner may require the applicant to appear at such time and place as may be designated by the commissioner for examination to enable him to determine the accuracy of the facts set forth in the written application, either for initial registration or renewal thereof. Where the business is conducted under franchise, lease or other similar arrangement, the commissioner, in his discretion, may require the application to be submitted by the franchise holder, lessee or other person actually responsible for conducting the business. Every application under this section shall be affirmed as true by the applicant.3. Fees and issuance of certificate of registration.(a) Every original application shall be accompanied by an application fee of ten dollars, which shall in no event be refunded. If an application is approved by the commissioner, upon payment by the applicant of an additional fee of one hundred fifty dollars for each place of business, the applicant shall be granted a certificate of registration for each place of business, which certificate or certificates shall be valid for a period of two years. The commissioner may, however, in his discretion, issue such certificates of registration on a staggered expiration basis, in which event the fees set forth herein shall be prorated on a monthly basis. In the event a certificate of registration is issued on a staggered expiration basis, it shall expire on the date fixed by the commissioner. The biennial fee for renewal of any certificate of registration issued pursuant to this section shall be one hundred fifty dollars. The commissioner shall issue a certificate of registration to each applicant pursuant to the provisions of this article, which certificate shall be conspicuously displayed in the place of business of the registrant for which such registration is issued. In the case of loss, mutilation or destruction of a certificate of registration, the commissioner shall upon application issue a duplicate certificate thereof upon proof of the facts.(b) If a certificate of registration under this section shall be issued in the names of two or more persons as partners and a change occurs in the membership of such partnership, the certificate of registration shall not expire thereupon so long as any one of the persons named in such certificate is a member of the partnership or carries on the business of the partnership as surviving member of the partnership; provided, however, that when any such change occurs and the certificate of registration does not expire, the partners or surviving member after such change shall forthwith file with the commissioner (i) a statement regarding the change in such form and giving such information as the commissioner shall require or, where the change involves the addition of one or more new partners, (ii) a new application as provided in subdivision two of this section. Such new certificate of registration shall expire on the expiration date of the one replaced.(c) If a certificate of registration under this section

shall be issued and, subsequent thereto, the business name of any such shop is changed, or in the event that the owners of a business incorporate said business with no change in the actual ownership and operation thereof, such owner or owners thereof shall forthwith file with the commissioner a statement regarding the change of name in such form and with such information as the commissioner shall require.(d) Fees assessed under this section shall be paid to the commissioner for deposit to the general fund.4. If an individual owner of a registered repair shop dies or is adjudged mentally incompetent, his executor or administrator or his committee may carry on the business by filing an amendment to the application for registration. Every corporation whose stock is not sold to the public on a stock exchange or over-the-counter market shall file an amendment to its application for registration if there is any change in its officers, stockholders who hold more than ten percent of the outstanding shares, or directors. Every repair shop shall file an amendment to its application for registration if it changes its location. Every such amendment shall be filed within thirty days of the event. (a) the name and the residence address of the applicant; if an individual, the name under which he intends to conduct business; if a co-partnership, the name and residence address of each member thereof, and the name under which the business is to be conducted; if a corporation where stock is not sold to the public on a stock exchange or over-the-counter market, the name of the corporation, the name and residence address of each of the officers, directors and stockholders of the corporation holding more than ten percent of the outstanding stock and the name under which the business is to be conducted if different from the name of the corporation; if a corporation whose stock is sold to the public on a stock exchange or over-the-counter market, the name and business address of the corporation, the name under which the business is to be conducted if different from the corporate name and a separate statement that the corporation is either registered in New York or is authorized to do business in this state. (a-1) appropriate certification or documentation from the municipality where the repair shop is located that the facility is in compliance with applicable zoning and planning regulations, fire regulations and building codes. It shall be the responsibility of the applicant to provide such documentation for the commissioner. The commissioner may waive this requirement for applicants from municipalities without such codes or regulations. (b) the place or places, including the complete address or addresses, where the business is to be conducted. (c) on and after January first, nineteen hundred ninety-one, an indication as to whether the applicant services motor vehicle air-conditioning systems and, if so, whether the applicant has purchased approved motor vehicle refrigerant recycling equipment or approved motor vehicle refrigerant recapturing equipment in accordance with section 38-0107 of the environmental conservation law. Applicants who indicate that they have purchased approved motor vehicle refrigerant recycling equipment must submit along with their application either a manufacturer's certificate issued upon purchase or an invoice with proof of payment. All such documents shall contain the name and address of the repair shop and manufacturer, the date purchased, and the serial numbers of the units acquired. (d) such further information as the commissioner may by rule prescribe. The commissioner may require the applicant to appear at such time and place as may be designated by the commissioner for examination to enable him to determine the accuracy of the facts set forth in the written application, either for initial registration or renewal thereof. Where the business is conducted under franchise, lease or other similar arrangement, the commissioner, in his discretion, may require the application to be submitted by the franchise holder, lessee or other person actually responsible for conducting the business. Every application under this section shall be affirmed as true by the applicant. 3. Fees and issuance of certificate of registration. (a) Every original application shall be accompanied by an application fee of ten dollars, which shall in no event be refunded. If an application is approved by the commissioner, upon payment by the applicant of an additional fee of one hundred fifty dollars for each place of business, the applicant shall be granted a certificate of registration for each place of business, which certificate or certificates shall be valid for a period of two years. The commissioner may, however, in his discretion, issue such certificates of registration on a staggered expiration basis, in which event the fees set forth herein shall be prorated on a monthly basis. In the event a certificate of registration is issued on a staggered expiration basis, it shall expire on the date fixed by the commissioner. The biennial fee for renewal of any certificate of registration issued pursuant to this section shall be one hundred fifty dollars. The commissioner shall issue a certificate of registration to each applicant pursuant to the provisions of this article, which certificate shall be conspicuously displayed in the place of business of the registrant for which such registration is issued. In the case of loss, mutilation or destruction of a certificate of registration, the commissioner shall upon application issue a duplicate certificate thereof upon proof of the facts. (b) If a certificate of registration under this section shall be issued in the names of two or more persons as partners and a change occurs in the membership of such partnership, the certificate of registration shall not expire thereupon so long as any one of the persons named in such certificate is a member of the partnership or carries on the business of the partnership as surviving member of the partnership; provided, however, that when any such change occurs and the certificate of registration does not expire, the partners or surviving member after such change shall forthwith file with the commissioner (i) a statement regarding the change in such form and giving such information as the commissioner shall require or, where the change involves the addition of one or more new partners, (ii) a new application as provided in subdivision two of this section. Such new certificate of registration shall expire on the expiration date of the one replaced. (c) If a certificate of registration under this section shall be issued and, subsequent thereto, the business name of any such shop is changed, or in the event that the owners of a business incorporate said business with no change in the actual ownership and operation thereof, such owner or owners thereof shall forthwith file with the commissioner a statement regarding the change of name in such form and with such information as the commissioner shall require. (d) Fees assessed under this section shall be paid to the commissioner for deposit to the general fund. 4. If an individual owner of a registered repair shop dies or is adjudged mentally incompetent, his executor or administrator or his committee may carry on the business by filing an amendment to the application for registration. Every corporation whose stock is not sold to the public on a stock exchange or over-the-counter market shall file an amendment to its application for registration if there is any change in its officers, stockholders who hold more than ten percent of the outstanding shares, or directors. Every repair shop shall file an amendment to its application

for registration if it changes its location. Every such amendment shall be filed within thirty days of the event.

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2. Upon the request of any customer, a motor vehicle repair shop shall make an estimate in writing of the parts and labor necessary for a specific job and shall not charge for work done or parts supplied in excess of the estimate without the consent of such customer. The motor vehicle repair shop may charge a reasonable fee for making an estimate. If any body parts are included in the estimate for a vehicle with a gross vehicle weight not in excess of eighteen thousand pounds, the estimate shall clearly state whether such parts were manufactured as original equipment parts for the vehicle, or were manufactured as non-original replacement parts or are used parts. 3. Each motor vehicle repair shop shall maintain such records as are required by the regulations of the commissioner and such records shall be available for inspection by the commissioner or his designee during all business hours. Where a motor vehicle repair shop changes its name or location, notification thereof shall be given to the commissioner not more than ten days therefrom. 4. (a) Every motor vehicle repair shop shall display in a conspicuous place in such shop a sign stating: PURSUANT TO SECTION 2610 OF THE INSURANCE LAW AN INSURANCE COMPANY MAY NOT REQUIRE THAT REPAIRS BE MADE TO A MOTOR VEHICLE IN A PARTICULAR PLACE OR REPAIR SHOP. YOU HAVE A RIGHT TO HAVE YOUR AUTOMOBILE REPAIRED IN THE SHOP OF YOUR CHOICE.(b) Such sign shall be made of a durable material capable of withstanding outdoor climatic conditions, with the letters being at least two inches high and having a stroke of at least one-half inch. The letters and background shall be of contrasting colors.5. Every person who shall write any auto body repair estimate on behalf of a motor vehicle repair shop, whether registered or not, must hold a valid estimator's license for such purpose issued by the commissioner. The form and manner of applying for such license shall be prescribed by regulation to be promulgated by the commissioner. The commissioner shall in the commissioner's discretion establish criteria for the issuing of such license. Each application for the license required hereunder shall be accompanied by an application fee of twenty-five dollars which shall in no event be refunded. If an application is approved by the commissioner, upon payment by the applicant of the additional fee of one hundred fifty dollars, the applicant shall be granted such license which shall be valid for a period of three years. The renewal fee for any license issued pursuant to this subdivision shall be one hundred fifty dollars.5-a. All the provisions of section three hundred ninety-eight-f of article twelve-A of this chapter shall apply to the provisions of subdivision five of this section with the same force and effect as if the language of those provisions had been incorporated in full into subdivision five of this section and had expressly referred to the term collision estimator licensee, except that the term "certificate of registration" shall be read as "estimator's license" and the term "registrant" as "licensee".6. (a) In addition to the requirements of subdivision one of this section, if an inflatable restraint system is replaced, the motor vehicle repair shop shall state on the repair invoice the name and tax identification number from whom such replacement inflatable restraint system was purchased. The vehicle repair shop shall, in the case of any salvaged inflatable restraint system installed, also state on the repair invoice the vehicle dismantler's registration number, the vehicle identification number of the vehicle from which the inflatable restraint system was salvaged and the part number of the salvaged inflatable restraint system. The insurer and the consumer shall receive a copy of the purchase invoice for such replacement inflatable restraint systems.(b) An inflatable system which has been activated in a crash or stolen shall be replaced only with an inflatable restraint system newly manufactured for first-time use.(c) Notwithstanding the provisions of paragraph (b) of this subdivision, an inflatable restraint system may be replaced by one salvaged and sold by a vehicle dismantler registered pursuant to section four hundred fifteen-a of this chapter, provided, however, that the salvaged inflatable restraint system has been sold in accordance with the provisions of section four hundred fifteen-c of this chapter.(d) Notwithstanding any other provisions of law to the contrary, a consumer has the right to seek installation of a salvaged inflatable restraint system as provided in paragraph (c) of this subdivision, provided however, nothing shall require any facility to install a salvaged inflatable restraint system. A salvage installation shall only be done with the specific authorization of the customer. The invoice must prominently state, "Salvage inflatable restraint system." No other terms such as "used" or "as is" shall be used. The invoice must clearly state the terms of the warranty or guarantee, if given, or state "No warranty or guarantee given." A salvaged inflatable restraint system must be of the exact same type as the unit with which the vehicle was originally equipped.(e) On and after March first, nineteen hundred ninety-nine, in no case shall any inflatable restraint system be replaced with anything other than a newly manufactured inflatable restraint system or a salvaged inflatable restraint system certified according to standards established by a nationally recognized testing, engineering and research body as provided for in subdivision two of section four hundred fifteen-c of this chapter.7. Each motor vehicle repair shop which either removes or installs inflatable restraint systems shall maintain a log book containing the following information: (a) the date of installation, (b) the vehicle identification number, license plate number, and make and model of the repaired vehicle, (c) the replacement inflatable restraint system's part number, (d) in the case of a salvaged inflatable restraint system, (1) the vehicle identification number of the vehicle from which the replacement inflatable restraint system was salvaged, and (2) the name, tax identification number, and registration number of the automobile dismantler from whom such salvaged inflatable restraint system was purchased, (e) in the case of a new replacement inflatable restraint system, the name and tax identification number of the supplier. Such records shall be maintained in a manner and form prescribed by the commissioner. Upon request of an agent of the commissioner or of any police officer and during its regular and usual business hours, the motor vehicle repair shop shall produce such records and permit said agent or police officer to examine them. (b) Such sign shall be made of a durable material capable of withstanding outdoor climatic conditions, with the letters being at least two inches high and having a stroke of at least one-half inch.

The letters and background shall be of contrasting colors. 5. Every person who shall write any auto body repair estimate on behalf of a motor vehicle repair shop, whether registered or not, must hold a valid estimator's license for such purpose issued by the commissioner. The form and manner of applying for such license shall be prescribed by regulation to be promulgated by the commissioner. The commissioner shall in the commissioner's discretion establish criteria for the issuing of such license. Each application for the license required hereunder shall be accompanied by an application fee of twenty-five dollars which shall in no event be refunded. If an application is approved by the commissioner, upon payment by the applicant of the additional fee of one hundred fifty dollars, the applicant shall be granted such license which shall be valid for a period of three years. The renewal fee for any license issued pursuant to this subdivision shall be one hundred fifty dollars. 5-a. All the provisions of section three hundred ninety-eight-f of article twelve-A of this chapter shall apply to the provisions of subdivision five of this section with the same force and effect as if the language of those provisions had been incorporated in full into subdivision five of this section and had expressly referred to the term collision estimator licensee, except that the term "certificate of registration" shall be read as "estimator's license" and the term "registrant" as "licensee". 6. (a) In addition to the requirements of subdivision one of this section, if an inflatable restraint system is replaced, the motor vehicle repair shop shall state on the repair invoice the name and tax identification number from whom such replacement inflatable restraint system was purchased. The vehicle repair shop shall, in the case of any salvaged inflatable restraint system installed, also state on the repair invoice the vehicle dismantler's registration number, the vehicle identification number of the vehicle from which the inflatable restraint system was salvaged and the part number of the salvaged inflatable restraint system. The insurer and the consumer shall receive a copy of the purchase invoice for such replacement inflatable restraint systems. (b) An inflatable system which has been activated in a crash or stolen shall be replaced only with an inflatable restraint system newly manufactured for first-time use. (c) Notwithstanding the provisions of paragraph (b) of this subdivision, an inflatable restraint system may be replaced by one salvaged and sold by a vehicle dismantler registered pursuant to section four hundred fifteen-a of this chapter, provided, however, that the salvaged inflatable restraint system has been sold in accordance with the provisions of section four hundred fifteen-c of this chapter. (d) Notwithstanding any other provisions of law to the contrary, a consumer has the right to seek installation of a salvaged inflatable restraint system as provided in paragraph (c) of this subdivision, provided however, nothing shall require any facility to install a salvaged inflatable restraint system. A salvage installation shall only be done with the specific authorization of the customer. The invoice must prominently state, "Salvage inflatable restraint system." No other terms such as "used" or "as is" shall be used. The invoice must clearly state the terms of the warranty or guarantee, if given, or state "No warranty or guarantee given." A salvaged inflatable restraint system must be of the exact same type as the unit with which the vehicle was originally equipped. (e) On and after March first, nineteen hundred ninety-nine, in no case shall any inflatable restraint system be replaced with anything other than a newly manufactured inflatable restraint system or a salvaged inflatable restraint system certified according to standards established by a nationally recognized testing, engineering and research body as provided for in subdivision two of section four hundred fifteen-c of this chapter. 7. Each motor vehicle repair shop which either removes or installs inflatable restraint systems shall maintain a log book containing the following information: (a) the date of installation, (b) the vehicle identification number, license plate number, and make and model of the repaired vehicle, (c) the replacement inflatable restraint system's part number, (d) in the case of a salvaged inflatable restraint system, (1) the vehicle identification number of the vehicle from which the replacement inflatable restraint system was salvaged, and (2) the name, tax identification number, and registration number of the automobile dismantler from whom such salvaged inflatable restraint system was purchased, (e) in the case of a new replacement inflatable restraint system, the name and tax identification number of the supplier. Such records shall be maintained in a manner and form prescribed by the commissioner. Upon request of an agent of the commissioner or of any police officer and during its regular and usual business hours, the motor vehicle repair shop shall produce such records and permit said agent or police officer to examine them.

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(a) has made a material false statement or concealed a material fact in connection with his application; (b) was the former holder of a certificate of registration issued hereunder which was revoked or suspended by the commissioner; (c) was, or that any officer, director, partner or stockholder holding more than ten percent of the outstanding stock was an officer, director, partner or stockholder holding more than ten percent of the outstanding stock in a corporation or partnership, as the case may be, which was the former holder of a certificate of registration issued hereunder which was revoked or suspended by the commissioner; (d) has failed to furnish satisfactory evidence of good character, reputation and fitness; (e) does not have a place of business as required by this article; (f) is not the true owner of the repair shop, except in the case of a franchise; (g) has been guilty of fraud or fraudulent or deceptive practices; (h) has been grossly negligent on two or more occasions within a period of two years in the performance of any repair or adjustment covered by this article, or has grossly overcharged on two or more occasions within a period of two years for such repair or adjustment; (i) has wilfully failed to comply with any of the provisions of this article or the rules and regulations of the commissioner promulgated hereunder; (j) has knowingly issued a false or misleading estimate; (k) has engaged in a course of conduct which unreasonably impedes or delays a consumer's right to a fair recovery pursuant to the provisions of an automobile insurance policy, the insurance law or regulations issued by the superintendent of financial services governing the evaluation and adjustments of claims; or (l) has wilfully violated paragraph (b) of subdivision thirty-one, subdivision thirty-one-a or subdivision thirty-one-b of section three hundred seventy-five of this chapter. For the purposes of paragraphs (g), (h), (i), (j) and (k) of this

subdivision, it shall be presumed that the actions of any employee of a motor vehicle repair shop shall be attributable to, and deemed to be the actions of, such motor vehicle repair shop. 2. Civil penalty; suspension for failure to pay. (a) The commissioner, or any person deputized by him, may, by order, require a registrant or an unregistered repair shop to pay to the people of this state a penalty as hereinafter provided. Such penalty may be imposed in addition to or in lieu of revoking or suspending the certificate of registration of a registrant in accordance with the provisions of this article, or such a penalty may be imposed upon a finding that a registrant or an unregistered repair shop: (i) has been grossly negligent in the performance of any repair or adjustment covered by this article; or (ii) has grossly overcharged for such repair or adjustment. (b) Such penalty for a first violation shall be in a sum not exceeding seven hundred fifty dollars for each violation found to have been committed, and for a second or subsequent violation not arising out of the same incident both of which were committed within a period of thirty months, be in a sum of not more than one thousand dollars for each violation found to have been committed; provided, however, the penalty for each and any violation of paragraph (g) of subdivision one of this section found to have been committed shall be no less than three hundred and fifty dollars and no more than one thousand dollars, except that if a finding of financial loss has been made pursuant to subdivision three of this section, the amount of such penalty may be increased by the amount of financial loss so found. (c) Upon the failure of a registrant or an unregistered repair shop to pay such penalty, or, where the order so permits, to make restitution as provided in subdivision three of this section, within thirty days after the mailing of such order, postage prepaid, registered or certified, and addressed to the last known place of business of such registrant or unregistered repair shop, unless such order is stayed as provided in subdivision three of section three hundred ninety-eight-f of this chapter, the commissioner may revoke the certificate of registration of such registrant or may suspend the same for such period as he may determine or may seek to recover unpaid civil penalties in a civil action in the name of the commissioner. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury. (d) In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record. 3. Restitution; assessment. (a) Upon a determination that a registrant or an unregistered repair shop has done or failed to do any act for which suspension of the registrant's registration or a civil penalty against the registrant or unregistered repair shop could be imposed, the person making such determination may make a finding of financial loss to any complainant or complainants resulting from the actions of the registrant or unregistered repair shop. The person making such finding may provide that if the registrant or unregistered repair shop makes restitution to the complainant or complainants for the amount or amounts so found, that payment of such restitution may be substituted in lieu of any suspension or civil penalty, or a specified portion thereof imposed upon the registrant or unregistered repair shop. However, a finding of financial loss shall only be made if the complainant (i) agrees to accept the amount so found, if offered by the registrant or unregistered repair shop, and (ii) is not a party to any litigation which is pending or which has gone to judgment in relation to the same matter in any civil court. (b) The amount of financial loss which may be found and proposed as restitution shall be limited to an amount necessary to repair the vehicle or vehicles in question and/or any amount of overcharge which may be found. Neither punitive nor incidental damages may be included in the finding of financial loss. (c) If payment of restitution to the complainant is authorized in lieu of all or a portion of a suspension or civil penalty, in order for the registrant or unregistered repair shop to exercise the option to make such payment, such payment must be made by means of a certified check or money order payable to the complainant or complainants delivered to an office of the department as directed by the commissioner or his agent within thirty days of the date of notice of suspension and/or civil penalty. Upon receipt of such certified check or money order, the department shall forward the same to the complainant or complainants. In the event that the registrant or unregistered repair shop should fail to make payment for restitution within such thirty days, but, at a later time, pays such civil penalty, the department shall deduct from such civil penalty payment the amount assessed for restitution, and shall mail a check for such amount to the complainant or complainants. (d) If payment of restitution may be substituted in lieu of a civil penalty or portion of a civil penalty, and the registrant or unregistered repair shop does not exercise the option to make such payment, the civil penalty becomes due as provided in subdivision two of this section and the provisions of that subdivision relating to suspension of registration and recovery of civil penalties shall apply. (e) Any payment made in compliance with such a finding of financial loss shall not preclude any civil action which may be brought by the complainant, registrant or unregistered repair shop, and any such finding may be considered but shall not be binding upon any court before which any such action is brought. 4. Surrender of certificate of registration. Upon the suspension or revocation of a certificate of registration by the commissioner and the issuance of notice thereof, the registrant shall immediately deliver the certificate of registration to the commissioner or to any peace officer, acting pursuant to his special duties, or police officer directed by the commissioner to secure possession thereof, or agent of the commissioner, displaying authorization to act in such capacity along with a certified copy of the order revoking or suspending such registration, and the failure to so deliver the certificate within thirty days shall constitute a traffic infraction and shall be punishable in the manner provided in section eighteen hundred of this chapter.

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(b) No certificate of registration shall be suspended or revoked, penalty imposed or determination of gross negligence or gross

overcharging made as provided for pursuant to paragraph (h) of subdivision one of section three hundred ninety-eight-e of this article, until such registrant shall have been given the opportunity to be heard, upon written notice to the registrant, before an officer or employee of the department designated for such purpose by the commissioner, provided, however, that where a notice of hearing is mailed to a registrant at the address shown in the records of the department and such registrant fails to attend such hearing, the commissioner may suspend such registration pending the registrants attendance at such hearing. Requests for adjournment of such hearings shall be granted in accordance with regulations promulgated by the commissioner. A suspension pending attendance at a hearing shall not be appealable. (c) The commissioner acting by such officer or employee in the department as he may designate, shall have the power to subpoena and bring before such officer or employee so designated any person in this state, or document, record or other relevant evidence, and administer an oath to and take the testimony of any such person or cause his deposition to be taken. A subpoena issued pursuant to this action shall be regulated by the civil practice law and rules. (d) In the event a certificate of registration is revoked or an application is denied, no such certificate shall be issued to such former registrant or applicant for at least six months, nor thereafter, except in the discretion of the commissioner. 2. Review board. The commissioner shall establish a review board. Such board shall consist of persons who have been engaged in the automotive repair shop business for at least five years representing the automobile repair shop industry, persons who shall be laymen having no association with the automotive repair shop industry representing consumers, and persons who are attorneys admitted to practice in this state and who have no interest in or represent as an attorney an automotive repair shop. Members of the review board shall be appointed insofar as is practicable to provide for representation of different geographic areas of the state, and shall serve in no other capacity in the department of motor vehicles. The number of persons appointed to such review board shall be determined by the commissioner and shall be appointed to serve at his pleasure. Three persons, one of whom shall be automotive repair shop industry representatives, one of whom shall be consumer representatives, and one of whom shall be an attorney appointed pursuant to the provisions of this subdivision, shall as a panel review each appeal from a determination of the hearing officer. Such attorney shall serve as the chairman of such panel with respect to any such review. Members of the review board shall be entitled to their actual and necessary expenses incurred in the performance of their duties thereunder, and shall be entitled to a per diem allowance as determined by the commissioner and approved by the director of the division of the budget not to exceed one hundred dollars except that those members who serve as the chairman of a panel at appeal proceedings may be entitled to a per diem allowance in an amount so determined and approved but not exceeding one hundred fifty dollars. 3. Appeals. (a) The review board will review and determine all appeals filed pursuant to this article. Such determination may be to affirm, reverse or modify the initial determination of the hearing officer, or to remand the case for a further hearing to determine additional facts. Any review by such board shall be based solely on the record upon which the initial determination is made and upon any written brief which may be submitted by or on behalf of the applicant or registrant. (b) (1) Whenever a certificate of registration is suspended or revoked, an application for such registration denied, determination of gross negligence or gross overcharging made, the sealing of a premises ordered or penalty imposed by the commissioner pursuant to this article, except where such action is required by statute based upon a conviction, the registrant, applicant, or owner of the premises as such term is defined in paragraph (a) of subdivision five-a of section three hundred ninety-eight-i of this article may appeal such determination pursuant to the provisions of this article and such regulations as may be promulgated by the commissioner. (2) No appeal shall be reviewed unless it is submitted within sixty days after written notice of the determination appealed from is mailed to the registrant or applicant. (3) Any person desiring to appeal pursuant to this article shall do so in a form and manner as provided by regulations promulgated by the commissioner. The transcript of any hearing will only be reviewed if it is submitted by the appellant who shall bear the expense of furnishing such transcript. (4) The fee for filing an appeal shall be ten dollars. No appeal shall be deemed filed or submitted unless any required fee has been paid. (5) The submission of a written request to file such an appeal shall stay the operation of the initial determination until after a review is had and a determination has been made; provided, however, that failure to timely submit such appeal and comply with the provisions of this subdivision shall remove the stay imposed by this paragraph. Such review shall be made and decided as expeditiously as possible; provided that an appeal of an order directing the sealing of the premises pursuant to subdivision five-a of section three hundred ninety-eight-i of this article shall, to the extent possible, be given priority over all other appeals filed pursuant to this article. (c) Whenever the same facts give rise to a hearing involving any other license or registration issued by the commissioner, a combined hearing may be held. If the registrant appeals only from a determination made with respect to his repair shop registration, he shall be entitled to a review as provided in subdivision one of this section; however, if he appeals from any determination or determinations made with respect to any other license or registration, as well as a determination with respect to his repair shop registration, the appeals procedure established in article three-A of this chapter shall be followed in lieu of the procedure established in subdivision three of this section. 4. Judicial review. The determination of the review board shall be subject to review by the supreme court in the manner provided in article seventy-eight of the civil practice law and rules.

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§ 398-g. Powers of the commissioner. 1. In addition to the powers and duties specified elsewhere in this article, the commissioner, upon any complaint or upon his own initiative, shall have the power to make and conduct such investigations as he deems proper to effectuate the purposes of this article. The commissioner may establish, by rule or regulation, criteria upon which the necessity for investigation of complaints shall be determined. Such criteria may include but not be limited to the alleged financial loss to the

complainant, the indication of a recurring incidence of fraud or deceptive practices, or the essential nature of the service provided to the safe operation of the vehicle. The commissioner shall also have the power to assist in the settlement of disputes between complainants and registrants. In any such case in which a settlement is reached, a report of the facts, shall be included in the registrant's record. The provisions of section three hundred ninety-eight-f relating to the required attendance of registrants and the power to subpoena shall apply to any investigation conducted pursuant to this section. 2. The commissioner shall prescribe such rules and regulations as he shall deem necessary to effectuate the purposes of this article including but not limited to, standards for personnel, equipment and facilities.

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§ 398-h. Separability clause. If any part or provision of this article or the application thereof to any person or circumstances be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this article or the application thereof to other persons or circumstances.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12-A - Motor Vehicle Repair Shop Registration Act398-I - Unregistered Operation; Procedures and Penalties.

2. Except as provided in subdivision three, any person who operates a repair shop without being registered shall be required to pay to the people of this state a civil penalty in the sum of one thousand dollars. However, any such person against whom such penalty has been assessed may avoid all but five hundred dollars of such penalty by obtaining a registration as required by this article, provided that application for such registration is made not more than ten days after the imposition of such penalty. 3. (a) Any person who operates a repair shop while his repair shop registration is revoked or suspended, shall pay to the people of this state a civil penalty in the sum of one thousand dollars. Such civil penalty may not be avoided.(b) Any person who operates a repair shop without being registered as required by subdivision one of section three hundred ninety-eight-c of this chapter who has previously had a civil penalty assessed for unregistered operation shall pay to the people of this state a civil penalty in the sum of one thousand dollars. Such civil penalty may not be avoided.4. (a) If it is determined that a person has operated a repair shop without being registered as required by this article, such determination may be appealed to the review board established pursuant to section three hundred ninety-eight-f of this chapter. The procedure established in such section shall apply to such appeals provided that no appeal shall be accepted or determined by the review board unless the civil penalty assessed against such person has been paid as prescribed in subdivision two of this section.(b) The requirement that the civil penalty be paid before an appeal can be accepted or determined by the review board shall not apply to an appeal by a repair shop from a determination made pursuant to subdivision three of this section.(c) If the review board finds that the person has not been operating a repair shop without being registered, any civil penalty which has been paid shall be refunded, any premises ordered to be sealed pursuant to subdivision five-a of this section shall be unsealed, and if such board determines that registration as a repair shop is not required and a registration has been obtained to avoid the civil penalty assessed, the registration shall be cancelled and, notwithstanding the provisions of paragraph (a) of subdivision three of section three hundred ninety-eight-c of this chapter, all fees paid for such registration shall be refunded.5. Civil penalties assessed under this section shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.5-a. Sealing of the premises. (a) In addition to any other penalties set forth in this article, the commissioner, after notice to the owner of the premises and the owner of the motor vehicle repair shop and the opportunity for a hearing, shall be authorized to(i) order the sealing of the premises upon which any person has operated a motor vehicle repair shop without being registered, provided that such premises is primarily used for such activity and provided, further, that the commissioner shall not seal any dwelling unit or other space lawfully used solely for residential purposes;(ii) order that any devices, items or goods utilized in the operation of a motor vehicle repair shop and relating to such activity for which a registration for operation is required but has not been obtained pursuant to the provisions of this article shall be removed, sealed or otherwise made inoperable; and(iii) order the removal of motor vehicles on the premises to a garage, pound or other place of safety. For purposes of this article, the term "owner of the premises" shall mean the owner, lessor, lessee or mortgagee of the building, erection or place wherein any person is operating an unregistered motor vehicle repair shop. The person in whose name the real estate affected by the orders of the commissioner is recorded in the office of the city register or the county clerk, as the case may be, shall be presumed to be the owner thereof.(b) The lack of knowledge of, acquiescence or participation in or responsibility for, the operation of an unregistered motor vehicle repair shop, on the part of the owner of the premises and/or the owner of the motor vehicle repair shop, shall not be a defense by such owners.(c) Orders of the commissioner issued pursuant to paragraph (a) of this subdivision shall be conspicuously posted at the premises upon which unlawful operation

occurred.(d) An order of the commissioner issued pursuant to paragraph (a) of this subdivision shall be stayed with respect to any person who, prior to service of the notice required by such paragraph, has submitted a complete application, in proper form and accompanied by the requisite fee, for a certificate of registration to operate a motor vehicle repair shop or a renewal thereof, while the application is pending.(e) Ten days after the posting of an order issued pursuant to paragraph (a) of this subdivision, and upon the written directive of the commissioner, officers and employees of the department and police officers of any appropriate law enforcement agency shall be authorized to act upon and enforce such order. The commissioner may take such steps as are lawful and necessary to prevent the removal from the premises of any devices, items, goods or personal property used in the conduct of a motor vehicle repair shop business during such ten day period.(f) (i) Any devices, items, goods or motor vehicles removed pursuant to the provisions of subparagraphs (ii) and (iii) of paragraph (a) of this subdivision shall be stored in a garage, pound or other place of safety and the owner or other person lawfully entitled to the possession of such devices, items, goods or motor vehicles may be charged with reasonable costs for removal and storage payable prior to the release of such devices, items, goods or motor vehicles to such owner or such other person.(ii) The commissioner shall, by first class mail, notify the registered owner of any motor vehicle removed pursuant to subparagraph (iii) of paragraph (a) of this subdivision within five business days of the removal, of the location of such motor vehicle and the actions necessary to recover such motor vehicle.(iii) The owner or other person lawfully entitled to reclaim the devices, items, goods or motor vehicles removed pursuant to this section shall reclaim such devices, items, goods or motor vehicles within ninety days of their removal, or such devices, items, goods or motor vehicles shall be subject to forfeiture upon notice and judicial determination in accordance with the provisions of law. Upon forfeiture the commissioner shall, upon a public notice of at least five days, sell such forfeited devices, items, goods or motor vehicles at public sale. The net proceeds of such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund.(iv) Lessors of devices, items, goods or personal property removed pursuant to the provisions of subparagraph (ii) of paragraph (a) of this subdivision may reclaim leased devices, items, goods or personal property upon presentment of proof that the lessor is not otherwise involved, directly or indirectly, in the ownership or operation of such motor vehicle repair shop and that the lessee is in breach of the lease or in default of payments, and upon payment of any reasonable costs imposed for the removal and storage of such devices, items, goods or personal property pursuant to this subdivision.(g) The commissioner shall order any premises which are sealed pursuant to paragraph (a) of this subdivision to be unsealed upon:(i) payment of any and all fines, penalties and restitution; and(ii) presentment of proof that the required registration has been obtained for operation of a motor vehicle repair shop on the premises, or proof satisfactory to the commissioner, submitted by the owner of the premises, that such premises will not be used in violation of this article.(h) In addition to any fines, penalties or actions taken with respect to a motor vehicle repair shop and the persons operating, providing equipment or otherwise involved in the operations of such shop, the commissioner may also take action with respect to the owner of the premises where such shop has operated or is operating as provided in this paragraph. Upon a finding by the commissioner, after notice and the opportunity for a hearing, that an unregistered motor vehicle repair shop has been operated at the same premises on two or more separate occasions within eighteen months resulting in two or more separate determinations by the commissioner of a violation of this section with respect to such premises, and that the owner of the premises knowingly allowed such operation, the commissioner may impose upon such owner of the premises a civil penalty in an amount not to exceed fifteen thousand dollars, or may order the sealing of the premises for not more than one hundred eighty days, or both such actions.(i) Nothing contained herein shall be construed to authorize the commissioner to execute an order issued pursuant to this subdivision without the presence and assistance of a police officer of an appropriate law enforcement agency.(j) Removal of the seal on any premises sealed pursuant to the provisions of this subdivision shall constitute a misdemeanor.6. No allegation of unregistered operation as a repair shop shall be heard or determined unless notice of such allegation has been mailed to such person within two years after the date of the alleged unregistered operation. (b) Any person who operates a repair shop without being registered as required by subdivision one of section three hundred ninety-eight-c of this chapter who has previously had a civil penalty assessed for unregistered operation shall pay to the people of this state a civil penalty in the sum of one thousand dollars. Such civil penalty may not be avoided. 4. (a) If it is determined that a person has operated a repair shop without being registered as required by this article, such determination may be appealed to the review board established pursuant to section three hundred ninety-eight-f of this chapter. The procedure established in such section shall apply to such appeals provided that no appeal shall be accepted or determined by the review board unless the civil penalty assessed against such person has been paid as prescribed in subdivision two of this section. (b) The requirement that the civil penalty be paid before an appeal can be accepted or determined by the review board shall not apply to an appeal by a repair shop from a determination made pursuant to subdivision three of this section. (c) If the review board finds that the person has not been operating a repair shop without being registered, any civil penalty which has been paid shall be refunded, any premises ordered to be sealed pursuant to subdivision five-a of this section shall be unsealed, and if such board determines that registration as a repair shop is not required and a registration has been obtained to avoid the civil penalty assessed, the registration shall be cancelled and, notwithstanding the provisions of paragraph (a) of subdivision three of section three hundred ninety-eight-c of this chapter, all fees paid for such registration shall be refunded. 5. Civil penalties assessed under this section shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments

of a court of record. 5-a. Sealing of the premises. (a) In addition to any other penalties set forth in this article, the commissioner, after notice to the owner of the premises and the owner of the motor vehicle repair shop and the opportunity for a hearing, shall be authorized to (i) order the sealing of the premises upon which any person has operated a motor vehicle repair shop without being registered, provided that such premises is primarily used for such activity and provided, further, that the commissioner shall not seal any dwelling unit or other space lawfully used solely for residential purposes; (ii) order that any devices, items or goods utilized in the operation of a motor vehicle repair shop and relating to such activity for which a registration for operation is required but has not been obtained pursuant to the provisions of this article shall be removed, sealed or otherwise made inoperable; and (iii) order the removal of motor vehicles on the premises to a garage, pound or other place of safety. For purposes of this article, the term "owner of the premises" shall mean the owner, lessor, lessee or mortgagee of the building, erection or place wherein any person is operating an unregistered motor vehicle repair shop. The person in whose name the real estate affected by the orders of the commissioner is recorded in the office of the city register or the county clerk, as the case may be, shall be presumed to be the owner thereof. (b) The lack of knowledge of, acquiescence or participation in or responsibility for, the operation of an unregistered motor vehicle repair shop, on the part of the owner of the premises and/or the owner of the motor vehicle repair shop, shall not be a defense by such owners. (c) Orders of the commissioner issued pursuant to paragraph (a) of this subdivision shall be conspicuously posted at the premises upon which unlawful operation occurred. (d) An order of the commissioner issued pursuant to paragraph (a) of this subdivision shall be stayed with respect to any person who, prior to service of the notice required by such paragraph, has submitted a complete application, in proper form and accompanied by the requisite fee, for a certificate of registration to operate a motor vehicle repair shop or a renewal thereof, while the application is pending. (e) Ten days after the posting of an order issued pursuant to paragraph (a) of this subdivision, and upon the written directive of the commissioner, officers and employees of the department and police officers of any appropriate law enforcement agency shall be authorized to act upon and enforce such order. The commissioner may take such steps as are lawful and necessary to prevent the removal from the premises of any devices, items, goods or personal property used in the conduct of a motor vehicle repair shop business during such ten day period. (f) (i) Any devices, items, goods or motor vehicles removed pursuant to the provisions of subparagraphs (ii) and (iii) of paragraph (a) of this subdivision shall be stored in a garage, pound or other place of safety and the owner or other person lawfully entitled to the possession of such devices, items, goods or motor vehicles may be charged with reasonable costs for removal and storage payable prior to the release of such devices, items, goods or motor vehicles to such owner or such other person. (ii) The commissioner shall, by first class mail, notify the registered owner of any motor vehicle removed pursuant to subparagraph (iii) of paragraph (a) of this subdivision within five business days of the removal, of the location of such motor vehicle and the actions necessary to recover such motor vehicle. (iii) The owner or other person lawfully entitled to reclaim the devices, items, goods or motor vehicles removed pursuant to this section shall reclaim such devices, items, goods or motor vehicles within ninety days of their removal, or such devices, items, goods or motor vehicles shall be subject to forfeiture upon notice and judicial determination in accordance with the provisions of law. Upon forfeiture the commissioner shall, upon a public notice of at least five days, sell such forfeited devices, items, goods or motor vehicles at public sale. The net proceeds of such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund. (iv) Lessors of devices, items, goods or personal property removed pursuant to the provisions of subparagraph (ii) of paragraph (a) of this subdivision may reclaim leased devices, items, goods or personal property upon presentment of proof that the lessor is not otherwise involved, directly or indirectly, in the ownership or operation of such motor vehicle repair shop and that the lessee is in breach of the lease or in default of payments, and upon payment of any reasonable costs imposed for the removal and storage of such devices, items, goods or personal property pursuant to this subdivision. (g) The commissioner shall order any premises which are sealed pursuant to paragraph (a) of this subdivision to be unsealed upon: (i) payment of any and all fines, penalties and restitution; and (ii) presentment of proof that the required registration has been obtained for operation of a motor vehicle repair shop on the premises, or proof satisfactory to the commissioner, submitted by the owner of the premises, that such premises will not be used in violation of this article. (h) In addition to any fines, penalties or actions taken with respect to a motor vehicle repair shop and the persons operating, providing equipment or otherwise involved in the operations of such shop, the commissioner may also take action with respect to the owner of the premises where such shop has operated or is operating as provided in this paragraph. Upon a finding by the commissioner, after notice and the opportunity for a hearing, that an unregistered motor vehicle repair shop has been operated at the same premises on two or more separate occasions within eighteen months resulting in two or more separate determinations by the commissioner of a violation of this section with respect to such premises, and that the owner of the premises knowingly allowed such operation, the commissioner may impose upon such owner of the premises a civil penalty in an amount not to exceed fifteen thousand dollars, or may order the sealing of the premises for not more than one hundred eighty days, or both such actions. (i) Nothing contained herein shall be construed to authorize the commissioner to execute an order issued pursuant to this subdivision without the presence and assistance of a police officer of an appropriate law enforcement agency. (j) Removal of the seal on any premises sealed pursuant to the provisions of this subdivision shall constitute a misdemeanor. 6. No allegation of unregistered operation as a repair shop shall be heard or determined unless notice of such allegation has been mailed to such person within two years after the date of the alleged unregistered operation.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12-A - Motor Vehicle Repair Shop Registration Act398-K - Improper Display of Signs.

§ 398-k. Improper display of signs. 1. The holder of a repair shop registration shall remove or cause to be removed any sign which

contains the registration number of the station which is visible to the public and which is required to be displayed by this article or regulations promulgated thereunder if the registration is revoked or suspended or the repair shop is out of business. If the registration is only suspended, the holder may cover up the sign instead of removing it. 2. No person shall permit the display of any sign required to be displayed by this article or regulations promulgated thereunder indicating to the public that an official repair shop is operating unless a repair shop registration has been issued to that person and is currently valid.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12-A - Motor Vehicle Repair Shop Registration Act398 - Title.

§ 398. Title. This act shall be known as the "Motor Vehicle Repair Shop Registration Act."

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12-B - Approval of Motor Vehicle Accident Prevention Courses399-A - Statement of Purpose.

§ 399-a. Statement of purpose. The purposes of this article are to further highway safety by preserving the quality and efficacy of the accident prevention course programs. These purposes will be accomplished by establishing strict criteria for initial and continual course sponsorship approval.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12-B - Approval of Motor Vehicle Accident Prevention Courses399-B - Definitions.

§ 399-b. Definitions. For the purposes of this article, the following terms shall have the following definitions: 1. "Sponsoring agency" shall mean an organization which owns a motor vehicle accident prevention course approved by the commissioner. 2. "Delivery agency" shall mean an organization which conducts a sponsoring agency's approved motor vehicle accident prevention course. 3. "Instructor" shall mean an individual employed by a delivery agency to teach an approved accident prevention course. 4. "Accident prevention course" or "course" shall mean the accident prevention course curriculum or specialized course curriculum which has been approved by the commissioner. 5. "Completion certificate" shall mean a document which cannot be altered and which is provided to the student who successfully completes the accident prevention course. 6. "Specialized course" shall mean a course aimed primarily at enhancing safety within a specific occupation or for a specific category of vehicles.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12-B - Approval of Motor Vehicle Accident Prevention Courses399-C - Approval by the Commissioner.

§ 399-c. Approval by the commissioner. The commissioner must approve an accident prevention course before any person attending and successfully completing such course may qualify to receive mandatory insurance reduction benefits in accordance with subsection (a) of section two thousand three hundred thirty-six of the insurance law. The commissioner shall base the decision to approve a course upon the requirements set forth in this article and any additional requirements as the commissioner deems necessary.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12-B - Approval of Motor Vehicle Accident Prevention Courses399-D - Application for Approval.

§ 399-d. Application for approval. 1. An agency or organization seeking approval as a motor vehicle accident prevention course sponsoring agency shall apply to the commissioner for approval. Such applications shall be made in writing and on forms prescribed by the commissioner. The application shall include at a minimum: the title or name of the course, the name of the organization submitting the application, proof of course ownership, and the names and addresses of all owners, officers, and directors of the agency or organization, and such other information or material as the commissioner may prescribe. An application shall not be considered to be complete until all information and material required by this chapter and by regulation of the commissioner has been submitted. 2. The commissioner shall either approve or deny an application for course approval no later than ninety days following submission of a completed application. In the event the commissioner takes no action on an application after ninety days following submission of a completed application, the application shall be deemed denied.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12-B - Approval of Motor Vehicle Accident Prevention Courses399-E - Standards for Course Approval.

(a) Have been given for at least two years by the applicant agency or organization prior to the submission of an application. * (b) Provide at least three hundred twenty minutes of instruction, with a certified instructor present. The requirement that a certified instructor be present shall not be applicable to a program approved pursuant to article twelve-C of this title. Nothing in this section shall prevent the use of audio/visual aids as part of the course presentation prescribed by the commissioner. * NB Effective until

April 1, 2026 * (b) Provide at least three hundred twenty minutes of instruction, with a certified instructor present. Nothing in this section shall prevent the use of audio/visual aids as part of the course presentation prescribed by the commissioner. * NB Effective April 1, 2026 (c) Provide a description of the minimum qualifications of all managers and instructors who will be hired by the applicant. (d) Provide each instructor with an instructor's manual and provide student workbooks and/or manuals for each course participant. (e) Provide a copy of a completion certificate which is designed to prevent and is capable of preventing fraud and forgery, and which is approved by the commissioner for the purpose of verifying course completion for submission to insurance companies. (f) Provide proof of effectiveness pursuant to section three hundred ninety-nine-f of this article. 2. The commissioner is authorized to suspend or revoke approval of a sponsoring agency should the commissioner find that the sponsoring agency, its delivery agency or its instructors have been found to be in violation of any applicable laws or regulations.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12-B - Approval of Motor Vehicle Accident Prevention Courses399-F - Proof of Effectiveness.

§ 399-f. Proof of effectiveness. Proof of effectiveness shall be verifiable research documentation submitted by the applicant for sponsorship showing evidence of effectiveness comparable to that of the national safety council's defensive driving course as determined by the commissioner in terms of reduced convictions or accidents or both. This research documentation shall employ accepted research principles and include treatment and non-treatment control groups comprised of samples of the representative driver base. In order to establish verifiable effectiveness, each sample group should be comprised of a minimum of three thousand drivers selected randomly. The documentation shall include conviction or accident data for each motorist for a period of at least eighteen months prior to the course completion date and at least eighteen months subsequent to such date, and equivalent time periods for non-treatment control groups. The documentation shall also include a description of the sampling and analytic procedures used, and the motorist identification number and course completion date for all course attendees. The applicant for sponsorship shall provide, at the request of the commissioner and at the applicant's expense, all driving record data and analysis used in the development of the submitted research documentation. Submission of any fraudulent or intentionally misleading data will disqualify that organization and all owners and principals from participating or approval in the accident prevention course for a period of ten years from submission date. The commissioner may, by regulation, provide for a smaller sample group for specialized courses.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12-B - Approval of Motor Vehicle Accident Prevention Courses399-G - Regulations.

§ 399-g. Regulations. The commissioner shall promulgate such rules and regulations as are necessary to effectuate the provisions of this article. In addition to any requirements expressly authorized by this article, such regulations may include but not be limited to requirements and standards with respect to: delivery agencies and instructors; classroom facilities; suspension or revocation of approval; appeal of suspension or revocation; course administration and advertising; monitoring of courses and instructors; and reevaluation of course effectiveness pursuant to section three hundred ninety-nine-f of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12 - Other Provisions390 - Inspection of Motor Vehicles and Motorcycles.

§ 390. Inspection of motor vehicles and motorcycles. The superintendent of state police shall cause inspection to be made of the motor vehicles and motorcycles operating on the public highways to detect inadequacy of equipment, overloading and other violations of law governing the use of the public highways by motor vehicles and motorcycles.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12 - Other Provisions391 - Rates of Toll on Motor Vehicles.

§ 391. Rates of toll on motor vehicles. Where a different rate is not otherwise prescribed or permitted by law, any person or corporation maintaining a plank road, turnpike road or bridge and authorized, or which shall be hereafter authorized, to receive tolls for the passage of motor vehicles over the same, may charge and receive for each and every motor vehicle propelled by any power other than animal power, passing over the same, a toll rate not greater than the maximum rate allowed by law to be charged and received for the passage of a vehicle drawn over such road or bridge by two animals, provided that for such motor vehicles designed to carry only two persons the rate of toll charged or received shall not exceed the maximum rate allowed by law to be charged and received for the passage of a vehicle drawn over such road or bridge, without a load, by a single animal.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12 - Other Provisions392-A - Sale or Purchase of Stolen, False or Fraudulent License, Identification Card, Certificate of Registration, or Number Plate.

§ 392-a. Sale or purchase of stolen, false or fraudulent license, identification card, certificate of registration, or number plate. A person who knowingly sells or offers to sell or buys or offers to buy a false, fraudulent or stolen license, identification card,

certificate of registration or number plate, shall be guilty of a misdemeanor as a first offense and a class E felony as a second or subsequent offense committed within ten years of the prior offense.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12 - Other Provisions392-B - Powers of Motor Vehicle Investigators.

§ 392-b. Powers of motor vehicle investigators. Investigators of the department of motor vehicles during the course of and actual performance of their official duties shall have all the powers of peace officers, as set forth in section 2.20 of the criminal procedure law.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12 - Other Provisions392 - False Statements, Alteration of Records or Substitution in Connection With Any Examination.

§ 392. False statements, alteration of records or substitution in connection with any examination. Any person knowingly making a false statement in an application for any document issued by the commissioner or in any proof or statement in writing in connection with such an application, or who shall deceive or substitute or cause another to deceive or substitute in connection with any examination hereunder, or who shall wilfully alter a number plate (except for restoration purposes pursuant to schedule G of subdivision seven of section four hundred one of this chapter), or make a material alteration on any document issued pursuant to this chapter, or unlawfully use a validating device on a certificate of registration, license or any other form, shall be guilty of a misdemeanor. A person who operates a motor vehicle upon the public highway displaying or using any document that he or she knows has been obtained in violation of this section, shall be guilty of a misdemeanor. Nothing contained in this section shall prohibit the imposition of a charge of any other offense set forth in this chapter or any other provision of law for any acts arising out of the same incident.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12 - Other Provisions393-A - Inspection of Commercial Motor Vehicles Exceeding Ten Thousand Pounds Manufacturers' Gross Vehicle Weight Rating.

§ 393-a. Inspection of commercial motor vehicles exceeding ten thousand pounds manufacturers' gross vehicle weight rating. Any police officer having lawfully stopped a commercial motor vehicle with a manufacturers' gross vehicle weight rating in excess of ten thousand pounds for the purpose of conducting a motor carrier safety inspection may, when necessary to insure the safety of the officer, the vehicle occupants and the motoring public, require that the vehicle be driven to the nearest safe inspection site designated by such officer. Such location designated by the police officer shall not exceed a distance of five miles from the place where the vehicle was stopped.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12 - Other Provisions393 - Measurement and Weight of Vehicles; Responsibility for Damages.

§ 393. Measurement and weight of vehicles; responsibility for damages. Any peace officer in this state, acting pursuant to his special duties, police officer or employee of the department of transportation, having reason to believe that any vehicle registered under the provisions of subdivision seven or eight of section four hundred one or described in section three hundred eighty-five of this chapter or the load thereon is unlawful is authorized to stop, measure and weigh the same on any public highway by means of portable or stationary measures and scales. Any peace officer in this state, acting pursuant to his special duties, or police officer may require that such vehicle shall be driven to the nearest scales in the event such scales are within three miles, and if he finds that such vehicle is loaded in violation of the provisions of said subdivision seven or eight of section four hundred one or section three hundred eighty-five, he shall cause the excess load to be removed from such vehicle; and all material or goods so removed shall be removed and cared for by the owner or operator of such vehicle at the risk of such owner or operator of such vehicle; provided further that the owner and operator of any vehicle unlawfully operated or moved on any highway, or over any bridge or culvert in any highway, and the carrier in the conduct of whose business such vehicle is being operated at the time of violation, if such vehicle is then being operated in the conduct of business of a motor carrier, shall be jointly and severally responsible for all damages to such highway, bridge or culvert, as the result of the movement thereover of any vehicle, the weight or size of which violates any of the provisions of said section three hundred eighty-five. The department of transportation, in the case of highways, bridges or culverts under its jurisdiction, and the authority having jurisdiction thereover, in the case of highways, bridges or culverts situated within municipalities, may bring such civil action or actions against the owner and operator of the vehicle or the motor carrier as may be necessary to recover the damages sustained; and all funds recovered by the department of transportation in behalf of the state shall be paid to the state treasurer to the credit of the fund available for the maintenance and repair of state highways, and funds recovered in behalf of a municipality shall be applied in improving the highways, bridges and culverts in such municipality.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12 - Other Provisions394 - Drivers' Schools.

(a) "Drivers' school" means the business of giving instruction for hire in driving motor vehicles or motorcycles. (b) "Person" includes an individual, firm, corporation, partnership, joint venture, joint adventurer or association. (c) "Place of business" means a designated location at which the business of a drivers' school is transacted and its records kept. 2. License. No person shall engage in the business of conducting a drivers' school without being the holder of a license for such purpose issued by the commissioner. An application for license under this section shall be filed with the commissioner and shall contain such information as he shall prescribe. Every such application shall be accompanied by an application fee of fifty dollars, which shall in no event be refunded. If an application is approved by the commissioner, the applicant upon the payment of an additional fee of five dollars for each month or fraction thereof from the date of issuance to the date of expiration prescribed by the commissioner, but in no event more than a total of fifty dollars, shall be granted a license which shall be valid until such date of expiration. The annual fee for renewal thereof shall be fifty dollars. Upon renewal, the commissioner may in his discretion issue a license which shall be valid for up to a two-year period. The fee for a two-year renewal shall be one hundred dollars. Fees for renewal of a license valid for a period of less than two years shall be prorated on a quarterly basis and any portion of a quarter shall be considered a quarter. The commissioner shall issue a license certificate to each licensee, which certificate shall be conspicuously displayed in the place of business of the licensee. In case of the loss, mutilation or destruction of a license certificate, the commissioner shall issue a duplicate thereof upon proof of the facts and payment of a fee of two dollars. 3. Place of business. (a) No license shall be issued, nor shall any renewal of a license be made, for conducting a drivers' school in a city having a population of two hundred fifty thousand or more according to the latest federal census, unless the place of business of such school is located in a store, office or portion of a building devoted exclusively to nonresidential use. (b) No license shall be issued, nor shall any renewal of a license be made for conducting a drivers' school in a city having a population of fifty thousand or more according to the latest federal census, if the place of business of such school or branch thereof, is within fifteen hundred feet of a building owned or leased by the state, the county or a city, in which motor vehicle registrations or licenses to drive motor vehicles are issued to the public. The said distance of fifteen hundred feet shall be measured along the public streets by the nearest route from such place of business, or branch thereof, to such building. 4. Refusal to issue a license. The commissioner may deny the application of any person for a license, if, in his discretion, he determines that: (a) Such applicant has made a material false statement or concealed a material fact in connection with his application; (b) Such applicant, any officer, director, stockholder or partner, or any other person directly or indirectly interested in the business was the former holder, or was an officer, director, stockholder or partner, in a corporation or partnership which was the former holder of a drivers' school license which was revoked or suspended by the commissioner; (c) Such applicant or any officer, director, stockholder, partner, employee, or any other person directly or indirectly interested in the business has been convicted of a felony, or of any crime involving violence, dishonesty, deceit, indecency, degeneracy or moral turpitude; (d) Such applicant has failed to furnish satisfactory evidence of good character, reputation and fitness; (e) Such applicant does not have a place of business as required by this section; (f) Such applicant is not the true owner of the drivers' school. 5. Suspension, revocation and refusal to renew a license. The commissioner, or any employee of the department of motor vehicles deputized by him, may suspend or revoke a license or refuse to issue a renewal thereof for any of the following causes: (a) the conviction of the licensee or any partner, officer, agent or employee of such licensee, of a felony, or of any crime involving violence, dishonesty, deceit, indecency, degeneracy or moral turpitude; (b) where the licensee has made a material false statement or concealed a material fact in connection with his application for a license or a renewal thereof; (c) where the licensee has failed to comply with any of the provisions of this section or any of the rules and regulations of the commissioner made pursuant thereto: (d) where the licensee or any partner, officer, agent or employee of such licensee has been guilty of fraud or fraudulent practices in relation to the business conducted under the license, or guilty of inducing another to resort to fraud or fraudulent practices in relation to securing for himself or another a license to drive a motor vehicle or motorcycle. The term "fraudulent practices" as used in this section shall include, but shall not be limited to, any conduct or representation on the part of the licensee, or any partner, officer, agent, or employee of a licensee, tending to induce another or to give the impression that a license to operate a motor vehicle or motorcycle, or any other license, registration or service granted by the commissioner, may be obtained by any means other than the ones prescribed by law, or furnishing or obtaining the same by illegal or improper means, or requesting, accepting, exacting or collecting money for such purpose. Notwithstanding the renewal of a license, the commissioner may revoke or suspend such license for causes and violations, as prescribed by this section, occurring during the two license periods immediately preceding the renewal of such license. The commissioner, or any person deputized by him, in addition to or in lieu of revoking or suspending a license to conduct a driving school in accordance with the provisions of this section, may by order require the licensee to pay to the people of this state a penalty in a sum not exceeding five hundred dollars for each violation, and upon the failure of such licensee to pay such penalty within twenty days after the mailing of such order, postage prepaid, registered or certified, and addressed to the last known place of business of such licensee, unless such order is stayed by a court of competent jurisdiction or in accordance with the provisions of article three-A of this chapter, the commissioner may revoke the license of such licensee or may suspend the same for such period as he may determine. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action, and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the licensee is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record. 6. Hearing. Except where a

refusal to issue a license or renewal, or revocation or suspension, is based solely on a court conviction or convictions, a licensee or applicant shall have an opportunity to be heard, such hearing to be held at such time and place as the commissioner shall prescribe. Provided, however, upon a written notice of temporary suspension delivered by certified mail to the licensee, a license may be temporarily suspended pending a hearing. Any such notice of temporary suspension shall provide that the suspension is effective seventy-two hours after mailing of such notice and shall provide that a hearing be scheduled within ten days after the effective date of the temporary suspension. A licensee or applicant entitled to a hearing shall be given due notice thereof. The sending of a notice of a hearing by registered mail to the last known address of a licensee or applicant ten days prior to the date of the hearing shall be deemed due notice. The commissioner, or the person deputized by him to conduct a hearing, shall have power to subpoena witnesses, administer oaths to witnesses and take testimony of any person or cause his deposition to be taken. A subpoena issued under this section shall be regulated by the civil practice law and rules. Officers or employees in the department of taxation and finance, making service of such subpoenas are not entitled to fees and mileage. 7. Supervision; records. The commissioner shall approve the form of contract used by all licensees, and may prescribe reasonable rules governing the terms which may be included in such contracts. Every licensee shall keep such records as the commissioner may by regulation require. The records of the licensee shall be open to the inspection of the commissioner or his representatives at all times during reasonable business hours. The commissioner shall prescribe such reasonable rules and regulations as he may deem necessary to carry out the provisions of this section. 7-a. Certification of driving time. The commissioner shall establish by regulation a certification process by drivers' schools of the amount of time a holder of a learner's permit has spent operating a motor vehicle or motorcycle while under the immediate supervision of a driving instructor holding an instructor's certificate issued pursuant to subdivision eight of this section. A certificate issued pursuant to this section shall be deemed to be proof of all or a portion of the supervised driving experience required under certification pursuant to paragraph (d) of subdivision two of section five hundred two of this chapter. 8. Instructors. (a) No person shall be employed by a licensee as a driving instructor, nor shall any person give instructions for hire in the operation of motor vehicles or motorcycles unless such person is the holder of a driver's license valid for operation in this state and an instructor's certificate issued by the commissioner. Such certificates shall be issued only to persons of good reputation and moral character, whose driving records, as determined by the commissioner, qualify them as instructors in the operation of motor vehicles or motorcycles. An application for an instructor's certificate must identify the driving school or schools in which the applicant is to act as an instructor and shall contain such other information as the commissioner shall prescribe. Each such application shall be accompanied by a fee of ten dollars which shall in no event be refunded. Such certificate shall be issued without payment of any additional fee and shall be limited to use in connection with the business of the specified driving school or schools. Such certificate shall be valid until the date of expiration prescribed by the commissioner and may be validated for use in connection with the business of other driving schools without payment of any additional fee. The fee for annual renewal thereof shall be ten dollars. Upon renewal, the commissioner may, in his discretion, issue a renewal which shall be valid for up to a two-year period. The fee for a two-year renewal shall be twenty dollars. Fees for renewal of a certificate valid for a period of less than two years shall be prorated on a quarterly basis and any portion of a quarter shall be considered a quarter. (b) The commissioner or any employee of the department of motor vehicles deputized by him, may suspend or revoke an instructor's certificate for any of the following causes: (1) expiration, suspension or revocation of the required license of such instructor; (2) the commissioner has determined that the driving record of such instructor indicates that such instructor does not possess the qualities or competence necessary or desirable for a driving instructor; (3) such instructor has failed to comply with the rules and regulations prescribed by the commissioner; (4) conviction of such instructor of a felony or any crime involving violence, dishonesty, deceit, indecency, degeneracy or moral turpitude; and (5) such instructor has been guilty of fraud or fraudulent practices. 8-a. Fees; deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the general fund. 9. Employees. A licensee may employ, in connection with a driving school a person who has been convicted of a crime, in accordance with article twenty-three-A of the correction law. 10. Judicial review. The action of the commissioner in refusing to issue or renew, or revoking or suspending a license or instructor's certificate may be reviewed in a proceeding under article seventy-eight of the civil practice law and rules. 11. Penalties. (a) A violation of any of the provisions of this section shall constitute a misdemeanor. (b) During the pendency of any criminal prosecution based upon a violation of this section or if any such prosecution has been terminated and the defendant has been sentenced to pay a fine as provided in this chapter, no proceeding to recover civil penalties under this section shall be commenced and any such pending proceeding shall be stayed. 12. Unlicensed operation; procedures and penalties. (a) The commissioner or any person deputized by him shall hear and determine any allegation that a person has operated a drivers' school without being licensed as required by subdivision two of this section. Upon a determination that a person has so operated, the commissioner or person deputized by him shall assess civil penalties as provided in paragraphs (b) and (c) of this subdivision. (b) Except as provided in paragraph (c) of this subdivision, any person who operates a drivers' school without being licensed shall be required to pay to the people of this state a civil penalty in the sum of one thousand dollars. However, any such person against whom such penalty has been assessed may avoid all but five hundred dollars of such penalty by obtaining a license as required by this section, provided that application for such license is made not more than ten days after the imposition of such penalty. (c) (i) Any person who operates a drivers' school while his drivers' school license is revoked or suspended, shall pay to the people of this state a civil penalty in the sum of one thousand dollars. Such civil penalty may not be avoided. (ii) Any person who operates a drivers' school without being licensed as required by subdivision two of this section who has previously had a civil penalty assessed for unlicensed operation shall pay to the people of this state a civil penalty in the sum of one thousand dollars. Such civil penalty may not be avoided. (d) Civil penalties assessed under this section shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties

may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action, and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the licensee is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12 - Other Provisions395 - Certain Private Service Bureaus to Be Licensed.

§ 395. Certain private service bureaus to be licensed. Except as otherwise provided herein, no person, firm, association or corporation shall, engage in the business of assisting for hire in securing licenses to drive motor vehicles or registrations or titles of motor vehicles, nor shall any person, firm, association or corporation for compensation give instructions as to procuring licenses to drive motor vehicles or registrations or titles of motor vehicles, without being the holder of a license for such purpose issued by the commissioner of motor vehicles. An applicant for a license shall furnish the commissioner with such information and such references as to moral character as he may reasonably require. Every application shall be accompanied by a fee of twenty-five dollars, which shall be regarded as an application fee and shall in no event be refunded. If an application be approved by the commissioner, the applicant upon the payment of an additional fee of twenty-five dollars shall be granted a license which shall expire on the thirtieth day of June following the date of its issuance. The commissioner shall issue a license certificate to each licensee which certificate shall be conspicuously displayed in the place of business of the licensee, or, if the licensee has no place of business, such certificates shall be exhibited at the request of any person. In case of the loss, mutilation or destruction of a certificate, the commissioner shall issue a duplicate upon proof of the facts and the payment of a fee of one dollar. The refusal to issue a license may be reviewed by a proceeding under article seventy-eight of the civil practice law and rules. Such license shall be renewed annually upon the payment of a fee of twenty-five dollars, such renewal to take effect on the first day of July in each year. Upon renewal, the commissioner may, in his discretion, issue a license which shall be valid for a two year period. The fee for any such two year renewal shall be fifty dollars. No license shall be issued under this section nor shall any renewal of a license issued under this section be made for conducting business in a city having a population of fifty thousand or more, according to the latest federal census if the place of business of the licensee, or branch thereof, is within fifteen hundred feet of a building, owned or leased by the state, a county or a city, in which motor vehicle registrations or licenses to drive motor vehicles are issued to the public. The said distance of fifteen hundred feet shall be measured along the public streets by the nearest route from such place of business, or branch thereof, to such building. The provisions of this paragraph shall not apply to a holder of a certificate of registration issued pursuant to section four hundred fifteen of this chapter. A licensee shall be subject to such reasonable regulations concerning the business conducted under his license as the commissioner may prescribe and he shall permit the commissioner, or his representatives, to inspect his place of business on any business day and shall furnish to the commissioner, or his representative, such information concerning the conduct of the business as may be reasonably required. The provisions of subdivisions five and six of section three hundred ninety-four of this chapter shall be applicable with respect to this section. The holder of a license issued pursuant to section three hundred ninety-four of this chapter or the holder of a certificate of registration issued pursuant to section four hundred fifteen of this chapter shall not be required to secure a license under this section in order to conduct a business for which a license is required by this section but any such licensee, or registrant, who shall conduct such business, shall be subject to the same visitation and regulation by the commissioner with reference to such business as provided in this section with respect to a licensee under this section. As used in this section the phrase "licenses to drive motor vehicles" includes the term "learners' permits". A violation of any of the provisions of this section shall constitute a misdemeanor.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12 - Other Provisions396 - Use of State and Other Seals and Insignia on Private Vehicles Prohibited.

§ 396. Use of state and other seals and insignia on private vehicles prohibited. 1. A person who shall use any seal, device of arms, sign, lettering or insignia of the United States, or of this state or political subdivision thereof, on any vehicle not owned or used by the United States, this state or by such political subdivision thereof, which such seal, device of arms, sign, lettering or insignia represents, is guilty of a traffic infraction. 2. A person who shall use or display the words "Police Department," "Police" or any sign, lettering or device with the letters "P.D.," or any other matter indicating ownership, possession or use by a police department, on any motor vehicle or motor cycle not used by a duly organized police department within this state and not actually operated or used by a member or an employee of a duly organized police department on any public highway, is guilty of a traffic infraction. 3. A person who shall use or display the words "Fire Department," "Fire" or any sign, lettering or device with the letters "F.D.N.Y.," or any other matter indicating ownership, possession or use by a fire department, on any motor vehicle or motor cycle not used by a duly organized fire department within this state and not actually operated or used by a member or an employee of a duly organized fire department on any public highway, is guilty of a traffic infraction.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12 - Other Provisions397-A - Radar Detectors and Laser Detectors

Prohibited.

§ 397-a. Radar detectors and laser detectors prohibited. 1. No radar detector or laser detector shall be used in any motor vehicle with a gross vehicle weight rating of more than eighteen thousand pounds or in any commercial vehicle with a gross vehicle weight rating of more than ten thousand pounds. The presence in such vehicle of a radar detector or laser detector connected to a power source and in an operable condition is presumptive evidence of its use by any person operating such vehicle. Such presumption shall be rebutted by any credible and reliable evidence which tends to show that such radar detector or laser detector was not in use. 2. The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a radar detector or laser detector, unless otherwise provided by law. 3. A violation of the provisions of this section shall constitute a traffic infraction punishable by a fine of not less than twenty-five nor more than one hundred dollars.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12 - Other Provisions397-B - Vehicle Leases That Are Not Sales or Security Interests.

§ 397-b. Vehicle leases that are not sales or security interests. Notwithstanding any other provision of law, in the case of motor vehicles or trailers which are not vehicles or trailers leased or used primarily for personal, family, or household purposes, a transaction does not create a conditional sale or security interest merely because it provides that the rental price is permitted or required to be adjusted under the agreement either upward or downward by reference to the amount realized upon sale or other disposition of the motor vehicle or trailer.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12 - Other Provisions397-C - For-Hire Motor Vehicle Safety Program.

§ 397-c. For-hire motor vehicle safety program. The commissioner shall evaluate and approve any for-hire motor vehicle safety program created pursuant to section two thousand three hundred fifty-three of the insurance law within sixty days of the effective date of such section.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 12 - Other Provisions397 - Equipping Motor Vehicles With Radio Receiving Sets Capable of Receiving Signals on the Frequencies Allocated for Police Use.

§ 397. Equipping motor vehicles with radio receiving sets capable of receiving signals on the frequencies allocated for police use. A person, not a police officer or peace officer, acting pursuant to his special duties, who equips a motor vehicle with a radio receiving set capable of receiving signals on the frequencies allocated for police use or knowingly uses a motor vehicle so equipped or who in any way knowingly interferes with the transmission of radio messages by the police without having first secured a permit so to do from the person authorized to issue such a permit by the local governing body or board of the city, town or village in which such person resides, or where such person resides outside of a city or village in a county having a county police department by the board of supervisors of such county, is guilty of a misdemeanor, punishable by a fine not exceeding one thousand dollars, or imprisonment not exceeding six months, or both. Nothing in this section contained shall be construed to apply to any person who holds a valid amateur radio operator's license issued by the federal communications commission and who operates a duly licensed portable mobile transmitter and in connection therewith a receiver or receiving set on frequencies exclusively allocated by the federal communications commission to duly licensed radio amateurs.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 4 - Application of This Title300 - Application of This Title.

(a) On the use by motor vehicles of public highways, and (b) On the accessories used upon motor vehicles and motorcycles and their incidents.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 5-A - Enacted Without Article Heading.309-A - Establishment of Experimental Motor Vehicle Inspection Stations.

§ 309-a. Establishment of experimental motor vehicle inspection stations. The commissioner of motor vehicles is hereby directed to establish, maintain and/or conduct experimental motor vehicle inspection stations, by contract or pursuant to an appropriation made therefor, for the purpose of making the inspection prescribed by article five of the vehicle and traffic law and for the purpose of issuing certificates of inspection.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 5-A - Enacted Without Article Heading.309-B - Federal Funds.

§ 309-b. Federal funds. The commissioner is hereby authorized to seek and obtain federal funds to establish, maintain and/or conduct such experimental motor vehicle inspection stations.

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2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 5-A - Enacted Without Article Heading.309-C - Contracts.

§ 309-c. Contracts. The commissioner may in his discretion enter into contracts with other outside agencies to provide testing devices, supply facilities, maintain and conduct experimental motor vehicle inspections under his direction and supervision.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 5-A - Enacted Without Article Heading.309-D - Fees.

§ 309-d. Fees. The schedule of fees charged by such an experimental motor vehicle inspection station for making the inspection required shall be subject to the approval of the commissioner, provided, however, that such fees shall provide sufficient revenue, either by themselves or when combined with any federal funds made available to the commissioner, to meet the total costs of the experimental motor vehicle inspection program herein established.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 5-A - Enacted Without Article Heading.309-E - Reports.

§ 309-e. Reports. The commissioner shall, not later than January first, nineteen hundred seventy-eight, submit to the governor and to the legislature a report on the operation and maintenance of such stations.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 5-A - Enacted Without Article Heading.309 - Legislative Findings.

§ 309. Legislative findings. 1. The legislature hereby finds and declares that the safety of the motoring public depends on a modern system of periodic motor vehicle inspection. 2. In nineteen hundred fifty-nine New York state recognized the need for inspection of motor vehicles to assure its citizens that their safety would be protected by removing from its highways those cars whose mechanical condition did not meet rigid standards of safety. 3. The introduction of anti-pollution devices and newly developed safety attachments to modern automobiles requires that experimental inspection stations be established to permit the testing of new methods of periodic motor vehicle inspection. 4. The creation of new techniques of periodic motor vehicle inspection has become the concern of the federal government, and federal funds are now available for the development of criteria for modern inspection methods. Therefore, legislation should be enacted to promote the advancement of the periodic motor vehicle inspection program in New York state.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 5 - Periodic Inspection of Motor Vehicles301-A - Re-Inspection of Motor Vehicles Involved in Certain Accidents.

§ 301-a. Re-inspection of motor vehicles involved in certain accidents. 1. The commissioner may require that a motor vehicle registered in this state or elsewhere which is required to be inspected, be re-inspected after it is involved in a property damage accident which is required to be reported to the motor vehicle department. Such re-inspection shall be made within sixty days of the date of the accident if the motor vehicle is driven away from the accident site. Such re-inspection shall be made before the vehicle is operated on the public highways if the motor vehicle is towed or transported from the accident site, except that a motor vehicle may be driven from a repair shop to an inspection station for the purpose of being re-inspected. 2. The owner of a car so damaged shall be required to submit to the department within the same time limit as provided in subdivision one of this section satisfactory proof of re-inspection pursuant to rules and regulations to be promulgated by the commissioner. 3. Failure to submit such proof of re-inspection as herein provided shall constitute ground for suspension or revocation of his privileges of operating a motor vehicle in this state and of the operation within this state of any motor vehicle owned by him.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 5 - Periodic Inspection of Motor Vehicles301-B - Heavy Duty Vehicle Emissions.

§ 301-b. Heavy duty vehicle emissions. 1. It shall be a violation to operate a heavy duty vehicle which, when tested, exceeds emissions levels set forth in section 19-0320 of the environmental conservation law or regulations adopted thereunder. The following penalties shall apply to any violation found as a result of roadside emissions inspections: a. First violation: $700.00 Second and subsequent violations: $1300.00. b. The penalties set forth in paragraph a of this subdivision shall be reduced to one hundred fifty dollars for the first violation and five hundred dollars for the second and subsequent violations by the court or administrative tribunal before which the summons or appearance ticket is returnable if the violation set forth in the summons or appearance ticket is corrected not later than thirty days after the issuance of the summons or appearance ticket and proof of such correction, as defined in paragraph c of this subdivision, is submitted to the court or administrative tribunal. The penalties described in this section shall not apply to vehicles defined by section one hundred forty-two of this chapter or owned by a county, town, city, or village for a first violation provided the vehicle is repaired within thirty days of ticket issuance. c. Acceptable proof of repair or

adjustment shall be submitted to the court or administrative tribunal on or before the return date of the summons or appearance ticket in a form and manner prescribed by regulations adopted pursuant to this section. 2. It shall be a violation to operate any heavy duty vehicle registered or required to be registered in this state without a certificate of inspection resulting from an annual inspection as required by section 19-0320 of the environmental conservation law or regulations adopted thereunder. The following violation structure shall apply to such violations: a. First violation: $ 700.00 Second and subsequent violations: $1300.00. b. The penalties defined in paragraph a of this subdivision shall be reduced to three hundred fifty dollars for the first violation and seven hundred fifty dollars for second and subsequent violations, provided that the vehicle in question bears a certificate which was valid within the last thirty days. The penalties described in this section shall not apply to vehicles defined by section one hundred forty-two of this chapter or owned by a county, town, city, or village for a first violation provided the vehicle is inspected within thirty days of ticket issuance. 3. Any fines collected for violations of this section shall be deposited in the clean air fund, to the credit of the mobile source account in accordance with the provisions of section ninety-seven-oo of the state finance law. 4. Notwithstanding the provisions of this section, no penalty shall be imposed pursuant to this section where the operator of such vehicle has been convicted of the same violation arising from the same incident pursuant to section 19-0320 of the environmental conservation law.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 5 - Periodic Inspection of Motor Vehicles301 - Periodic Inspection of All Motor Vehicles.

(b) The commissioner shall also require the inspection of any motor vehicle duly registered under the laws of another state, a province of Canada, a territory or a federal district to the extent to which such state, province, territory or federal district requires the inspection of motor vehicles duly registered under the laws of this state. (c) (1) (a) A safety inspection shall be made with respect to the brakes; steering mechanism; wheel alignment; lights, including but not limited to the lights which are designed and placed on a vehicle for the purpose of illuminating the vehicle's license plates; odometer; tire pressure; seat safety belts; shoulder harness safety belts; any window which is composed of, covered by or treated with any material which has a light transmittance of less than seventy percent pursuant to section three hundred seventy-five of this title and such other mechanisms and equipment as shall be determined by the commissioner to be necessary for proper and safe operations. Such inspection shall also be made with respect to vehicle identification number. Upon inspection, the mileage appearing on the odometer shall be recorded upon the inspection sticker. (b) In the case of any passenger car manufactured on or after September first, nineteen hundred ninety-seven, during the course of the vehicle safety inspection, the readiness of the inflatable restraint system, by means of the readiness indicator, shall be noted on the invoice supplied to the consumer. The system's lack of readiness shall not be considered grounds for the vehicle to fail the safety inspection provided for in subparagraph (a) of this paragraph. (2) Such inspection may also include a visual inspection prescribed by the commissioner to determine the presence and correct installation of any air contaminant emission systems or devices which are required by state or federal law or any rules or regulations pursuant thereto; provided that for any vehicle not subject to an emission inspection pursuant to subdivision (d) of this section, such visual inspection shall be performed. (3) Improper tire pressure shall not be reason for failure of the inspection. (d) (1) The commissioner, in consultation with the commissioner of environmental conservation, shall implement a program of motor vehicle emissions inspections with respect to any motor vehicles or class of motor vehicles which are required by federal law or any rules or regulations issued pursuant thereto or by any state law or any rules or regulations issued pursuant thereto, including rules and regulations issued by the department of environmental conservation, to meet standards applicable to the emission of any kind of substance by such vehicles or engines or to contain any equipment, systems or design features to reduce such emission. The commissioner shall establish regulations for such inspections. Such regulations shall include provision for cooperating with the commissioner of environmental conservation to notify owners of vehicles that have failed emission inspections of the availability of mobile source emission reduction credit trading programs pursuant to section 19-0301 of the environmental conservation law. (2) Such inspection shall be performed biennially; provided however that the commissioner may require emission inspections more frequently than biennially if the commissioner of environmental conservation, in consultation with the commissioner, makes a determination that more frequent emission inspections are necessary to comply with federal requirements or a court order; and provided that an emission inspection program in operation prior to nineteen hundred ninety-three shall continue to require emission inspections at least annually until January first, nineteen hundred ninety-six. (3) Such inspection shall be performed at a facility that only performs inspections if the commissioner of environmental conservation, in consultation with the commissioner, makes a determination that such restriction is necessary to meet federal requirements. In no event shall any facility operating pursuant to a contract with the commissioner, entered into pursuant to subdivision (a) of section three hundred three of this chapter, be allowed to perform repairs; provided however, that such a facility shall be allowed to perform repairs at no charge that are incidental to the inspection process. (4) The commissioner shall establish an emission system repair training program, for purposes of enhancing the quality and reliability of emission system repair services available from official repair stations in all areas where emission inspections are required under this section. (e) The requirements of air contamination emission system inspection shall not apply to historical motor vehicles registered pursuant to schedule G of subdivision seven of section four hundred one of this chapter unless required by federal law. (f) The department is authorized, in consultation with the departments of environmental conservation and transportation, to adopt rules and regulations necessary to implement a heavy duty vehicle inspection program pursuant to section 19-0320 of the environmental conservation law and implement such program by June first, nineteen hundred ninety-nine.

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2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 5 - Periodic Inspection of Motor Vehicles302 - Powers and Duties of the Commissioner.

(b) The commissioner may authorize the acceptance of a certificate of inspection issued in another state having inspection requirements substantially similar to those of this state. He may also extend, on any reasonable ground, the time within which a certificate shall be obtained by the owner of a motor vehicle. (c) The commissioner may, consistent with federal law and regulations, permit any person, association, corporation or subsidiary corporation of a parent corporation having registered in his or its name in this state more than twenty-five motor vehicles, and qualified dealers of motor vehicles held by them for sale or demonstration, who maintain approved inspection facilities, to conduct the inspection or inspections required by this article under regulation prescribed by the commissioner. (d) The commissioner of motor vehicles may appoint and at pleasure remove inspectors, consultants and such other assistants and employees as he may deem necessary, within the amount available therefor by appropriation, to carry out the provisions of this article. (e) The commissioner is empowered to make reasonable rules and regulations for the administration and enforcement of this article and the periods during which motor vehicles are required to be inspected. (f) The commissioner of motor vehicles may, consistent with federal law and regulations, upon application of any municipality, and upon a determination that such municipality has sufficient personnel and approved inspection facilities to conduct the inspection or inspections required by this article under the regulations prescribed by the commissioner, permit such municipality to conduct the inspection required by this article.

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(1) A license to operate an official inspection station shall be issued only upon written application which shall set forth such facts and evidence as may be required to ascertain the identity, qualifications and character of the applicant. An original application for a license for an official inspection station shall be accompanied by an application fee of twenty-five dollars, which shall in no event be refunded. The commissioner shall issue a license, after appropriate inquiry and investigation, only when satisfied that the station is properly equipped and has competent personnel to make such inspections and that such inspections will be properly conducted, and that the applicant complies with the provisions of this article and the rules and regulations promulgated thereunder. If an application is approved by the commissioner, a license shall be issued to the applicant. The annual fee for a license or license renewal shall be fifty dollars. The commissioner may issue such licenses on a staggered expiration basis, in which event the fees for such licenses shall be prorated on a monthly basis. In no event shall the fee exceed one hundred dollars for two years. The commissioner shall have discretion to issue a license or license renewal which shall be valid for a period of not more than two years. The fee for any such renewal shall be not more than one hundred dollars. (2) The commissioner may issue a temporary permit to any applicant for a license under the provisions of this article pending final action on an application made for such a license, and the computation of the license fee, if a license is issued, shall be computed from the date of issuance of the temporary permit. Any such permit shall be valid for a period not in excess of sixty days. The provisions of this paragraph relating to fees, shall not apply to the state, a city, county, village, town or school district, or any of the departments thereof. (3) A contract to operate an emission inspection facility shall include the following conditions: (i) emission inspection facilities must be geographically dispersed throughout each region in numbers sufficient to allow motorists reasonable access to such facilities; (ii) maximum daily average waiting times for motorists at emission inspection facilities shall not exceed fifteen minutes for more than five days each calendar month; and (iii) no emission inspection facility authorized by a chapter of the laws of nineteen hundred ninety-three shall begin to operate commercially, except for a limited test period not to exceed thirty-one days as approved by the department, prior to January first, nineteen hundred ninety-six, in any area of the state which has an emission inspection program in operation at the time of the enactment of such chapter. The commissioner shall approve any proposed fee schedule to the extent that it will allow an official inspection station operating such a pre-existing program to recover any additional fee imposed by such chapter. (b) Each official inspection station shall keep a record of inspections, re-inspections, and the results thereof, and a record of certificates of inspection issued. (c) Each official inspection station shall prominently display in an area of the station where the orderly transaction of business of such station occurs a sign provided or approved by the department and, after a motor vehicle fails to pass inspection at such station, provide written notice on forms provided or approved by the department to the owner or person in charge of said vehicle that the necessary repairs must be made to the vehicle within thirty days from the date of inspection and that such repairs need not necessarily be made at that station and shall be made in a manner consistent with federal law and regulations. The period allowed for repair shall not extend the expiration date of either the inspection sticker or registration certificate. (d) 1. The commissioner shall supervise and cause inspections to be made of such official inspection stations. It shall be the duty of the superintendent of state police and of the police forces of all municipalities of the state to assist the commissioner in assuring compliance by all official inspection stations with the provisions of this article and with all rules and regulations promulgated thereunder. An official inspection station and the records thereof shall be open for inspection at reasonable times by any police officer or any person designated by the commissioner to inspect such official inspection stations or any person designated by the commissioner of environmental conservation to inspect such official inspection stations with respect to emission inspections. 2. The commissioner shall have the right to inspect motor vehicles located on the premises of any person, association, corporation, subsidiary corporation or municipality having obtained

permission to conduct self-inspection of motor vehicles pursuant to subdivision (c) or (f) of section three hundred two of this chapter and which have been issued a certificate of inspection within the previous fifteen days. (e) 1. A license to operate an official inspection station or a certificate to inspect vehicles may be suspended or revoked or renewal thereof may be refused by the commissioner or any person duly deputized for one or more of the following causes: (i) Failure to conduct inspections in conformance with the provisions of this article and the rules and regulations promulgated thereunder or improper issuance of certificates of inspections. (ii) Conviction of a crime involving fraud, theft, perjury or bribery or other cause which would permit disqualification from receiving a license or a certificate to inspect vehicles upon the original application. (iii) Fraud, deceit or misrepresentation in securing the license or a certificate to inspect vehicles or in the conduct of licensed or certified activity. (iv) Excessive charges for conducting inspections and for making adjustments, corrections or repairs required by such inspections. (v) Violation of any provision of this article or any rule or regulation promulgated thereunder. 2. Provided, however a license to operate an official inspection station or a certificate to inspect vehicles shall be suspended or revoked or renewal thereof shall be refused by the commissioner or any person duly deputized, upon a third or subsequent violation committed within a period of eighteen months of any rule or regulation of the commissioner requiring an inspection station to refuse to perform an inspection as set forth in paragraph two of subdivision (f) of section 79.20 of title fifteen of the codes, rules and regulations of the state of New York. If the commissioner or any person duly deputized orders penalties to be paid pursuant to subdivision (h) of this section, such penalties shall be in addition to, but not in lieu of, a suspension, revocation, or renewal thereof imposed pursuant to this paragraph. 3. Provided, however, a license to operate an official inspection station or a certificate to inspect vehicles shall be suspended or revoked or renewal thereof shall be refused by the commissioner or any person duly deputized, upon a third or subsequent willful violation, all within a period of eighteen months, of any rule or regulation of the commissioner requiring an inspection station to inspect the muffler or exhaust system of a motorcycle as set forth in subdivision (c) of section 79.28 of title 15 of the codes, rules and regulations of the state of New York. If the commissioner or any person duly deputized orders penalties to be paid pursuant to subdivision (h) of this section, such penalties shall be in addition to, but not in lieu of, a suspension, revocation, or renewal thereof imposed pursuant to this paragraph. (f) No license or certificate shall be revoked or suspended, or renewal refused, except upon notice to the licensee or certified inspector and after an opportunity to be heard. A license or certificate, however, may be temporarily suspended upon a written notice of temporary suspension delivered by certified mail to the licensee or certified inspector pending any prosecution, investigation or hearing. The written notice of temporary suspension shall provide that the temporary suspension is effective seventy-two hours after delivery of such notice. Whenever any license to operate an official inspection station or certificate to inspect vehicles is revoked, no license or certificate shall be reissued to an applicant until after the expiration of a period of one year from the date of such revocation. (g) Upon the revocation or suspension of an inspection station license or certificate to inspect vehicles, the holder thereof shall deliver such license or certificate to the revoking or suspending officer, together with all inspection and inspection extension certificates, all inspection record forms, and any and all other items in the possession of the license or certificate holder which theretofore had been issued by the commissioner for use in connection with the inspection station or the inspection of vehicles. The failure of the holder thereof to deliver any of the aforesaid items to the revoking or suspending officer, or to any peace officer, acting pursuant to his special duties, or police officer directed by the commissioner or agent of the commissioner, displaying authorization to act in such capacity along with a certified copy of the order revoking or suspending such inspection station license, to secure possession thereof, shall constitute a misdemeanor. (h) The commissioner, or any person duly deputized, in addition to or in lieu of revoking or suspending a license to operate an official inspection station or a certificate to inspect vehicles, may by order require the licensee or certified inspector to pay to the people of this state a penalty for a first violation a sum not exceeding one thousand dollars for each violation found to have been committed; and for a second or subsequent violation not arising out of the same incident both of which were committed within a period of thirty months, a sum of not more than one thousand five hundred dollars for each violation found to have been committed; provided, however, the penalty for each and any violation of subparagraph (iii) of paragraph one of subdivision (e) of this section found to have been committed shall be no less than five hundred dollars and no more than one thousand five hundred dollars, and provided further, however, the penalty for a violation found to have been committed of any rule or regulation of the commissioner requiring an inspection station to refuse to perform an inspection as set forth in paragraph two of subdivision (f) of section 79.20 of title fifteen of the codes, rules and regulations of the state of New York shall be a fine of not less than two hundred fifty dollars nor more than one thousand dollars for a first violation, and a fine of not less than five hundred dollars nor more than one thousand five hundred dollars for a second or subsequent such violation not arising out of the same incident both of which were committed within a period of eighteen months, and upon the failure of such licensee to pay such penalty within twenty days after the mailing of such order, postage prepaid, registered or certified, and addressed to the last known place of business of such licensee or certified inspector, unless such order is stayed by a court of competent jurisdiction or in accordance with the provisions of article three-A of this chapter, the commissioner may revoke the license of such licensee or the certificate of such certified inspector or may suspend the same for such period as may be determined. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located or the certified inspector resides a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued

against property upon judgments of a court of record. (i) The holder of an inspection station license shall remove or cause to be removed any sign which contains the license number of the station which is visible to the public and which is required to be displayed by this article or regulations promulgated thereunder if the license is revoked or suspended or the inspection station is out of business. If the license is only suspended, the holder may cover up the sign instead of removing it. (j) No person shall permit the display of any sign required to be displayed by this article or regulations promulgated thereunder indicating to the public that an official inspection station is operating unless an inspection station license has been issued to that person and is currently valid.

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(b) The fee for filing such an application shall be ten dollars. Such fee shall not be refundable. The annual fee for certification as an inspector shall be five dollars. A certification shall expire on any date determined by the commissioner. (c) The commissioner may, by regulation, establish standards of competency and fitness for certification as an inspector. * (d) Fees, deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the transportation safety account established pursuant to section ninety-one of the state finance law through March thirty-first, two thousand four and from April first, two thousand four and thereafter shall be deposited to the dedicated highway and bridge trust fund. * NB Effective until April 1, 2026 * (d) Fees, deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the transportation safety account established pursuant to section ninety-one of the state finance law. * NB Effective April 1, 2026

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(b) If such inspection discloses the necessity for adjustments, corrections or repairs the owner shall be so notified and shall have such adjustments, corrections or repairs made within a period of thirty days. If such inspection discloses improper tire pressure, the owner shall be so notified and may have such adjustments, corrections or repairs made as authorized by this subdivision. The commissioner shall establish procedures for reporting the results of such inspections and for notifying the owners. The owner may have such adjustments, corrections and repairs made in any way and by any person provided that such repairs are made in a manner consistent with federal law and regulations. (c) The commissioner shall issue certificates of inspection to official inspection stations. Such certificates of inspection shall be serially numbered and shall bear such information as the commissioner may require, and shall include a notice that any complaint against an official inspection station for inadequate inspection or for making excessive or unreasonable repairs, may be made in writing to the department of motor vehicles at Albany, New York. Each certificate shall be valid until the end of the inspection period during which the motor vehicle must again be inspected, as determined by the rules and regulations of the commissioner, or until the end of the repair period designated under section three hundred four (b), whichever occurs first.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 5 - Periodic Inspection of Motor Vehicles305 - Fees.

* (1) The fee for a certificate representing that a safety inspection has been performed shall be two dollars, which shall be deposited into the transportation safety account established pursuant to section ninety-one of the state finance law through March thirty-first, two thousand four and to the dedicated highway and bridge trust fund from April first, two thousand four and thereafter, and * NB Effective until April 1, 2026 * (1) The fee for a certificate representing that a safety inspection has been performed shall be two dollars, which shall be deposited into the transportation safety account established pursuant to section ninety-one of the state finance law, and * NB Effective April 1, 2026 * (2) The fee for a certificate representing that an emissions inspection has been successfully completed shall be set by the commissioner through regulation, at an amount not to exceed four dollars or eight dollars if performed on a biennial basis. Such fees shall be deposited into the mobile source account of the clean air fund established by section ninety-seven-oo of the state finance law. * NB Effective until April 1, 2026 * (2) The fee for a certificate representing that an emissions inspection has been successfully completed shall be set by the commissioner through regulation, at an amount not to exceed two dollars or four dollars if performed on a biennial basis. Such fees shall be deposited into the mobile source account of the clean air fund established by section ninety-seven-oo of the state finance law. * NB Effective April 1, 2026(b) No fee authorized by subdivision (a) of this section shall apply to the state, a city, county, village, town or school district, or any of the departments thereof nor to a certificate issued by a licensed emissions inspection station to such a public entity. A refund may be made, or credit allowed, for unused certificates of inspection, or for certificates lost, mutilated or destroyed, to the extent provided by the regulations promulgated by the commissioner.(c) The commissioner may establish maximum fees to be charged by an official inspection station. Such fees shall be prominently displayed at such station.* (d) Fees assessed under this article shall be paid to the commissioner for deposit to the transportation safety account established pursuant to section ninety-one of the state finance law through March thirty-first, two thousand four and from April first, two thousand four and thereafter shall be deposited into the dedicated highway and bridge trust fund, except that fees that are authorized to be collected for each certificate of emissions inspection issued by the commissioner, collected pursuant to paragraph two of subdivision (a) of this section, shall be deposited into the mobile source account of the clean air fund, as established by section ninety-seven-oo of the state finance law.* NB Effective until April 1, 2026* (d) Fees assessed under this article shall be paid to the commissioner for deposit to the transportation safety

account established pursuant to section ninety-one of the state finance law, except that fees that are authorized to be collected for each certificate of emissions inspection issued by the commissioner, collected pursuant to paragraph two of subdivision (a) of this section, shall be deposited into the mobile source account of the clean air fund, as established by section ninety-seven-oo of the state finance law.* NB Effective April 1, 2026 (b) No fee authorized by subdivision (a) of this section shall apply to the state, a city, county, village, town or school district, or any of the departments thereof nor to a certificate issued by a licensed emissions inspection station to such a public entity. A refund may be made, or credit allowed, for unused certificates of inspection, or for certificates lost, mutilated or destroyed, to the extent provided by the regulations promulgated by the commissioner. (c) The commissioner may establish maximum fees to be charged by an official inspection station. Such fees shall be prominently displayed at such station. * (d) Fees assessed under this article shall be paid to the commissioner for deposit to the transportation safety account established pursuant to section ninety-one of the state finance law through March thirty-first, two thousand four and from April first, two thousand four and thereafter shall be deposited into the dedicated highway and bridge trust fund, except that fees that are authorized to be collected for each certificate of emissions inspection issued by the commissioner, collected pursuant to paragraph two of subdivision (a) of this section, shall be deposited into the mobile source account of the clean air fund, as established by section ninety-seven-oo of the state finance law. * NB Effective until April 1, 2026 * (d) Fees assessed under this article shall be paid to the commissioner for deposit to the transportation safety account established pursuant to section ninety-one of the state finance law, except that fees that are authorized to be collected for each certificate of emissions inspection issued by the commissioner, collected pursuant to paragraph two of subdivision (a) of this section, shall be deposited into the mobile source account of the clean air fund, as established by section ninety-seven-oo of the state finance law. * NB Effective April 1, 2026

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 5 - Periodic Inspection of Motor Vehicles306 - Enforcement.

(b) No motor vehicle shall be operated or parked on the public highways of this state unless a certificate or certificates of inspection, as required by this article, is or are displayed upon the vehicle or affixed to the registration certificate for the vehicle as may be determined by the commissioner. The commissioner may, by regulation, provide for a temporary indicia of inspection to be placed on a motor vehicle which shall be valid as a certificate of inspection for a period not to exceed fifteen days upon the loss, theft, mutilation or destruction of a certificate of inspection. Any violation of this section that occurs while a motor vehicle is parked on the public highways of this state shall constitute a parking violation. Every agreement for the lease or rental of a motor vehicle for a period of not more than thirty days shall be deemed to provide that the lessor of such vehicle shall, in all respects, be substituted for the lessee or any person operating the vehicle in conformity with the lease or rental agreement in connection with any charge of violating this section, provided that any summons issued to the operator for violation of this section is turned over to the lessor. A violation of this subdivision shall be punishable by a fine of not less than fifty nor more than one hundred dollars for a first offense, and by a fine of not less than fifty nor more than two hundred dollars or by imprisonment for not more than fifteen days, or by both such fine and imprisonment, for each subsequent offense; provided however, that if the vehicle bears a certificate or certificates of inspection which was or were valid within the last sixty days, such violation shall be punishable by a fine of not less than twenty-five nor more than fifty dollars. (c) No motor vehicle shall be registered in this state unless a valid certificate or certificates of inspection is or are in force therefor, except where the vehicle is outside the state at the time of application for registration and the owner has secured from the commissioner a written extension of the time for inspection of such vehicle. (d) No person shall issue a certificate or certificates of inspection, inspection extension, or rejection notice without having made a complete inspection or inspections in conformity with the rules and regulations established by the commissioner, or shall wilfully issue a certificate or certificates of inspection for a motor vehicle, the mechanisms and other equipment or emissions of which do not comply with the standards prescribed by the rules and regulations established by the commissioner or the commissioner of environmental conservation, or wilfully issue a certificate of inspection extension or rejection notice when the item or items of inspection conform to the standards established by the regulations of the commissioner or wilfully issue a certificate of inspection extension or rejection notice for an item or items for which inspection is not required by the regulations of the commissioner. (e) Any person who shall make, issue or knowingly use any imitation or counterfeit of an official certificate of inspection, or who shall possess or display or cause or permit to be displayed upon any motor vehicle any certificate of inspection knowing the same to be fictitious or issued without an inspection or required repairs having been made, or, who unlawfully mutilates a valid certificate of inspection or rejection, or who shall knowingly issue, obtain or present a false statement in connection with a waiver authorized by this article, or who unlawfully removes such a certificate from a motor vehicle, shall be guilty of a misdemeanor. The provisions of this subdivision shall also apply to any temporary indicia of inspection provided for by regulation of the commissioner. (f) Any person who shall display or cause or permit to be displayed any sign, mark or advertisement as an official inspection station unless a license has been issued by the commissioner and is then in effect or who shall transfer or attempt to transfer a license as an official inspection station, or who knowingly makes a false statement in an application for a license for an official inspection station, or renewal thereof, shall be guilty of a misdemeanor.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 5 - Periodic Inspection of Motor Vehicles307 - Voluntary Inspection.

§ 307. Voluntary inspection. The owner of any motor vehicle, as defined in article one of this chapter, whose motor vehicle is not required to be inspected and certified pursuant to this article or who has previously complied therewith may, nevertheless,

voluntarily comply with the provisions of this article as often as he desires, and in the same manner as though such inspection and certification were so required.

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§ 308-a. Mandatory reporting. If any motor vehicle is presented for inspection at a licensed official inspection station, and such vehicle has been altered, a vehicle commonly referred to as a "stretch limousine", so as to add seating capacity beyond that provided by the original manufacturer by way of an extended chassis, lengthened wheel base, or an elongated seating area, and in the case of a truck, has been modified to transport passengers, such licensed official inspection station shall refuse inspection for such vehicle and promptly report such vehicle to the commissioner in a form and manner prescribed by such commissioner. Provided, however, that the provisions of this section shall not apply to any altered motor vehicle for which the department of transportation has issued an exemption letter pursuant to paragraph three of subdivision (f) of part 79.20 of title fifteen of the codes, rules, and regulations of the state of New York and that is in compliance with part 567 of title forty-nine of the code of federal regulations.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 5 - Periodic Inspection of Motor Vehicles308 - Definitions.

§ 308. Definitions. As used in this article the term "motor vehicle" shall include trailers and all vehicles included in the definition of the term "motor vehicle" contained in section one hundred twenty-five of this chapter except the following: 1. Road rollers, tractor cranes, truck cranes, power shovels, road building machines, snow plows, road sweepers, sand spreaders, well drillers, well servicing rigs, feed processing machines, mobile car crushers, earth movers, trucks with small wheels used in a factory, warehouse or railroad station, agricultural spreaders and sprayers, or a tractor-trailer combination designed and used exclusively for the same purpose as a vehicle specifically included in the foregoing, or 2. Vehicles inspected by or operating under a certificate of inspection authorized by the commissioner of transportation or the interstate commerce commission, or of a municipally owned and operated transit system, or 3. Farm vehicles registered under subdivision thirteen of section four hundred one of this chapter, self-propelled combines, self-propelled corn and hay harvesting machines and tractors used exclusively for agricultural purposes, or 4. Vehicles subject to inspection and licensing by local authorities provided such inspection by such local authorities conforms with the standards established by the commissioner under this article, or 5. Fire vehicles, except ambulances; or 6. Police vehicles for which the department operating such vehicles has submitted a plan approved by the commissioner, who shall establish the standards therefor, for periodic inspection thereof. Such plans shall be submitted to the commissioner by September thirtieth of each year. In determining the acceptability of such inspection plans and in establishing standards therefor, the commissioner shall require that such periodic inspections shall be substantially equivalent to inspections required for other motor vehicles under this article and shall be made with respect to such mechanisms and equipment as shall be determined by the commissioner to be necessary for the proper and safe operation of such vehicles.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 6 - Motor Vehicle Financial Security Act310 - Short Title and Declaration of Purpose.

(2) Declaration of purpose. The legislature is concerned over the rising toll of motor vehicle accidents and the suffering and loss thereby inflicted. The legislature determines that it is a matter of grave concern that motorists shall be financially able to respond in damages for their negligent acts, so that innocent victims of motor vehicle accidents may be recompensed for the injury and financial loss inflicted upon them. The legislature finds and declares that the public interest can best be served in satisfying the insurance requirements of this article by private enterprise operating in a competitive market to provide proof of financial security through the methods prescribed herein. Nothing in this article shall be construed to affect any change in the application of article twenty-three of the insurance law to automobile liability insurance rate-making or to effect the development of various methods of doing or operating an automobile liability insurance business.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 6 - Motor Vehicle Financial Security Act311 - Definitions.

1. The term "superintendent" shall mean the superintendent of financial services of this state. 2. The term "motor vehicle" shall be defined as in section one hundred twenty-five of this chapter, except that it shall also include trailers, semi-trailers and tractors other than tractors used exclusively for agricultural purposes, and shall exclude fire and police vehicles, farm equipment, including self-propelled machines used exclusively in growing, harvesting or handling farm produce, tractors used exclusively for agricultural purposes, or for snow plowing other than for hire, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site. 3. The term "proof of financial security" shall mean proof of ability to respond in damages for liability arising out of the ownership, maintenance or use of a motor vehicle as evidenced by an owner's policy of liability insurance, a financial security bond, a financial security deposit, or qualifications as a self-insurer under section three hundred sixteen of this chapter or, in the case of a non-resident, under self-insurance provisions of the laws of the jurisdiction of such non-resident. Notwithstanding any other provision of any law or regulation, any proof of financial security shall for any self-propelled motor vehicle also provide coverage

required by this article to any non-commercial trailer hauled by any such motor vehicle, other than a mobile home. For the purposes of this article, a mobile home or "manufactured home" means a mobile home or manufactured home as defined in section one hundred twenty-two-c of this chapter. 4. The term "owner's policy of liability insurance" shall mean a policy(a) Affording coverage as defined in the minimum provisions prescribed in a regulation which shall be promulgated by the superintendent at least ninety days prior to effective date of this act. The superintendent before promulgating such regulations or any amendment thereof, shall consult with all insurers licensed to write automobile liability insurance in this state and shall not prescribe minimum provisions which fail to reflect the provisions of automobile liability insurance policies, other than motor vehicle liability policies as defined in section three hundred forty-five of this chapter, issued within this state at the date of such regulation or amendment thereof. Nothing contained in such regulation or in this article shall prohibit any insurer from affording coverage under an owner's policy of liability insurance more liberal than that required by said minimum provisions. Every such owner's policy of liability insurance shall provide insurance subject to said regulation against loss from the liability imposed by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person and injury to or destruction of property arising out of the ownership, maintenance, use, or operation of a specific motor vehicle or motor vehicles within the state of New York, or elsewhere in the United States in North America or the Dominion of Canada, subject to a limit, exclusive of interest and costs, with respect to each such motor vehicle except a tow truck, of twenty-five thousand dollars because of bodily injuries to and fifty thousand dollars because of death of one person in any one accident and, subject to said limit for one person, to a limit of fifty thousand dollars because of bodily injury to and one hundred thousand dollars because of death of two or more persons in any one accident, and to a limit of ten thousand dollars because of injury to or destruction of property of others in any one accident provided, however, that such policy need not be for a period coterminous with the registration period of the vehicle insured. The limit, exclusive of interest and costs, with respect to a tow truck shall be a combined single limit of at least three hundred thousand dollars because of bodily injury or death to one or more persons or because of injury or destruction of property of others in any one accident, and to a limit of twenty-five thousand dollars because of damage to a vehicle in the care, custody and control of the insured. Any insurer authorized to issue an owner's policy of liability insurance as provided for in this article may, pending the issue of such a policy, make an agreement, to be known as a binder, or may, in lieu of such a policy, issue a renewal endorsement or evidence of renewal of an existing policy; each of which shall be construed to provide indemnity or protection in like manner and to the same extent as such a policy. The provisions of this article shall apply to such binders, renewal endorsements or evidences of renewal. Every such policy issued insuring private passenger vehicles and every renewal policy, renewal endorsement, or other evidence of renewal issued shall have attached thereto a rating information form which clearly specifies and defines the rating classification assigned thereto, including any applicable merit rating plan; and(b) In the case of a vehicle registered in this state, a policy issued by (i) an insurer duly authorized to transact business in this state or (ii) where a vehicle is registered by a not-for-profit organization that is tax-exempt under section 501(c)(3) of the federal internal revenue code, a risk retention group not chartered in this state but which is registered with the superintendent under the federal liability risk retention act of 1986, comprised entirely of organizations that are tax-exempt under section 501(c)(3) of the federal internal revenue code and where the risk retention group qualifies as a charitable risk pool under section 501(n) of the federal internal revenue code, provided that the vehicle being registered does not have a seating capacity of more than fifteen passengers, is not a limousine or luxury limousine, and where such vehicles are not solely for personal use by a director, officer, authorized person, or key person, their relatives or related parties; or(c) In the case of a vehicle lawfully registered in another state, or in both this state and another state, (i) a policy issued by an authorized insurer, or (ii) where a vehicle is registered by a not-for-profit organization that is tax-exempt under section 501(c)(3) of the federal internal revenue code, a risk retention group not chartered in this state but which is registered with the superintendent under the federal liability risk retention act of 1986, comprised entirely of organizations that are tax-exempt under section 501(c)(3) of the federal internal revenue code and where the risk retention group qualifies as a charitable risk pool under section 501(n) of the federal internal revenue code, provided that the vehicle being registered does not have a seating capacity of more than fifteen passengers, is not a limousine or luxury limousine, and where such vehicles are not solely for personal use by a director, officer, authorized person, or key person, their relatives or related parties, or (iii) a policy issued by an unauthorized insurer authorized to transact business in another state if such unauthorized insurer files with the commissioner in form to be approved by them a statement consenting to service of process and declaring its policies shall be deemed to be varied to comply with the requirements of this article; and(d) The form of which has been approved by the superintendent, except in the case of a risk retention group not chartered in this state. No such policy shall be issued or delivered in this state until a copy of the form of policy shall have been on file with the superintendent for at least thirty days, unless sooner approved in writing by the superintendent, nor if within said period of thirty days the superintendent shall have notified the carrier in writing that in the superintendent's opinion, specifying the reasons therefor, the form of policy does not comply with the laws of this state.5. The term "certificate of insurance" shall mean any evidence issued by or on behalf of an insurance company duly authorized to transact business in this state, or a risk retention group authorized to issue an owner's policy of liability insurance pursuant to subdivision four of this section, stating in such form as the commissioner may prescribe or approve that such company or such risk retention group has issued an owner's policy of liability insurance on the motor vehicle or vehicles designated therein. Such certificate shall contain information as required by the commissioner including at least the following except as otherwise provided:(a) The name and address of the person to whom the policy was issued.(b) The number and effective period of the policy. If all of the motor vehicles owned by one person during a defined period are insured under the same owner's policy of liability insurance the certificate of insurance may so state and it shall then not be necessary to identify the specific vehicle insured. The requirements of this article for an owner's policy of liability insurance may be fulfilled by the policies of one or more insurance

carriers which policies together meet such requirements.(c) As to new policies, a statement that at least ten per cent of the annual premium due on the policy has been paid. For the purposes of this paragraph a transfer of insurance from one company to another by an agent or broker shall not be considered the issuance of a new policy.6. The term "financial security bond" shall mean for each motor vehicle a bond executed by the owner and by a surety company duly authorized to transact business in this state. The provisions of subdivision (e) of section three hundred forty-nine of this chapter shall apply to such bond.7. The term "financial security deposit" shall mean for each motor vehicle the deposit with the commissioner of twenty-five thousand dollars in cash, or securities, such as may legally be purchased by savings banks or trust funds, of a market value of twenty-five thousand dollars and an additional deposit in an amount determined by the commissioner to be sufficient to satisfy the requirements of article fifty-one of the insurance law.8. The term "self-insurer" shall mean a person who shall have been determined by the commissioner in accordance with section three hundred sixteen to be financially responsible.9. The word "state" when used in this article shall unless the context clearly indicates otherwise, mean any state, territory or possession of the United States, the District of Columbia or any province of the Dominion of Canada.10. "Insurance Identification Card" shall mean a card issued by or on behalf of an insurance company or bonding company duly authorized to transact business in this state, or a risk retention group authorized to issue an owner's policy of liability insurance pursuant to subdivision four of this section, stating in such form as the commissioner may prescribe or approve that such company or such risk retention group has issued an owner's policy of liability insurance or a financial security bond on the motor vehicle or vehicles designated therein. Such card shall contain such information and shall be valid during such period as may be prescribed by the commissioner. If an owner shall have filed a financial security deposit, or shall have qualified as a self-insurer under section three hundred sixteen of this article, the term "insurance identification card" shall mean a card issued by the department which evidences that such deposit has been filed or that such owner has so qualified. (a) Affording coverage as defined in the minimum provisions prescribed in a regulation which shall be promulgated by the superintendent at least ninety days prior to effective date of this act. The superintendent before promulgating such regulations or any amendment thereof, shall consult with all insurers licensed to write automobile liability insurance in this state and shall not prescribe minimum provisions which fail to reflect the provisions of automobile liability insurance policies, other than motor vehicle liability policies as defined in section three hundred forty-five of this chapter, issued within this state at the date of such regulation or amendment thereof. Nothing contained in such regulation or in this article shall prohibit any insurer from affording coverage under an owner's policy of liability insurance more liberal than that required by said minimum provisions. Every such owner's policy of liability insurance shall provide insurance subject to said regulation against loss from the liability imposed by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person and injury to or destruction of property arising out of the ownership, maintenance, use, or operation of a specific motor vehicle or motor vehicles within the state of New York, or elsewhere in the United States in North America or the Dominion of Canada, subject to a limit, exclusive of interest and costs, with respect to each such motor vehicle except a tow truck, of twenty-five thousand dollars because of bodily injuries to and fifty thousand dollars because of death of one person in any one accident and, subject to said limit for one person, to a limit of fifty thousand dollars because of bodily injury to and one hundred thousand dollars because of death of two or more persons in any one accident, and to a limit of ten thousand dollars because of injury to or destruction of property of others in any one accident provided, however, that such policy need not be for a period coterminous with the registration period of the vehicle insured. The limit, exclusive of interest and costs, with respect to a tow truck shall be a combined single limit of at least three hundred thousand dollars because of bodily injury or death to one or more persons or because of injury or destruction of property of others in any one accident, and to a limit of twenty-five thousand dollars because of damage to a vehicle in the care, custody and control of the insured. Any insurer authorized to issue an owner's policy of liability insurance as provided for in this article may, pending the issue of such a policy, make an agreement, to be known as a binder, or may, in lieu of such a policy, issue a renewal endorsement or evidence of renewal of an existing policy; each of which shall be construed to provide indemnity or protection in like manner and to the same extent as such a policy. The provisions of this article shall apply to such binders, renewal endorsements or evidences of renewal. Every such policy issued insuring private passenger vehicles and every renewal policy, renewal endorsement, or other evidence of renewal issued shall have attached thereto a rating information form which clearly specifies and defines the rating classification assigned thereto, including any applicable merit rating plan; and (b) In the case of a vehicle registered in this state, a policy issued by (i) an insurer duly authorized to transact business in this state or (ii) where a vehicle is registered by a not-for-profit organization that is tax-exempt under section 501(c)(3) of the federal internal revenue code, a risk retention group not chartered in this state but which is registered with the superintendent under the federal liability risk retention act of 1986, comprised entirely of organizations that are tax-exempt under section 501(c)(3) of the federal internal revenue code and where the risk retention group qualifies as a charitable risk pool under section 501(n) of the federal internal revenue code, provided that the vehicle being registered does not have a seating capacity of more than fifteen passengers, is not a limousine or luxury limousine, and where such vehicles are not solely for personal use by a director, officer, authorized person, or key person, their relatives or related parties; or (c) In the case of a vehicle lawfully registered in another state, or in both this state and another state, (i) a policy issued by an authorized insurer, or (ii) where a vehicle is registered by a not-for-profit organization that is tax-exempt under section 501(c)(3) of the federal internal revenue code, a risk retention group not chartered in this state but which is registered with the superintendent under the federal liability risk retention act of 1986, comprised entirely of organizations that are tax-exempt under section 501(c)(3) of the federal internal revenue code and where the risk retention group qualifies as a charitable risk pool under section 501(n) of the federal internal revenue code, provided that the vehicle being registered does not have a seating capacity of more than fifteen passengers, is not a limousine or luxury limousine, and where such vehicles are not solely for personal use by a director, officer, authorized person, or key person, their

relatives or related parties, or (iii) a policy issued by an unauthorized insurer authorized to transact business in another state if such unauthorized insurer files with the commissioner in form to be approved by them a statement consenting to service of process and declaring its policies shall be deemed to be varied to comply with the requirements of this article; and (d) The form of which has been approved by the superintendent, except in the case of a risk retention group not chartered in this state. No such policy shall be issued or delivered in this state until a copy of the form of policy shall have been on file with the superintendent for at least thirty days, unless sooner approved in writing by the superintendent, nor if within said period of thirty days the superintendent shall have notified the carrier in writing that in the superintendent's opinion, specifying the reasons therefor, the form of policy does not comply with the laws of this state. 5. The term "certificate of insurance" shall mean any evidence issued by or on behalf of an insurance company duly authorized to transact business in this state, or a risk retention group authorized to issue an owner's policy of liability insurance pursuant to subdivision four of this section, stating in such form as the commissioner may prescribe or approve that such company or such risk retention group has issued an owner's policy of liability insurance on the motor vehicle or vehicles designated therein. Such certificate shall contain information as required by the commissioner including at least the following except as otherwise provided: (a) The name and address of the person to whom the policy was issued. (b) The number and effective period of the policy. If all of the motor vehicles owned by one person during a defined period are insured under the same owner's policy of liability insurance the certificate of insurance may so state and it shall then not be necessary to identify the specific vehicle insured. The requirements of this article for an owner's policy of liability insurance may be fulfilled by the policies of one or more insurance carriers which policies together meet such requirements. (c) As to new policies, a statement that at least ten per cent of the annual premium due on the policy has been paid. For the purposes of this paragraph a transfer of insurance from one company to another by an agent or broker shall not be considered the issuance of a new policy. 6. The term "financial security bond" shall mean for each motor vehicle a bond executed by the owner and by a surety company duly authorized to transact business in this state. The provisions of subdivision (e) of section three hundred forty-nine of this chapter shall apply to such bond. 7. The term "financial security deposit" shall mean for each motor vehicle the deposit with the commissioner of twenty-five thousand dollars in cash, or securities, such as may legally be purchased by savings banks or trust funds, of a market value of twenty-five thousand dollars and an additional deposit in an amount determined by the commissioner to be sufficient to satisfy the requirements of article fifty-one of the insurance law. 8. The term "self-insurer" shall mean a person who shall have been determined by the commissioner in accordance with section three hundred sixteen to be financially responsible. 9. The word "state" when used in this article shall unless the context clearly indicates otherwise, mean any state, territory or possession of the United States, the District of Columbia or any province of the Dominion of Canada. 10. "Insurance Identification Card" shall mean a card issued by or on behalf of an insurance company or bonding company duly authorized to transact business in this state, or a risk retention group authorized to issue an owner's policy of liability insurance pursuant to subdivision four of this section, stating in such form as the commissioner may prescribe or approve that such company or such risk retention group has issued an owner's policy of liability insurance or a financial security bond on the motor vehicle or vehicles designated therein. Such card shall contain such information and shall be valid during such period as may be prescribed by the commissioner. If an owner shall have filed a financial security deposit, or shall have qualified as a self-insurer under section three hundred sixteen of this article, the term "insurance identification card" shall mean a card issued by the department which evidences that such deposit has been filed or that such owner has so qualified.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 6 - Motor Vehicle Financial Security Act312-A - Issuance and Termination of Liability Insurance and Maintenance of Records.

§ 312-a. Issuance and termination of liability insurance and maintenance of records. 1. Upon issuance of an owner's policy of liability insurance or other financial security required by this chapter, an insurer shall issue proof of insurance in accordance with the regulations promulgated by the commissioner pursuant to paragraph (b) of subdivision two of section three hundred thirteen of this article. 2. The commissioner shall make a record of all notices of termination received by him. After such record has been made, the notices need not be retained by the commissioner.

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(b) The owner of such motor vehicle shall maintain proof of financial security continuously throughout the registration period and his failure to produce proof of financial security when requested to do so upon demand of a magistrate, motor vehicle inspector, peace officer, acting pursuant to his special duties, or police officer, while such vehicle is being operated upon the public highway, shall be presumptive evidence of operating a motor vehicle without proof of financial security. Upon the production of proof of financial security such presumption is removed. Production of proof of financial security may be made by mailing such proof to the court having jurisdiction in the matter, and any necessary response by such court or acknowledgement of the production of such proof may also be made by mail. When insurance with respect to any motor vehicle, other than a motorcycle, is terminated the owner shall surrender forthwith his registration certificate and number plates of the vehicle to the commissioner unless proof of financial security otherwise is maintained in compliance with this article. 2. No financial security bond shall be accepted by the commissioner unless it is conditioned for payments in amount and under the same terms and conditions as are required for an owner's policy of liability insurance. 3. No financial security deposit shall be accepted by the commissioner except in accordance with the provisions of section three hundred fourteen. 4. The commissioner is hereby authorized to promulgate reasonable

regulations to provide effective administration and enforcement of the provisions of this article in accordance with the purposes thereof. 5. Notwithstanding any inconsistent provisions of this article, the commissioner may by regulation, in lieu of the provisions of subdivision one requiring the submission of a certificate of insurance or evidence of a financial security bond, require that an insurance identification card be presented each time a vehicle is registered or a registration is renewed in this state.

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(b) Every insurer shall retain a copy of the notice of termination mailed pursuant to this chapter and shall retain the certificate of mailing obtained from the postal service upon the mailing of the original of said notice. A copy of a notice of termination and the certificate of mailing, when kept in the regular course of the insurer's business, shall constitute conclusive proof of compliance with the mailing requirements of this chapter. 2. (a) Upon the termination of an owner's policy of liability insurance, other than an owner's policy of liability insurance for a motorcycle, at the request of the insured or by cancellation by the insurer, the insurer shall file a notice of termination with reference to such policy, as opposed to any insured vehicle or vehicles under such policy, with the commissioner not later than thirty days following the effective date of such cancellation or other termination, in accordance with the regulations required by paragraph (c) of this subdivision. An insurer shall not file a notice of termination with the commissioner except as required by this subdivision. (b) Upon the issuance of an owner's policy of liability insurance the insurer shall file a notice or confirmation of issuance with reference to such policy not later than fourteen days following the effective date of such issuance, and not later than seven days following the effective date for policies issued after January first, two thousand one, in accordance with the regulations required by paragraph (c) of this subdivision. (c) The commissioner shall promulgate regulations establishing procedures for issuance of proof of insurance and for reporting by insurers of notices of termination and policy issuance, either electronically or by paper copy, at the option of the department. Such reporting shall be required for every cancellation or termination which is effective on or after July first, nineteen hundred eighty-four and for every policy issuance which is effective on or after January first, two thousand; provided, however, that should the commissioner find, after testing of reporting procedures, that it would be feasible to require reporting for policy cancellations, terminations or issuances effective on an earlier date, he may by regulation so require reporting on such earlier date, but in no event shall reporting be required for cancellations or terminations effective prior to February first, nineteen hundred eighty-four nor for policy issuances effective prior to September first, nineteen hundred ninety-nine. Insurers shall cooperate fully with the commissioner in any such testing of reporting procedures. (d) Upon application by an insurer, the commissioner may extend the period for filing of notices of termination by such insurer for up to fifteen days, and for seven days for policies issued by an insurer. Extensions shall not be granted unless the insurer demonstrates to the satisfaction of the commissioner that compliance with the notice period would result in substantial hardship to the insurer. The commissioner shall maintain a list of extensions granted pursuant to this paragraph. 3. A cancellation or termination for which notice is required to be filed with the commissioner pursuant to subdivision two of this section shall not be effective with respect to persons other than the named insured and members of the insured's household until the insurer has filed a notice thereof with the commissioner or until another insurance policy covering the same risk has been procured, except that a notice filed with the commissioner, in the format prescribed by the commissioner, within the period prescribed in subdivision two of this section shall be effective as of the date certified therein, regardless of whether a suspension order is issued pursuant to section three hundred eighteen of this article. A receipt from the department stating that a notice of termination has been filed shall be deemed conclusive evidence of such filing. An insurer shall cooperate with the commissioner in attempting to identify persons not in compliance with this article in cases where the information reported by the insurer does not correspond with records maintained by the department. 4. Notwithstanding any other provision of this article to the contrary, the commissioner shall establish a pilot program to maintain an up-to-date insured vehicle identification database to assist in identifying uninsured motor vehicles. Such databases shall be implemented by the department pursuant to standards prescribed by the commissioner or an agent designated by the commissioner which shall seek technical assistance from affected insurers and the New York Automobile Insurance Plan. This program shall utilize all information collected pursuant to this section and shall also include the following elements: (a) In addition to and in conjunction with the provisions of subdivision two of this section, insurers that write private passenger or commercial motor vehicle insurance in this state shall also submit to the department, either electronically or by paper copy, at the option of the department, information that identifies those policies that have been cancelled, terminated or non-renewed and all policies that have been issued, the date when such insurance lapses, and any other information that the commissioner deems necessary to efficiently identify and track uninsured vehicles in this state such as a policyholder's address, policy number, vehicle registration number, and vehicle identification number. The department may exempt from such pilot program the transfer of information on certain classifications of vehicles that are in the opinion of the department generally insured and which it is difficult to identify uninsured vehicles within such classification, such as large commercial vehicle fleets; (b) The department shall forward to each motor vehicle insurer, at such times as deemed necessary and appropriate by the commissioner, a listing of all the registrants the department has on file as insured with that insurer. Such insurer shall then review the listing within thirty days of receipt of the listing and report to the department which of the registrants the insurer does not insure; (c) The commissioner shall, in conjunction with the superintendent of state police and local law enforcement officials formulate a means to allow such database to be easily accessible to on-duty law enforcement personnel in the performance of their official duties for the purpose of verifying whether an operator maintains proper insurance coverage and to increase compliance with the motor vehicle financial security laws under this article and article eight of this title; (d) In developing the mechanism to electronically transfer information to the department, the commissioner shall consult

with the superintendent of financial services and insurers to adopt a standardized system of organizing, recording and transferring such information so as to minimize insurer administrative expenses. The commissioner shall to the maximum extent possible utilize nationally recognized electronic data information systems such as those developed by the American National Standards Institute or the American Association of Motor Vehicle Administrators; (e)(1) Either simultaneously or after the up-dated database system has been established, the commissioner shall develop a computer indicator that can be imprinted on a vehicle registration sticker or on a sticker to be affixed to the insured's license plate. Such indicator system shall enable law enforcement personnel and other authorized persons when acting in the course of their official duties to access the department's database so that such persons can ascertain whether a vehicle is properly insured or not insured; (2) Such computer indicator system shall enable authorized persons in the performance of their official duties to access information such as the registrant's name, vehicle identification number, name of insurer, current status of insurance, vehicle registration number and other information that the commissioner deems necessary to implement the provisions of this section. The commissioner in developing such computer indicator system shall enable authorized persons in the performance of their official duties to access only such information that is necessary to detect uninsured motor vehicles or accomplish other goals clearly established and authorized by law. Such computer indicator system shall be designed to protect the personal privacy interests of motorists; (f) The commissioner shall maintain an insured vehicle database system that is accurate to within a period of fourteen days and a computer indicator system described in paragraph (e) of this subdivision within twenty-four months of the effective date of this subdivision and to within seven days by January first, two thousand one. The commissioner shall submit to the legislature a report within eighteen months from the date this subdivision takes effect which outlines the progress being made to implement such database and computer indicator system. After such database and computer indicator system is established and put into operation, the commissioner shall make recommendations to the legislature to alter, minimize or eliminate the need for the issuance of insurance identification cards, simplify the requirements to demonstrate proof of financial security and certificate of insurance currently required by this article, eliminate the requirement for production of proof of financial security to accompany applications for registrations or renewals thereof provided that such database indicates that the registrant is insured, and the repeal or modification of section three hundred twelve-a of this article. The commissioner shall also make recommendations to the legislature to streamline and shorten the notice termination requirements of subdivisions one, two and three of this section and section three hundred eighteen of this article. Such report shall be submitted to the legislature within twelve months from the date such database and indicator system has been implemented; (g) To minimize the cost of this program, the commissioner, if he deems it necessary and prudent, can initially limit the scope of this project to a select number of vehicle classifications or insurers; (h) Notwithstanding any other provision of law, information obtained by the department pursuant to this section shall not be disclosed, used, sold, accessed, utilized in any manner or released by the department to any person, corporation, or state and local agency, except in response to a specific, individual request for such information authorized pursuant to the federal driver's privacy protection act (18 U.S.C. 2721 et.seq.). The department shall institute measures to ensure that only authorized persons are permitted to access such information for the purposes specified by this section. Persons who knowingly release or disclose information from such database for a purpose other than those described as authorized by this section or to a person not entitled to receive it shall be guilty of a misdemeanor for each such release or disclosure; and (i) The commissioner may postpone implementation of such pilot database and computer indicator system for a period of time not to exceed eighteen months if he or she determines that the program is not ready for implementation. Should the commissioner determine that such system cannot be implemented during the eighteen months extension, then the commissioner shall report to the legislature the reasons why such program cannot be implemented and request that the law be amended to delay its implementation date.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 6 - Motor Vehicle Financial Security Act314 - Acceptance of Financial Security Deposits.

§ 314. Acceptance of financial security deposits. 1. All moneys or securities delivered to the commissioner as a financial security deposit shall be placed by the commissioner in the custody of the commissioner of taxation and finance and shall be subject to execution to satisfy any judgment for damages for bodily injury or death, or injury to or destruction of property, arising out of the ownership, maintenance, use or operation of the motor vehicle with respect to which the deposit has been accepted, and subject to the same limits on amounts required by this article for an owner's policy of liability insurance, and if such moneys or securities shall be otherwise subjected to attachment or any execution, the depositor shall immediately furnish such additional moneys or securities, not otherwise subject to attachment or execution, to meet the requirements of this article. 2. The commissioner shall not accept such moneys or securities as a financial security deposit unless accompanied by evidence that there are no unsatisfied judgments against such person registered in the office of the county clerk of the county where such person resides.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 6 - Motor Vehicle Financial Security Act315 - Release of Financial Security Bonds or Deposits.

§ 315. Release of financial security bonds or deposits. 1. The commissioner, upon the surrender of the registration and number plates for a motor vehicle for which a financial security bond or deposit was accepted by the commissioner, shall permit the cancellation of any such bond or shall direct that any such deposit be returned by the commissioner of taxation and finance. The commissioner shall not release such bond or deposit in the event any action for damages upon a liability referred to in this article is

then pending or any judgment upon any such liability then outstanding and unsatisfied, or in the event the commissioner has received notice that such person has within the period of three months immediately preceding been involved as a driver in any motor vehicle accident. An affidavit of the applicant of non-existence of such facts shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the bureau. 2. The commissioner, subject to such reasonable regulations as he may establish shall permit the form of proof of financial security acceptable under this article to be substituted for another form of proof of financial security which may already have been accepted by the commissioner as complying with the provisions of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 6 - Motor Vehicle Financial Security Act316 - Self-Insurers.

§ 316. Self-insurers. The commissioner, in his discretion, may upon the application of a person having registered in his name in this state more than twenty-five motor vehicles, issue a certificate of self-insurance when he is reasonably satisfied that such person is possessed and will continue to be possessed of financial ability to respond to judgments obtained against such person, arising out of the ownership, maintenance, use or operation of any such person's motor vehicles. Upon due notice and hearing, the commissioner may, in his discretion and upon reasonable grounds, cancel a certificate of self-insurance. As a condition to the issuance of a certificate of self-insurance, the registrant shall pay annually in addition to any other fee prescribed by this chapter, a fee of one dollar and fifty cents for each motor vehicle registered in his name and the aggregate amount of such fees shall be applied in reduction of the assessment levied pursuant to section three hundred seventeen. As a further condition to the issuance of a certificate of self-insurance, the registrant shall pay annually in addition to any other fee prescribed by this chapter, an amount per vehicle to be determined by the Motor Vehicle Accident Indemnification Corporation pursuant to section five thousand two hundred seven of the insurance law for each motor vehicle registered in his name and the aggregate amount of such fees shall be transmitted by the commissioner to the Motor Vehicle Accident Indemnification Corporation continued pursuant to section five thousand two hundred three of the insurance law to be applied in reduction of assessments levied by said corporation pursuant to section five thousand two hundred seven of the insurance law. Notwithstanding the provisions of any other section, for the purposes of this section, the term "motor vehicle" shall include "snowmobiles" as defined by subdivision six of § 8-0105 of the conservation law.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 6 - Motor Vehicle Financial Security Act317 - Expenses of Administering Article.

2. Estimate of expenses. (a) The commissioner annually, as soon as practicable, shall estimate the total amount of expenses which shall be incurred during the succeeding fiscal year in connection with the administration of this article. Such expenses, in addition to the direct costs of personal service, shall include the cost of maintenance and operation, the cost of retirement contributions made and workers' compensation premiums paid by the state for or on account of personnel, rentals for space occupied in state-owned or state-leased buildings, the amounts paid to a city, county, town, village or the division of state police for the enforcement of orders issued pursuant to this article and all other direct or indirect costs.(b) The commissioner shall on or before February first assess the total amount of such expenses, as so estimated, pro rata upon all insurance carriers subject to the provisions of this section in proportion to the premiums reported by such carriers to the department of financial services for policies or contracts of automobile bodily injury insurance on risks subject to this article resident or located in this state for the year prior to the previous calendar year.(c) For fiscal years beginning on and after April first, nineteen hundred eighty-three, each such insurance carrier shall make partial payments of the assessment levied against it as follows, one-quarter of the total on March tenth of the preceding fiscal year and one-quarter on June tenth, one-quarter on September tenth, and the balance on December tenth of the fiscal year, or on such other dates as the budget director may prescribe. Provided, however, that the payment due March tenth, nineteen hundred eighty-three for the fiscal year beginning April first, nineteen hundred eighty-three shall not be required to be paid until June tenth, nineteen hundred eighty-three. If the total amount due from any such carrier is less than one hundred dollars, no partial payment shall be made and the total amount due shall be paid on or before September thirtieth of the fiscal year.3. Final assessment. (a) The commissioner and the department of audit and control annually, as soon as practicable after April first, shall ascertain the total amount of expenses incurred during the preceding fiscal year in connection with the administration of this article. An itemized statement of the expenses so ascertained shall be open to public inspection in the office of the commissioner for thirty days after notice to those liable to be assessed for such expenses.(b) As soon as practicable after January first, each insurance carrier subject to the provisions of this section shall file with the commissioner a report of the total amount of gross direct premiums, less return premiums thereon received during the preceding calendar year for policies or contracts of automobile bodily injury insurance on risks subject to this article resident or located in this state.(c) The commissioner shall then determine the amount of expenses due from each insurance carrier subject to the provisions of this section based upon the final determination of total expenses and the final amount of premiums filed by the insurance carriers and shall notify each such insurance carrier of such assessment. Within thirty days of receipt of such notification each such carrier shall pay the total amount of such assessment less the total amount paid as a result of the estimated assessments. If the total amount of the final assessment is less than the amount already paid, such excess payment shall be refunded to such insurance carrier or at the option of the assessed applied to assessments for the succeeding fiscal year as requested by such insurance carriers.(d) To fully fund such pilot database system and bar code program established pursuant to subdivision four of section three hundred thirteen of this article, the commissioner shall utilize the following three sources of revenue: (1) twenty-five percent of all civil penalties imposed upon persons fined pursuant to paragraph (b) of subdivision one-a of

section three hundred eighteen of this article, (2) monies obtained from grants that may be awarded to the commissioner from the motor vehicle theft and insurance fraud prevention fund, and (3) pro rata assessments upon all insurance carriers subject to the provisions of this section in proportion to the premium estimates filed by such carriers.4. The commissioner shall levy and collect such assessments and pay the same into the state treasury, subject to the provisions of section one hundred twenty-one of the state finance law. (b) The commissioner shall on or before February first assess the total amount of such expenses, as so estimated, pro rata upon all insurance carriers subject to the provisions of this section in proportion to the premiums reported by such carriers to the department of financial services for policies or contracts of automobile bodily injury insurance on risks subject to this article resident or located in this state for the year prior to the previous calendar year. (c) For fiscal years beginning on and after April first, nineteen hundred eighty-three, each such insurance carrier shall make partial payments of the assessment levied against it as follows, one-quarter of the total on March tenth of the preceding fiscal year and one-quarter on June tenth, one-quarter on September tenth, and the balance on December tenth of the fiscal year, or on such other dates as the budget director may prescribe. Provided, however, that the payment due March tenth, nineteen hundred eighty-three for the fiscal year beginning April first, nineteen hundred eighty-three shall not be required to be paid until June tenth, nineteen hundred eighty-three. If the total amount due from any such carrier is less than one hundred dollars, no partial payment shall be made and the total amount due shall be paid on or before September thirtieth of the fiscal year. 3. Final assessment. (a) The commissioner and the department of audit and control annually, as soon as practicable after April first, shall ascertain the total amount of expenses incurred during the preceding fiscal year in connection with the administration of this article. An itemized statement of the expenses so ascertained shall be open to public inspection in the office of the commissioner for thirty days after notice to those liable to be assessed for such expenses. (b) As soon as practicable after January first, each insurance carrier subject to the provisions of this section shall file with the commissioner a report of the total amount of gross direct premiums, less return premiums thereon received during the preceding calendar year for policies or contracts of automobile bodily injury insurance on risks subject to this article resident or located in this state. (c) The commissioner shall then determine the amount of expenses due from each insurance carrier subject to the provisions of this section based upon the final determination of total expenses and the final amount of premiums filed by the insurance carriers and shall notify each such insurance carrier of such assessment. Within thirty days of receipt of such notification each such carrier shall pay the total amount of such assessment less the total amount paid as a result of the estimated assessments. If the total amount of the final assessment is less than the amount already paid, such excess payment shall be refunded to such insurance carrier or at the option of the assessed applied to assessments for the succeeding fiscal year as requested by such insurance carriers. (d) To fully fund such pilot database system and bar code program established pursuant to subdivision four of section three hundred thirteen of this article, the commissioner shall utilize the following three sources of revenue: (1) twenty-five percent of all civil penalties imposed upon persons fined pursuant to paragraph (b) of subdivision one-a of section three hundred eighteen of this article, (2) monies obtained from grants that may be awarded to the commissioner from the motor vehicle theft and insurance fraud prevention fund, and (3) pro rata assessments upon all insurance carriers subject to the provisions of this section in proportion to the premium estimates filed by such carriers. 4. The commissioner shall levy and collect such assessments and pay the same into the state treasury, subject to the provisions of section one hundred twenty-one of the state finance law.

(b) Such motor vehicle shall not be registered or reregistered in the name of such person, or in any other name where the commissioner has reasonable grounds to believe that such registration or reregistration will have the effect of defeating the purposes of this article, and no other motor vehicle shall be registered in the name of such person during the period of such suspension. (c) Suspension shall not be made under this subdivision upon the basis of a lapse or termination of insurance if the registration certificate and number plates of the motor vehicle are surrendered prior to the time at which the termination of insurance becomes effective. Such surrender shall be made to such officers of the department as the commissioner shall direct, but the registrant at his option may surrender the registration and number plates to any county clerk who is acting as an agent of the commissioner pursuant to section two hundred five of this chapter. Such county clerk may accept a surrender of registration and number plates and require the payment of a fee of one dollar whether such surrender is made before or after the effective date of termination of insurance. The county clerk shall retain any such fee which may have been collected, and shall return such registration certificates and number plates, or dispose of the same, only as prescribed by the commissioner. For the purposes of this section the expiration of a registration without renewal of such registration shall be deemed to be a surrender of registration as of the date of expiration. (d) Suspension shall not be made under this subdivision upon the basis of a lapse or termination of insurance if the vehicle has been, or will be, prior to the date of such lapse or termination, removed from the United States in North America and the Dominion of Canada for the purpose of international traffic, provided that the owner of such vehicle, prior to the date of such lapse or termination, has filed with the commissioner a statement, in a form prescribed by him, indicating that the vehicle has been, or will be, so removed, and agreeing to notify the commissioner immediately upon return of the vehicle to the United States in North America or the Dominion of Canada. Upon receipt of the foregoing statement the commissioner shall restrict the use of the registration to such international traffic until new proof of financial security has been secured for the vehicle. (e) Suspension need not be made under this subdivision upon the basis of a lapse or termination of insurance if the period of time during which the motor vehicle remained both registered and uninsured was not more than seven days. The commissioner shall promulgate regulations

governing the conditions under which suspension action may be withheld pursuant to this paragraph. 1-a. (a) The suspension of a registration provided in subdivision one of this section shall take effect on the date specified in the order of suspension and shall remain in effect until the registration certificate and number plates of the motor vehicle have been surrendered to the commissioner and thereafter for a period of time equal to the time from the date of termination of financial security to the date of such surrender or to the date upon which subsequent financial security was obtained or to the date on which the registrant no longer had an insurable interest in the vehicle. (b) Notwithstanding the provisions of paragraph (a) of this subdivision, an order of suspension issued pursuant to paragraph (a) or (e) of this subdivision may be terminated if the registrant pays to the commissioner a civil penalty in the amount of eight dollars for each day up to thirty days for which financial security was not in effect, plus ten dollars for each day from the thirty-first to the sixtieth day for which financial security was not in effect, plus twelve dollars for each day from the sixty-first to the ninetieth day for which financial security was not in effect. Of each ten dollar penalty collected, eight dollars will be deposited in the general fund and two dollars shall be deposited in the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law. Of each twelve dollar penalty collected, eight dollars will be deposited into the general fund and four dollars shall be deposited in the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law. The foregoing provision shall apply only once during any thirty-six month period and only if the registrant surrendered the certificate of registration and number plates to the commissioner not more than ninety days from the date of termination of financial security or submits to the commissioner new proof of financial security which took effect not more than ninety days from the termination of financial security. (c) No number plates shall be returned to the registrant until proof of financial security is submitted to the commissioner. (d) The provisions of this subdivision relating to termination of suspension upon payment of a civil penalty shall be applicable to a registrant only one time during any three year period. (e) If a registrant has not surrendered his certificate of registration and number plates or obtained financial security within ninety days from the date of termination of financial security, the commissioner shall suspend the driver's license of any such registrant. Such suspension shall take effect on the date specified in such order and shall remain in effect from the date of surrender of such license and thereafter for the period of time of the suspension of the registrant's registration. (g) Any civil penalty paid pursuant to paragraph (b) of this subdivision shall be separate and distinct from any civil penalty assessed pursuant to subdivision five of section three hundred nineteen of this chapter. 2. (a) The commissioner upon receipt of evidence that the owner of a motor vehicle registered in this state, or an unregistered motor vehicle, has operated, or permitted such motor vehicle to be operated upon the public highways of this or any other state while proof of financial security was not in effect with respect to such vehicle, shall revoke the registration, if any, of the vehicle and the driver's license, if any, of such owner. (b) Such motor vehicle shall not be registered in the name of such person, or in any other name where the commissioner has reasonable grounds to believe that such registration will have the effect of defeating the purpose of this article, and no other motor vehicle shall be registered in the name of such person, nor any driver's license issued to such person, for a period of one year from the date of such revocation. 3. (a) The commissioner, upon receipt of evidence that a person, other than the owner, has operated upon the public highways of this state a motor vehicle registered in this state, or an unregistered motor vehicle, with knowledge that proof of financial security was not in effect with respect to such vehicle, shall revoke the driver's license of such person, or if he is a non-resident, the non-resident driving privileges of such person. (b) No new driver's license shall be issued, or non-resident driving privilege restored to such person for a period of one year from the date of such revocation. (c) This subdivision shall not apply to any person who at the time of operation of such motor vehicle had in effect an operator's policy of liability insurance, as hereinafter defined, with respect to his operation of such vehicle or to a police officer or member of the state police who is compelled to assume the custody and operation of a motor vehicle of another because such motor vehicle was (1) stolen from or lost by the owner, (2) abandoned, either by the owner or any other person with or without the owner's consent, (3) is being operated by a person disabled so as not to be able to operate it properly, or (4) is being operated by an intoxicated person. 4. (a) The commissioner, upon receipt of evidence that the owner of a motor vehicle not registered in this state has operated or permitted such motor vehicle to be operated upon the public highways of this state while proof of financial security was not in effect with respect to such vehicle, shall revoke such person's privilege to operate any motor vehicle in this state and the privilege of the operation within this state of any motor vehicle owned by him. (b) Such non-resident privileges shall not be restored for a period of one year from the date of such revocation. 5. (a) The commissioner, upon receipt of evidence that a person, other than the owner of the vehicle, has operated upon the public highways of this state a motor vehicle not registered in this state, with knowledge that proof of financial security was not in effect with respect to such vehicle shall revoke the driver's license of such person, or if he is a non-resident, the non-resident privileges of such person. (b) No new driver's license shall be issued, or non-resident privilege restored to such person for a period of one year from the date of such revocation. (c) This subdivision shall not apply to any person who at the time of operation of such motor vehicle had in effect an operator's policy of liability insurance, as hereinafter defined, with respect to his operation of such motor vehicle or to a police officer or member of the state police who is compelled to assume the custody and operation of a motor vehicle of another because such motor vehicle was (1) stolen from or lost by the owner, (2) abandoned, either by the owner or any other person with or without the owner's consent, (3) is being operated by a person disabled so as not to be able to operate it properly, or (4) is being operated by an intoxicated person. 6. Notice of revocation pursuant to this section may be given to the owner of a vehicle registered in this state or to a driver licensed in this state, by mailing the same to such owner or licensee at the

address contained in the certificate of registration for the vehicle owned by such person or to the address contained on his or her driving license or to the current address provided by the United States postal service. 7. Failure of such owner or licensee to deliver a certificate of registration, number plates or driver's license to the commissioner after revocation thereof or as otherwise provided in section three hundred twelve shall constitute a misdemeanor. 8. An operator's policy of liability insurance, as used in this section, shall mean a policy issued by an insurance carrier duly authorized to transact business in the state which shall insure the person named therein as insured, against loss from the liability imposed upon him by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person and injury to or destruction of property arising out of the use by him of any motor vehicle not owned by him, subject to the same minimum provisions and approval required by subdivision four of section three hundred eleven of this chapter, with respect to an owner's policy of liability insurance. With respect to a non-resident, such policy may also be issued by a non-admitted insurance carrier provided the requirements of this article with respect to issuance of an owner's policy of liability insurance by such carrier have been met. 9. (a) If a motor vehicle has been involved in an accident, and its registration or the driver's license of its operator, or both, have been revoked pursuant to this section, then neither such vehicle nor any other motor vehicle shall be registered or reregistered in the name of its owner or of any other person legally responsible for its use, nor shall any driver's license be issued to such owner, person or operator until one year has passed since the date of such revocation and, as the case may be, the commissioner has received the payments and evidence required by paragraph (c) below. (b) If a motor vehicle not registered in this state is involved in an accident in this state and the privilege of its operation within this state has been revoked, then neither its owner, any person legally responsible for its use nor its operator shall exercise the privilege of the operation of such vehicle within this state or the privilege of operation within this state of any motor vehicle, until one year has passed since the date of revocation and, as the case may be, the commissioner has received the payments and evidence as required in (c) below. (c) The payments and evidence referred to in paragraphs (a) and (b) above shall be evidence, satisfactory to the commissioner, (1) That no cause of action based upon such accident against such owner, person legally responsible or operator has been commenced within a period of one year from the date of the accident or a release thereof has been given to such owner, person or operator, or (2) That no judgment arising out of such cause of action for amounts within the limits stated in paragraph (a) of subdivision four of section three hundred eleven against such owner, person or operator remains unsatisfied, except that such registration and licensing privileges may be restored on compliance with the procedures permitting the payment of a judgment in installments provided in section three hundred thirty-four and (3) That all civil penalties required to be paid to the department pursuant to the provisions of subdivision five of section three hundred nineteen of this chapter have been paid. 10. The provisions of subdivision seven of section five hundred ten of this chapter shall apply to a revocation under this article. 11. (a) Where the license or privileges of any person, or the registration of a motor vehicle registered in his name, has been suspended or revoked under article six of this chapter, and the motor vehicle accident indemnification corporation or an insurer has paid any amount towards satisfaction of a judgment against such person, or has obtained a judgment against such person as a result of payments made to third parties such license, privileges or registration shall be suspended, or the suspension or revocation thereof shall be continued, as provided in this subdivision. (b) If the license, privileges or registration of such person has not been restored, the suspension or revocation thereof shall be continued pending the satisfaction of the requirements of paragraph (d) of this subdivision. (c) If the license, privileges or registration of such person has been restored, the commissioner shall suspend such license or privilege, and may suspend such registration, pending the satisfaction of the requirements of paragraph (d) of this subdivision. (d) Such suspensions and revocations shall be continued until such person has repaid to the corporation or to such insurer any amount so paid by it together with interest thereon at six per centum per annum from the date of such payment, unless such person submits to the procedure provided for the payment of judgments in installments under section three hundred thirty-four of this chapter. (e) A discharge in bankruptcy shall not relieve a person of the penalties and disabilities provided in this article. 12. (a) If the owner or operator of a motor vehicle in any manner involved in an accident occurring in this state resulting in death or bodily injuries to any person fails to produce satisfactory evidence as proof of financial security within forty-eight hours after the accident, the motor vehicle shall be subject to impoundment and any peace officer, acting pursuant to his special duties, or any police officer is authorized to impound and store such motor vehicle. If said motor vehicle is subject to impoundment and is not so impounded, the owner or his representative shall cause said motor vehicle to be stored in a public garage or storage place in this state as selected by the owner or representative and shall continue such storage for the period of time provided in this section. The aforementioned storage shall constitute "impoundment" within the meaning of this section. The cost of storage of any such impounded motor vehicle shall be borne by the owner. So long as the impoundment is in force no person shall remove the impounded vehicle or permit it to be removed from its place of impoundment except upon the order of the commissioner. (b) Immediately upon impoundment, the owner or his representative shall: 1. Notify the bailee of the impounded motor vehicle of the fact that the same is stored as an impounded vehicle, 2. Notify the commissioner in writing of the street address and city or municipality where said motor vehicle is stored, and 3. If the owner is a resident of this state, return the registration certificate and registration plates with respect to such motor vehicle to the commissioner. If the owner or his representative fails to store said motor vehicle as required by subdivision (a) and fails to return such registration certificate and registration plates, the commissioner is authorized to direct any peace officer acting pursuant to his special duties, or police officer to impound and store said motor vehicle at the expense of the owner and to take possession of the registration certificate and registration plates and return the same to the commissioner of motor vehicles. (c) The impoundment shall continue until (1) there is a final disposition of the claim for death or bodily injury of the person, resulting from the accident in which said motor vehicle was involved, by payment of a judgment or settlement by the owner, or by a final judgment in his favor, or (2) one year has elapsed since the date of the accident and no filing has been made pursuant to section five thousand two hundred

eight of the insurance law, or (3) a release of the motor vehicle upon order of the commissioner. The commissioner may order the release of said motor vehicle upon the depositing with the commissioner of taxation and finance of security or a bond in such form and amount as may be approved by the commissioner. If said motor vehicle is not released from impoundment after the lapse of one year, the commissioner may dispose of it by public sale and remit the proceeds from the sale to the commissioner of taxation and finance to be held pending the final disposition of the claim. (d) If repairs to an impounded motor vehicle are desired by the owner, he, with the permission of the commissioner, may authorize the motor vehicle to be taken to such repair shop or garage as he may select for the purpose of having it repaired at the owner's expense. Upon completion of such repairs, the motor vehicle shall be impounded as provided in subdivision (a). Where the commissioner is satisfied by such evidence as he deems sufficient, that any motor vehicle is so damaged that it cannot be restored to operable condition, he may, in his discretion, upon such conditions as he deems proper, consent to the release of said motor vehicle from impoundment. (e) No owner of a motor vehicle subject to impoundment hereunder shall transfer title to said motor vehicle nor his interest therein unless he furnishes to the commissioner security, in an amount which the commissioner is satisfied is equivalent to the value of said vehicle or his interest therein. (f) Nothing herein contained shall affect the rights or remedies of any person holding a prior valid lien on an impounded vehicle, including the right to take possession, existing at the effective date of this section or the right of the bailee to a lien for storage of the impounded vehicle; provided, that such person shall, after the sale of such vehicle for the satisfaction of any liens thereon, remit to the commissioner as deposits of security under this article on behalf of the former owner or purchaser of such vehicle any sums which such owner or purchaser would otherwise be entitled to receive. (g) Any person who wilfully violates any of the provisions of this subdivision shall, in addition to any other penalty provided by law, be liable to the people of this state for a penalty in an amount not less than one hundred dollars nor more than one thousand dollars for each violation. 13. (a) Subject to the provisions of paragraph (b), no revocation or suspension order shall be issued pursuant to this section, or if such revocation or suspension order has been issued, it shall be terminated, if the commissioner shall determine that the person involved was not aware of the fact that financial security was not in effect and the failure to have such financial security in effect was caused solely by the negligence or malfeasance of a person other than such person. (b) The burden of proving lack of knowledge that financial security was not in effect and that such failure resulted solely from the negligence or malfeasance of another shall be upon the person seeking to avoid revocation or suspension action. Such facts shall be established by clear and convincing evidence, either by the submission of affidavits or at a hearing called in the discretion of the commissioner. 14. No registration and/or license, which has been revoked pursuant to this section because the holder was convicted of driving without insurance in violation of subdivision one of section three hundred nineteen of this chapter, shall be restored until all civil penalties, required to be paid to the department pursuant to the provisions of subdivision five of section three hundred nineteen of this chapter, have been paid. 15. Notwithstanding any provisions of this section, a restricted use license or privilege of operating a motor vehicle in this state may be issued to a person who has had his license or such privilege revoked or suspended pursuant to any provision of this section in accordance with article twenty-one-A of this chapter.

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§ 319. Penalties. 1. Any owner of a motor vehicle registered in this state, or an unregistered motor vehicle, who shall operate such motor vehicle or permit it to be operated in this state without having in full force and effect the financial security required by the provisions of this chapter and any other person who shall operate in this state any motor vehicle registered in this state, or an unregistered motor vehicle, with the knowledge that the owner thereof does not have in full force and effect such proof of financial security, except a person who, at the time of operation of such motor vehicle, had in effect an operator's policy of liability insurance, as defined in section three hundred eighteen, with respect to his operation of such vehicle shall be guilty of a traffic infraction and upon conviction may be fined not less than one hundred fifty dollars or more than one thousand five hundred dollars or may be imprisoned for not more than fifteen days or both. In addition to the penalties herein set forth, such person, upon conviction, shall also become liable for payment to the department of the civil penalty provided in subdivision five of this section. 2. When the production of an insurance identification card is required by any provision of this chapter, no person shall produce an insurance identification card which indicates insurance coverage which is not in effect. In any prosecution or proceeding alleging a violation of this subdivision, it shall be an affirmative defense that the person so charged did not have knowledge that the insurance indicated on such card was not in effect. A violation of this subdivision shall be a misdemeanor. 3. Every person who operates a vehicle registered in this state, or a vehicle required to be registered in this state, shall, when required by the commissioner's regulations, produce an insurance identification card when requested by any peace officer, acting pursuant to his special duties, police officer or magistrate. The failure to so produce such a card shall be presumptive evidence that such person was operating the vehicle without having in effect financial security required by the provisions of this chapter. 4. Where the commissioner finds, other than by means of the receipt of a certificate of conviction, that a person has violated any provision of subdivision one of this section, such person shall become liable for payment to the department of the civil penalty provided in subdivision five of this section. However, the enforcement of such civil penalty, and of any revocation order based upon such finding, shall be stayed at the request of the person against whom such civil penalty and revocation order has been issued until after a hearing, provided such person was not both the operator and the owner of the motor vehicle which was being operated without the required financial security being in effect. After such hearing, the stay of enforcement of the civil penalty and revocation order shall be vacated unless it is found by a preponderance of the evidence that such person, (a) if he was the operator and not the owner of the motor vehicle, had no knowledge that the

financial security required for such motor vehicle was not in effect; or (b) if he was the owner and not the operator of the motor vehicle, that he did not permit, either expressly or impliedly, the operation of such motor vehicle. 5. The civil penalty for a violation of subdivision one of this section shall be seven hundred fifty dollars.

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§ 320. Notice to other jurisdictions. The commissioner shall transmit a certified copy of any record of any conviction under this article or of any action taken pursuant to this article resulting in revocation of a non-resident's privilege to operate a motor vehicle in this state or the privilege of the operation within this state of any motor vehicle owned by him to the motor vehicle commissioner or officer performing similar functions in the state in which such non-resident resides.

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§ 321. Exceptions. 1. This article shall not apply to any motor vehicle for the operation of which security is required to be furnished under section three hundred seventy of this chapter, including those for which a certificate is issued pursuant to section three hundred seventy-one of this chapter or under a similar law in another state except as may be provided in section three hundred seventy; to any motor vehicle operated under a permit or a certificate of convenience and necessity issued pursuant to the transportation law, or under a permit or certificate issued by the public utility regulatory agency of another state; nor to any vehicle for which a permit or certificate is in force pursuant to the interstate commerce act nor to any motor vehicle owned by the United States, any state or any political subdivisions of any state. 2. Provided, however, that any motor vehicle exempted in subdivision one of this section from the provisions of any portion of this article shall be subject to the provisions of article fifty-one of the insurance law.

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(b) The commissioner is hereby authorized to adopt and enforce such regulations as may be necessary for the administration of this article. (c) Upon any reasonable ground, appearing on the records of the bureau, the commissioner may suspend or revoke the operator's or chauffeur's license of any person and may suspend or revoke any and all of the registration certificates or registration plates for any motor vehicle and may refuse to issue to any such person any new or renewal license or to register in the name of such person any motor vehicle unless and until such person gives proof of his financial responsibility in the future as hereinafter provided in this article. Any person furnishing proof of financial responsibility pursuant to this subdivision may be relieved from continuing to furnish such proof in the discretion of the commissioner provided three years have elapsed since such proof was first furnished during which period such person has not been convicted of, or forfeited bail given on being charged with, any of the offenses specified in subdivision two of section five hundred ten of this chapter and no charges of any of such offenses are pending against such person. The affidavit of such person shall be accepted as proof of the facts therein stated, in the absence of evidence to the contrary before the commissioner. (d) Any person aggrieved by an order or act of the commissioner under this section or under provisions of this article, may maintain a proceeding under article seventy-eight of the civil practice law and rules to review, but the commencement of such a proceeding shall not suspend the order or act unless a stay thereof shall be allowed by said court pending final determination of the review. (e) The provisions of subdivision seven of section five hundred ten of this chapter shall apply to a suspension under this article.

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(b) Such suspensions or revocation shall remain in effect and the commissioner shall not issue to any such person any new or renewal license or register in the name of such person any motor vehicle, until permitted under this chapter and not then unless and until such person gives proof of his financial responsibility in the future as hereinafter provided in this article. Reversal on appeal of any conviction because of which any license or registration has been suspended pursuant to this article shall entitle the holder to the restoration thereof forthwith without proof of financial responsibility. (c) For the purpose of this article the term conviction shall include a forfeiture of bail or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, upon a charge which upon conviction of the defendant requires or authorizes the commissioner to suspend or revoke the license of such person.

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(b) The judgment herein referred to shall mean any judgment in excess of one thousand dollars for damages because of injury to or

destruction of property, including loss of use thereof, or any judgment for damages, including damages for care and loss of services, because of bodily injury to or death of any person arising out of the ownership, maintenance, use or operation of any motor vehicle. (c) The commissioner shall take action as required in this section upon receiving proper evidence that any person in another state, the District of Columbia, any district court of the United States, or any province of Canada, has failed for a period of fifteen days to satisfy any judgment in amount as stated in section three hundred thirty-three and upon a cause of action as stated in this section. (d) Any person whose license, registration or non-resident's driving privilege is subject to suspension hereunder, may be relieved from the effect of failure to satisfy such judgment, if such person files with the commissioner proper evidence that a bond or insurance policy as provided for in this article was in force and effect at the time of the accident resulting in the judgment, and was available for the satisfaction of the judgment to the extent provided for in section three hundred thirty-three and that such judgment was so satisfied.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act333 - Payments Sufficient to Satisfy Requirements of This Article.

(b) When subject to such limit of twenty-five thousand dollars because of bodily injury to or fifty thousand dollars because of death of one person, the sum of fifty thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of bodily injury to or when one hundred thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of death of two or more persons as the result of any one accident; or (c) When ten thousand dollars has been credited upon any judgment or judgments rendered in excess of that amount because of injury to or destruction of property of others as a result of any one accident. Payments made in settlement of any claims because of bodily injury, death or property damage arising from a motor vehicle accident shall be credited in reduction of the amounts provided for in this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act334 - Suspension Waived Upon Payment of Judgment in Installments.

(b) A judgment debtor upon five days' notice to the judgment creditor may apply to the court in which such judgment was obtained for the privilege of paying such judgment in installments and the court, in its discretion and without prejudice to any other legal remedies which the judgment creditor may have, may so order, fixing the amounts and times of payment of the installments. (c) In the event the judgment debtor fails to pay any installment as permitted by the order of the court, then upon notice of such default the commissioner shall forthwith suspend the license and registration certificates and registration plates of the judgment debtor until such judgment is satisfied as provided in this article. (d) Provided, however, if the judgment creditor consents in writing, in such form as the commissioner may prescribe, that the judgment debtor be allowed license and registration the same may be allowed by the commissioner, in his discretion, notwithstanding default in the payment of such judgment or of any installments thereof, for six months from the date of such consent and thereafter until such consent is revoked in writing, if the judgment debtor furnishes proof of his financial responsibility in the future as hereinafter provided.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act335 - Security and Proof Required Following Accident.

Upon receipt of notice of such accident, the insurance carrier or surety company which issued such policy or bond shall furnish for filing with the commissioner a written notice that such policy or bond was in effect at the time of such accident or shall notify the commissioner in such manner as he may require in case such policy or bond was not in effect at the time of such accident. In case any such operator (or chauffeur) or owner has no license to operate issued under this chapter or no motor vehicle registered in his name in this state, he shall not be allowed a license or registration until he has complied with this article to the same extent as would be necessary if he had held an operator's or chauffeur's license and a motor vehicle registration issued under this chapter at the time of the accident.(b) Such security, where ordered, shall be in such form and in such amount as the commissioner may require, but in no case in excess of the amount of proof required by section three hundred forty-one of this article. The commissioner may reduce the amount of security ordered in any case within six months after the date of the accident, if, in his judgment, the amount ordered is too large. In case the security originally ordered has been deposited, the excess deposited over the reduced amount ordered shall be returned to the depositor or his personal representative forthwith, notwithstanding the provisions of subdivision (c) of this section.(c) Security furnished in compliance with the requirements of this section shall be placed by the commissioner in the custody of the commissioner of taxation and finance and shall be applicable only to the payment of a judgment against the depositor for damages arising out of the accident in question in an action at law begun not later than one year after the date of such accident or, upon assignment of the depositor, made not later than one year after the date of such accident, to the settlement of a claim arising out of such accident, or upon assignment of the depositor, made after the expiration of one year after the date of such accident, to the settlement of an action at law begun not later than one year after the date of such accident. All of such payments made out of the deposited security shall be made as follows: Payment shall first be made to each of the judgment creditors and to each of the claimants who have agreed to settle their claims, whose damages were evaluated by the commissioner, in an amount not greater than

the amount fixed in their respective evaluations. Whenever the commissioner shall be given evidence, satisfactory to him, that the amounts of all claims for damages against the depositor arising out of such accident are fixed, either by judgment or settlement agreement, payment shall be made out of any balance remaining after the first distribution to each of those persons whose judgments or settlement amounts have not been fully paid but whose damages were evaluated by the commissioner, in proportion to the amounts of their respective evaluations unless there is sufficient to make payment in full; and any balance remaining after the first and second distributions are completed shall be paid to those judgment creditors and those claimants who have agreed to settle their claims but whose damages were not evaluated, in proportion to the amounts of their respective judgments or settlement amounts unless there is sufficient to make payment in full. Such deposit, or any balance thereof, shall be returned to the depositor or his personal representative whenever after the expiration of such year, the commissioner shall be given evidence, satisfactory to him, that there is no such action pending and no such judgment unsatisfied or whenever, before the expiration of such year, the commissioner shall be given evidence, satisfactory to him, that there is no such judgment unsatisfied and that there is no existing cause of action against the depositor for damages arising out of such accident.(c-1) After security, furnished in compliance with the requirements of this section, has remained on deposit for five years, the commissioner shall make a determination as to whether the deposit, or any balance thereof, is returnable to the depositor or the person entitled thereto. In the event that such deposit, or any balance thereof, is determined to be returnable, but remains unclaimed by the depositor or the person entitled thereto for a period of one year following the date of such determination, such unclaimed deposit, or any balance thereof, shall be deemed abandoned property subject to the provisions of the abandoned property law.(d) The provisions of subdivision (a) of this section shall not apply to the owner of a motor vehicle operated by one having obtained possession or control thereof without the expressed or implied consent of such owner, to a police officer or member of the state police who is compelled to assume the custody and operation of a motor vehicle of another because such motor vehicle was (1) stolen from or lost by the owner, (2) abandoned, either by the owner or any other person with or without the owner's consent, (3) is being operated by a person disabled so as not to be able to operate it properly, or (4) is being operated by an intoxicated person; or to either the owner or operator of a motor vehicle involved in an accident wherein no damage or injury was caused to other than the person or property of such owner or operator.(e) In lieu of deposit of security when required pursuant to the provisions of this section the commissioner may accept a written agreement, executed and acknowledged by the person required to deposit security and any person who has sustained bodily injury, including death, or damage to his property, or his legal representative, providing for the payment of an agreed amount in installments, with respect to the claims of such person for injuries or damages resulting from the accident. In the event of default in payment of any installment under such agreement, then upon notice of such default the commissioner shall forthwith suspend the license and registration certificates and registration plates of the person in default until release has been filed with the commissioner indicating that the entire agreed amount has been paid. But in no case shall such agreement be used in lieu of proof of maintenance of financial responsibility in the future required pursuant to the provisions of this section. (b) Such security, where ordered, shall be in such form and in such amount as the commissioner may require, but in no case in excess of the amount of proof required by section three hundred forty-one of this article. The commissioner may reduce the amount of security ordered in any case within six months after the date of the accident, if, in his judgment, the amount ordered is too large. In case the security originally ordered has been deposited, the excess deposited over the reduced amount ordered shall be returned to the depositor or his personal representative forthwith, notwithstanding the provisions of subdivision (c) of this section. (c) Security furnished in compliance with the requirements of this section shall be placed by the commissioner in the custody of the commissioner of taxation and finance and shall be applicable only to the payment of a judgment against the depositor for damages arising out of the accident in question in an action at law begun not later than one year after the date of such accident or, upon assignment of the depositor, made not later than one year after the date of such accident, to the settlement of a claim arising out of such accident, or upon assignment of the depositor, made after the expiration of one year after the date of such accident, to the settlement of an action at law begun not later than one year after the date of such accident. All of such payments made out of the deposited security shall be made as follows: Payment shall first be made to each of the judgment creditors and to each of the claimants who have agreed to settle their claims, whose damages were evaluated by the commissioner, in an amount not greater than the amount fixed in their respective evaluations. Whenever the commissioner shall be given evidence, satisfactory to him, that the amounts of all claims for damages against the depositor arising out of such accident are fixed, either by judgment or settlement agreement, payment shall be made out of any balance remaining after the first distribution to each of those persons whose judgments or settlement amounts have not been fully paid but whose damages were evaluated by the commissioner, in proportion to the amounts of their respective evaluations unless there is sufficient to make payment in full; and any balance remaining after the first and second distributions are completed shall be paid to those judgment creditors and those claimants who have agreed to settle their claims but whose damages were not evaluated, in proportion to the amounts of their respective judgments or settlement amounts unless there is sufficient to make payment in full. Such deposit, or any balance thereof, shall be returned to the depositor or his personal representative whenever after the expiration of such year, the commissioner shall be given evidence, satisfactory to him, that there is no such action pending and no such judgment unsatisfied or whenever, before the expiration of such year, the commissioner shall be given evidence, satisfactory to him, that there is no such judgment unsatisfied and that there is no existing cause of action against the depositor for damages arising out of such accident. (c-1) After security, furnished in compliance with the requirements of this section, has remained on deposit for five years, the commissioner shall make a determination as to whether the deposit, or any balance thereof, is returnable to the depositor or the person entitled thereto. In the event that such deposit, or any balance thereof, is determined to be returnable, but remains unclaimed by the depositor or the person entitled thereto for a period of one year following the date of such determination, such

unclaimed deposit, or any balance thereof, shall be deemed abandoned property subject to the provisions of the abandoned property law. (d) The provisions of subdivision (a) of this section shall not apply to the owner of a motor vehicle operated by one having obtained possession or control thereof without the expressed or implied consent of such owner, to a police officer or member of the state police who is compelled to assume the custody and operation of a motor vehicle of another because such motor vehicle was (1) stolen from or lost by the owner, (2) abandoned, either by the owner or any other person with or without the owner's consent, (3) is being operated by a person disabled so as not to be able to operate it properly, or (4) is being operated by an intoxicated person; or to either the owner or operator of a motor vehicle involved in an accident wherein no damage or injury was caused to other than the person or property of such owner or operator. (e) In lieu of deposit of security when required pursuant to the provisions of this section the commissioner may accept a written agreement, executed and acknowledged by the person required to deposit security and any person who has sustained bodily injury, including death, or damage to his property, or his legal representative, providing for the payment of an agreed amount in installments, with respect to the claims of such person for injuries or damages resulting from the accident. In the event of default in payment of any installment under such agreement, then upon notice of such default the commissioner shall forthwith suspend the license and registration certificates and registration plates of the person in default until release has been filed with the commissioner indicating that the entire agreed amount has been paid. But in no case shall such agreement be used in lieu of proof of maintenance of financial responsibility in the future required pursuant to the provisions of this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act336 - Duty of Courts to Report Judgments.

§ 336. Duty of courts to report judgments. The clerk of the court, or the court where it has no clerk, shall, upon written request of the judgment creditor or his attorney, forward to the commissioner a certified copy of transcript of any judgment for damages, the rendering and non-payment of which judgment requires the commissioner to suspend the operator's or chauffeur's license and/or the registrations in the name of the judgment debtor hereunder, such copy or transcript to be forwarded to the commissioner immediately upon the expiration of fifteen days after such judgment has become final by expiration without appeal of the time within which appeal might have been perfected or by final affirmance on appeal, and has not been otherwise stayed, or satisfied.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act337 - Suspension, Duration.

(b) The suspension required in section three hundred thirty-five shall remain in effect, the motor vehicle in any manner involved in such accident shall not be registered in the name of the person whose license and/or registration certificate was so suspended, or in any other name where the commissioner has reasonable grounds to believe that such registration will have the effect of defeating the purposes of this article, and no other motor vehicle shall be registered in the name of such person nor any new licenses issued to such person, unless and until such person complies with the requirement with respect to furnishing security, or unless and until such person has obtained a release, or a favorable judgment in an action at law to recover damages resulting from such accident or unless such person shall have satisfied in the manner herein provided any judgment rendered against such person in such an action, or unless such judgment rendered against such person is discharged in bankruptcy, and at all events until such person gives and thereafter maintains proof of his financial responsibility. Provided, however, that any person whose license or registration became subject to suspension or has been suspended pursuant to subdivision (a) of section three hundred thirty-five, whether or not such person has furnished security and proof of financial responsibility, shall be relieved from furnishing or maintaining proof of financial responsibility if (1) one year has elapsed since the date of the accident, (2) nine months have elapsed since the date of compliance with any suspension order made against such person because of such accident, (3) such person has neither paid nor agreed in writing to pay anything for damages resulting from such accident, (4) no suit for damages because thereof has been brought against such person and (5) such person is not required to furnish or maintain proof of financial responsibility for some reason other than for having been involved in such accident. If a suit or suits for damages resulting from such accident shall have been brought and such suit or suits shall have resulted in a judgment or judgments, the successful person in such suit or suits shall be relieved from furnishing or maintaining proof of financial responsibility forthwith provided such person is not required to furnish or maintain such proof for reasons other than for having been involved in such accident and, in case such person has furnished security because of having been involved in such accident, it shall be returned to such person or the personal representative of such person forthwith notwithstanding the provisions of subdivision (c) of section three hundred thirty-five. The fact of having been involved in such accident shall not bar the issuance of license and registration to a person who has been relieved from furnishing or maintaining proof of financial responsibility pursuant to the provisions of this paragraph. (c) A discharge in bankruptcy following the rendering of any such judgment shall not relieve the judgment debtor from any of the requirements of this article unless otherwise provided in subdivisions (a) and (b) of this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act338 - Application to Non-Resident, Other Persons.

(b) All of the provisions of this article shall apply to any person who is not a resident of this state under the same circumstances as

they would apply to a resident; and, in such event, such a non-resident shall not operate any motor vehicle in this state nor shall any motor vehicle owned by him be operated in this state, unless and until such non-resident or the owner of the motor vehicle, if another person, has complied with the requirements of this article with respect to furnishing security and giving proof of financial responsibility in the future. (c) Upon conviction of a non-resident or in case of any unsatisfied judgment rendered against a non-resident which conviction or unsatisfied judgment results in suspension of such non-resident's driving privileges in this state and/or the prohibition of the operation within this state of any motor vehicle owned by such non-resident, the commissioner shall transmit a certified copy of any record of any such conviction or any such unsatisfied judgment or any other action pursuant to this article resulting in suspension of a non-resident's driving privileges in this state and/or the prohibition of the operation within this state of any motor vehicle owned by such non-resident to the motor vehicle commissioner or officer performing the functions of a commissioner in the state in which such non-resident resides. In case a non-resident's failure to comply with the provisions of section three hundred thirty-five results in suspension of such non-resident's rights and privileges in this state and/or prohibition of the operation within the state of any motor vehicle owned by such non-resident, the commissioner shall transmit a certified copy of the record of such action to the motor vehicle commissioner or officer performing the functions of the commissioner in the state in which such non-resident resides, if the law of such other state provides for action in relation thereto similar to that provided for in subdivision (d) of this section. (d) The commissioner shall take action as required anywhere in this article, upon receiving proper evidence that any resident of this state, has in any other state had his driving privileges suspended and/or the operation of any motor vehicle owned by him prohibited pursuant to a law of such other state providing for such suspension or prohibition because of a conviction or because of an unsatisfied judgment which would require the commissioner to suspend a non-resident's driving privileges had such a conviction or judgment been rendered in this state against a non-resident, provided, however, that no suspension or prohibition shall be effective until twenty days have elapsed from the date upon which notice of suspension shall have been mailed to the operator or owner during which period such operator or owner shall be permitted to submit evidence of satisfaction of the judgment or other evidence relating thereto. Upon receipt of a certification that the operating privilege of a resident of this state has been suspended, revoked or cancelled in any such other state pursuant to a law providing for its suspension, revocation or cancellation for failure to deposit security for the payment of a judgment as may arise out of a motor vehicle accident under circumstances which would require the commissioner to suspend a non-resident's operating privilege had the accident occurred in this state, the commissioner shall suspend the license of such resident if he was the operator, and all of his registrations if he was the owner of a motor vehicle involved in such accident. Such suspension shall continue until such resident furnishes evidence of his compliance with the law of such other state relating to the deposit of such security. (e) The word "state" when used in this section shall, unless the context clearly indicates otherwise, mean any state, territory or possession of the United States, the District of Columbia or any province of the Dominion of Canada.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act339 - Owner May Give Proof for Chauffeur or Member of Family.

§ 339. Owner may give proof for chauffeur or member of family. Whenever the commissioner determines that any person required to give proof or furnish security under this article, or under certain provisions of article three previously numbered article six-a of this chapter, as added by chapter six hundred ninety-five of the laws of nineteen hundred twenty-nine and repealed by chapter eight hundred seventy-two of the laws of nineteen hundred forty-one, is or later becomes a chauffeur or motor vehicle operator, however designated, in the employ of an owner of a motor vehicle, or is or later becomes a member of the immediate family or household of the owner of a motor vehicle, the commissioner shall accept proof of financial responsibility given by such owner in lieu of proof by such person to permit such person to operate a motor vehicle for which the owner has given proof as herein provided. In case such person is one who is furnished proof of financial responsibility by his employer, he shall not be required to furnish security. The commissioner shall designate the restrictions imposed by this section on the face of such person's operator's or chauffeur's license. If the owner of a motor vehicle is one who is required to furnish coverage for the vehicle under section three hundred seventy of this chapter, or one whose vehicles are operated under a permit or a certificate of convenience and necessity issued pursuant to the public service law or is a self-insurer, proof by the owner on behalf of another as provided by this section may be made if there is filed with the commissioner satisfactory evidence that such owner has complied with the law with respect to his liability for damage caused by the operation of his vehicles by providing the required insurance or other coverage or that he is a self-insurer.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act340 - Surrender of License and Evidences of Registration.

(b) The commissioner is hereby authorized to take possession of any license, registration certificate or registration plates upon the suspension thereof under the provisions of this article or to direct any peace officer, acting pursuant to his special duties or police officer to take possession thereof and to return the same to the office of the commissioner.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act341 - Amount of Proof Required.

§ 341. Amount of proof required. Proof of financial responsibility shall mean proof of ability to respond in damages for liability

thereafter incurred, arising out of the ownership, maintenance or use of a motor vehicle, in the amount of twenty-five thousand dollars because of bodily injury to or fifty thousand dollars because of death of any one person, and subject to said limit respecting one person, in the amount of fifty thousand dollars because of bodily injury to or one hundred thousand dollars because of death of two or more persons in any one accident, and in the amount of ten thousand dollars because of injury to or destruction of property in any one accident. Such proof in such amounts shall be furnished for each motor vehicle registered by such person.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act342 - Alternate Methods of Giving Proof.

§ 342. Alternate methods of giving proof. Proof of financial responsibility when required under this article may be given by the following alternate method; either by proof that a policy or policies of motor vehicle liability insurance have been obtained and are in full force and effect, or that a bond has been duly executed, or that deposit has been made of money or securities, all as hereinafter provided.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act343 - Proof of Financial Responsibility by Certificate Showing Motor Vehicle Liability Policy Obtained.

(b) No motor vehicle shall be or continue to be registered in the name of any person required to file proof of financial responsibility unless such motor vehicle is so designated in such a certificate. (c) When a person has been required to furnish proof of a financial responsibility and there has been in effect a motor vehicle liability policy for his benefit for a period of three years, during which period such person or any vehicle registered in his name has not been involved in any accident upon which a report is required pursuant to section six hundred five hereof, such person may file in lieu thereof, the written certificate of any insurance carrier duly authorized to do business in this state, certifying that there is in effect a standard provisions automobile liability policy in form approved by the superintendant of financial services with a limit of liability no less than provided in subdivision (a) of section three hundred thirty-five of this law.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act344 - Certificate Furnished by Non-Resident.

(1) Said insurance carrier shall execute a power of attorney authorizing the commissioner to accept service on its behalf of notice or process in any action arising out of a motor vehicle accident in this state. (2) Said insurance carrier shall duly adopt a resolution which shall be binding upon it, declaring that its policies shall be deemed to be varied to comply with the law of this state relating to the terms of motor vehicle liability policies issued herein. (3) Said insurance carrier shall also agree to accept as final and binding any judgment of any court of competent jurisdiction in this state duly rendered in any action arising out of a motor vehicle accident. (4) Said insurance carrier shall also agree to pay any assessment for expenses of administration of this article levied against it as provided in section three hundred sixty-three of this chapter. (b) If any foreign insurance carrier which has qualified to furnish proof of financial responsibility as hereinbefore required defaults in any said undertakings or agreements, the commissioner shall not thereafter accept any certificate of said carrier, whether theretofore filed or thereafter tendered as proof of financial responsibility so long as such default continues.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act345 - Motor Vehicle Liability Policy.

(b) Such owner's policy of liability insurance (1) Shall designate by explicit description or by appropriate reference, all motor vehicles with respect to which coverage is thereby intended to be granted. (2) Shall insure as insured the person named therein and any other person using or responsible for the use of any such motor vehicle or motor vehicles with the consent, express or implied, of such named insured. (3) Shall insure the insured or such other person against loss from the liability imposed by law for damages, including damages for care and loss of services because of bodily injury to or death of any person and injury to or destruction of property arising out of the ownership, maintenance, use, or operation of such motor vehicle or motor vehicles within the state of New York, or elsewhere in the United States in North America or the Dominion of Canada, subject to a limit, exclusive of interest and cost, with respect to each such motor vehicle, except a tow truck, of twenty-five thousand dollars because of bodily injury to or fifty thousand dollars because of death of one person in any one accident and, subject to said limit for one person, to a limit of fifty thousand dollars because of bodily injury to or one hundred thousand dollars because of death of two or more persons in any one accident, and to a limit of ten thousand dollars because of injury to or destruction of property of others in any one accident. The limit, exclusive of interest and costs, with respect to a tow truck shall be a combined single limit of three hundred thousand dollars because of bodily injury of death to one or more persons or because of injury or destruction of property of others in any one accident, and to a limit of twenty-five thousand dollars because of damage to a vehicle in the care, custody and control of the insured. (c) Such operator's policy of liability insurance shall insure the person named therein as insured against loss from the

liability imposed upon him by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person and injury to or destruction of property arising out of the use by him of any motor vehicle not owned by him, within the same territorial limits and subject to the same limits of liability as are set forth above with respect to an owner's policy of liability insurance. (d) Such motor vehicle liability policy shall provide for the name and address of the named insured, the coverage afforded by the policy, the premium charged therefor, the policy period and the limits of liability, and shall contain an agreement that the insurance thereunder is provided in accordance with the coverage defined in this article as respects bodily injury and death or property damage or both and is subject to all the provisions of this article. (e) Such motor vehicle liability policy shall not insure any liability on account of bodily injury to or death of an employee of the insured for which benefits are payable under any workmen's compensation law. Nor is any such policy required to insure any liability on account of (1) damage to property of others in charge of the insured or of his agents or employees (2) bodily injury to or death of the insured, or (3) except as provided in paragraphs one and two of subsection (g) of section three thousand four hundred twenty of the insurance law, bodily injury to or death of the spouse of the insured, or for injury to property of the spouse of the insured; and any insurance of any such liability afforded by such a policy shall be subject to the provisions of subsection (f) of this section. (f) Such motor vehicle liability policy may, however, grant any lawful coverage in excess of or in addition to the coverage herein specified and such excess or additional coverage shall not be subject to the provisions of this article. (g) Several policies of one or more insurance carriers which together meet the requirements of this section shall be termed "motor vehicle liability policy" within the meaning of this article. (h) No motor vehicle liability policy shall be issued or delivered in this state until a copy of the form of policy shall have been on file with the superintendent of financial services for at least thirty days, unless sooner approved in writing by the superintendent of financial services, nor if within said period of thirty days the superintendent of financial services shall have notified the carrier in writing that in his opinion, specifying the reasons therefor, the form of policy does not comply with the laws of this state. The superintendent of financial services shall approve any form of policy which discloses the name and address of the insured, the coverage afforded by such policy, the premium charged therefor, the policy period, the limit of liability and the agreement that the insurance thereunder is provided in accordance with the coverage defined in this section and is subject to all the provisions of this article. (i) Every motor vehicle liability policy shall be subject to the following provisions which need not be contained therein: (1) The liability of any company under a motor vehicle liability policy shall become absolute whenever loss or damage covered by said policy occurs, and the satisfaction by the insured of a final judgment for such loss or damage shall not be a condition precedent to the right or duty of the carrier to make payment on account of such loss or damage. No such policy shall be cancelled or annulled as respects any loss or damage by any agreement between the carrier and the insured after the said insured has become responsible for such loss or damage, and any such cancellation or annullment shall be void. If the death of the insured shall occur after the insured has become liable during the policy period for loss or damage covered by the policy, the policy shall not be deemed terminated by such death with respect to such liability and the company shall be liable thereunder in the same manner and to the same extent as though death had not occurred. Upon the recovery of a final judgment against any person for any such loss or damage, if the judgment debtor or the decedent whom he represents was at the accrual of the cause of action insured against liability therefor under a motor vehicle liability policy, the judgment creditor shall be entitled to have the insurance money applied to the satisfaction of the judgment. But the policy may provide that the insured, or any other person covered by the policy, shall reimburse the company for payments made on account of any accident, claim or suit involving a breach of the terms, provisions or conditions of the policy; and further, if the policy shall provide for limits in excess of the limits designated in this section, the insurance carrier may plead against such judgment creditor, with respect to the amount of such excess limits of liability, any defenses which it may be entitled to plead against the insured. Any such policy may further provide for the prorating of the insurance thereunder with other applicable valid and collectible insurance. If the death, insolvency or bankruptcy of the insured shall occur within the policy period, the policy during the unexpired portion of such period shall cover the legal representatives of the insured. No statement made by the insured or on his behalf, and no violation of the terms of the policy, shall operate to defeat or avoid the policy so as to bar recovery within the limits provided in subdivision (b) of this section. (2) The policy, the written application therefor (if any) and any rider or endorsement, which shall not conflict with the provisions of this article, shall constitute the entire contract between the parties. (3) Any insurance carrier authorized to issue motor vehicle liability policies as provided for in this article may, pending the issue of such a policy, execute an agreement, to be known as a binder; or may, in lieu of such a policy issue an indorsement to an existing policy; each of which shall be construed to provide indemnity or protection in like manner and to the same extent as such a policy. The provisions of this section shall apply to such binders and endorsements.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act346 - Proof of Financial Responsibility Not Required After February First, Nineteen Hundred Fifty-Seven.

§ 346. Proof of financial responsibility not required after February first, nineteen hundred fifty-seven. Notwithstanding any other provision of law, no person, on and after February first, nineteen hundred fifty-seven, shall be required to file or maintain proof of financial responsibility pursuant to this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act348 - Article Not to Affect Other Policies.

(b) This article shall not be held to apply to or affect policies insuring solely the insured named in the policy against liability resulting from the maintenance, or use by persons in the insured's employ or in his behalf of motor vehicles not owned by the insured.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act349 - Filing a Bond as Proof of Financial Responsibility.

(b) Such bond shall be executed by the person giving such proof and by a surety company duly authorized to transact business in this state. (c) The commissioner shall not accept any such bond unless it is conditioned for payments in amounts and under the same circumstances as would be required in a motor vehicle liability policy furnished by the person giving such proof under this article. (d) No such bond shall be cancelled unless ten days' prior written notice of cancellation is given the commissioner but cancellation of such bond shall not prevent recovery thereon with respect to any right or cause of action arising prior to the date of cancellation. (e) If a final judgment rendered against the principal on the bond filed with the commissioner as provided in this article shall not be satisfied within fifteen days after its rendition, the judgment creditor may, for his own use and benefit and at his sole expense, bring an action on said bond in the name of the state against the company or persons executing such bond.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act350 - Money or Securities Deposited as Proof of Financial Responsibility.

(b) All money or securities so delivered to the commissioner shall be placed by the commissioner in the custody of the commissioner of taxation and finance and shall be subject to execution to satisfy any judgment mentioned in this article within the limits of coverage and subject to the limits on amounts required by this article for motor vehicle liability policies, and if such moneys or securities shall be otherwise subjected to attachment or any execution, the depositor shall immediately furnish such additional moneys or securities, not otherwise subjected to attachment or execution, to meet the requirements of this section. (c) The commissioner shall not accept such money or securities unless accompanied by evidence that there are no unsatisfied judgments against such person registered in the office of the county clerk of the county where such person resides.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act351 - Person Having Given Proof May Substitute Other Proof.

§ 351. Person having given proof may substitute other proof. The commissioner shall cancel any bond or return any certificate of insurance, or the commissioner shall direct and the department of taxation and finance shall return any money or securities, to the person entitled thereto upon the substitution and acceptance of other adequate proof of financial responsibility pursuant to this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act352 - If Proof Fails Commissioner May Require Other Proof.

§ 352. If proof fails commissioner may require other proof. Whenever any proof of financial responsibility filed by any person under the provisions of this article no longer fulfills the purpose for which required, the commissioner shall, for the purpose of this article, require other proof of financial responsibility as required by this article, and shall suspend the operator's or chauffeur's license, and registration certificates and registration plates of such person pending such proof.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act353 - When Commissioner May Release Proof.

(1) In the event of the death of the person on whose behalf such proof was filed, or the permanent incapacity of such person to operate a motor vehicle; or (2) In the event the person who has given proof of financial responsibility surrenders his operator's or chauffeur's license, registration certificates and registration plates to the commissioner, but the commissioner shall not release such proof in the event any action for damages upon a liability referred to in this article is then pending, or any judgment upon any such liability then outstanding and unsatisfied, or in the event the commissioner has received notice that such person has within the period of three months immediately preceding been involved as a driver in any motor vehicle accident. An affidavit of the applicant of the non-existence of such facts shall be sufficient evidence thereof in the absence of evidence to the contrary in the records of the bureau. Whenever any person to whom proof has been surrendered, as provided in this section, applies for an operator's or chauffeur's license or the registration of a motor vehicle, any such application shall be refused unless the applicant shall reestablish such proof.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act354 - Commissioner to Furnish

Operating Record.

§ 354. Commissioner to furnish operating record. The commissioner shall upon request furnish any insurance carrier or any person an abstract of the operating record of any person subject to the provisions of this article, which abstract shall include enumeration of any convictions of such person of a violation of any provision of any statute relating to the operation of a motor vehicle or any accidents in which a motor vehicle driven by such person has been involved during the current calendar year and the three calendar years preceding that in which the request for the operating record is received and if specifically requested shall also fully designate the motor vehicles, if any, registered in the name of such person and the name of the insurer insuring such motor vehicle, for the registration year in which the request for the operating record is received. A request for an abstract of an operating record shall be subject to the provisions of section two hundred two of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act355 - Operating Without Giving Proof When Proof Required.

§ 355. Operating without giving proof when proof required. Any person whose operator's or chauffeur's license or registration certificate or other privilege to operate a motor vehicle has been suspended or revoked, restoration thereof or the issuance of a new license or registration being contingent upon the furnishing of proof of financial responsibility, and who during such suspension or revocation or in the absence of full authorization from the commissioner shall drive any motor vehicle upon any highway or knowingly permits any motor vehicle owned by such person to be operated by another upon any highway except as permitted hereunder, shall be guilty of a misdemeanor and upon conviction thereof shall be subject to the penalties provided by section five hundred eleven of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act356 - Forging or Without Authority Signing Proof of Financial Responsibility.

§ 356. Forging or without authority signing proof of financial responsibility. Any person who shall forge, or without authority, sign any evidence of ability to respond in damages as required by the commissioner in the administration of this article, and any non-resident who shall operate a motor vehicle in this state from whom the privilege of operating any motor vehicle has been withdrawn as provided herein, shall be fined not more than one thousand dollars or imprisoned not more than thirty days or both.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act357 - Failing to Report Convictions and Judgments.

§ 357. Failing to report convictions and judgments. Any person required to forward to the commissioner a record of a conviction or a judgment for damages as provided in section three hundred thirty-six, who wilfully fails or neglects to do so, shall be punished by a fine of not less than ten dollars for each separate offense.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act358 - Otherwise Violating Article.

§ 358. Otherwise violating article. Any person who violates any provision of this article for which another penalty is not prescribed by law shall be punished by imprisonment for not more than ninety days or by a fine of not less than one hundred dollars or more than one thousand dollars or both.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act359 - Definitions.

(b) Commissioner. The commissioner of motor vehicles of this state. (c) Department. The department of motor vehicles of this state acting directly or through its duly authorized officers and agents. (d) Person. Shall include individuals, firms, partnerships, associations, corporations, receivers, referees, trustees, assignees for the benefit of creditors; executors and administrators; and shall include the owner of any motor vehicle as requisite; but shall not include the state or any political subdivision thereof. (g) Owner. A person who holds the legal title of a motor vehicle; or in the event a motor vehicle is subject to a security interest, or lease with the right of purchase upon performance of conditions stated in the lease and with an immediate right of possession vested in the debtor or lessee, then such debtor or lessee shall be deemed the owner for the purpose of this act. (h) Insured. The person in whose name there is issued a motor vehicle liability policy, as defined in this article, and any other person insured under the terms of such policy. (i) Judgment. Any judgment, except a judgment rendered against this state or any political subdivision thereof or any municipality therein, which shall have become final by expiration without appeal of the time within which appeal might have been perfected, or by final affirmance on appeal, rendered by a court of competent jurisdiction of any state, any province of Canada, the Dominion of Canada, the District of Columbia, or the United States. (j) Non-resident. Every person who is not a resident of this state. (k) Motor vehicle. As used in this article, the term "motor vehicle" shall be defined as in section one hundred twenty-five of this chapter, except that it shall also include trailers, semi-trailers and tractors other than tractors used exclusively for agricultural purposes, and

shall exclude fire and police vehicles, self-propelled combines, self-propelled corn and hay harvesting machines, tractors used exclusively for agricultural purposes and self-propelled caterpillar or crawler-type equipment while being operated on the contract site.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act360 - Exceptions.

§ 360. Exceptions. This article, except sections three hundred thirty-nine and three hundred fifty-nine, shall not apply to any motor vehicle for the operation of which security is required to be furnished under section three hundred seventy of this chapter, including those for which a certificate is issued pursuant to section three hundred seventy-one of this chapter except as may be provided in section three hundred seventy; to any motor vehicle operated under permit or a certificate of convenience and necessity issued pursuant to the public service law or pursuant to section fifty-a of such law; nor to any motor vehicle owned by the United States, the state or any political subdivision thereof.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act361 - Self-Insurers.

(b) The commissioner may, in his discretion, upon the application of such a person, issue a certificate of self-insurance when he is reasonably satisfied that such person is possessed and will continue to be possessed of financial ability to respond to judgments, as hereinbefore described, obtained against such person, arising out of the ownership, maintenance, use or operation of any of such person's motor vehicles. (c) Upon due notice and hearing, the commissioner, may, in his discretion and upon reasonable grounds, cancel a certificate of self-insurance.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act362 - Article Not to Repeal Other Motor Vehicle Laws.

§ 362. Article not to repeal other motor vehicle laws. This article shall in no respect be considered as a repeal of any of the provisions of this chapter (except article six) or of other laws relating to the registration, numbering and regulation of motor vehicles; the licensing and regulation of chauffeurs and operators; the use of the public highways by motor vehicles and the accessories used upon them and their incidents; the speed of motor vehicles upon the public highways; or the punishment for the violations of such provisions, but shall be construed as supplemental thereto.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act363 - Expenses of Administering Article.

2. Estimate of expenses. (a) The commissioner annually, as soon as practicable, shall estimate the total amount of expenses which shall be incurred during the succeeding fiscal year in connection with the administration of this article. Such expenses, in addition to the direct costs of personal service, shall include the costs of maintence and operation, the cost of retirement contributions made and workers' compensation premiums paid by the state for or on account of personnel, rentals for space occupied in state-owned or state-leased buildings, the amounts paid to a city, county, town, village or the division of state police for the enforcement of orders issued pursuant to this article and all other direct or indirect costs.(b) The commissioner shall on or before February first assess the total amount of such expenses, as so estimated, pro rata upon all insurance carriers subject to the provisions of this section in proportion to the premiums reported by such carriers to the department of financial services for policies or contracts of automobile bodily injury insurance on risks subject to this article resident or located in this state for the year prior to the previous calendar year.(c) For fiscal years beginning on or after April first, nineteen hundred eighty-three, each such insurance carrier shall make partial payments of the assessment levied against it as follows, one-quarter of the total on March tenth of the preceding fiscal year, one-quarter on June tenth, one-quarter on September tenth, and the balance on December tenth of the fiscal year, or on such other dates as the director of the budget may prescribe. Provided, however, that the payment due March tenth, nineteen hundred eighty-three for the fiscal year beginning April first, nineteen hundred eighty-three shall not be required to be paid until June tenth, nineteen hundred eighty-three. If the total amount due from any such carrier is less than one hundred dollars, partial payments shall not be made and the total amount shall be paid on or before September thirtieth of the fiscal year.3. Final assessment. (a) The commissioner and the comptroller annually, as soon as practicable after April first, shall ascertain the total amount of expenses incurred during the preceding fiscal year in connection with the administration of this article. An itemized statement of the expenses so ascertained shall be open to public inspection in the office of the commissioner for thirty days after notice to those liable to be assessed for such expenses.(b) As soon as practicable after January first, each insurance carrier subject to the provisions of this section shall file with the commissioner a report of the total amount of gross direct premiums, less return premiums thereon received during the preceding calendar year for policies or contracts of automobile bodily injury insurance on risks subject to this article resident or located in this state.(c) The commissioner shall then determine the amount of expenses due from each insurance carrier subject to the provisions of this section based upon the final determination of total expenses and the final amount of premiums filed by the insurance carriers and shall notify each such insurance carrier of such assessment. Within thirty days of receipt of such

notification each such carrier shall pay the total amount of such assessment less the total amount paid as a result of the estimated assessments. If the total amount of the final assessment is less than the amount already paid, such excess payment shall be refunded to such insurance carrier or at the option of the assessed applied to assessments for the succeeding fiscal year as requested by such insurance carrier.4. The commissioner shall levy and collect such assessments and pay the same into the state treasury, subject to the provisions of section one hundred twenty-one of the state finance law. (b) The commissioner shall on or before February first assess the total amount of such expenses, as so estimated, pro rata upon all insurance carriers subject to the provisions of this section in proportion to the premiums reported by such carriers to the department of financial services for policies or contracts of automobile bodily injury insurance on risks subject to this article resident or located in this state for the year prior to the previous calendar year. (c) For fiscal years beginning on or after April first, nineteen hundred eighty-three, each such insurance carrier shall make partial payments of the assessment levied against it as follows, one-quarter of the total on March tenth of the preceding fiscal year, one-quarter on June tenth, one-quarter on September tenth, and the balance on December tenth of the fiscal year, or on such other dates as the director of the budget may prescribe. Provided, however, that the payment due March tenth, nineteen hundred eighty-three for the fiscal year beginning April first, nineteen hundred eighty-three shall not be required to be paid until June tenth, nineteen hundred eighty-three. If the total amount due from any such carrier is less than one hundred dollars, partial payments shall not be made and the total amount shall be paid on or before September thirtieth of the fiscal year. 3. Final assessment. (a) The commissioner and the comptroller annually, as soon as practicable after April first, shall ascertain the total amount of expenses incurred during the preceding fiscal year in connection with the administration of this article. An itemized statement of the expenses so ascertained shall be open to public inspection in the office of the commissioner for thirty days after notice to those liable to be assessed for such expenses. (b) As soon as practicable after January first, each insurance carrier subject to the provisions of this section shall file with the commissioner a report of the total amount of gross direct premiums, less return premiums thereon received during the preceding calendar year for policies or contracts of automobile bodily injury insurance on risks subject to this article resident or located in this state. (c) The commissioner shall then determine the amount of expenses due from each insurance carrier subject to the provisions of this section based upon the final determination of total expenses and the final amount of premiums filed by the insurance carriers and shall notify each such insurance carrier of such assessment. Within thirty days of receipt of such notification each such carrier shall pay the total amount of such assessment less the total amount paid as a result of the estimated assessments. If the total amount of the final assessment is less than the amount already paid, such excess payment shall be refunded to such insurance carrier or at the option of the assessed applied to assessments for the succeeding fiscal year as requested by such insurance carrier. 4. The commissioner shall levy and collect such assessments and pay the same into the state treasury, subject to the provisions of section one hundred twenty-one of the state finance law.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act364 - Uniformity of Interpretation.

§ 364. Uniformity of interpretation. This article shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states, the District of Columbia, or territory or lands in continental United States under the exclusive jurisdiction of the United States, or provinces of Canada, which enact it.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act365 - Short Title.

§ 365. Short title. This article may be cited as the New York motor vehicle safety-responsibility act.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act366 - Past Application of Article.

§ 366. Past application of article. This article, except section three hundred thirty-nine thereof, shall not apply to any judgment in a civil action or cause of action arising out of an accident occurring prior to the effective date of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act367 - This Article Does Not Prevent Other Process.

§ 367. This article does not prevent other process. This article shall not be construed to prevent the plaintiff in any action at law from relying for security upon the other processes provided by law.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 7 - Motor Vehicle Safety Responsibility Act368 - Constitutionality.

§ 368. Constitutionality. If any part or parts of this article shall be held unconstitutional, such unconstitutionality shall not affect the validity of the remaining parts of this article. The legislature hereby declares that it would have passed the remaining parts of this article if it had known that such part or parts thereof would be declared unconstitutional.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 8 - Indemnity Bonds or Insurance Policies on Vehicles Transporting

Passengers for Hire370 - Indemnity Bonds or Insurance Policies; Notice of Accident.

For damages for and incident to death or injuries to persons and injury to or destruction of property: For each motorcycle and for each motor vehicle engaged in the business of carrying or transporting passengers for hire, having a seating capacity of not more than seven passengers, a bond or insurance policy with a minimum liability of twenty-five thousand dollars and a maximum liability of fifty thousand dollars for bodily injury, and a minimum liability of fifty thousand dollars and a maximum liability of one hundred thousand dollars for death and a minimum liability of ten thousand dollars for injury to or destruction of property; for each motor vehicle engaged in the business of carrying or transporting passengers for hire, having a seating capacity of not less than eight passengers, a bond or insurance policy with a combined single limit of at least one million five hundred thousand dollars for bodily injury or death to one or more persons, and because of injury to or destruction of property in any one accident; provided, further that for commuter vans that are engaged in the business of carrying or transporting passengers for hire, having a seating capacity of not less than eight passengers, a bond or insurance policy with a combined single limit of at least five hundred thousand dollars for bodily injury or death to one or more persons, and because of injury to or destruction of property in any one accident. For the purposes of this paragraph, the term "commuter van" shall have the same meaning as such term is defined in section 19-502 of the administrative code of the city of New York. Such bond or policy of insurance shall contain a provision for a continuing liability thereunder, notwithstanding any recovery thereon. Any such bond or policy of insurance shall also contain a provision that such bond or policy of insurance shall inure to the benefit of any person legally operating the motor vehicle or motorcycle in the business of the owner and with his permission, in the same manner and under the same conditions and to the same extent as to the owner. If at any time, in the judgment of the commissioner, such bond or policy is not sufficient for any cause the commissioner may require the owner of such motor vehicle or motorcycle to replace such bond or policy with another approved by the commissioner. A corporate surety or an insurance company evidence of whose bond or policy has been so filed, must file a notice in the office of the commissioner that upon the expiration of twenty days from such filing such surety will cease to be liable upon such bond, or in the case of such insurance company, that upon the expiration of such time such policy will be cancelled; provided, however, that where the owner of such motor vehicle or motorcycle has replaced coverage with another insurer, the expiration date shall be the date the new coverage has commenced; further provided that where such owner has had a total loss, the expiration date shall be the earlier of twenty days or when the plates have been turned in to the commissioner. The commissioner shall thereupon notify the owner of such motor vehicle or motorcycle of the filing of such notice, and unless such owner shall file a new bond or evidence of new bond or policy, as provided by this section, on or before such date as shall be specified by the commissioner, or shall place the number plates belonging to the motor vehicle or motorcycle in the custody of the commissioner or his agent within such time, to remain in such custody until a new bond or evidence of a new bond or policy is filed, the registration of such motor vehicle or motorcycle shall be revoked as of the date specified in said notice of the commissioner and no new registration shall be issued for a period of thirty days. Forthwith after his registration has been so revoked such owner shall return the number plates issued for such vehicle to the commissioner. The provisions of subdivision seven of section five hundred ten of this chapter shall apply to such revocations. Notwithstanding any contrary provision of this chapter, any such bond, or policy of insurance shall also provide for uninsured motorists coverage in the minimal amount and in the form provided for in subsection (f) of section three thousand four hundred twenty of the insurance law. Nothing in this subdivision shall be construed to prevent compliance therewith by filing a combination of bonds or policies or of a bond and policy or evidence thereof if the commissioner approves and the requirements of this subdivision are otherwise met.(c) As a condition to filing evidence of a corporate surety bond, the registrant shall pay annually in addition to any other fee prescribed by this chapter, a fee of one dollar and fifty cents for each motor vehicle registered in his name and the aggregate amount of such fees shall be applied in the reduction of the assessment levied pursuant to section three hundred seventeen of this chapter.(d) As used in this section, a judgment or judgment for damages shall include a final arbitration award and any unpaid fees due to the arbitration forum established pursuant to section five thousand one hundred six of the insurance law.1-a. Every person, firm, association or corporation engaged in carrying or transporting sick or injured persons in any hearse, combination hearse or ambulance operated over, upon or along a public street or highway within a town having a population of less than two thousand inhabitants, shall secure either a corporate surety bond or policy of insurance executed by a surety or insurance company authorized to do business in this state, containing like conditions to secure the payment of damages as is required to be provided for motor vehicles operated for the transportation of passengers for hire; provided, however, that any bond or policy of insurance so secured, may contain the condition that it shall secure the payment of damages only during the time or times such hearse or combination hearse or ambulance is used or operated for the transportation of sick or injured persons and shall not be operative or effective during any other time or times or for the payment of damages incurred while being operated for any other purpose. A bond or policy of insurance executed pursuant to the provisions of this subdivision need not be approved or filed notwithstanding any inconsistent provision of this section.2. Any person, firm, association or corporation operating a motor vehicle or motorcycle as to which a bond or policy of insurance is required by this section who or which shall operate such vehicle, or cause the same to be operated, while such a bond or policy, or evidence thereof as required by this section, is not on file with the commissioner, and in full force and effect shall be guilty of a misdemeanor.3. A person, firm, association or corporation engaged in the business of renting or leasing rental vehicles to be operated upon the public highways for carrying passengers shall be subject to the provisions of this section in the same manner and to the same extent as if such person, firm, association or corporation were actually engaged in the business of carrying or transporting passengers for hire.Notwithstanding the provisions of subdivision one of this section, a person, firm, association or corporation engaged in the business of renting or leasing motor vehicles, having registered in this state more than twenty-five motor vehicles subject to the provisions of this section and who qualifies as hereinafter provided, may file a

certificate of self-insurance. The commissioner of motor vehicles in his discretion may, upon the application of such a person, firm, association or corporation issue a certificate of self-insurance when he is reasonably satisfied that such person is possessed and will continue to be possessed of financial ability to respond to judgments obtained against such person, arising out of the ownership, maintenance, use or operation of any such person's motor vehicle. Upon due notice and hearing, the commissioner may, in his discretion and upon reasonable grounds, cancel a certificate of self-insurance.As a condition to the issuance of a certificate of self-insurance under this subdivision the registrant shall pay annually in addition to any other fee prescribed by this chapter, a fee of one dollar and fifty cents for each motor vehicle registered in his name and the aggregate amount of such fees shall be applied in reduction of the assessment levied pursuant to section three hundred seventeen.As a further condition to the issuance of a certificate of self-insurance, the registrant shall pay annually in addition to any other fee prescribed by this chapter, an amount per vehicle to be determined by the Motor Vehicle Accident Indemnification Corporation pursuant to section five thousand two hundred seven of the insurance law and the aggregate amount of such fees shall be transmitted by the commissioner to the Motor Vehicle Accident Indemnification Corporation continued pursuant to section five thousand two hundred three of the insurance law to be applied in reduction of assessments levied by said corporation pursuant to section five thousand two hundred seven of the insurance law.4. Every person operating a motor vehicle or motorcycle as to which a bond or policy of insurance is required by this section, which is in any manner involved in an accident, shall within five days give written notice of the time and place of the accident to the surety or insurer. Failure to give notice of an accident as herein provided shall constitute a misdemeanor, but shall not affect the liability of the surety or insurer.5. If a vehicle subject to the provisions of this section or section three hundred seventy-one of this chapter shall be operated on a public highway without having the minimum corporate surety bond or policy of liability insurance, unless the owner shall have filed an approved certificate of insurance therefor, the driver's license, privileges and registration certificate or privilege of operation within this state of the owner and operator shall be subject to revocation and suspension as provided in articles six and seven of this chapter, in the same manner as if such vehicle were a private passenger vehicle, not used to carry persons for hire or profit.6. Notwithstanding any other provision of law, the commissioner, may, by regulation, in addition to, or in lieu of any requirements relating to notice of insurance required by this section, extend all or part of the provisions of article six of this chapter concerning insurance identification cards to vehicles subject to the provisions of this section. Furthermore, the commissioner may exempt by such regulations any type or types of vehicles subject to the provisions of this section where he deems the application of the provisions of such regulations to be inappropriate. If the commissioner promulgates any such regulations, the failure to produce an insurance identification card when requested by any peace officer, acting pursuant to his special duties, police officer or magistrate shall be presumptive evidence of a violation of subdivision two of this section. In addition, any such regulations may require that the insurance identification card be placed in plain view of any for-hire passengers carried in such vehicle.7. Nothing contained in this section shall prohibit any person, firm, association or corporation subject to this section from purchasing liability insurance coverage in excess of the maximum liability set forth in subdivision one of this section.8. Notwithstanding any other provision of this article, an individual shall not be deemed to be engaged in the business of carrying or transporting passengers for hire if the individual does so solely as a transportation network company driver in accordance with article forty-four-B of this chapter. (c) As a condition to filing evidence of a corporate surety bond, the registrant shall pay annually in addition to any other fee prescribed by this chapter, a fee of one dollar and fifty cents for each motor vehicle registered in his name and the aggregate amount of such fees shall be applied in the reduction of the assessment levied pursuant to section three hundred seventeen of this chapter. (d) As used in this section, a judgment or judgment for damages shall include a final arbitration award and any unpaid fees due to the arbitration forum established pursuant to section five thousand one hundred six of the insurance law. 1-a. Every person, firm, association or corporation engaged in carrying or transporting sick or injured persons in any hearse, combination hearse or ambulance operated over, upon or along a public street or highway within a town having a population of less than two thousand inhabitants, shall secure either a corporate surety bond or policy of insurance executed by a surety or insurance company authorized to do business in this state, containing like conditions to secure the payment of damages as is required to be provided for motor vehicles operated for the transportation of passengers for hire; provided, however, that any bond or policy of insurance so secured, may contain the condition that it shall secure the payment of damages only during the time or times such hearse or combination hearse or ambulance is used or operated for the transportation of sick or injured persons and shall not be operative or effective during any other time or times or for the payment of damages incurred while being operated for any other purpose. A bond or policy of insurance executed pursuant to the provisions of this subdivision need not be approved or filed notwithstanding any inconsistent provision of this section. 2. Any person, firm, association or corporation operating a motor vehicle or motorcycle as to which a bond or policy of insurance is required by this section who or which shall operate such vehicle, or cause the same to be operated, while such a bond or policy, or evidence thereof as required by this section, is not on file with the commissioner, and in full force and effect shall be guilty of a misdemeanor. 3. A person, firm, association or corporation engaged in the business of renting or leasing rental vehicles to be operated upon the public highways for carrying passengers shall be subject to the provisions of this section in the same manner and to the same extent as if such person, firm, association or corporation were actually engaged in the business of carrying or transporting passengers for hire. Notwithstanding the provisions of subdivision one of this section, a person, firm, association or corporation engaged in the business of renting or leasing motor vehicles, having registered in this state more than twenty-five motor vehicles subject to the provisions of this section and who qualifies as hereinafter provided, may file a certificate of self-insurance. The commissioner of motor vehicles in his discretion may, upon the application of such a person, firm, association or corporation issue a certificate of self-insurance when he is reasonably satisfied that such person is possessed and will continue to be possessed of financial ability to respond to judgments obtained against such person, arising out of the ownership, maintenance,

use or operation of any such person's motor vehicle. Upon due notice and hearing, the commissioner may, in his discretion and upon reasonable grounds, cancel a certificate of self-insurance. As a condition to the issuance of a certificate of self-insurance under this subdivision the registrant shall pay annually in addition to any other fee prescribed by this chapter, a fee of one dollar and fifty cents for each motor vehicle registered in his name and the aggregate amount of such fees shall be applied in reduction of the assessment levied pursuant to section three hundred seventeen. As a further condition to the issuance of a certificate of self-insurance, the registrant shall pay annually in addition to any other fee prescribed by this chapter, an amount per vehicle to be determined by the Motor Vehicle Accident Indemnification Corporation pursuant to section five thousand two hundred seven of the insurance law and the aggregate amount of such fees shall be transmitted by the commissioner to the Motor Vehicle Accident Indemnification Corporation continued pursuant to section five thousand two hundred three of the insurance law to be applied in reduction of assessments levied by said corporation pursuant to section five thousand two hundred seven of the insurance law. 4. Every person operating a motor vehicle or motorcycle as to which a bond or policy of insurance is required by this section, which is in any manner involved in an accident, shall within five days give written notice of the time and place of the accident to the surety or insurer. Failure to give notice of an accident as herein provided shall constitute a misdemeanor, but shall not affect the liability of the surety or insurer. 5. If a vehicle subject to the provisions of this section or section three hundred seventy-one of this chapter shall be operated on a public highway without having the minimum corporate surety bond or policy of liability insurance, unless the owner shall have filed an approved certificate of insurance therefor, the driver's license, privileges and registration certificate or privilege of operation within this state of the owner and operator shall be subject to revocation and suspension as provided in articles six and seven of this chapter, in the same manner as if such vehicle were a private passenger vehicle, not used to carry persons for hire or profit. 6. Notwithstanding any other provision of law, the commissioner, may, by regulation, in addition to, or in lieu of any requirements relating to notice of insurance required by this section, extend all or part of the provisions of article six of this chapter concerning insurance identification cards to vehicles subject to the provisions of this section. Furthermore, the commissioner may exempt by such regulations any type or types of vehicles subject to the provisions of this section where he deems the application of the provisions of such regulations to be inappropriate. If the commissioner promulgates any such regulations, the failure to produce an insurance identification card when requested by any peace officer, acting pursuant to his special duties, police officer or magistrate shall be presumptive evidence of a violation of subdivision two of this section. In addition, any such regulations may require that the insurance identification card be placed in plain view of any for-hire passengers carried in such vehicle. 7. Nothing contained in this section shall prohibit any person, firm, association or corporation subject to this section from purchasing liability insurance coverage in excess of the maximum liability set forth in subdivision one of this section. 8. Notwithstanding any other provision of this article, an individual shall not be deemed to be engaged in the business of carrying or transporting passengers for hire if the individual does so solely as a transportation network company driver in accordance with article forty-four-B of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 8 - Indemnity Bonds or Insurance Policies on Vehicles Transporting Passengers for Hire371 - Certificate of Department of Transportation in Lieu of Indemnity Bonds or Insurance Policies.

§ 371. Certificate of department of transportation in lieu of indemnity bonds or insurance policies. A person, firm, association or corporation subject to the provisions of the transportation law and required under the provisions of section three hundred seventy of this chapter to file evidence of a corporate surety bond or policy of insurance with the commissioner of motor vehicles in order to so operate any such motor vehicle, may file with the commissioner of motor vehicles, in lieu of the surety or evidence prescribed in section three hundred seventy of this chapter, a certificate of the department of transportation certifying that such person, firm, association or corporation has complied with the regulations of the department of transportation as to public liability and property damage responsibility and, in the case of such a person, firm, association or corporation also engaged in the business of carrying or transporting passengers for hire in operations not subject to the provisions of the transportation law, that the arrangement of coverage in effect has been extended to cover motor vehicles used in such operations.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 9 - Equipment of Motor Vehicles and Motorcycles375-A - Prohibition Against Retaliatory Action.

(a) "Employee" means an individual who is a driver or operator of a motor vehicle which has a registered maximum gross weight of eighteen thousand pounds or more and performs services for and under the control and direction of an employer for wages or other remuneration. (b) "Employer" means any registered owner of a motor vehicle which has a registered maximum gross weight of eighteen thousand pounds or more or any person, firm, partnership, institution, corporation, or association that employs one or more employees as herein defined. (c) "Retaliatory personnel action" means the discharge, suspension or demotion of an employee, or other adverse employment action taken against an employee in the terms and conditions of employment. 2. Prohibition. An employer shall not take any retaliatory personnel action against an employee because the employee objected to or refused to operate a motor vehicle which the employee reasonably believes fails to comply with the provisions of subdivision one, insofar as such subdivision concerns brakes and steering mechanism, paragraph (a) of subdivision two, paragraph a of subdivision ten, subdivision eighteen, eighteen-a, twenty-five, paragraph (c) of subdivision thirty-five, thirty-nine, forty or forty-two of section three hundred seventy-five, or section three hundred seventy-six or section three hundred eighty-a of this chapter relating to required equipment of

such vehicle or its proper repair. 3. Application. The protection against any retaliatory personnel action found in subdivision two of this section shall apply only to an employee who has brought the above mentioned violations of sections three hundred seventy-five, three hundred seventy-six and/or three hundred eighty-a to the attention of his employer in writing and has afforded such employer a reasonable opportunity to correct such violation. 4. Violation; remedy. An employee who has been subjected to a retaliatory personnel action in violation of this section may institute a civil action in a court of competent jurisdiction for relief as set forth in subdivision five of section seven hundred forty of the labor law within one year after the alleged retaliatory personnel action was taken. The commissioner or his agent may deny a registration application of any other person for the same vehicle where he has reasonable grounds to believe that such registration will have the effect of defeating the purpose of this subdivision. 5. Existing rights. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any collective bargaining agreement or employment contract.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 9 - Equipment of Motor Vehicles and Motorcycles376-A - Defective Equipment.

2. If the vehicle is being operated or driven in violation of the provisions of this chapter relating to the use or proper repair or adjustment of headlamps, and there is not in operation at least one headlamp lighted and adjusted as required by law, such officer shall issue a summons for such violation and shall order the operator to remove such vehicle from the highway. In such event, such vehicle shall not again be driven or operated until such time as the vehicle can be driven or operated without being in violation of such provisions. 3. If the vehicle is being driven or operated in violation of any provisions of section three hundred seventy-five, three hundred seventy-six or three hundred eighty-one of this article relating to required equipment, except a violation described in subdivision two of this section, subdivision forty-seven of section three hundred seventy-five of this article, and except a violation relating to service brakes, such officer shall issue a summons, provided, however, that a summons shall not be issued if, in the discretion and at the request of such officer, the defect is corrected in the presence of such officer. The refusal of a police officer to permit the repair of any defect in his presence shall not be reviewable, and shall not be a defense to any violation charged in a summons issued pursuant to the provisions of this subdivision. 4. Any complaint issued for any violation of section three hundred seventy-five, three hundred seventy-six or three hundred eighty-one of this article relative to required equipment, except a violation described in subdivision two of this section, subdivision forty-seven of section three hundred seventy-five of this article, and except for a violation relating to service brakes, shall be dismissed by the court before which the summons is returnable if the violation as set forth in the summons is corrected not later than one-half hour after sunset on the first full business day after the issuance of the summons and proof of such correction as set forth in subdivision five of this section is submitted to the court. For the purposes of this subdivision, "business day" shall mean any calendar day except Saturday and Sunday, or the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. 5. (a) Acceptable proof of repair or adjustment shall consist of submission to the court on or before the return date of the summons either:(i) a statement of correction from an officially designated state inspection station duly executed by the person performing or making such inspection and bearing the facility number of the state inspection station, or(ii) a statement of correction from an automobile repair shop on the letterhead of such repair shop duly executed by the person who made the correction, or(iii) a statement of correction from any registrant having more than twenty-five vehicles registered and having a fleet maintenance program administered by the registrant, duly executed by the person performing or making such correction and countersigned by the fleet maintenance supervisor, or(iv) a signed statement of any police officer that the necessary corrections have been made, or(v) evidence acceptable to the court from any person that he or she completed the repair together with proof of purchase of the equipment needed for the repair, or(vi) in the discretion of the court, submission of the vehicle to the court for inspection not later than one-half hour after the next ensuing sunset.(b) The statement required by this subdivision shall be directed to the court having jurisdiction of the alleged violation, shall be affirmed as true under penalty of perjury, and shall include:(i) the name, occupation and position of the person making the statement;(ii) the time and date that the repairs or inspection were made; and(iii) a statement that the defective equipment, cited in the summons or information, on the vehicle in question, is in proper working order.6. The provisions of this section shall not be construed to affect any cause of action or the rights or liabilities of any person with respect to damages or injuries caused or suffered as a result of the operation of a motor vehicle. (i) a statement of correction from an officially designated state inspection station duly executed by the person performing or making such inspection and bearing the facility number of the state inspection station, or (ii) a statement of correction from an automobile repair shop on the letterhead of such repair shop duly executed by the person who made the correction, or (iii) a statement of correction from any registrant having more than twenty-five vehicles registered and having a fleet maintenance program administered by the registrant, duly executed by the person performing or making such correction and countersigned by the fleet maintenance supervisor, or (iv) a signed statement of any police officer that the necessary corrections have been made, or (v) evidence acceptable to the court from any person that he or she completed the repair together with proof of purchase of the equipment needed for the repair, or (vi) in the discretion of the court, submission of the vehicle to the court for inspection not later than one-half hour after the next ensuing sunset. (b) The statement required by this subdivision shall be directed to the court having jurisdiction of the alleged violation, shall be affirmed as true under penalty of perjury, and shall include: (i) the name, occupation and position of the person making the statement; (ii) the time and date that the repairs or inspection were made; and (iii) a statement that the defective equipment, cited in the summons or information, on the vehicle in question, is in proper working order. 6. The provisions of this section shall not be

construed to affect any cause of action or the rights or liabilities of any person with respect to damages or injuries caused or suffered as a result of the operation of a motor vehicle.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 9 - Equipment of Motor Vehicles and Motorcycles376 - Lamps, Signaling Devices and Reflectors on Vehicles.

(b) The commissioner of motor vehicles is hereby authorized and empowered to promulgate rules and regulations with respect to lamps, reflectors and signaling devices, their number, type, design, construction, location, attachment and use on vehicles being driven, operated or parked on any public highway or street in this state. In promulgating such rules and regulations the commissioner shall be guided by the requirements with regard to lights, reflectors, signaling devices and associated equipment on vehicles of rules and regulations promulgated by the United States department of transportation. 2. Wiring used on commercial vehicles shall be of such size that when all connections are made in an acceptable and workmanlike manner the loss in voltage will not be sufficient to cause a lamp to produce less than the minimum candlepower, under normal operating conditions, when the lamp is in good working order. All wiring should be enclosed in weather proof and abrasion proof cable or conduit except wiring which is completely enclosed within the body of the vehicle. 3. All lights, signals and reflectors shall be of a type and design approved by the commissioner. No light having a candlepower rating in excess of thirty-two candle power shall be used on any vehicle, unless it is of a type approved by the commissioner. The provisions of section three hundred seventy-five of this chapter governing the approval of equipment and the adjustment of headlamps shall apply to the equipment and headlamps required by this section. The commissioner is hereby authorized and empowered to adopt and from time to time amend such regulations not inconsistent with this section, governing the size, type, construction, location, and use of lights, signals and reflectors, including the exemption of specific vehicles from the requirements of this section where the construction of such vehicles makes compliance herewith impracticable, or impossible. 4. All existing provisions of this chapter governing the use of headlamps, front parking lamps and license plate lamps and other lamps, reflectors, lights and directional signals on vehicles shall continue to apply, except to the extent irreconcilably inconsistent with the provisions of this section or regulations promulgated thereunder.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 9 - Equipment of Motor Vehicles and Motorcycles377 - Vehicles Engaged in the Transportation of Logs and Other Materials.

§ 377. Vehicles engaged in the transportation of logs and other materials. 1. No vehicle which is designed or used for the purpose of hauling logs or other materials which by their very nature may shift or roll so as to be likely to fall from such vehicle, shall be operated or moved over any highway unless its load is securely fastened by such safety chains, cables or other suitable devices as will effectively prevent the shifting or falling of such load or any part thereof, from the vehicle. 2. The commissioner is authorized to make necessary rules and regulations to carry into effect the provisions of this section, applying such provisions to specific conditions and prescribing means, methods and practices to effectuate such provisions. Before any such rule or regulation is adopted, amended or repealed there shall be a public hearing thereon, notice of which shall be published at least once, not less than ten days prior thereto, in such newspaper as the commissioner may prescribe. 3. A violation of any of the provisions of this section or of any rule or regulation promulgated hereunder shall constitute a misdemeanor punishable by a fine of not more than one hundred dollars for a first offense, three hundred fifty dollars for a second offense, or seven hundred fifty dollars for each subsequent offense, or by imprisonment for not more than thirty days, or by both such fine and imprisonment.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 9 - Equipment of Motor Vehicles and Motorcycles378 - Additional Safety Requirements for Commercial Vehicles and Vehicles Transporting Hazardous Materials.

§ 378. Additional safety requirements for commercial vehicles and vehicles transporting hazardous materials. 1. Motor vehicles and trailers operated pursuant to or requiring a certificate or permit for the transportation of property or hazardous materials from the interstate commerce commission or the commissioner of transportation and all other motor vehicles and trailers operated for the commercial transportation of property or hazardous materials, in addition to being subject to the provisions of this chapter and regulations promulgated thereunder, are also subject to the provisions of section one hundred forty of the transportation law and safety rules and regulations promulgated thereunder. 2. Vehicles transporting hazardous materials, in addition to being subject to the provisions of this chapter and regulations promulgated thereunder are also subject to the provisions of section fourteen-f of the transportation law and rules and regulations promulgated thereunder. 3. Whenever a vehicle is in violation of a provision of both the vehicle and traffic law and section fourteen-f or section one hundred forty of the transportation law or safety rules and regulations promulgated thereunder, if the offenses arise from the same incident and the elements of both offenses are substantially the same, the alleged violator shall be charged only with the appropriate offense of the transportation law.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 9 - Equipment of Motor Vehicles and Motorcycles380-A - Certain Vehicles Engaged in the Transportation of Loose Cargo.

§ 380-a. Certain vehicles engaged in the transportation of loose cargo. 1. It shall be unlawful to operate on any public highway any open truck or trailer being utilized for the transportation of any loose substances, unless said truck or trailer has a cover, tarpaulin or other device of a type and specification approved by the commissioner of transportation which completely closes in the opening on the said truck or trailer while said truck or trailer shall be so operated, so as to prevent the falling of any such substances therefrom. However, if the load is arranged so that no loose substance can fall from or blow out of such truck, the covering is not necessary. 2. The commissioner of transportation is authorized to make necessary rules and regulations to carry into effect the provisions of this section, applying such provisions to specific conditions and loads and prescribing means, methods and practices to effectuate such provisions. 3. The provisions of this section shall not apply to motor vehicles, trailers and semitrailers conveying "farm products" as defined in section two of the agriculture and markets law.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 9 - Equipment of Motor Vehicles and Motorcycles381 - Motorcycle Equipment.

(b) Driving a motorcycle without the display of one lighted lamp in front and one on the rear, during a period other than from one-half hour after sunset to one-half hour before sunrise, shall not be deemed to constitute negligence or contributory negligence in any action or proceeding arising out of the operation of such motorcycle. (c) The provisions of this subdivision relating to the display of one lighted lamp in front and one on the rear during a period other than from one-half hour after sunset to one-half hour before sunrise shall not apply to a motorcycle, driven at a speed of less than twenty miles per hour, owned by a municipality and used for the collection of parking fees or the enforcement of parking regulations. 1-a. Every motorcycle registered in this state and manufactured or assembled after January first, nineteen hundred seventy-one and designated as a nineteen hundred seventy-one or subsequent year model shall be equipped with brakes acting on the front as well as the rear wheel. 2. No head lamp shall be used upon any motorcycle operated upon the public highways of the state, unless such lamp is approved by the commissioner or is equipped with a lens or other device approved by the commissioner. Every such head lamp, lens or other device shall be applied and adjusted in accordance with the requirements of the certificate approving the use thereof. Every such head lamp shall be firmly and substantially mounted on the motorcycle in such manner as to allow the lamp to be properly and readily adjusted. Each reflector which is used as a part of such head lamp shall have a polished silver or glass reflecting surface, or a reflecting surface which gives candle power intensity meeting the requirements of rules and regulations established by the commissioner, and shall be substantially free from dents, rust and other imperfections. The operator of every motorcycle shall permit any police officer or other person exercising police powers to inspect the equipment of such motorcycle and make such tests as may be necessary to determine whether the provisions of this section are being complied with. The commissioner may make reasonable rules and regulations relative to lights on motorcycles and the approval of the same which may be necessary to effectuate the foregoing provisions of this section. 2-a. It shall be unlawful for any person to operate on the public highways of the state any motorcycle manufactured or assembled after October first, nineteen hundred sixty-eight and designated as a nineteen hundred sixty-nine or subsequent year model unless such motorcycle is equipped with the lamps required by this section, which lamps shall be of a type, design and construction approved by the commissioner. 3. Except as hereinafter provided, only a white or yellow light shall be displayed upon a motorcycle so as to be visible from a point directly in front of the vehicle. Any color light, except blue, may be displayed, so as to be visible from a point directly in front of the vehicle, on a police vehicle or on a motorcycle operated by a sheriff or regular deputy sheriff when engaged in the performance of duty as a police officer. Any color light, including blue, may be displayed, so as to be visible from a point directly in front of the vehicle, on a motorcycle operated by a chief or assistant chief of a fire department, a county or deputy county fire coordinator, or a county or assistant county fire marshal. A blue light may be displayed upon a motorcycle, so as to be visible from a point directly in front of the vehicle, when operated by an active volunteer member of a fire department or company duly authorized as hereinafter provided, and while such vehicle is in use for fire or other emergency service. No volunteer firefighter shall be permitted to display a blue light upon a motorcycle as hereinbefore provided except while actually enroute to the scene of a fire or other emergency requiring his or her services and unless he or she shall be an active volunteer member of a fire department or company and shall have been authorized in writing to so display a blue light by the chief of the fire department or company of which he or she is a member, which authorization shall be subject to revocation at any time by the chief who issued the same, or his or her successor in office. 4. Every motorcycle shall have at least one adequate red reflector securely attached to the rear. Such reflector may be a part of the rear lamp. No reflector shall be deemed adequate within the meaning of this subdivision unless it is of a size and type approved by the commissioner, and unless it is so designed, located and maintained as to be visible for at least two hundred feet when opposed by a motor vehicle displaying lawful undimmed headlights at night on an unlighted highway. The provisions of this subdivision with respect to reflectors shall be applicable, both day and night, whenever the motorcycle is on a public highway. 5. No person shall operate on a public highway a motorcycle on which the handle bars or grips are more than the height of the operator's shoulders. 6. It shall be unlawful for any person to operate or ride upon a motorcycle unless he wears a protective helmet of a type which meets the requirements set forth in section 571.218 of the federal motor vehicle safety standards as may from time to time be amended. The commissioner is hereby authorized and directed to adopt regulations for helmets which are consistent with the requirements as specified in section 571.218 of the federal motor vehicle safety standards as may from time to time be amended. The police authorities of a city, town or village may issue a permit exempting members of organizations sponsoring or conducting parades or other public exhibitions from the provisions of this subdivision while such members are participating in such parades or other public exhibitions. 7. It shall be unlawful, on and after January first, nineteen

hundred sixty-seven, for any person to operate a motorcycle unless he wears goggles or a face shield of a type approved by the commissioner. The commissioner is hereby authorized and empowered to adopt and amend regulations covering types of goggles and face shields and the specifications therefor and to establish and maintain a list of approved goggles and face shields which meet the specifications as established hereunder. 8. It shall be unlawful to operate on any public highway in this state any motorcycle registered in this state which is equipped with a wind screen, unless such wind screen meets the specifications established therefor by the commissioner. The commissioner is hereby authorized to adopt and amend regulations covering types of wind screens and specifications therefor. 9. It shall be unlawful to sell, offer for sale or distribute any goggles or face shields for use by the operators of motorcycles unless they are of a type and specification approved by the commissioner and appear on the list of approved devices maintained by the commissioner. 9-a. It shall be unlawful to sell, offer for sale or distribute any protective helmets for use by the operators or passengers of motorcycles unless they are consistent with the regulations of the commissioner as provided in subdivision six of this section and within the requirements specified in section 571.218 of the federal motor vehicle safety standards as may from time to time be amended. 10. It shall be unlawful after July first, nineteen hundred sixty-seven to operate on any public highway in this state any motorcycle registered in this state, unless such motorcycle is equipped with a rear view mirror which shall be adjusted so that the operator of such motorcycle shall have a clear view of the road and condition of traffic behind such motorcycle. 11. No person shall operate a motorcycle on any highway which is: (1) not equipped with a muffler to prevent excessive or unusual noise; (2) equipped with a muffler from which the baffle plates, screens or other original internal parts have been removed or altered; (3) equipped with an exhaust device without internal baffles, known as "straight pipes"; or (4) equipped with an exhaust system that has been modified in a manner that will amplify or increase the noise emitted by the motor of such vehicle above that emitted by the exhaust system originally installed on the vehicle. 12. No person shall operate a motorcycle on any highway which is equipped with an exhaust device that is intentionally designed to allow for the internal baffling to be fully or partially removed or interchangeable. This subdivision shall not apply to a motorcycle manufactured or assembled prior to nineteen hundred seventy-nine or a motorcycle registered as a limited use vehicle or an all terrain vehicle pursuant to article forty-eight-A or forty-eight-B of this chapter. 13. A violation of any of the provisions of this section except subdivisions eleven and twelve shall be punishable by a fine not exceeding one hundred dollars or by imprisonment for not exceeding thirty days, or by both such fine and imprisonment. A violation of subdivision eleven or twelve of this section shall be punishable by a fine not exceeding five hundred dollars or by imprisonment for not exceeding thirty days, or by both such fine and imprisonment.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 9 - Equipment of Motor Vehicles and Motorcycles382-A - Brake Linings.

§ 382-a. Brake linings. 1. It shall be unlawful on and after January first, nineteen hundred sixty-six to sell, offer for sale or distribute brake linings for use on motor vehicles unless they are of a type and specification approved by the commissioner. The commissioner is hereby authorized and empowered to adopt and amend regulations governing types and specifications of brake linings that comply with approved standards and shall establish and maintain an approved list of brake linings fulfilling the specifications as established herein. 2. Any person who sells, offers for sale, distributes or keeps brake linings in violation of any of the provisions of this section shall be guilty of a misdemeanor.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 9 - Equipment of Motor Vehicles and Motorcycles382-B - Service Brake System.

§ 382-b. Service brake system. Every motor vehicle of a passenger car or station wagon type, registered in this state and manufactured or assembled after June thirtieth, nineteen hundred sixty-seven, and designated as a nineteen hundred sixty-eight or later model, shall be equipped with a service brake system of such design that rupture or failure of an actuating force component of any single brake shall not result in complete loss of braking function. The braking function may be obtained by hydraulic or other means through the normal service brake mechanism. "Actuating force component" as used in this section shall mean the brake master cylinder, brake actuating cylinder, brake line, brake hose, or similar components performing like functions if the brake systems are other than hydraulic. In the event of rupture or failure of an actuating force component, the unaffected brakes shall be capable of applying an adequate braking force to the vehicle.

2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 9 - Equipment of Motor Vehicles and Motorcycles382-C - Occupant Compartments.

§ 382-c. Occupant compartments. The commissioner may prescribe, by regulation, standards consistent with federal motor vehicle safety standards specifying requirements for instrument panels, seat backs, protrusions (including knobs, switches, levers, handles, bezels, and panel contours), sun visors, arm rests, steering control systems and other similar components of the interior of the occupant's compartment of motor vehicles to afford impact protection for occupants. The commissioner may limit the application of such regulations to specified classes of vehicles; provided, however, that such regulations shall not apply to any motor vehicle manufactured prior to June thirtieth, nineteen hundred sixty-seven. No motor vehicle shall be registered or driven on the public highways of the state unless it is constructed, equipped or maintained as required by the regulations promulgated pursuant to this section.

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2024 New York LawsVAT - Vehicle and TrafficTitle 3 - Safety Responsibility; Financial Security; Equipment; Inspection; Size and Weight; and Other ProvisionsArticle 9 - Equipment of Motor Vehicles and Motorcycles382 - Hydraulic Brake Fluid.

§ 382. Hydraulic brake fluid. 1. On and after January first, nineteen hundred sixty no hydraulic brake fluid shall be sold in this state for use in motor vehicles if such brake fluid shall be below the minimum standard of specifications established by the commissioner for heavy duty type brake fluid. 2. On and after January first, nineteen hundred sixty every package, can or other container of brake fluid sold or distributed or kept for sale in this state must meet such specifications; furthermore the label thereof must indicate compliance with the specifications. 3. Any person who sells, distributes or keeps brake fluid in violation of any of the provisions of this section shall be guilty of a misdemeanor.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 13 - Application of This Title400-A - Exceptions to Registration Provisions.

§ 400-a. Exceptions to registration provisions. Notwithstanding any inconsistent provision of this chapter or other law or regulation, the commissioner may refuse to register any vehicle or class of vehicles for use on the public highways where he determines that the characteristics of such vehicle or class of vehicles make such vehicle or vehicles unsafe for highway operation. Provided, however, that such authority shall not extend to any vehicle which is eligible for registration as a special purpose commercial vehicle under the provisions of schedule F of subdivision seven of section four hundred one of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 13 - Application of This Title400 - Application of This Title.

§ 400. Application of this title. Except as otherwise expressly provided in this chapter, this title shall be exclusively controlling: a. Upon the registration, numbering and regulation of motor vehicles and motorcycles; and b. On their use of public highways.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14-A - Apportionment or Allocation of Registration Fee Agreement405-A - Application of Article.

§ 405-a. Application of article. The provisions of the succeeding sections of this article shall take effect when this state enters into an agreement pursuant to the authority granted in section four hundred five of this article and shall remain in effect only so long as this state is a party to such an agreement.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14-A - Apportionment or Allocation of Registration Fee Agreement405-B - Administration of Agreement.

§ 405-b. Administration of agreement. The commissioner may: 1. Accept applications for registrations, trip permits and any other document which he may be empowered to issue under any agreement authorized by section four hundred five of this article; 2. Collect from any applicant any and all fees required to be paid either to this state or to any other jurisdiction which is a party to such agreement; 3. Provide for the crediting of fees previously paid for the unexpired portion of a registration when a conversion is made from a registration issued under article fourteen of this chapter to a registration issued under such agreement; 4. Accept any fees which are due to this state under any such agreement which are paid to any other jurisdiction or agency and which have been transmitted to him pursuant to any such agreement; 5. Pay or authorize the payment of any moneys collected by him on behalf of any other jurisdiction which is party to such agreement to such other jurisdictions; 6. Issue any number plate or plates, cab card, trip permit or any other document which he is authorized to issue under such agreement; 7. Appoint agents to act for him in the issuance of trip permits, provided that such agents shall not receive compensation from the state; and 8. By regulation establish limitations upon the period of validity of any trip permit issued for operation in this state or the number of such permits which may be issued to any vehicle or applicant.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14-A - Apportionment or Allocation of Registration Fee Agreement405-C - Fees.

§ 405-c. Fees. 1. The schedules of annual registration fees set forth in section four hundred one of this chapter shall constitute the schedules of registration fees applicable to vehicles registered in accordance with the provisions of any agreement entered into pursuant to the authority granted in section four hundred five of this article. Notwithstanding the provisions of section four hundred one of this chapter, proration of fees due to this state for a registration issued for a period of more or less than one year shall be prorated on a monthly basis and any portion of a month shall be considered a month. In addition, registration fees shall be subject to proration and apportionment as provided in any such agreement. 2. In addition to the registration fees provided in subdivision one of this section, each applicant for such registration shall pay a fee of two dollars and fifty cents for each cab card, including a duplicate, issued by the commissioner in accordance with such agreement. If a number plate or plates is or are to be issued as a result of such application, the applicant shall also pay any fee which would be required of any applicant for registration of a similar type vehicle under section four hundred one of this title for the issuance of a number plate or plates. 3. The fee for a trip permit which allows

operation of a vehicle within this state shall be eighteen dollars and seventy-five cents. 4. Notwithstanding any inconsistent provision of this section, the difference collected between the fees set forth in subdivisions two and three of this section in effect on and after September first, two thousand nine and the fees set forth in such subdivisions in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

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§ 405-d. Registration period. The registration period for any vehicle registered pursuant to this article shall take effect and expire on dates determined by the commissioner after consultation with appropriate representatives of the commercial trucking industry in New York state.

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§ 405-e. Effect of issuance. 1. Any vehicle for which a registration has been validly issued by another jurisdiction which is a member of any agreement entered into pursuant to the authority granted in section four hundred five of this article and for which a cab card which indicates that operation in this state is permitted under the agreement has been validly issued, shall be deemed for the purposes of article fourteen of this chapter to be registered in accordance with the provisions of this article, provided a proper number plate or plates is or are affixed to the vehicle and the cab card is carried in such vehicle and is displayed upon the lawful request of a police officer or peace officer acting pursuant to his special duties. 2. Any vehicle for which a trip permit which indicates that operation in this state is permitted has been validly issued under such agreement shall be deemed for the purposes of article fourteen of this chapter to be registered in accordance with the provisions of that article, provided a number plate or plates is or are affixed to the vehicle and such trip permit is carried in or on the vehicle and is displayed upon the lawful request of a police officer or peace officer acting pursuant to his special duties. 3. Notwithstanding the provisions of subdivisions one and two of this section, a vehicle owned by a non-resident of this state shall not be deemed to be required to be registered in this state for the purposes of article forty-six of this chapter, the uniform vehicle certificate of title act.

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§ 405-f. Disposition of fees. 1. Except as otherwise herein provided the provisions of section four hundred twenty-seven of this chapter shall not apply to any fee collected in accordance with the provisions of any agreement entered into pursuant to the authority granted in section four hundred five of this article. 2. The commissioner shall deposit all fees collected or accepted by him under this article in a responsible bank, banking house or trust company in the city of Albany which shall pay the highest rate of interest to the state for such deposit to the credit of the comptroller on account of the International Registration Plan. Every such bank, banking house or trust company shall execute and file in the office of the department of audit and control an undertaking to the state, in the sum, and with such sureties, as are required and approved by the comptroller for the safekeeping and prompt payment on legal demand therefor of all such moneys held by or on deposit in such bank, banking house or trust company, with interest thereon on daily balances at such rate as the comptroller may fix. Every such undertaking shall have endorsed thereon or annexed thereto the approval of the attorney general as to its form. The comptroller shall on the first day of each month make a verified return to the department of taxation and finance, of all fees received by him under this chapter during the preceding calendar month. 3. The commissioner shall at least on a quarterly basis determine the amount of fees in such account collected on behalf of and due and owing to other jurisdictions which are members of the agreement and certify the same to the comptroller. The comptroller shall then pay to the appropriate official of each such jurisdiction the amount of fees due to each such jurisdiction. 4. The comptroller, after reserving an amount sufficient to pay any refund under this article approved by the commissioner and by him and an amount, if any, that may be required to make payments to other jurisdictions pursuant to subdivision three of this section, shall on or before the tenth day of each month pay into the general fund of the state treasury the balance to his credit in such bank, banking house or trust company on account of fees collected under this article at the close of business on the last day of the month preceding the date of such payment. 5. The amount paid into the general fund pursuant to subdivision four of this section shall be deemed to be registration fees collected pursuant to article fourteen of this chapter and shall be subject to the provisions of law applicable to the disposition of such fees.

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§ 405-g. Refunds. 1. The provisions of section four hundred twenty-eight of this chapter shall not apply to refunds of fees paid in accordance with the provisions of any agreement entered into pursuant to authority granted in section four hundred five of this article. 2. Any fee paid directly to the commissioner for the registration of a vehicle for operation within this state under the provisions of this article which is to be paid into the general fund pursuant to section four hundred five-f of this article shall be refunded, less the sum of five dollars, provided that the commissioner is satisfied that the registration has not been used and all number plates, cab cards, and other documents have been surrendered to the commissioner within two months after the date the fee

was paid or the beginning of the registration period for which the registration was issued, whichever comes later and application therefor is filed with the commissioner within the period of validity for which such registration was issued. 3. Any fee paid to any other jurisdiction on behalf of this state for operation of a vehicle within this state which has been forwarded to the commissioner by that jurisdiction shall be refunded less the sum of five dollars provided the jurisdiction which collected the fee has refunded to the applicant any fee collected by that jurisdiction on its behalf and any number plate, cab card or other document affecting operation in this state has been surrendered to such jurisdiction and the commissioner is satisfied that any such plate, cab card or other document has not been used within this state and an application for refund is made within the period of validity for which such registration was issued. 4. Where a refund of any part of a registration fee is made pursuant to the foregoing provisions of this section, the registration shall thereupon be automatically cancelled. 5. No fee paid for a trip permit for a cab card or for a number plate or plates shall be refunded. 6. Money paid for fees in conjunction with an application for registration under this article in excess of the amounts required by law may be refunded subject to approval of the commissioner provided application therefor is filed with the commissioner within one year after the date the fee was paid or on or before the expiration of the registration for which such fee was paid or within one year after issuance of an audit report indicating such excess payment whichever occurs later.

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§ 405-h. Effect on reciprocal recognition of registrations and other reciprocity or proration agreements. 1. The provisions of article fourteen-B of this chapter and of paragraph (b) of subdivision three of section two hundred fifty of this chapter shall be applicable only with respect to jurisdictions which are not parties to any agreement this state has entered into pursuant to the authority granted in section four hundred five of this article. 2. Except as otherwise provided in this section, the provisions of section two hundred fifty of this chapter governing reciprocal recognition of registrations shall apply to any vehicle not covered by any agreement entered into by this state pursuant to the authority granted in section four hundred five of this article.

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§ 405-i. Regulatory authority. The commissioner is authorized to promulgate rules and regulations to implement the administration of any agreement entered into pursuant to the authority granted in section four hundred five of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14-A - Apportionment or Allocation of Registration Fee Agreement405 - Authority to Enter Into Agreements.

§ 405. Authority to enter into agreements. The commissioner is authorized and empowered to enter into a reciprocal agreement or agreements on behalf of this state with the duly authorized representatives of any state of the United States, the District of Columbia, or a state or province of a foreign country, or territory or possession of either the United States or of a foreign country to become a member of the international registration plan, or such other designation that may, from time to time, be given to such plan, developed by the American association of motor vehicle administrators for the purpose of providing for the registration of vehicles on an apportionment or allocation basis.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14-B - Bus Taxation Proration and Reciprocity Agreement406 - Bus Taxation Proration Agreement.

ARTICLE I. Purposes and Principles. Section 1. Purposes of Agreement. It is the purpose of this agreement to set up a system whereby any contracting state may permit owners of fleets of busses operating in two or more states to prorate the registration of the busses in such fleets in each state in which the fleets operate on the basis of the proportion of miles operated within such state to total fleet miles, as defined herein. Section 2. Principle of Proration of Registration. It is hereby declared that in making this agreement the contracting states adhere to the principle that each state should have the freedom to develop the kind of highway user tax structure that it determines to be most appropriate to itself, that the method of taxation of interstate busses should not be a determining factor in developing its user tax structure, and that annual taxes or other taxes of the fixed fee type upon busses which are not imposed on a basis that reflects the amount of highway use should be apportioned among the states, within the limits of practicality, on the basis of vehicle miles traveled within each of the states. ARTICLE II. Definitions.(a) State. State shall include the states of the United States, the District of Columbia, the territories of the United States, the Provinces of Canada, and the States, Territories and Federal District of Mexico.(b) Contracting State. Contracting state shall mean a state which is a party to this agreement.(c) Administrator. Administrator shall mean the official or agency of a state administering the fee involved, or, in the case of proration of registration, the official or agency of a state administering the proration of registration in that state.(d) Person. Person shall include any individual, firm, copartnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit.(e) Base State. Base state shall mean the state from or in which the bus is most frequently dispatched, garaged, serviced, maintained, operated, or otherwise controlled, or also in the case of a fleet bus the state to which it is allocated for registration under statutory requirements. In order that this section may not be used for the purpose of evasion of registration fees, the administrators of the contracting states may make the final decision as to the proper base state, in

accordance with Article III (h) hereof, to prevent or avoid such evasion.(f) Bus. Bus shall mean any motor vehicle of a bus type engaged in the interstate transportation of passengers and subject to the jurisdiction of the Interstate Commerce Commission, or any agency successor thereto, or one or more state regulatory agencies concerned with the regulation of passenger transport.(g) Fleet. As to each contracting state, fleet shall include only those busses which actually travel a portion of their total miles in such state. A fleet must include three (3) or more busses.(h) Registration. Registration shall mean the registration of a bus and the payment of annual fees and taxes as set forth in or pursuant to the laws of the respective contracting states.(i) Proration of registration. Proration of registration shall mean registration of fleets of busses in accordance with Article IV of this agreement.(j) Reciprocity. Reciprocity shall mean that each contracting state, to the extent provided in this agreement, exempts a bus from registration and registration fees.ARTICLE III. General Provisions.(a) Effect on Other Agreements, Arrangements, and Understandings. On and after its effective date, this agreement shall supersede any reciprocal or other agreement, arrangement, or understanding between any two or more of the contracting states covering, in whole or in part, any of the matters covered by this agreement; but this agreement shall not affect any reciprocal or other agreement, arrangement, or understanding between a contracting state and a state or states not a party to this agreement.(b) Applicability to Exempt Vehicles. This agreement shall not require registration in a contracting state of any vehicles which are in whole or part exempt from registration under the laws or regulations of such state without respect to this agreement.(c) Inapplicability to Caravaned Vehicle. The benefits and privileges of this agreement shall not be extended to a vehicle operated on its own wheels, or in tow of a motor vehicle, transported for the purpose of selling or offering the same for sale to or by any agent, dealer, purchaser, or prospective purchaser.(d) Other Fees and Taxes. This agreement does not waive any fees or taxes charged or levied by any state in connection with the ownership or operation of vehicles other than registration fees as defined herein. All other fees and taxes shall be paid to each state in accordance with the laws thereof.(e) Statutory Vehicle Regulations. This agreement shall not authorize the operation of a vehicle in any contracting state contrary to the laws or regulations thereof, except those pertaining to registration and payment of fees; and with respect to such laws or regulations, only to the extent provided in this agreement.(f) Violations. Each contracting state reserves the right to withdraw, by order of the administrator thereof, all or any part of the benefits or privileges granted pursuant to this agreement from the owner of any vehicle or fleet of vehicles operated in violation of any provision of this agreement. The administrator shall immediately give notice of any such violation and withdrawal of any such benefits or privileges to the administrator of each other contracting state in which vehicles of such owner are operated.(g) Cooperation. The administrator of each of the contracting states shall cooperate with the administrators of the others and each contracting state hereby agrees to furnish such aid and assistance to each other within its statutory authority as will aid in the proper enforcement of this agreement.(h) Interpretation. In any dispute between or among contracting states arising under this agreement, the final decision regarding interpretation of questions at issue relating to this agreement shall be reached by joint action of the contracting states, acting through the administrator thereof, and shall upon determination be placed in writing.(i) Effect of Headings. Article and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any article or part hereof.(j) Entry into Force. This agreement shall enter into force and become binding between and among the contracting states when enacted or otherwise entered into by any two states. Thereafter, it shall enter into force and become binding with respect to any state when enacted into law by such state. If the statutes of any state so authorize or provide, such state may become party to this agreement upon the execution thereof by an executive or administrative official thereof acting on behalf of and for such state.ARTICLE IV. Proration of Registration.(a) Applicability. Any owner of a fleet may register the busses of said fleet in any contracting state by paying to said state total registration fees in an amount equal to that obtained by applying the proportion of in-state fleet miles divided by the total fleet miles, to the total fees which would otherwise be required for regular registration of each and all of such vehicles in such contracting state.All fleet pro-rata registration fees shall be based upon the mileage proportions of the fleet during the period of twelve months ending on August thirty-first next preceding the commencement of the registration year for which registration is sought, except, that mileage proportions for a fleet not operated during such period in the state where application for registration is made will be determined by the administrator upon the sworn application of the applicant showing the operations during such period in other states and the estimated operations during the registration year for which registration is sought, in the state in which application is being made; or if no operations were conducted during such period a full statement of the proposed method of operation.If any busses operate in two or more states which permit the proration of registration on the basis of a fleet of busses consisting of a lesser number of vehicles than provided in Article II (g), such fleet may be prorated as to registration in such states, in which event the busses in such fleet shall not be required to register in any other contracting states if each such vehicle is registered in some contracting state except to the extent it is exempt from registration as provided in Article III (b).If the administrator of any state determines, based on his method of the operation thereof, that the inclusion of a bus or busses as a part of a fleet would adversely affect the proper fleet fee which should be paid to his state, having due regard for fairness and equity, he may refuse to permit any or all of such busses to be included in his state as a part of such fleet.(b) Total Fleet Miles. Total fleet miles, with respect to each contracting state, shall mean the total miles operated by the fleet (1) in such state, (2) in all other contracting states, (3) in other states having proportional registration provisions, (4) in states with which such contracting state has reciprocity, and (5) in such other states as the administrator determines should be included under the circumstances in order to protect or promote the interest of his state; except that in states having laws requiring proration on the basis of a different determination of total fleet miles, total fleet miles shall be determined on such basis.(c) Leased Vehicles. If a bus is operated by a person other than the owner as a part of a fleet which is subject to the provisions of this article, then the operator of such fleet shall be deemed to be the owner of said bus for the purposes of this article.(d) Extent of Privileges. Upon the registration of a fleet in a contracting state pursuant to this article, each bus in the fleet may be operated in both interstate and

intrastate operations in such state except as provided in Article III (e).(e) Application for Proration. The application for proration of registration shall be made in each contracting state upon substantially the application forms and supplements authorized by joint action of the administrators of the contracting states.(f) Issuance of Identification. Upon registration of a fleet, the state which is the base state of a particular bus of the fleet, shall issue the required license plates and registration card for such bus and each contracting state in which the fleet of which such bus is a part, operates, shall issue a special identification identifying such bus as a part of a fleet which has fully complied with the registration requirements of such state. The required license plates, registration cards and identification shall be appropriately displayed in the manner required by or pursuant to the laws of each respective state.(g) Additions to Fleet. If any bus is added to a prorated fleet after the filing of the original application, the owner shall file a supplemental application. The owner shall register such bus in each contracting state in like manner as provided for busses listed in an original application and the registration fee payable shall be determined on the mileage proportion used to determine the registration fees payable for busses registered under the original application.(h) Withdrawals from Fleet. If any bus is withdrawn from a prorated fleet during the period for which it is registered or identified, the owner shall notify the administrator of each state in which it is registered or identified, of such withdrawal and shall return the plates, and registration card or identification as may be required by or pursuant to the laws of the respective states.(i) Audits. The administrator of each contracting state shall, within the statutory authority of such administrator, make any information obtained upon an audit of records of any applicant for proration of registration available to the administrators of the other contracting states.(j) Errors in Registration. If it is determined by the administrator of a contracting state, as a result of such audits or otherwise, that an improper fee has been paid his state, or errors in registration found, the administrator may require the fleet owner to make the necessary corrections in the registration of his fleet and payment of fees.ARTICLE V. Reciprocity.(a) Grant of Reciprocity. Each of the contracting states grants reciprocity as provided in this article.(b) Applicability. The provisions of this agreement with respect to reciprocity shall apply only to a bus properly registered in the base state of the bus, which state must be a contracting state.(c) Non-applicability to Fleet Busses. The reciprocity granted pursuant to this article shall not apply to a bus which is entitled to be registered or identified as part of a prorated fleet.(d) Extent of Reciprocity. The reciprocity granted pursuant to this article shall permit the interstate operation of a bus and intrastate operation which is incidental to a trip of such bus involving interstate operation.(e) Other Agreements. Nothing in this agreement shall be construed to prohibit any of the contracting states from entering into separate agreements with each other for the granting of temporary permits for the intrastate operation of vehicles registered in the other state; nor to prevent any of the contracting states from entering into agreements to grant reciprocity for intrastate operation within any zone or zones agreed upon by the states.ARTICLE VI. Withdrawal or Revocation.Any contracting state may withdraw from this agreement upon thirty days written notice to each other contracting state, which notice shall be given only after the repeal of this agreement by the legislature of such state, if adoption was by legislative act, or after renunciation by the appropriate administrative official of such contracting state if the laws thereof empower him so to renounce.ARTICLE VII. Construction and Severability.This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters. (a) State. State shall include the states of the United States, the District of Columbia, the territories of the United States, the Provinces of Canada, and the States, Territories and Federal District of Mexico. (b) Contracting State. Contracting state shall mean a state which is a party to this agreement. (c) Administrator. Administrator shall mean the official or agency of a state administering the fee involved, or, in the case of proration of registration, the official or agency of a state administering the proration of registration in that state. (d) Person. Person shall include any individual, firm, copartnership, joint venture, association, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit. (e) Base State. Base state shall mean the state from or in which the bus is most frequently dispatched, garaged, serviced, maintained, operated, or otherwise controlled, or also in the case of a fleet bus the state to which it is allocated for registration under statutory requirements. In order that this section may not be used for the purpose of evasion of registration fees, the administrators of the contracting states may make the final decision as to the proper base state, in accordance with Article III (h) hereof, to prevent or avoid such evasion. (f) Bus. Bus shall mean any motor vehicle of a bus type engaged in the interstate transportation of passengers and subject to the jurisdiction of the Interstate Commerce Commission, or any agency successor thereto, or one or more state regulatory agencies concerned with the regulation of passenger transport. (g) Fleet. As to each contracting state, fleet shall include only those busses which actually travel a portion of their total miles in such state. A fleet must include three (3) or more busses. (h) Registration. Registration shall mean the registration of a bus and the payment of annual fees and taxes as set forth in or pursuant to the laws of the respective contracting states. (i) Proration of registration. Proration of registration shall mean registration of fleets of busses in accordance with Article IV of this agreement. (j) Reciprocity. Reciprocity shall mean that each contracting state, to the extent provided in this agreement, exempts a bus from registration and registration fees. ARTICLE III. General Provisions. (a) Effect on Other Agreements, Arrangements, and Understandings. On and after its effective date, this agreement shall supersede any reciprocal or other agreement, arrangement, or understanding between any two or more of the contracting states covering, in whole or in part, any of the matters covered by this agreement; but this agreement shall not affect any reciprocal or other agreement, arrangement, or understanding between a contracting state and a state or states not a party to this agreement. (b) Applicability to Exempt Vehicles. This agreement shall not require registration in a contracting state of

any vehicles which are in whole or part exempt from registration under the laws or regulations of such state without respect to this agreement. (c) Inapplicability to Caravaned Vehicle. The benefits and privileges of this agreement shall not be extended to a vehicle operated on its own wheels, or in tow of a motor vehicle, transported for the purpose of selling or offering the same for sale to or by any agent, dealer, purchaser, or prospective purchaser. (d) Other Fees and Taxes. This agreement does not waive any fees or taxes charged or levied by any state in connection with the ownership or operation of vehicles other than registration fees as defined herein. All other fees and taxes shall be paid to each state in accordance with the laws thereof. (e) Statutory Vehicle Regulations. This agreement shall not authorize the operation of a vehicle in any contracting state contrary to the laws or regulations thereof, except those pertaining to registration and payment of fees; and with respect to such laws or regulations, only to the extent provided in this agreement. (f) Violations. Each contracting state reserves the right to withdraw, by order of the administrator thereof, all or any part of the benefits or privileges granted pursuant to this agreement from the owner of any vehicle or fleet of vehicles operated in violation of any provision of this agreement. The administrator shall immediately give notice of any such violation and withdrawal of any such benefits or privileges to the administrator of each other contracting state in which vehicles of such owner are operated. (g) Cooperation. The administrator of each of the contracting states shall cooperate with the administrators of the others and each contracting state hereby agrees to furnish such aid and assistance to each other within its statutory authority as will aid in the proper enforcement of this agreement. (h) Interpretation. In any dispute between or among contracting states arising under this agreement, the final decision regarding interpretation of questions at issue relating to this agreement shall be reached by joint action of the contracting states, acting through the administrator thereof, and shall upon determination be placed in writing. (i) Effect of Headings. Article and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of the provisions of any article or part hereof. (j) Entry into Force. This agreement shall enter into force and become binding between and among the contracting states when enacted or otherwise entered into by any two states. Thereafter, it shall enter into force and become binding with respect to any state when enacted into law by such state. If the statutes of any state so authorize or provide, such state may become party to this agreement upon the execution thereof by an executive or administrative official thereof acting on behalf of and for such state. ARTICLE IV. Proration of Registration. (a) Applicability. Any owner of a fleet may register the busses of said fleet in any contracting state by paying to said state total registration fees in an amount equal to that obtained by applying the proportion of in-state fleet miles divided by the total fleet miles, to the total fees which would otherwise be required for regular registration of each and all of such vehicles in such contracting state. All fleet pro-rata registration fees shall be based upon the mileage proportions of the fleet during the period of twelve months ending on August thirty-first next preceding the commencement of the registration year for which registration is sought, except, that mileage proportions for a fleet not operated during such period in the state where application for registration is made will be determined by the administrator upon the sworn application of the applicant showing the operations during such period in other states and the estimated operations during the registration year for which registration is sought, in the state in which application is being made; or if no operations were conducted during such period a full statement of the proposed method of operation. If any busses operate in two or more states which permit the proration of registration on the basis of a fleet of busses consisting of a lesser number of vehicles than provided in Article II (g), such fleet may be prorated as to registration in such states, in which event the busses in such fleet shall not be required to register in any other contracting states if each such vehicle is registered in some contracting state except to the extent it is exempt from registration as provided in Article III (b). If the administrator of any state determines, based on his method of the operation thereof, that the inclusion of a bus or busses as a part of a fleet would adversely affect the proper fleet fee which should be paid to his state, having due regard for fairness and equity, he may refuse to permit any or all of such busses to be included in his state as a part of such fleet. (b) Total Fleet Miles. Total fleet miles, with respect to each contracting state, shall mean the total miles operated by the fleet (1) in such state, (2) in all other contracting states, (3) in other states having proportional registration provisions, (4) in states with which such contracting state has reciprocity, and (5) in such other states as the administrator determines should be included under the circumstances in order to protect or promote the interest of his state; except that in states having laws requiring proration on the basis of a different determination of total fleet miles, total fleet miles shall be determined on such basis. (c) Leased Vehicles. If a bus is operated by a person other than the owner as a part of a fleet which is subject to the provisions of this article, then the operator of such fleet shall be deemed to be the owner of said bus for the purposes of this article. (d) Extent of Privileges. Upon the registration of a fleet in a contracting state pursuant to this article, each bus in the fleet may be operated in both interstate and intrastate operations in such state except as provided in Article III (e). (e) Application for Proration. The application for proration of registration shall be made in each contracting state upon substantially the application forms and supplements authorized by joint action of the administrators of the contracting states. (f) Issuance of Identification. Upon registration of a fleet, the state which is the base state of a particular bus of the fleet, shall issue the required license plates and registration card for such bus and each contracting state in which the fleet of which such bus is a part, operates, shall issue a special identification identifying such bus as a part of a fleet which has fully complied with the registration requirements of such state. The required license plates, registration cards and identification shall be appropriately displayed in the manner required by or pursuant to the laws of each respective state. (g) Additions to Fleet. If any bus is added to a prorated fleet after the filing of the original application, the owner shall file a supplemental application. The owner shall register such bus in each contracting state in like manner as provided for busses listed in an original application and the registration fee payable shall be determined on the mileage proportion used to determine the registration fees payable for busses registered under the original application. (h) Withdrawals from Fleet. If any bus is withdrawn from a prorated fleet during the period for which it is registered or identified, the owner shall notify the administrator of each state in which it is registered or identified, of such withdrawal and shall return the plates, and registration card or identification as may be

required by or pursuant to the laws of the respective states. (i) Audits. The administrator of each contracting state shall, within the statutory authority of such administrator, make any information obtained upon an audit of records of any applicant for proration of registration available to the administrators of the other contracting states. (j) Errors in Registration. If it is determined by the administrator of a contracting state, as a result of such audits or otherwise, that an improper fee has been paid his state, or errors in registration found, the administrator may require the fleet owner to make the necessary corrections in the registration of his fleet and payment of fees. ARTICLE V. Reciprocity. (a) Grant of Reciprocity. Each of the contracting states grants reciprocity as provided in this article. (b) Applicability. The provisions of this agreement with respect to reciprocity shall apply only to a bus properly registered in the base state of the bus, which state must be a contracting state. (c) Non-applicability to Fleet Busses. The reciprocity granted pursuant to this article shall not apply to a bus which is entitled to be registered or identified as part of a prorated fleet. (d) Extent of Reciprocity. The reciprocity granted pursuant to this article shall permit the interstate operation of a bus and intrastate operation which is incidental to a trip of such bus involving interstate operation. (e) Other Agreements. Nothing in this agreement shall be construed to prohibit any of the contracting states from entering into separate agreements with each other for the granting of temporary permits for the intrastate operation of vehicles registered in the other state; nor to prevent any of the contracting states from entering into agreements to grant reciprocity for intrastate operation within any zone or zones agreed upon by the states. ARTICLE VI. Withdrawal or Revocation. Any contracting state may withdraw from this agreement upon thirty days written notice to each other contracting state, which notice shall be given only after the repeal of this agreement by the legislature of such state, if adoption was by legislative act, or after renunciation by the appropriate administrative official of such contracting state if the laws thereof empower him so to renounce. ARTICLE VII. Construction and Severability. This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating herein, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14-B - Bus Taxation Proration and Reciprocity Agreement407 - Administrator Defined.

§ 407. Administrator defined. As used in this agreement, with reference to this state, the term administrator shall mean the commissioner of motor vehicles.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14-B - Bus Taxation Proration and Reciprocity Agreement408 - Administration.

§ 408. Administration. The administrator of the agreement for this state shall have the power to make such exemptions from the coverage of the agreement as may be appropriate and to make such changes in methods for the reporting of any information required to be furnished to this state pursuant to the agreement as, in his judgment, shall be suitable; provided that any such exemptions or changes shall not be contrary to the purpose set forth in article one of the agreement and shall be made in order to permit the continuance of uniformity of practice among the contracting states with respect to busses. Any such exemption or change shall be made by rule or regulation and shall not be effective unless made by the same procedure required for other rules and regulations of his department. If not otherwise covered by statute, the administrator may make provision for publication of the rules and regulations contemplated by this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14-B - Bus Taxation Proration and Reciprocity Agreement409 - Notice of Withdrawal.

§ 409. Notice of withdrawal. Unless otherwise provided in any statute withdrawing this state from participation in the agreement, the governor shall be the officer to give notice of withdrawal therefrom.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles401-A - In-Transit Permits.

§ 401-a. In-transit permits. The owner of a vehicle intended to be operated upon a public highway or street only for the purpose of transporting the same to a jurisdiction, within this state or to any other state, where the same is to be registered, may file with the commissioner or any agent of the commissioner an application for issuance of an in-transit permit for such vehicle. The application shall be made on a form furnished by the commissioner for such purpose and shall contain such information as the commissioner shall require. If satisfied that the vehicle is to be operated as provided in this section, the commissioner shall upon payment of a fee of twelve dollars and fifty cents assign to such vehicle a distinctive number and issue and deliver to the applicant an in-transit permit, valid for a period of thirty days from the date of issuance, in such form as the commissioner shall prescribe, indicating the extent to which the vehicle covered by such permit may be operated on the public highways and such vehicle may be operated only as so indicated. Notwithstanding any inconsistent provision of this section, the difference collected between the fees set forth in this paragraph in effect on and after September first, two thousand nine and the fees set forth in this paragraph in effect prior to such date

shall be deposited to the credit of the dedicated highway and bridge trust fund. If an in-transit permit is issued by a county clerk, acting as agent of the commissioner, such county clerk shall be entitled to the sum of thirty-five cents for each such in-transit permit issued, which sum shall be deducted before remitting the fee for such in-transit permit to the commissioner. The provisions of this chapter with respect to the issuance and display of number plates shall not apply to vehicles operated only as provided in this section, and which display the in-transit permit issued by the commissioner.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles401-B - Registration of Tow Trucks.

§ 401-b. Registration of tow trucks. Every motor vehicle engaged in commercial towing in this state shall be registered and identified as a tow truck, as hereinafter provided. No motor vehicle shall be registered as a tow truck unless it shall have a gross vehicle weight rating of at least eighty-six hundred pounds and the application for such registration is accompanied by proof of financial security which shall meet the requirements of article six of this chapter. Upon payment of the fees set forth in schedule H of subdivision seven of section four hundred one of this article, such a motor vehicle shall be issued a license plate identifying it as a "tow truck". It shall constitute a class A misdemeanor to engage in commercial towing with a tow truck that is not registered pursuant to this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles401 - Registration of Motor Vehicles; Fees; Renewals.

b. Every owner of a motor vehicle which shall be operated or driven upon the public highways of this state shall, except as otherwise expressly provided, cause to be presented, by mail or otherwise, to the office or a branch office of the commissioner, or to any agent of the commissioner, constituted as provided in this chapter, an application for registration addressed to the commissioner, and on a blank to be prepared under the direction of and furnished by the commissioner for that purpose, containing: (a) a brief description of the motor vehicle to be registered, including the name and factory number of such vehicle, and such other facts as the commissioner shall require; (b) the weight of the vehicle upon which the registration fee is based if the fee is based on weight; (c) the name and residence, including county of the owner of such motor vehicle; (d) provided that, if such motor vehicle is used or to be used as an omnibus, the applicant also shall so certify, and in the case of an omnibus also certify as to the seating capacity, and if the omnibus is to be operated wholly within a municipality pursuant to a franchise other than a franchise express or implied in articles of incorporation upon certain streets designated in such franchise, those facts shall also be certified, and a certified copy of such franchise furnished to the commissioner; (e) provided, that, if such motor vehicle is an altered livery, the applicant shall so furnish a certified copy of the length of the center panel of such vehicle, provided, however, that the commissioner shall require such proof, as he may determine is necessary, in the application for registration and provided further, if the center panel of such vehicle exceeds one hundred inches, the commissioner shall require proof that such vehicle is in compliance with all applicable federal and state motor vehicle safety standards; and (f) such additional facts or evidence as the commissioner may require in connection with the application for registration. Every owner of a trailer shall also make application for the registration thereof in the manner herein provided for an application to register a motor vehicle, but shall contain a statement showing the manufacturer's number or other identification satisfactory to the commissioner and no number plate for a trailer issued under the provisions of subdivision three of section four hundred two of this chapter shall be transferred to or used upon any other trailer than the one for which number plate is issued. The commissioner shall require proof, in the application for registration, or otherwise, as such commissioner may determine, that the motor vehicle for which registration is applied for is equipped with lights conforming in all respects to the requirements of this chapter, and no motor vehicle shall be registered unless it shall appear by such proofs that such motor vehicle is equipped with proper lights as aforesaid. The said application shall contain or be accompanied by such evidence of the ownership of the motor vehicle described in the application as may be required by the commissioner or his agent and which, with respect to new vehicles, shall include, unless otherwise specifically provided by the commissioner, the manufacturer's statement of origin. Applications received by an agent of the commissioner shall be forwarded to the commissioner as he shall direct for filing. No application for registration shall be accepted unless the applicant is at least sixteen years of age. 2. Registration record. Upon the receipt of a sufficient application for registration of a motor vehicle or trailer, as provided in this article, the commissioner, or the agent receiving it, shall register such motor vehicle or trailer and maintain a record of the registration of such vehicle under the distinctive number assigned to such motor vehicle or trailer as provided in this section, and the information in such record may be obtained upon payment of the fees specified in section two hundred two of this chapter. 3. Certificates of registration. a. Upon filing of such application and the payment of the fee hereinafter provided, the commissioner shall assign to such motor vehicle a distinctive number and, without expense to the applicant, issue and deliver in such manner as the commissioner may select to the owner a certificate of registration, in such form as the commissioner shall prescribe, and two number plates at a place within the state of New York named by the applicant in his or her application. A number plate, within the meaning of this chapter, may, in the discretion of the commissioner, be a plate of a permanent nature, treated with reflectorized material according to specifications prescribed by the commissioner, and with a date tag attached to such plate or to the vehicle as prescribed by regulations of the commissioner indicating the validity of the plate during a certain period and the issuance of such a number plate with such date tag to a person possessing such a number plate shall be deemed the issuance of a number plate. An additional fee, not to exceed twenty-five dollars, shall be paid to the commissioner whenever a set of reflectorized number plates is issued for any vehicle for which a registration fee is normally charged except that, with respect to any number plate which is specifically requested by the applicant, such fee shall be

paid to the commissioner upon approval of such request. In the event of the loss, mutilation or destruction of any certificate of registration, any number plate or set of number plates whether with or without a date tag or tags, or any date tag or set of date tags provided for in this article, the owner of a registered motor vehicle may file such statement and proof of the facts as the commissioner shall require, with a fee of three dollars, in the office of the commissioner, or, unless and until the commissioner shall otherwise direct, in the office of the agent who issued the certificate, plate, plates, tag or tags and the commissioner or his or her agent, as the case may be, shall issue a duplicate or substitute. It shall be the duty of every owner holding a certificate of registration to notify the commissioner in writing of any change of residence of such person within ten days after such change occurs, and to inscribe on such certificate, in the place provided by the commissioner, a record of such change of residence. b. During a registration period the commissioner may, upon application by the owner of a registered motor vehicle and upon payment of a fee of three dollars and seventy-five cents, change the distinctive number assigned to such motor vehicle and issue a new set of number plates provided the original registration and number plates are surrendered. Notwithstanding any inconsistent provision of this section, the difference collected between the fees set forth in this subdivision in effect on and after September first, two thousand nine and the fees set forth in this subdivision in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. c. The commissioner may waive the payment of fees required by paragraph a of this subdivision if the applicant is a victim of crime and the certificate of registration or number plates applied for are a replacement for those that were lost or destroyed as a result of the crime. d. In processing any application for a certificate of registration pursuant to this article or to title eleven of this chapter, the commissioner shall provide the applicant with informational materials describing the lead-acid battery management, return and collection requirements set forth in title seventeen of article twenty-seven of the environmental conservation law, and the used oil management, recycling and disposal requirements set forth in title twenty-three of article twenty-three of the environmental conservation law. Such informational materials shall be distributed at the first opportunity and periodically thereafter. 4. Carrying certificate of registration. Any magistrate, motor vehicle inspector, peace officer, acting pursuant to his special duties, or police officer may request that the operator of any motor vehicle produce for inspection the certificate of registration for such vehicle and such operator shall furnish to such magistrate, inspector, peace officer or police officer any information necessary for the identification of such vehicle and its owner, and all information required concerning his license to operate, if he is required by law to have such a license, and shall, if required, sign his name in the presence of such magistrate, inspector, peace officer or police officer as a further means of identification. The production of a license to a magistrate, inspector, peace officer or police officer shall be prima facie evidence in a prosecution for a violation of any provision of this chapter, other than section three hundred ninety-two of this chapter, that the person who so produced the license is the person identified on such license. Provided, however, that a photostatic copy of the certificate of registration may be produced in lieu of the original certificate. If a vehicle does not have affixed a validating sticker which indicates the plate number, the vehicle identification number and the expiration date of the registration, the failure to produce the certificate of registration, or a photostatic copy of such certificate, shall be presumptive evidence of operating a motor vehicle or trailer which is not registered as required by this article. 5. Times for registration, reregistration and renewal; proportionate fees. a. Registrations, reregistrations and renewals shall take effect and expire on dates determined by the commissioner. However, where the expiration date of the registration of any vehicle, except a taxi or an omnibus, falls on a Saturday, Sunday or state holiday, such registration shall be valid for the operation of such vehicle until midnight of the next day on which state offices shall be open for business. Provided, however, that renewal of a registration may be used preceding the expiration date of such registration including such expiration date. Provided, further, however, that where the required proof of registration consists of an expired registration for the same vehicle, issued to the same person applying for the registration or renewal, and the expired registration certificate and number plates and date tags issued for such registration had not been surrendered to the commissioner on or before the expiration date of such registration, the commissioner may in his discretion deem such application to be a renewal of the expired registration and require that the fee paid for such registration be computed as if the registration had been made prior to the date of expiration of the expired registration. b. The fee for the renewal of a registration shall be the same as the annual registration fee, and, where a registration or renewal is for a period of more or less than one calendar year, the annual fees as provided in this section shall be increased or reduced proportionately on a daily computation basis, except that where the annual registration fee for such vehicle would amount to ten dollars or less, the fee shall not be so prorated. c. Notwithstanding any other provision of this article, the commissioner shall issue registrations and renewals of registrations for motor vehicles for which a registration fee established in paragraph a of subdivision six of this section is required to be paid and for motor vehicles having a maximum gross weight of not more than eighteen thousand pounds for which a registration fee established in paragraph one of schedule B of subdivision seven of this section is required to be paid for a period of not less than two years. In addition, the full amount of any other charges, taxes or fees which would be required to be paid to, or collected by, the commissioner during the entire registration period if registrations were issued for twelve month periods shall be paid to the commissioner at the time of such registration or renewal of registration. The commissioner shall promulgate rules and regulations for the issuance of registration renewals extended as required in this paragraph. However, such regulations may provide that the initial issuance of extended renewals be accomplished over a two year period. The commissioner may by regulation exempt from the provisions of this paragraph registrations for motor vehicles issued in conjunction with any long-term registration program or registration reciprocity or proration agreement which this state has established or to which this state is a party. 5-a. Denial of registration or renewal. a. (i) If at the time of application for a registration or renewal thereof there is a certification from a court, parking violations bureau, traffic and parking violations agency or administrative tribunal of appropriate jurisdiction that the registrant or his or her representative failed to appear on the return date or any subsequent adjourned date or failed to comply with

the rules and regulations of an administrative tribunal following entry of a final decision in response to a total of three or more summonses or other process in the aggregate, issued within an eighteen month period, charging either that: (i) such motor vehicle was parked, stopped or standing, or that such motor vehicle was operated for hire by the registrant or his or her agent without being licensed as a motor vehicle for hire by the appropriate local authority, in violation of any of the provisions of this chapter or of any law, ordinance, rule or regulation made by a local authority; or (ii) the registrant was liable for a violation of subdivision (d) of section eleven hundred eleven of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; or (iii) the registrant was liable for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted maximum speed limits through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; or (iv) the registrant was liable for a violation of bus lane restrictions as defined by article twenty-four of this chapter imposed pursuant to a bus rapid transit program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus lane restrictions through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; or (v) the registrant was liable for a violation of section eleven hundred seventy-four of this chapter when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with school bus red visual signals through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; or (vi) the registrant was liable for a violation of section three hundred eighty-five of this chapter and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight violations imposed pursuant to a weigh in motion demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such gross vehicle weight and/or axle weight restrictions through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; or (vii) the registrant was liable for a violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted maximum speed limits within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter, or (viii) the registrant was liable for a violation of bus operation-related traffic regulations as defined by article twenty-four of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus operation-related traffic regulations through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, the commissioner or his or her agent shall deny the registration or renewal application until the applicant provides proof from the court, traffic and parking violations agency or administrative tribunal wherein the charges are pending that an appearance or answer has been made or in the case of an administrative tribunal that he or she has complied with the rules and regulations of said tribunal following entry of a final decision. Where an application is denied pursuant to this section, the commissioner may, in his or her discretion, deny a registration or renewal application to any other person for the same vehicle and may deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where the commissioner has determined that such registrant's intent has been to evade the purposes of this subdivision and where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this subdivision. Such denial shall only remain in effect as long as the summonses remain unanswered, or in the case of an administrative tribunal, the registrant fails to comply with the rules and regulations following entry of a final decision.(ii) For purposes of this paragraph, the term "motor vehicle operated for hire" shall mean and include a taxicab, livery, coach, limousine or tow truck.b. If at the time of application by any person for a registration or renewal thereof there is a certification from a court or an agency or administrative tribunal with regulatory or adjudicatory authority over van services or other such common carriers of passengers in any city with a population of over one million pursuant to subdivision five of section eighty of the transportation law that there remains unpaid a penalty imposed by such agency or administrative tribunal or court following entry of a decision or order, including a decision or order in a proceeding in which there has been a failure to appear or pay, in response to a notice of violation, summons or other process issued charging that the vehicle was operated as a van service or other such common carrier of passengers without the operating authority required by such local law or ordinance, the commissioner or the commissioner's agent shall impose a vehicle identification number block and deny the registration or renewal application until the applicant provides proof from the court or agency or other administrative tribunal wherein the charges were adjudicated that such penalty has been paid in full or the violation has been corrected to its satisfaction. Where an application is denied pursuant to this paragraph, the commissioner may, in the commissioner's discretion, deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where the commissioner has determined that such registrant's intent has been to evade the purposes of this paragraph and where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this paragraph. Such vehicle identification number block and denial shall only remain in effect until the penalty has been paid in full or the violation has been corrected to the satisfaction of the court, city agency or administrative tribunal.c. The commissioner may promulgate such regulations as are necessary to effectuate the provisions of this subdivision, including provisions for the recovery of the administrative costs of the program incurred for each municipality. The commissioner may, in his discretion, refuse to process a

certification received from a court or administrative tribunal in any municipality which has failed to comply with the provisions of section five hundred fourteen of this chapter or which does not have an effective program for enforcing suspension and revocation orders issued by the department.6. Registration fees. a. The following fees shall be paid to the commissioner, or agent, upon the registration or reregistration of a motor vehicle, including a suburban, in accordance with the provisions of this article:If such motor vehicle, fully equipped, weighs thirty-five hundred pounds or less, eighty-one cents for each one hundred pounds or major fraction thereof; if such motor vehicle, fully equipped, weighs more than thirty-five hundred pounds, eighty-one cents for each one hundred pounds up to thirty-five hundred pounds, and one dollar and twenty-one cents for each hundred pounds, or major fraction thereof, in excess of thirty-five hundred pounds; provided, however, that the total fees for the registration or reregistration of any passenger motor vehicle propelled by electricity shall be sixteen dollars and eighteen cents, of a six, eight, or twelve cylinder motor vehicle not less than sixteen dollars and eighteen cents, and of any other motor vehicle not less than twelve dollars and ninety-five cents; and provided further that for motor vehicles described in subdivision seven of this section, the fee for such registration shall be as therein prescribed. Provided further, however, that the maximum registration fee under this paragraph shall not exceed seventy dollars and eight cents per registration year. For the purposes of this section a "suburban" shall be a motor vehicle with a convertible or interchangeable body or with removable seats, usable for both passenger and delivery purposes, and including motor vehicles, commonly known as station or depot wagons. The manufacturer's weight of motor vehicle shall be accepted as the weight for the purpose of registration under this paragraph.b. The provisions of this article with respect to the payment of registration fees shall not apply to ambulances used exclusively to carry sick or injured persons, other than those used in the business of carrying or transporting sick or injured persons for hire or profit, or to motor vehicles which are especially constructed and equipped to carry lost, strayed, sick, maimed or disabled animals, and owned and operated for that purpose by a duly incorporated society, incorporated for the purpose of preventing cruelty to animals, or to motor vehicles owned or controlled by the state, a city, county, village, town, school district, or fire district or any of the departments thereof or county extension service association or public improvement district formed under and pursuant to provisions of the town law, or sanitary district formed pursuant to the provisions of chapter five hundred sixteen of the laws of nineteen hundred twenty-eight, as amended, or soil conservation districts formed pursuant to the provisions of the soil conservation districts law, or to motor vehicles owned by professional foreign consuls-general, consuls and vice consuls, who are nationals of the state appointing them and who are assigned to foreign consulates in the state of New York, provided that American professional consular officers of equal rank who are citizens of the United States and who exercise their official functions at American consulates in such foreign country, are granted reciprocal exemption, or to motor vehicles owned and operated by the American Red Cross, but in other respects shall be applicable.b-1. The provisions of this article with respect to the payment of registration fees shall not apply to (i) fire vehicles, as defined in section one hundred fifteen-a of this chapter, owned or controlled by a fire company, as defined in section three of the volunteer firefighters' benefit law, or to (ii) emergency ambulance service vehicles, as defined in section one hundred fifteen-c of this chapter, owned or controlled by an ambulance company, as defined in section three of the volunteer ambulance workers' benefit law. Upon the filing of an application in such form and detail as the commissioner may prescribe, the commissioner shall issue plates for such vehicles in the same manner as plates issued to vehicles owned or controlled by fire districts pursuant to paragraph b of this subdivision.c. The provisions of this subdivision with respect to the payment of registration fees shall not apply to a passenger or suburban type motor vehicle or the provisions of subdivision seven of this section with respect to the payment of registration fees shall additionally not apply to any auto truck or light delivery car having a maximum gross weight of less than sixty-five hundred pounds which is used exclusively for passengers and owned by any disabled veteran of the armed forces of the United States who has obtained such motor vehicle under and pursuant to the provisions of public law number six hundred sixty-three, seventy-ninth congress, and public law number seven hundred ninety-eight, eighty-first congress and public law number one hundred eighty-seven, eighty-second congress or any comparable motor vehicle which is bought or acquired to replace such original motor vehicle owned by such disabled veteran.d. (i) In addition to the other fees provided for in this section, the commissioner shall, upon the application for the registration of a motor vehicle or the renewal thereof, collect the tax authorized by subdivision (g) of section twelve hundred one of the tax law, if a city of one million or more, pursuant to subdivision (h) of section twelve hundred one of such law, enacts a local law providing for the collection of such tax by the commissioner and enters into the required agreement relating thereto.(ii) In addition to the other fees provided for in this section, the commissioner shall, upon the application for the registration of a motor vehicle or the renewal thereof, collect the tax of the type authorized under subdivision (e) of section twelve hundred one of the tax law, if a county, pursuant to subdivision (c), (e), (f) or (g) of section twelve hundred two of such law, enacts a local law, ordinance or resolution providing for the collection of such tax by the commissioner and enters into the required agreement relating thereto.e. A. In addition to any other fee for registration required to be paid pursuant to this article, the commissioner may require the payment of an annual service charge of six dollars and twenty-five cents upon the issuance of a radio operator number plate which he, in his discretion, is hereby authorized to do as provided by this paragraph. Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in this paragraph in effect on and after September first, two thousand nine and the registration fees set forth in this paragraph in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.B. A number plate issued pursuant to this paragraph shall be issued in the same manner as other number plates are issued pursuant to this article to persons making application therefor. Such plate shall contain not more than eight letters, numerals or any combination thereof which are the permanent radio call letters assigned to an amateur radio operator by the federal communications commission. The provisions of this paragraph shall not apply to any number plate reserved or issued pursuant to any other provision of this article.g. In addition to the other fees provided for in this section, the commissioner shall, upon the

application for the registration of a motor vehicle or the renewal thereof, collect any tax imposed pursuant to the authority of chapter one thousand thirty-two of the laws of nineteen hundred sixty, if the city imposing such tax enacts a local law providing for the collection of such tax by the commissioner and enters into the required agreement relating thereto.7. Registration fees for auto trucks, tractors, buses, taxicabs, livery and certain other motor vehicles. The registration fees to be paid upon the registration or reregistration, in accordance with the provisions of this article, of buses, of motor vehicles constructed or specially equipped for the transportation of goods, wares and merchandise, commonly known as auto trucks or light delivery cars, of taxicabs, livery and of certain other motor vehicles specified herein are hereby established as follows:A. Schedule for buses.For each such vehicle having a seating capacity for passengers of five passengers or less, and meeting the requirements of subdivisions twenty and twenty-one, notwithstanding the capacity limitation of subdivision twenty-one, of section three hundred seventy-five of this chapter, the annual fee of twenty-one dollars and fifty-six cents.For each such vehicle having a seating capacity for passengers of not less than six passengers, nor more than seven passengers, and meeting the requirements of subdivisions twenty and twenty-one, notwithstanding the capacity limitation of subdivision twenty-one, of section three hundred seventy-five of this chapter, the annual fee of thirty-five dollars and twenty-three cents.For each such vehicle having a seating capacity for passengers of not less than eight passengers, nor more than ten passengers, and meeting the requirements of subdivisions twenty and twenty-one, notwithstanding the capacity limitation of subdivision twenty-one, of section three hundred seventy-five of this chapter, the annual fee of forty-three dollars and eighty-five cents.For each such vehicle having a seating capacity for passengers of not less than eleven passengers, nor more than fourteen passengers, and meeting the requirements of subdivisions twenty and twenty-one, notwithstanding the capacity limitation of subdivision twenty-one, of section three hundred seventy-five of this chapter, the annual fee of sixty-one dollars and eighty-one cents.For each such vehicle having a seating capacity for passengers of not less than fifteen passengers, nor more than twenty passengers, the annual fee of seventy-four dollars and seventy-five cents.For each such vehicle having a seating capacity for passengers of not less than twenty-one passengers, nor more than twenty-two passengers, the annual fee of seventy-nine dollars and six cents.For each such vehicle having a seating capacity for passengers of not less than twenty-three passengers, nor more than twenty-six passengers, the annual fee of eighty-eight dollars and forty-one cents.For each such vehicle having a seating capacity for passengers of not less than twenty-seven passengers, nor more than thirty passengers, the annual fee of ninety-seven dollars and four cents.For each such vehicle having a seating capacity for passengers in excess of thirty passengers, the fee of ninety-seven dollars and four cents, and the additional fee of two dollars and eighty-eight cents for each passenger (measured by seating capacity) in excess of thirty passengers.For the purposes of this schedule, the term "seating capacity for passengers" shall exclude the driver.The words "seating capacity for passengers", as used in this section, shall mean seating capacity for adults. The commissioner shall have authority to determine, for registration purposes, the manner of computing the seating capacity of any vehicle.Provided, however, that in the case of a bus operated entirely by electricity not generated by an engine contained therein the fees to be paid upon registration or reregistration thereof shall be fifty per centum in excess of the foregoing rates.The foregoing schedules shall not apply to omnibuses operated pursuant to a franchise or franchises over streets designated in said franchise or franchises wholly within a city or cities, provided the holder of the franchise or franchises pays for the same a percentage of its gross earnings or gross receipts and for any such omnibus, without regard to the seating capacity; nor shall the foregoing schedules apply to omnibuses operated pursuant to a certificate of public convenience and necessity granted under the transportation law and based upon the consent of the local authorities of any city, town or village, other than in the counties of Nassau, Suffolk and Westchester, as required by the transportation corporations law or, in the county of Nassau, based upon the consent of the board of supervisors of such county or of any city or village therein, or of both such county and any city or village therein or, in the counties of Suffolk and Westchester, based upon the consent of the county board of legislators of such counties, as required by chapter eight hundred seventy-nine of the laws of nineteen hundred thirty-six, provided the holder of such local consent pays for the same an annual fee to any such county, city, town or village, and for any such omnibus, without regard to the seating capacity, the annual fee shall be twelve dollars and fifty cents. The foregoing schedules shall not apply to trackless trolleys, but if such omnibus shall not be operated in local transit service pursuant to a certificate of convenience and necessity issued by the commissioner of transportation the foregoing schedule of fees shall apply.B. Schedule for tractors, auto trucks and light delivery cars.1. For each auto truck or light delivery car, the annual fee of three dollars and sixty cents for each five hundred pounds maximum gross weight or fraction thereof, except that the annual fee for such motor vehicle operated entirely by electricity not generated by an engine contained therein shall be five dollars and thirty-nine cents for each five hundred pounds maximum gross weight or fraction thereof, but in computing the weight of such an electric vehicle the weight of electric batteries shall be excluded and except also that the annual fee for each auto truck having a maximum gross weight in excess of eighteen thousand pounds used exclusively in the transportation of household goods (as defined by the commissioner of transportation of this state or the interstate commerce commission) by a carrier under authority of the commissioner of transportation of this state or of the interstate commerce commission shall be nine dollars and seventy cents for each five hundred pounds maximum gross weight or fraction thereof. Provided however, that no motor vehicle registered pursuant to this paragraph may be charged a registration fee in excess of that charged for a motor vehicle registered with a maximum gross weight of eighty thousand pounds.2. For each tractor of any weight the annual fee of one dollar and fifty-one cents for each one hundred pounds, or major fraction thereof, of maximum gross weight, except that the annual fee for each tractor of any weight used exclusively in the transportation of household goods (as defined by the commissioner of transportation of this state or the interstate commerce commission) by a carrier under authority of the commissioner of transportation of this state or of the interstate commerce commission shall be two dollars and sixteen cents for each one hundred pounds, or major fraction thereof, of maximum gross weight. Provided however, that no motor vehicle registered pursuant to this paragraph may be charged a registration

fee in excess of that charged for a motor vehicle registered with a maximum gross weight of eighty thousand pounds.3. For the purpose of this schedule, maximum gross weight of an auto truck or light delivery car shall mean the weight of the motor vehicle plus the weight of the maximum load to be carried by such motor vehicle during the registration period. For the purposes of this schedule, maximum gross weight of a tractor shall be the weight of the tractor, plus the unladen weight of any semitrailer drawn thereby, plus the weight of the maximum load to be carried on the tractor and on any semitrailer drawn by such tractor during the registration period, but shall not include the weight or load of a semitrailer, used with a device for converting it to a trailer, when being drawn by a tractor semitrailer combination on the New York state thruway as part of a double tandem combination. The weight of the motor vehicle and such maximum load as stated on the application for registration shall be subject to audit and approval by the commissioner of motor vehicles.C. Schedule for taxicabs and livery. 1. For each taxicab or livery having a seating capacity for passengers, excluding the driver, of five persons or less, the annual fee of thirty-one dollars and sixty-three cents. For each such vehicle having a seating capacity for passengers, excluding the driver, of not less than six persons, nor more than seven persons, the annual fee of fifty-one dollars and seventy-five cents. For each such vehicle having a seating capacity for passengers, excluding the driver, of at least eight persons, but not more than ten persons, the annual fee of sixty-four dollars and sixty-nine cents. For each such vehicle having a seating capacity for passengers, excluding the driver, of at least eleven persons, but not more than fourteen persons, the annual fee of ninety-two dollars. Any registration issued pursuant to this schedule shall be revoked upon receipt by the commissioner of a notice of revocation of any license or permit necessary for the issuance of such registration from the local authority which issued such license or permit, or upon receipt of evidence by the commissioner that the registrant has been convicted of a violation of any local law requiring the issuance of a license or permit in order to engage in for-hire operation. Provided, however, that upon surrender to the commissioner of any such revoked registration and number plates and upon payment of the proper registration fee, a registration may be issued for the vehicle for which such registration has been revoked pursuant to the provisions of subdivision six of this section.2. For purposes of this schedule, the term "livery" shall also include a motor vehicle with a driver having a seating capacity of at least nine but not more than fourteen passengers used to carry passengers for hire in a commuter van service under an authorization issued by a municipality.D. Schedule for hearses, and certain ambulances. 1. For each hearse, the annual fee of one dollar and twenty-four cents for each one hundred pounds, or major fraction thereof, of unladen weight.2. For each ambulance used in the business of carrying or transporting sick or injured persons for hire or profit, the annual fee of one dollar and twenty-four cents for each one hundred pounds or major fraction thereof, of unladen weight.E. Schedule for agricultural trucks and agricultural trailers. 1. For each agricultural truck and agricultural trailer, the annual fee of two dollars and fifty-one cents for each five hundred pounds maximum gross weight, or fraction thereof.2. For the purposes of this schedule an "agricultural truck" shall be a truck and an agricultural trailer shall be a trailer, other than a coach or house trailer or semitrailer, owned by a person engaged in production by means of (a) the planting, cultivation and harvesting of agricultural, vegetable and food products of the soil, including horticultural specialties such as nursery stock, ornamental shrubs, ornamental trees and flowers, (b) the raising, feeding and care of live stock, bees and poultry or (c) dairy farming. Such agricultural truck and agricultural trailer shall be used only for the transportation of his own agricultural or dairy commodities or supplies or for personal passenger use, or use in conjunction with lumbering operations connected with but only incidental to the operation of a farm.3. A motor vehicle registered as an "agricultural truck" under this schedule and a trailer registered as an "agricultural trailer" under this schedule shall be operated on the public highways only for the purposes set forth in paragraph two hereof.4. An agricultural truck and an agricultural trailer may be registered or reregistered for periods of less than one calendar year upon application forms furnished by the commissioner for such purpose, and the annual fees as provided in this schedule shall be reduced proportionately on a monthly computation basis.F. Schedule for certain motor vehicles. (a) For each road roller, tractor crane, truck crane, power shovel, road building machine, snow plow, road sweeper, sand spreader, well driller, well servicing rig, feed processing machine, mobile car crusher (whether self-propelled or a combination used exclusively as one unit), earth mover, which shall mean a motor-driven vehicle in excess of eight feet in width equipped with pneumatic tires designed and constructed for moving or transporting earth and rock in connection with excavation and grading work, and truck with small wheels used in a factory, warehouse or railroad station, for each spreader or sprayer (generally meaning an agricultural vehicle used to spread or spray agricultural chemicals, agricultural lime and/or agricultural fertilizers) and fire vehicles, an annual fee of fourteen dollars and thirty-eight cents; provided, however, that the provisions of paragraph b of subdivision six of this section relating to the exemption of certain motor vehicles from the payment of registration fees thereon shall apply to the motor vehicles specified in this schedule. A tractor-trailer combination designed and used as a unit exclusively for the same purpose as a vehicle specifically included in this schedule shall be considered as a single vehicle and registered as a motor vehicle under this schedule rather than as a tractor and trailer separately.(b) As used in this schedule, the term "snow plow" shall not include farm type tractors used exclusively for agricultural purposes, or for snow plowing other than for hire, as defined in section one hundred twenty-five of this chapter, when used for plowing or removing snow, provided such plowing or snow removal is not done for hire.No person shall operate or move, or cause or knowingly permit to be operated or moved on any public highway in this state any auto truck, agricultural truck or light delivery car, registered in this state, having a combined weight of vehicle and load in excess of the maximum gross weight for such vehicle as stated on the application for registration. Such maximum gross weight cannot be more than the weight permitted under section three hundred eighty-five of this chapter or the weight permitted by the rules or regulations of the department of transportation of any city not wholly included within one county or under permits that may be issued pursuant to such section, rules or regulations whichever is the least restrictive.G. Schedule for historical motor vehicles. For each motor vehicle which is owned and operated as an exhibition piece or collectors item, and is used for participation in club activities, exhibit, tours, parades, occasional transportation and similar uses, but not used for general daily

transportation, an annual fee of twenty-eight dollars and seventy-five cents. For purposes of this paragraph, a historical motor vehicle shall mean any vehicle manufactured more than twenty-five years prior to the current calendar year, and any other model, year and type vehicle which has unique characteristics and which is determined by the commissioner to be of historical, classic or exhibition value. Registration plates for such vehicles shall be of a type and design approved by the commissioner, but shall be of a distinctive nature. Except that, with the approval of the commissioner, an owner of any such vehicle may utilize registration plates issued in the year corresponding to the model year date in which the vehicle was manufactured, if the registration plate is legible, durable, and serviceable, of this state, and accurate in color, as determined by the department. Nothing in this paragraph shall be construed to prohibit the use of previously issued registration plates that have been restored, without deviation from their original alphanumeric or pictorial content, to such condition as otherwise satisfies all applicable requirements. Such plates shall be used only for the operation of the motor vehicle listed on the registration application and on other motor vehicles which would qualify for registration under this schedule owned by persons other than the registrant for the purpose of test driving by the registrant or his or her agent in anticipation of possible purchase. No such registration will be issued unless evidence of financial security, in a form prescribed by the commissioner, is submitted which provides coverage for the motor vehicle listed on the registration application and for non-owned motor vehicles being operated with such plates.H. Schedule for tow trucks. For each tow truck registered pursuant to section four hundred one-b of this article, the annual fee of two dollars and eighty-eight cents for each five hundred pounds maximum gross weight or fraction thereof. For the purposes of this schedule, the maximum gross weight of a tow truck shall include the weight of any vehicle transported wholly upon the tow truck, but shall not include the weight of any vehicle transported partly upon the tow truck and partly on its own wheels or a dolly.I. Schedule for leased and rental vehicles. 1. The annual fee for each leased vehicle and for each rental vehicle, other than a motorcycle or a rental vehicle of the passenger vehicle or suburban type, shall be the annual fee which would be required to be paid for such vehicle if it were not a leased or rental vehicle.2. For each rental vehicle of the passenger or suburban type having a seating capacity for passengers, including the driver, of five persons or less, the annual fee of fifty-three dollars and nineteen cents. For each such vehicle having a seating capacity for passengers, including the driver, of not less than six persons, nor more than seven persons, the annual fee of seventy-four dollars and seventy-five cents. For each such vehicle having a seating capacity for passengers, including the driver, of at least eight persons, but not more than ten persons, the annual fee of eighty-six dollars and twenty-five cents. For each such vehicle having a seating capacity for passengers, including the driver, of at least eleven persons, but not more than fifteen persons, the annual fee of one hundred thirteen dollars and fifty-six cents.J. Schedule for vanpool vehicles. The annual fee for each vanpool vehicle shall be the annual fee which would be required to be paid for such vehicle if it were not used for the purpose of vanpooling. Registration plates for such vehicles shall be of a type and design approved by the commissioner, and shall include the word VANPOOL on the face of the registration plate. Such plate shall be issued at the request of the registrant upon proof, satisfactory to the commissioner, that the vehicle is to be used for the purpose of vanpooling.K. Schedule for heavy duty vehicles: Notwithstanding any inconsistent provision of this section, the registration fee for any vehicle described in this paragraph shall be increased by up to three and twenty-five one hundredths percent of such registration fee in effect on September first, two thousand nine, to fund the direct and indirect costs of the development and implementation of a heavy duty emissions inspection program pursuant to section 19-0320 of the environmental conservation law, including planning, development of regulations and guidance, state implementation plan development, personnel costs attributable to the program, and enforcement costs. Such fee is authorized to be collected, commencing June first, nineteen hundred ninety-nine, at the time of registration of any vehicle required to be registered in New York having a gross vehicle weight of greater than eight thousand five hundred pounds and powered by diesel fuels except for those vehicles defined in section one hundred one of this chapter, subparagraph two of paragraph E and subparagraph (a) of paragraph F of this subdivision, and vehicles specified in subdivision thirteen of this section, and farm type tractors and all terrain type vehicles used exclusively for agricultural or mowing purposes, or for snow plowing, other than for hire, farm equipment, including self-propelled machines used exclusively in growing, harvesting or handling farm produce, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site, and timber harvesting equipment such as harvesters, wood chippers, forwarders, log skidders, and other processing equipment used exclusively off highway for timber harvesting and logging purposes. Notwithstanding any provision of law to the contrary, any fee amount collected pursuant to this paragraph shall be deposited in the clean air fund, to the credit of the mobile source account, in accordance with the provisions of section ninety-seven-oo of the state finance law. Notwithstanding any inconsistent provision of this section, the difference collected between the increase of the percentage of the registration fees set forth in this schedule in effect on and after September first, two thousand nine and the percentage of the registration fees set forth in this schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.L. Notwithstanding the provisions of paragraph K of this subdivision, no fee shall be charged upon the registration of any vehicle exempt from the payment of registration fees under paragraph b of subdivision six of this section.8. Registration fees for trailers. a. The provisions of this chapter in relation to registration books and registration, certificates of registration, number plates, duplicates of certificates and number plates, times of registration and reregistration and the duration thereof, for motor vehicles, shall apply also to trailers. The following fees shall be paid upon the registration or reregistration of a trailer, other than a coach or house trailer or a semitrailer, in accordance with the provisions of this article: The annual fee of five dollars and thirty-nine cents for each five hundred pounds or fraction thereof of maximum gross weight but in no case shall the annual fee be less than fourteen dollars and thirty-eight cents. The following fees shall be paid upon the registration or reregistration of a coach or house trailer in accordance with the provisions of this article: The annual fee of one dollar and seventy-three cents for each one hundred pounds or major fraction thereof of unladen weight but in no case shall the annual fee be less than twenty-one dollars and fifty-seven cents. The following fees shall be paid

upon the registration or reregistration of a semitrailer in accordance with provisions of this article: The annual fee of twenty-eight dollars and seventy-five cents. However, upon the request of the applicant upon the registration or renewal of a registration of a nineteen hundred eighty-nine or later model year semitrailer, such semitrailer may be registered for a period of not less than five and one-half nor more than six and one-half years for a fee of eighty-six dollars and twenty-five cents. A semitrailer, used with any device for converting it to a trailer, other than one being drawn by a tractor semitrailer combination as part of a double tandem combination, shall be registered as a trailer.For the purposes of this paragraph, the unladen weight of a coach or house trailer shall include the weight of any equipment permanently attached to or installed in such trailer. Notwithstanding the foregoing provisions and pursuant to regulations and limitations to be established by the commissioner and upon payment of a fee of two dollars and thirty cents therefor a temporary permit to move a coach or house trailer on the public highways from one site to another shall be issued to the owner thereof upon application therefor. Such application shall be made in the manner prescribed by the commissioner.b. For the purposes of this subdivision, as applied to a trailer other than a coach or house trailer or a semitrailer, maximum gross weight shall mean the weight of the trailer plus the weight of the maximum load to be carried by such trailer during the registration period. The weight of the trailer and such maximum load as stated on the application for registration shall be subject to audit and approval by the commissioner of motor vehicles.c. No person shall operate or move, or cause or knowingly permit to be operated or moved on any public highway of this state any combination of a tractor registered in this state and a semitrailer having a combined weight of vehicles and load in excess of the maximum gross weight of the tractor as stated on the application for registration of such vehicle. Such maximum gross weight cannot be more than the weight permitted under section three hundred eighty-five of this chapter or the weight permitted by the rules or regulations of the department of transportation of any city not wholly included within one county or under permits that may be issued pursuant to such section, rules or regulations whichever is the least restrictive.d. No person shall operate or move, or cause or knowingly permit to be operated or moved on any public highway of this state any trailer, other than a coach or house trailer or a semitrailer, registered in this state, having a combined weight of vehicle and load in excess of the maximum gross weight of such trailer as stated on the application for registration of such vehicle.9. Correction of registration. a. Where a motor vehicle registered under this article requires registration in another class because of a change in its form or use, an application for the correct registration may be granted upon the surrendering of the certificate of registration and number plates and the payment of a fee of one dollar, together with the excess, if any, of the fee for the correct registration over the fee for the registration in the class in which the vehicle is registered, both fees to be computed as of the date of granting the correct registration; provided, however, that if the vehicle has already been registered in more than one class during the year, the class requiring the highest fee shall be taken as the basis in determining the additional fee, if any, to be paid instead of the class in which the vehicle is registered at the time of the application.b. Where a vehicle registered under the provisions of subdivisions seven or eight of this section on the basis of maximum gross weight requires a corrected registration because of a load in excess of the maximum load as certified in the application for registration, or the registrant desires to register the vehicle at a lower gross maximum weight, an application shall be made for correct registration. Upon the surrendering of the certificate of registration and the payment of a fee of two dollars together with the balance of the annual fee for the correct registration over the fee as previously registered, such corrected registration may be issued. No return of any part of the fee paid for the previous registration shall be made in case of a reduction of maximum gross weight certified in the application for a corrected registration.9-a. Whenever a registration fee prescribed in subdivision six, seven or eight of this section shall amount to a fee other than a whole dollar amount, the fee required to be paid shall be rounded to the nearest twenty-five cents.10. Fees in lieu of taxes. The registration fees imposed by this article upon motor vehicles, other than those of manufacturers and dealers, shall be in lieu of all taxes, general or local, to which motor vehicles may be subject.11. A motor vehicle, which does not fall within the definition of the term bus, used to transport pupils, or pupils and teachers, to and from school and not otherwise used to transport passengers for hire shall not be registered as a taxicab or livery because of such use.12. Registration fee for "forty and eight trains." Notwithstanding any of the provisions of this chapter, the annual registration fee for a motor vehicle, commonly described as a boxcar and/or locomotive, duck and tank and used only by La Societe des 40 Hommes et 8 Chevaux for civic demonstrations, convention purposes or social welfare work, shall be five dollars.12-a. Permanent fleet registration. The commissioner may provide for a system of extended registration for vehicles a registrant wishes to register as a fleet. The fee required for the registration of each vehicle registered in such system shall be the same fee which would be required if the vehicle was otherwise registered under this section plus an additional two dollar administrative fee. The commissioner may establish the minimum number of vehicles required to be registered as a fleet, the types of vehicles which may be registered in a fleet, the term of validity of any such registration, qualifications for fleet registrants and, notwithstanding any other provisions of this article to the contrary, procedures for registration in a fleet, times and methods of payment of required fees and the display and/or surrender of number plates and tags or other evidence of fleet registration. The commissioner may prescribe rules and regulations to carry out the provisions of this subdivision.13. Registration of motor vehicles, trailers and semitrailers operated upon public highways connecting portions of a farm or farms, municipal sanitary landfills, licensed motor vehicle repair shops and the point of sale of the vehicle. Motor vehicles, other than motor vehicles manufactured and equipped primarily for the transportation of passengers, trailers and semitrailers, to be operated by any person, upon a public highway for the purpose of traveling by the most direct route, but in no event further than twenty-five miles one-way from a point on the farm as designated by the vehicle owner and which designated point is set forth in an attachment to the vehicle registration, (a) between fields, buildings, and facilities managed or operated as part of a single farm enterprise in connection with the production, harvesting, processing or marketing on that farm of crops, livestock, or livestock products produced on that farm; or (b) for the purpose of transporting materials from a farm to the nearest available municipal

sanitary landfill; or (c) for the purpose of transporting the motor vehicle, trailer or semitrailer to a motor vehicle repair shop licensed pursuant to this chapter for the repair or adjustment of equipment provided that, in addition to the route restrictions set forth in this subdivision, no such transport shall be authorized (i) if such vehicle has an out-of-service defect relating to load securement, brake systems, steering components and/or coupling devices, or after it has been placed out-of-service; (ii) on any limited access highway; and (iii) during the period of one hour before sunset to one hour after sunrise; or (d) for the purpose of transporting the motor vehicle, trailer or semitrailer, at the time of first receipt, from its point of sale to a farm, may be registered as provided in this subdivision. Every owner of such vehicles may cause to be filed by mail or otherwise, with the commissioner or with any agent of the commissioner, an application for registration of such vehicle, addressed to the commissioner, and on a blank to be furnished by the commissioner for that purpose, containing the information required by subdivision one of this section and such other information as the commissioner shall require. The commissioner or agent shall make such investigation, as he or she shall determine necessary, and if satisfied that the vehicle is to be operated exclusively as provided in this subdivision shall, upon the payment of a fee of one dollar, assign to such vehicle a distinctive number and issue and deliver to the applicant a set of number plates and a certificate of registration in such form as the commissioner shall prescribe, indicating the extent to which the vehicle registered may be operated on the public highways and such vehicle may be operated only as so indicated. For the purposes of this subdivision, the terms "farm" and "crops, livestock or livestock products," shall have the same meaning as "land used in agricultural production" and "crops, livestock and livestock products," respectively, as defined in section three hundred one of the agriculture and markets law, except that farmers with an average gross sales value of at least one thousand dollars per year of crops, livestock, and livestock products shall be eligible to register vehicles pursuant to this subdivision.15. The commissioner is authorized to make necessary rules and regulations as may be appropriate for the proper enforcement of the provisions of this section with respect to the registration of auto trucks, agriculture trucks, light delivery cars, tractors and trailers.16. a. Notwithstanding any other provision of this chapter or other law, or rule or regulation, a specialized vehicle shall be classified as a passenger vehicle and shall be registered accordingly. Such vehicle may use any highway which is restricted to passenger use only.b. For the purpose of this subdivision, "a specialized vehicle" shall mean any vehicle having a gross weight not exceeding sixty-nine hundred ninety-nine pounds, regardless of seating or window arrangements, which is equipped or modified with a powered lift or ramp or containing any other physical device or alteration for the purpose of accommodating a wheelchair or permitting access of a wheelchair-bound person, and which is intended to be used for the transportation of a disabled person or persons confined to a wheelchair.17. The provisions of this chapter with respect to the issuance and display of number plates shall not apply to trucks that are used on the highways only in crossing from one point in the owners property to another point in the property of such owner where the route traveled by such trucks does not adjoin the lands of another owner; provided, however, that such vehicles shall comply in all respects with the provisions of article six of this chapter.17-a. The commissioner shall permit the use of distinctive license plates reserved for use by emergency medical technicians on a van or pickup truck owned and operated by such person where such vehicle is not used for commercial purposes.18. A violation of subdivision one of this section shall be punishable by a fine of not less than seventy-five nor more than three hundred dollars, or by imprisonment for not more than fifteen days, or by both such fine and imprisonment except, if the violation consists of failure to renew a registration which was valid within sixty days, the fine shall be not less than forty dollars. A violation of subdivision seven or eight of this section shall be punishable by a fine of not less than one hundred fifty nor more than three hundred seventy-five dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment, for the first offense, except where the violation was committed with a vehicle having a maximum gross weight of less than eighteen thousand pounds the violation should be punished by a fine of not less than forty nor more than three hundred seventy-five dollars; by a fine of not less than three hundred seventy-five dollars nor more than seven hundred fifty dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment, for the second or subsequent offense; provided that a sentence or execution thereof for any violation under this subdivision may not be suspended. For any violation of said subdivision seven or eight of this section, the registration of the vehicle may be suspended for a period of not less than ten days nor more than six months whether at the time of the violation the vehicle was in charge of the owner or his agent. The provisions of section five hundred ten of this chapter shall apply to such suspension except as otherwise provided herein.19. No owner of a motor vehicle shall cause to be presented, by mail or otherwise, to the office or a branch office of the commissioner, or to any agent of the commissioner, an application for registration of a vehicle which violates any weight limitations contained in the provisions of section three hundred eighty-five of this chapter or the weight permitted by the rules or regulations of any city not wholly included within one county or under permits that may be issued pursuant to such section, rules or regulations whichever is the least restrictive.19-a. If a vehicle or combination of vehicles is operated in violation of this section, an appearance ticket or summons may be issued to the registrant of the vehicle, or if a combination of vehicles, to the registrant of the hauling vehicle rather than the operator. In the event the vehicle is operated by a person other than the registrant, any appearance ticket or summons issued to the registrant shall be served upon the operator, who shall be deemed the agent of the registrant for the purpose of receiving such appearance ticket or summons. Such operator-agent shall transmit such ticket or summons to the registrant of the vehicle or the hauling vehicle. If the registrant does not appear on the return date, a notice establishing a new return date and either containing all pertinent information relating to the charge which is contained on the summons or appearance ticket or accompanied by a copy of the information or complaint shall also be mailed by certified or registered mail by or on behalf of the court or administrative tribunal before whom the appearance ticket or summons is returnable to the registrant at the address given on the registration certificate for the vehicle, or if no registration certificate is produced at the time the appearance ticket or summons is issued, to the address of the registrant on file with the department or given to the person issuing the appearance ticket or summons. Whenever proceedings in a court or administrative tribunal of this state

result in a conviction for a violation of this section, and the court or administrative tribunal has made the mailing specified herein, the court or administrative tribunal shall levy a mandatory surcharge, in addition to any sentence or other surcharge required or permitted by law, in the amount of thirty dollars. This mandatory surcharge shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the mandatory surcharge by a town or village court, the court shall pay such money to the state comptroller who shall, pursuant to subdivision two of section ninety-nine-a of the state finance law, credit such money to the account of the town or village which sent the mandatory surcharge. If such collecting authority is any other court of the unified system or administrative tribunal it shall, within such period, pay such money to the state comptroller who shall deposit such money into the state treasury. The provisions of this subdivision shall not apply to owner-operators of any motor vehicle or to any motor vehicle or trailer which is registered in the name of a person whose principal business is the lease or rental of motor vehicles or trailers unless the motor vehicle or trailer is being operated by an employee of the registrant or for a community of interest other than the lease or rental agreement between the parties to the lease or rental agreement.21. The commissioner shall deposit daily the percentages listed below of all fees collected or received by the commissioner after March thirty-first, nineteen hundred ninety-three pursuant to certain registration fees imposed by (a) paragraph a of subdivision six, (b) all schedules of subdivision seven and (c) paragraph a of subdivision eight of this section in a responsible bank, banking house or trust company, which shall pay the highest rate of interest to the state for such deposit to the credit of the comptroller on account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law. The commissioner shall so deposit thirteen percent of all such registration fees so collected or so received after March thirty-first, nineteen hundred ninety-three, seventeen percent of all such registration fees so collected or so received after December thirty-first, nineteen hundred ninety-four, twenty percent of all such registration fees so collected or so received after December thirty-first, nineteen hundred ninety-five, twenty-eight percent of all such registration fees so collected or so received after March thirty-first, nineteen hundred ninety-eight, thirty-four percent of all such registration fees so collected or so received after June thirtieth, nineteen hundred ninety-eight, and forty-five and five-tenths percent of all such registration fees so collected or so received after January thirty-first, nineteen hundred ninety-nine. Every bank, banking house or trust company that accepts such deposits shall execute and file in the office of the department of audit and control an undertaking to the state, in the sum, and with such sureties, as are required and approved by the comptroller for the safe keeping and prompt payment on legal demand therefor of all such moneys held by or on deposit in such bank, banking house, or trust company, with interest thereon on daily balances at such rate as the comptroller may fix. Every such undertaking shall have endorsed thereon or annexed thereto the approval of the attorney general as to its form.The commissioner shall deposit daily the percentages listed below of all fees collected or received by the commissioner after March thirty-first, two thousand one pursuant to certain registration fees imposed by (a) paragraph a of subdivision six, (b) all schedules of subdivision seven, and (c) paragraph a of subdivision eight of this section in a responsible bank, banking house or trust company, which shall pay the highest rate of interest to the state for such deposit to the credit of the comptroller on account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation trust fund established pursuant to section eighty-nine-c of the state finance law and to distribute such deposit pursuant to the provisions of subdivision (d) of section three hundred one-j of the tax law. In addition to the percentages specified in the opening paragraph of this section, the commissioner shall so deposit twenty-three and five-tenths percent of all such registration fees so collected or so received after March thirty-first, two thousand one and fifty-four and five-tenths percent of all such registration fees so collected or so received after March thirty-first, two thousand two. Every bank, banking house or trust company that accepts such deposits shall execute and file in the office of the department of audit and control an undertaking to the state, in the sum, and with such sureties, as are required and approved by the comptroller for the safe keeping and prompt payment on legal demand therefor of all such moneys held by or in deposit in such bank, banking house or trust company, with interest thereon on daily balances at such rate as the comptroller may fix. Every such undertaking shall have endorsed thereon or annexed thereto the approval of the attorney general as to its form.Of the revenues so deposited, the comptroller shall retain in his hands such amount as the commissioner may determine to be necessary for refunds or reimbursements of the fees collected or received pursuant to (a) paragraph a of subdivision six, (b) all schedules of subdivision seven and (c) paragraph a of subdivision eight of this section to which registrants shall be entitled under the provisions of this article, out of which amount the commissioner shall pay any refunds or reimbursements of the fees collected or received pursuant to (a) paragraph a of subdivision six, (b) all schedules of subdivision seven and (c) paragraph a of subdivision eight of this section to which registrants shall be entitled under such provisions. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the last day of each month, deposit the balance of the revenue so deposited during such month into the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation trust fund established pursuant to section eighty-nine-c of the state finance law.Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in paragraph a of subdivision six of this section in effect on and after September first, two thousand nine and the registration fees set forth in such paragraph in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule A of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule B of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated

highway and bridge trust fund.Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule C of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule E of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule F of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule G of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule I of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in subdivision eight of this section in effect on and after September first, two thousand nine and the registration fees set forth in such subdivision in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.Notwithstanding any inconsistent provision of this section, the registration fees collected pursuant to subdivisions two, six and eight of section four hundred twenty of this title shall be deposited pursuant to the provisions of this subdivision; provided, however, the difference collected between the registration fees set forth in such subdivisions two, six and eight in effect on and after September first, two thousand nine and the registration fees set forth in such subdivisions in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.Notwithstanding any inconsistent provision of this section, the registration fees collected pursuant to paragraph (b) of subdivision three of section twenty-two hundred sixty-one of this chapter shall be deposited pursuant to the provisions of this subdivision; provided, however, the difference collected between the registration fees set forth in paragraph (b) of subdivision three of section twenty-two hundred sixty-one of this chapter in effect on and after September first, two thousand nine and the registration fees set forth in such paragraph in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.Notwithstanding any inconsistent provision of this section, eleven dollars and fifty cents of the registration fees collected pursuant to paragraph (a) of subdivision five of section four hundred ten of this title shall be deposited pursuant to this subdivision. Three dollars and fifty cents of such fees collected in relation to applications for new registrations and renewals of existing registrations expiring on and after September first, two thousand nine shall be deposited to the credit of the dedicated highway and bridge trust fund. Two dollars and fifty cents of such registration fees shall be deposited into the motorcycle safety fund established pursuant to section ninety-two-g of the state finance law.22. The commissioner shall not register any altered motor vehicle that fails to comply, as demonstrated to the satisfaction of the commissioner, with the certification requirements established by Part 567 of title 49 of the code of federal regulations for altered vehicles.23. The commissioner shall revoke the registration of any altered motor vehicle which fails to comply with the certification requirements of Part 567 of title 49 of the code of federal regulations, as determined by the commissioner, and refund to or credit the account of any person who paid a registration fee for an altered motor vehicle, the pro rata unused portion of such registration fee. (ii) For purposes of this paragraph, the term "motor vehicle operated for hire" shall mean and include a taxicab, livery, coach, limousine or tow truck. b. If at the time of application by any person for a registration or renewal thereof there is a certification from a court or an agency or administrative tribunal with regulatory or adjudicatory authority over van services or other such common carriers of passengers in any city with a population of over one million pursuant to subdivision five of section eighty of the transportation law that there remains unpaid a penalty imposed by such agency or administrative tribunal or court following entry of a decision or order, including a decision or order in a proceeding in which there has been a failure to appear or pay, in response to a notice of violation, summons or other process issued charging that the vehicle was operated as a van service or other such common carrier of passengers without the operating authority required by such local law or ordinance, the commissioner or the commissioner's agent shall impose a vehicle identification number block and deny the registration or renewal application until the applicant provides proof from the court or agency or other administrative tribunal wherein the charges were adjudicated that such penalty has been paid in full or the violation has been corrected to its satisfaction. Where an application is denied pursuant to this paragraph, the commissioner may, in the commissioner's discretion, deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where the commissioner has determined that such registrant's intent has been to evade the purposes of this paragraph and where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this paragraph. Such vehicle identification number block and denial shall only remain in effect until the penalty has been paid in full or the violation has been corrected to the satisfaction of the court, city agency or administrative tribunal. c. The commissioner may promulgate such regulations as are necessary to effectuate the provisions of this subdivision, including provisions for the recovery of the administrative costs of the program incurred for each municipality. The commissioner may, in his discretion, refuse to process a certification received from a court or administrative tribunal in any municipality which has failed to comply with the provisions of section five hundred fourteen of this chapter or which does not have an effective program for enforcing suspension and revocation orders issued by the department. 6. Registration fees. a. The following fees shall be paid to the

commissioner, or agent, upon the registration or reregistration of a motor vehicle, including a suburban, in accordance with the provisions of this article: If such motor vehicle, fully equipped, weighs thirty-five hundred pounds or less, eighty-one cents for each one hundred pounds or major fraction thereof; if such motor vehicle, fully equipped, weighs more than thirty-five hundred pounds, eighty-one cents for each one hundred pounds up to thirty-five hundred pounds, and one dollar and twenty-one cents for each hundred pounds, or major fraction thereof, in excess of thirty-five hundred pounds; provided, however, that the total fees for the registration or reregistration of any passenger motor vehicle propelled by electricity shall be sixteen dollars and eighteen cents, of a six, eight, or twelve cylinder motor vehicle not less than sixteen dollars and eighteen cents, and of any other motor vehicle not less than twelve dollars and ninety-five cents; and provided further that for motor vehicles described in subdivision seven of this section, the fee for such registration shall be as therein prescribed. Provided further, however, that the maximum registration fee under this paragraph shall not exceed seventy dollars and eight cents per registration year. For the purposes of this section a "suburban" shall be a motor vehicle with a convertible or interchangeable body or with removable seats, usable for both passenger and delivery purposes, and including motor vehicles, commonly known as station or depot wagons. The manufacturer's weight of motor vehicle shall be accepted as the weight for the purpose of registration under this paragraph. b. The provisions of this article with respect to the payment of registration fees shall not apply to ambulances used exclusively to carry sick or injured persons, other than those used in the business of carrying or transporting sick or injured persons for hire or profit, or to motor vehicles which are especially constructed and equipped to carry lost, strayed, sick, maimed or disabled animals, and owned and operated for that purpose by a duly incorporated society, incorporated for the purpose of preventing cruelty to animals, or to motor vehicles owned or controlled by the state, a city, county, village, town, school district, or fire district or any of the departments thereof or county extension service association or public improvement district formed under and pursuant to provisions of the town law, or sanitary district formed pursuant to the provisions of chapter five hundred sixteen of the laws of nineteen hundred twenty-eight, as amended, or soil conservation districts formed pursuant to the provisions of the soil conservation districts law, or to motor vehicles owned by professional foreign consuls-general, consuls and vice consuls, who are nationals of the state appointing them and who are assigned to foreign consulates in the state of New York, provided that American professional consular officers of equal rank who are citizens of the United States and who exercise their official functions at American consulates in such foreign country, are granted reciprocal exemption, or to motor vehicles owned and operated by the American Red Cross, but in other respects shall be applicable. b-1. The provisions of this article with respect to the payment of registration fees shall not apply to (i) fire vehicles, as defined in section one hundred fifteen-a of this chapter, owned or controlled by a fire company, as defined in section three of the volunteer firefighters' benefit law, or to (ii) emergency ambulance service vehicles, as defined in section one hundred fifteen-c of this chapter, owned or controlled by an ambulance company, as defined in section three of the volunteer ambulance workers' benefit law. Upon the filing of an application in such form and detail as the commissioner may prescribe, the commissioner shall issue plates for such vehicles in the same manner as plates issued to vehicles owned or controlled by fire districts pursuant to paragraph b of this subdivision. c. The provisions of this subdivision with respect to the payment of registration fees shall not apply to a passenger or suburban type motor vehicle or the provisions of subdivision seven of this section with respect to the payment of registration fees shall additionally not apply to any auto truck or light delivery car having a maximum gross weight of less than sixty-five hundred pounds which is used exclusively for passengers and owned by any disabled veteran of the armed forces of the United States who has obtained such motor vehicle under and pursuant to the provisions of public law number six hundred sixty-three, seventy-ninth congress, and public law number seven hundred ninety-eight, eighty-first congress and public law number one hundred eighty-seven, eighty-second congress or any comparable motor vehicle which is bought or acquired to replace such original motor vehicle owned by such disabled veteran. d. (i) In addition to the other fees provided for in this section, the commissioner shall, upon the application for the registration of a motor vehicle or the renewal thereof, collect the tax authorized by subdivision (g) of section twelve hundred one of the tax law, if a city of one million or more, pursuant to subdivision (h) of section twelve hundred one of such law, enacts a local law providing for the collection of such tax by the commissioner and enters into the required agreement relating thereto. (ii) In addition to the other fees provided for in this section, the commissioner shall, upon the application for the registration of a motor vehicle or the renewal thereof, collect the tax of the type authorized under subdivision (e) of section twelve hundred one of the tax law, if a county, pursuant to subdivision (c), (e), (f) or (g) of section twelve hundred two of such law, enacts a local law, ordinance or resolution providing for the collection of such tax by the commissioner and enters into the required agreement relating thereto. e. A. In addition to any other fee for registration required to be paid pursuant to this article, the commissioner may require the payment of an annual service charge of six dollars and twenty-five cents upon the issuance of a radio operator number plate which he, in his discretion, is hereby authorized to do as provided by this paragraph. Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in this paragraph in effect on and after September first, two thousand nine and the registration fees set forth in this paragraph in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. B. A number plate issued pursuant to this paragraph shall be issued in the same manner as other number plates are issued pursuant to this article to persons making application therefor. Such plate shall contain not more than eight letters, numerals or any combination thereof which are the permanent radio call letters assigned to an amateur radio operator by the federal communications commission. The provisions of this paragraph shall not apply to any number plate reserved or issued pursuant to any other provision of this article. g. In addition to the other fees provided for in this section, the commissioner shall, upon the application for the registration of a motor vehicle or the renewal thereof, collect any tax imposed pursuant to the authority of chapter one thousand thirty-two of the laws of nineteen hundred sixty, if the city imposing such tax enacts a local law providing for the collection of such tax by the commissioner and enters into the required agreement relating thereto. 7. Registration fees for

auto trucks, tractors, buses, taxicabs, livery and certain other motor vehicles. The registration fees to be paid upon the registration or reregistration, in accordance with the provisions of this article, of buses, of motor vehicles constructed or specially equipped for the transportation of goods, wares and merchandise, commonly known as auto trucks or light delivery cars, of taxicabs, livery and of certain other motor vehicles specified herein are hereby established as follows: A. Schedule for buses. For each such vehicle having a seating capacity for passengers of five passengers or less, and meeting the requirements of subdivisions twenty and twenty-one, notwithstanding the capacity limitation of subdivision twenty-one, of section three hundred seventy-five of this chapter, the annual fee of twenty-one dollars and fifty-six cents. For each such vehicle having a seating capacity for passengers of not less than six passengers, nor more than seven passengers, and meeting the requirements of subdivisions twenty and twenty-one, notwithstanding the capacity limitation of subdivision twenty-one, of section three hundred seventy-five of this chapter, the annual fee of thirty-five dollars and twenty-three cents. For each such vehicle having a seating capacity for passengers of not less than eight passengers, nor more than ten passengers, and meeting the requirements of subdivisions twenty and twenty-one, notwithstanding the capacity limitation of subdivision twenty-one, of section three hundred seventy-five of this chapter, the annual fee of forty-three dollars and eighty-five cents. For each such vehicle having a seating capacity for passengers of not less than eleven passengers, nor more than fourteen passengers, and meeting the requirements of subdivisions twenty and twenty-one, notwithstanding the capacity limitation of subdivision twenty-one, of section three hundred seventy-five of this chapter, the annual fee of sixty-one dollars and eighty-one cents. For each such vehicle having a seating capacity for passengers of not less than fifteen passengers, nor more than twenty passengers, the annual fee of seventy-four dollars and seventy-five cents. For each such vehicle having a seating capacity for passengers of not less than twenty-one passengers, nor more than twenty-two passengers, the annual fee of seventy-nine dollars and six cents. For each such vehicle having a seating capacity for passengers of not less than twenty-three passengers, nor more than twenty-six passengers, the annual fee of eighty-eight dollars and forty-one cents. For each such vehicle having a seating capacity for passengers of not less than twenty-seven passengers, nor more than thirty passengers, the annual fee of ninety-seven dollars and four cents. For each such vehicle having a seating capacity for passengers in excess of thirty passengers, the fee of ninety-seven dollars and four cents, and the additional fee of two dollars and eighty-eight cents for each passenger (measured by seating capacity) in excess of thirty passengers. For the purposes of this schedule, the term "seating capacity for passengers" shall exclude the driver. The words "seating capacity for passengers", as used in this section, shall mean seating capacity for adults. The commissioner shall have authority to determine, for registration purposes, the manner of computing the seating capacity of any vehicle. Provided, however, that in the case of a bus operated entirely by electricity not generated by an engine contained therein the fees to be paid upon registration or reregistration thereof shall be fifty per centum in excess of the foregoing rates. The foregoing schedules shall not apply to omnibuses operated pursuant to a franchise or franchises over streets designated in said franchise or franchises wholly within a city or cities, provided the holder of the franchise or franchises pays for the same a percentage of its gross earnings or gross receipts and for any such omnibus, without regard to the seating capacity; nor shall the foregoing schedules apply to omnibuses operated pursuant to a certificate of public convenience and necessity granted under the transportation law and based upon the consent of the local authorities of any city, town or village, other than in the counties of Nassau, Suffolk and Westchester, as required by the transportation corporations law or, in the county of Nassau, based upon the consent of the board of supervisors of such county or of any city or village therein, or of both such county and any city or village therein or, in the counties of Suffolk and Westchester, based upon the consent of the county board of legislators of such counties, as required by chapter eight hundred seventy-nine of the laws of nineteen hundred thirty-six, provided the holder of such local consent pays for the same an annual fee to any such county, city, town or village, and for any such omnibus, without regard to the seating capacity, the annual fee shall be twelve dollars and fifty cents. The foregoing schedules shall not apply to trackless trolleys, but if such omnibus shall not be operated in local transit service pursuant to a certificate of convenience and necessity issued by the commissioner of transportation the foregoing schedule of fees shall apply. B. Schedule for tractors, auto trucks and light delivery cars. 1. For each auto truck or light delivery car, the annual fee of three dollars and sixty cents for each five hundred pounds maximum gross weight or fraction thereof, except that the annual fee for such motor vehicle operated entirely by electricity not generated by an engine contained therein shall be five dollars and thirty-nine cents for each five hundred pounds maximum gross weight or fraction thereof, but in computing the weight of such an electric vehicle the weight of electric batteries shall be excluded and except also that the annual fee for each auto truck having a maximum gross weight in excess of eighteen thousand pounds used exclusively in the transportation of household goods (as defined by the commissioner of transportation of this state or the interstate commerce commission) by a carrier under authority of the commissioner of transportation of this state or of the interstate commerce commission shall be nine dollars and seventy cents for each five hundred pounds maximum gross weight or fraction thereof. Provided however, that no motor vehicle registered pursuant to this paragraph may be charged a registration fee in excess of that charged for a motor vehicle registered with a maximum gross weight of eighty thousand pounds. 2. For each tractor of any weight the annual fee of one dollar and fifty-one cents for each one hundred pounds, or major fraction thereof, of maximum gross weight, except that the annual fee for each tractor of any weight used exclusively in the transportation of household goods (as defined by the commissioner of transportation of this state or the interstate commerce commission) by a carrier under authority of the commissioner of transportation of this state or of the interstate commerce commission shall be two dollars and sixteen cents for each one hundred pounds, or major fraction thereof, of maximum gross weight. Provided however, that no motor vehicle registered pursuant to this paragraph may be charged a registration fee in excess of that charged for a motor vehicle registered with a maximum gross weight of eighty thousand pounds. 3. For the purpose of this schedule, maximum gross weight of an auto truck or light delivery car shall mean the weight of the motor vehicle plus the weight of the maximum load to be carried by such motor vehicle during the registration period. For the purposes of this

schedule, maximum gross weight of a tractor shall be the weight of the tractor, plus the unladen weight of any semitrailer drawn thereby, plus the weight of the maximum load to be carried on the tractor and on any semitrailer drawn by such tractor during the registration period, but shall not include the weight or load of a semitrailer, used with a device for converting it to a trailer, when being drawn by a tractor semitrailer combination on the New York state thruway as part of a double tandem combination. The weight of the motor vehicle and such maximum load as stated on the application for registration shall be subject to audit and approval by the commissioner of motor vehicles. C. Schedule for taxicabs and livery. 1. For each taxicab or livery having a seating capacity for passengers, excluding the driver, of five persons or less, the annual fee of thirty-one dollars and sixty-three cents. For each such vehicle having a seating capacity for passengers, excluding the driver, of not less than six persons, nor more than seven persons, the annual fee of fifty-one dollars and seventy-five cents. For each such vehicle having a seating capacity for passengers, excluding the driver, of at least eight persons, but not more than ten persons, the annual fee of sixty-four dollars and sixty-nine cents. For each such vehicle having a seating capacity for passengers, excluding the driver, of at least eleven persons, but not more than fourteen persons, the annual fee of ninety-two dollars. Any registration issued pursuant to this schedule shall be revoked upon receipt by the commissioner of a notice of revocation of any license or permit necessary for the issuance of such registration from the local authority which issued such license or permit, or upon receipt of evidence by the commissioner that the registrant has been convicted of a violation of any local law requiring the issuance of a license or permit in order to engage in for-hire operation. Provided, however, that upon surrender to the commissioner of any such revoked registration and number plates and upon payment of the proper registration fee, a registration may be issued for the vehicle for which such registration has been revoked pursuant to the provisions of subdivision six of this section. 2. For purposes of this schedule, the term "livery" shall also include a motor vehicle with a driver having a seating capacity of at least nine but not more than fourteen passengers used to carry passengers for hire in a commuter van service under an authorization issued by a municipality. D. Schedule for hearses, and certain ambulances. 1. For each hearse, the annual fee of one dollar and twenty-four cents for each one hundred pounds, or major fraction thereof, of unladen weight. 2. For each ambulance used in the business of carrying or transporting sick or injured persons for hire or profit, the annual fee of one dollar and twenty-four cents for each one hundred pounds or major fraction thereof, of unladen weight. E. Schedule for agricultural trucks and agricultural trailers. 1. For each agricultural truck and agricultural trailer, the annual fee of two dollars and fifty-one cents for each five hundred pounds maximum gross weight, or fraction thereof. 2. For the purposes of this schedule an "agricultural truck" shall be a truck and an agricultural trailer shall be a trailer, other than a coach or house trailer or semitrailer, owned by a person engaged in production by means of (a) the planting, cultivation and harvesting of agricultural, vegetable and food products of the soil, including horticultural specialties such as nursery stock, ornamental shrubs, ornamental trees and flowers, (b) the raising, feeding and care of live stock, bees and poultry or (c) dairy farming. Such agricultural truck and agricultural trailer shall be used only for the transportation of his own agricultural or dairy commodities or supplies or for personal passenger use, or use in conjunction with lumbering operations connected with but only incidental to the operation of a farm. 3. A motor vehicle registered as an "agricultural truck" under this schedule and a trailer registered as an "agricultural trailer" under this schedule shall be operated on the public highways only for the purposes set forth in paragraph two hereof. 4. An agricultural truck and an agricultural trailer may be registered or reregistered for periods of less than one calendar year upon application forms furnished by the commissioner for such purpose, and the annual fees as provided in this schedule shall be reduced proportionately on a monthly computation basis. F. Schedule for certain motor vehicles. (a) For each road roller, tractor crane, truck crane, power shovel, road building machine, snow plow, road sweeper, sand spreader, well driller, well servicing rig, feed processing machine, mobile car crusher (whether self-propelled or a combination used exclusively as one unit), earth mover, which shall mean a motor-driven vehicle in excess of eight feet in width equipped with pneumatic tires designed and constructed for moving or transporting earth and rock in connection with excavation and grading work, and truck with small wheels used in a factory, warehouse or railroad station, for each spreader or sprayer (generally meaning an agricultural vehicle used to spread or spray agricultural chemicals, agricultural lime and/or agricultural fertilizers) and fire vehicles, an annual fee of fourteen dollars and thirty-eight cents; provided, however, that the provisions of paragraph b of subdivision six of this section relating to the exemption of certain motor vehicles from the payment of registration fees thereon shall apply to the motor vehicles specified in this schedule. A tractor-trailer combination designed and used as a unit exclusively for the same purpose as a vehicle specifically included in this schedule shall be considered as a single vehicle and registered as a motor vehicle under this schedule rather than as a tractor and trailer separately. (b) As used in this schedule, the term "snow plow" shall not include farm type tractors used exclusively for agricultural purposes, or for snow plowing other than for hire, as defined in section one hundred twenty-five of this chapter, when used for plowing or removing snow, provided such plowing or snow removal is not done for hire. No person shall operate or move, or cause or knowingly permit to be operated or moved on any public highway in this state any auto truck, agricultural truck or light delivery car, registered in this state, having a combined weight of vehicle and load in excess of the maximum gross weight for such vehicle as stated on the application for registration. Such maximum gross weight cannot be more than the weight permitted under section three hundred eighty-five of this chapter or the weight permitted by the rules or regulations of the department of transportation of any city not wholly included within one county or under permits that may be issued pursuant to such section, rules or regulations whichever is the least restrictive. G. Schedule for historical motor vehicles. For each motor vehicle which is owned and operated as an exhibition piece or collectors item, and is used for participation in club activities, exhibit, tours, parades, occasional transportation and similar uses, but not used for general daily transportation, an annual fee of twenty-eight dollars and seventy-five cents. For purposes of this paragraph, a historical motor vehicle shall mean any vehicle manufactured more than twenty-five years prior to the current calendar year, and any other model, year and type vehicle which has unique characteristics and which is determined by the commissioner to be of historical, classic or

exhibition value. Registration plates for such vehicles shall be of a type and design approved by the commissioner, but shall be of a distinctive nature. Except that, with the approval of the commissioner, an owner of any such vehicle may utilize registration plates issued in the year corresponding to the model year date in which the vehicle was manufactured, if the registration plate is legible, durable, and serviceable, of this state, and accurate in color, as determined by the department. Nothing in this paragraph shall be construed to prohibit the use of previously issued registration plates that have been restored, without deviation from their original alphanumeric or pictorial content, to such condition as otherwise satisfies all applicable requirements. Such plates shall be used only for the operation of the motor vehicle listed on the registration application and on other motor vehicles which would qualify for registration under this schedule owned by persons other than the registrant for the purpose of test driving by the registrant or his or her agent in anticipation of possible purchase. No such registration will be issued unless evidence of financial security, in a form prescribed by the commissioner, is submitted which provides coverage for the motor vehicle listed on the registration application and for non-owned motor vehicles being operated with such plates. H. Schedule for tow trucks. For each tow truck registered pursuant to section four hundred one-b of this article, the annual fee of two dollars and eighty-eight cents for each five hundred pounds maximum gross weight or fraction thereof. For the purposes of this schedule, the maximum gross weight of a tow truck shall include the weight of any vehicle transported wholly upon the tow truck, but shall not include the weight of any vehicle transported partly upon the tow truck and partly on its own wheels or a dolly. I. Schedule for leased and rental vehicles. 1. The annual fee for each leased vehicle and for each rental vehicle, other than a motorcycle or a rental vehicle of the passenger vehicle or suburban type, shall be the annual fee which would be required to be paid for such vehicle if it were not a leased or rental vehicle. 2. For each rental vehicle of the passenger or suburban type having a seating capacity for passengers, including the driver, of five persons or less, the annual fee of fifty-three dollars and nineteen cents. For each such vehicle having a seating capacity for passengers, including the driver, of not less than six persons, nor more than seven persons, the annual fee of seventy-four dollars and seventy-five cents. For each such vehicle having a seating capacity for passengers, including the driver, of at least eight persons, but not more than ten persons, the annual fee of eighty-six dollars and twenty-five cents. For each such vehicle having a seating capacity for passengers, including the driver, of at least eleven persons, but not more than fifteen persons, the annual fee of one hundred thirteen dollars and fifty-six cents. J. Schedule for vanpool vehicles. The annual fee for each vanpool vehicle shall be the annual fee which would be required to be paid for such vehicle if it were not used for the purpose of vanpooling. Registration plates for such vehicles shall be of a type and design approved by the commissioner, and shall include the word VANPOOL on the face of the registration plate. Such plate shall be issued at the request of the registrant upon proof, satisfactory to the commissioner, that the vehicle is to be used for the purpose of vanpooling. K. Schedule for heavy duty vehicles: Notwithstanding any inconsistent provision of this section, the registration fee for any vehicle described in this paragraph shall be increased by up to three and twenty-five one hundredths percent of such registration fee in effect on September first, two thousand nine, to fund the direct and indirect costs of the development and implementation of a heavy duty emissions inspection program pursuant to section 19-0320 of the environmental conservation law, including planning, development of regulations and guidance, state implementation plan development, personnel costs attributable to the program, and enforcement costs. Such fee is authorized to be collected, commencing June first, nineteen hundred ninety-nine, at the time of registration of any vehicle required to be registered in New York having a gross vehicle weight of greater than eight thousand five hundred pounds and powered by diesel fuels except for those vehicles defined in section one hundred one of this chapter, subparagraph two of paragraph E and subparagraph (a) of paragraph F of this subdivision, and vehicles specified in subdivision thirteen of this section, and farm type tractors and all terrain type vehicles used exclusively for agricultural or mowing purposes, or for snow plowing, other than for hire, farm equipment, including self-propelled machines used exclusively in growing, harvesting or handling farm produce, and self-propelled caterpillar or crawler-type equipment while being operated on the contract site, and timber harvesting equipment such as harvesters, wood chippers, forwarders, log skidders, and other processing equipment used exclusively off highway for timber harvesting and logging purposes. Notwithstanding any provision of law to the contrary, any fee amount collected pursuant to this paragraph shall be deposited in the clean air fund, to the credit of the mobile source account, in accordance with the provisions of section ninety-seven-oo of the state finance law. Notwithstanding any inconsistent provision of this section, the difference collected between the increase of the percentage of the registration fees set forth in this schedule in effect on and after September first, two thousand nine and the percentage of the registration fees set forth in this schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. L. Notwithstanding the provisions of paragraph K of this subdivision, no fee shall be charged upon the registration of any vehicle exempt from the payment of registration fees under paragraph b of subdivision six of this section. 8. Registration fees for trailers. a. The provisions of this chapter in relation to registration books and registration, certificates of registration, number plates, duplicates of certificates and number plates, times of registration and reregistration and the duration thereof, for motor vehicles, shall apply also to trailers. The following fees shall be paid upon the registration or reregistration of a trailer, other than a coach or house trailer or a semitrailer, in accordance with the provisions of this article: The annual fee of five dollars and thirty-nine cents for each five hundred pounds or fraction thereof of maximum gross weight but in no case shall the annual fee be less than fourteen dollars and thirty-eight cents. The following fees shall be paid upon the registration or reregistration of a coach or house trailer in accordance with the provisions of this article: The annual fee of one dollar and seventy-three cents for each one hundred pounds or major fraction thereof of unladen weight but in no case shall the annual fee be less than twenty-one dollars and fifty-seven cents. The following fees shall be paid upon the registration or reregistration of a semitrailer in accordance with provisions of this article: The annual fee of twenty-eight dollars and seventy-five cents. However, upon the request of the applicant upon the registration or renewal of a registration of a nineteen hundred eighty-nine or later model year semitrailer, such semitrailer may be registered for a period of not less than five and

one-half nor more than six and one-half years for a fee of eighty-six dollars and twenty-five cents. A semitrailer, used with any device for converting it to a trailer, other than one being drawn by a tractor semitrailer combination as part of a double tandem combination, shall be registered as a trailer. For the purposes of this paragraph, the unladen weight of a coach or house trailer shall include the weight of any equipment permanently attached to or installed in such trailer. Notwithstanding the foregoing provisions and pursuant to regulations and limitations to be established by the commissioner and upon payment of a fee of two dollars and thirty cents therefor a temporary permit to move a coach or house trailer on the public highways from one site to another shall be issued to the owner thereof upon application therefor. Such application shall be made in the manner prescribed by the commissioner. b. For the purposes of this subdivision, as applied to a trailer other than a coach or house trailer or a semitrailer, maximum gross weight shall mean the weight of the trailer plus the weight of the maximum load to be carried by such trailer during the registration period. The weight of the trailer and such maximum load as stated on the application for registration shall be subject to audit and approval by the commissioner of motor vehicles. c. No person shall operate or move, or cause or knowingly permit to be operated or moved on any public highway of this state any combination of a tractor registered in this state and a semitrailer having a combined weight of vehicles and load in excess of the maximum gross weight of the tractor as stated on the application for registration of such vehicle. Such maximum gross weight cannot be more than the weight permitted under section three hundred eighty-five of this chapter or the weight permitted by the rules or regulations of the department of transportation of any city not wholly included within one county or under permits that may be issued pursuant to such section, rules or regulations whichever is the least restrictive. d. No person shall operate or move, or cause or knowingly permit to be operated or moved on any public highway of this state any trailer, other than a coach or house trailer or a semitrailer, registered in this state, having a combined weight of vehicle and load in excess of the maximum gross weight of such trailer as stated on the application for registration of such vehicle. 9. Correction of registration. a. Where a motor vehicle registered under this article requires registration in another class because of a change in its form or use, an application for the correct registration may be granted upon the surrendering of the certificate of registration and number plates and the payment of a fee of one dollar, together with the excess, if any, of the fee for the correct registration over the fee for the registration in the class in which the vehicle is registered, both fees to be computed as of the date of granting the correct registration; provided, however, that if the vehicle has already been registered in more than one class during the year, the class requiring the highest fee shall be taken as the basis in determining the additional fee, if any, to be paid instead of the class in which the vehicle is registered at the time of the application. b. Where a vehicle registered under the provisions of subdivisions seven or eight of this section on the basis of maximum gross weight requires a corrected registration because of a load in excess of the maximum load as certified in the application for registration, or the registrant desires to register the vehicle at a lower gross maximum weight, an application shall be made for correct registration. Upon the surrendering of the certificate of registration and the payment of a fee of two dollars together with the balance of the annual fee for the correct registration over the fee as previously registered, such corrected registration may be issued. No return of any part of the fee paid for the previous registration shall be made in case of a reduction of maximum gross weight certified in the application for a corrected registration. 9-a. Whenever a registration fee prescribed in subdivision six, seven or eight of this section shall amount to a fee other than a whole dollar amount, the fee required to be paid shall be rounded to the nearest twenty-five cents. 10. Fees in lieu of taxes. The registration fees imposed by this article upon motor vehicles, other than those of manufacturers and dealers, shall be in lieu of all taxes, general or local, to which motor vehicles may be subject. 11. A motor vehicle, which does not fall within the definition of the term bus, used to transport pupils, or pupils and teachers, to and from school and not otherwise used to transport passengers for hire shall not be registered as a taxicab or livery because of such use. 12. Registration fee for "forty and eight trains." Notwithstanding any of the provisions of this chapter, the annual registration fee for a motor vehicle, commonly described as a boxcar and/or locomotive, duck and tank and used only by La Societe des 40 Hommes et 8 Chevaux for civic demonstrations, convention purposes or social welfare work, shall be five dollars. 12-a. Permanent fleet registration. The commissioner may provide for a system of extended registration for vehicles a registrant wishes to register as a fleet. The fee required for the registration of each vehicle registered in such system shall be the same fee which would be required if the vehicle was otherwise registered under this section plus an additional two dollar administrative fee. The commissioner may establish the minimum number of vehicles required to be registered as a fleet, the types of vehicles which may be registered in a fleet, the term of validity of any such registration, qualifications for fleet registrants and, notwithstanding any other provisions of this article to the contrary, procedures for registration in a fleet, times and methods of payment of required fees and the display and/or surrender of number plates and tags or other evidence of fleet registration. The commissioner may prescribe rules and regulations to carry out the provisions of this subdivision. 13. Registration of motor vehicles, trailers and semitrailers operated upon public highways connecting portions of a farm or farms, municipal sanitary landfills, licensed motor vehicle repair shops and the point of sale of the vehicle. Motor vehicles, other than motor vehicles manufactured and equipped primarily for the transportation of passengers, trailers and semitrailers, to be operated by any person, upon a public highway for the purpose of traveling by the most direct route, but in no event further than twenty-five miles one-way from a point on the farm as designated by the vehicle owner and which designated point is set forth in an attachment to the vehicle registration, (a) between fields, buildings, and facilities managed or operated as part of a single farm enterprise in connection with the production, harvesting, processing or marketing on that farm of crops, livestock, or livestock products produced on that farm; or (b) for the purpose of transporting materials from a farm to the nearest available municipal sanitary landfill; or (c) for the purpose of transporting the motor vehicle, trailer or semitrailer to a motor vehicle repair shop licensed pursuant to this chapter for the repair or adjustment of equipment provided that, in addition to the route restrictions set forth in this subdivision, no such transport shall be authorized (i) if such vehicle has an out-of-service defect relating to load securement, brake systems, steering components and/or coupling devices, or

after it has been placed out-of-service; (ii) on any limited access highway; and (iii) during the period of one hour before sunset to one hour after sunrise; or (d) for the purpose of transporting the motor vehicle, trailer or semitrailer, at the time of first receipt, from its point of sale to a farm, may be registered as provided in this subdivision. Every owner of such vehicles may cause to be filed by mail or otherwise, with the commissioner or with any agent of the commissioner, an application for registration of such vehicle, addressed to the commissioner, and on a blank to be furnished by the commissioner for that purpose, containing the information required by subdivision one of this section and such other information as the commissioner shall require. The commissioner or agent shall make such investigation, as he or she shall determine necessary, and if satisfied that the vehicle is to be operated exclusively as provided in this subdivision shall, upon the payment of a fee of one dollar, assign to such vehicle a distinctive number and issue and deliver to the applicant a set of number plates and a certificate of registration in such form as the commissioner shall prescribe, indicating the extent to which the vehicle registered may be operated on the public highways and such vehicle may be operated only as so indicated. For the purposes of this subdivision, the terms "farm" and "crops, livestock or livestock products," shall have the same meaning as "land used in agricultural production" and "crops, livestock and livestock products," respectively, as defined in section three hundred one of the agriculture and markets law, except that farmers with an average gross sales value of at least one thousand dollars per year of crops, livestock, and livestock products shall be eligible to register vehicles pursuant to this subdivision. 15. The commissioner is authorized to make necessary rules and regulations as may be appropriate for the proper enforcement of the provisions of this section with respect to the registration of auto trucks, agriculture trucks, light delivery cars, tractors and trailers. 16. a. Notwithstanding any other provision of this chapter or other law, or rule or regulation, a specialized vehicle shall be classified as a passenger vehicle and shall be registered accordingly. Such vehicle may use any highway which is restricted to passenger use only. b. For the purpose of this subdivision, "a specialized vehicle" shall mean any vehicle having a gross weight not exceeding sixty-nine hundred ninety-nine pounds, regardless of seating or window arrangements, which is equipped or modified with a powered lift or ramp or containing any other physical device or alteration for the purpose of accommodating a wheelchair or permitting access of a wheelchair-bound person, and which is intended to be used for the transportation of a disabled person or persons confined to a wheelchair. 17. The provisions of this chapter with respect to the issuance and display of number plates shall not apply to trucks that are used on the highways only in crossing from one point in the owners property to another point in the property of such owner where the route traveled by such trucks does not adjoin the lands of another owner; provided, however, that such vehicles shall comply in all respects with the provisions of article six of this chapter. 17-a. The commissioner shall permit the use of distinctive license plates reserved for use by emergency medical technicians on a van or pickup truck owned and operated by such person where such vehicle is not used for commercial purposes. 18. A violation of subdivision one of this section shall be punishable by a fine of not less than seventy-five nor more than three hundred dollars, or by imprisonment for not more than fifteen days, or by both such fine and imprisonment except, if the violation consists of failure to renew a registration which was valid within sixty days, the fine shall be not less than forty dollars. A violation of subdivision seven or eight of this section shall be punishable by a fine of not less than one hundred fifty nor more than three hundred seventy-five dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment, for the first offense, except where the violation was committed with a vehicle having a maximum gross weight of less than eighteen thousand pounds the violation should be punished by a fine of not less than forty nor more than three hundred seventy-five dollars; by a fine of not less than three hundred seventy-five dollars nor more than seven hundred fifty dollars, or by imprisonment for not more than sixty days, or by both such fine and imprisonment, for the second or subsequent offense; provided that a sentence or execution thereof for any violation under this subdivision may not be suspended. For any violation of said subdivision seven or eight of this section, the registration of the vehicle may be suspended for a period of not less than ten days nor more than six months whether at the time of the violation the vehicle was in charge of the owner or his agent. The provisions of section five hundred ten of this chapter shall apply to such suspension except as otherwise provided herein. 19. No owner of a motor vehicle shall cause to be presented, by mail or otherwise, to the office or a branch office of the commissioner, or to any agent of the commissioner, an application for registration of a vehicle which violates any weight limitations contained in the provisions of section three hundred eighty-five of this chapter or the weight permitted by the rules or regulations of any city not wholly included within one county or under permits that may be issued pursuant to such section, rules or regulations whichever is the least restrictive. 19-a. If a vehicle or combination of vehicles is operated in violation of this section, an appearance ticket or summons may be issued to the registrant of the vehicle, or if a combination of vehicles, to the registrant of the hauling vehicle rather than the operator. In the event the vehicle is operated by a person other than the registrant, any appearance ticket or summons issued to the registrant shall be served upon the operator, who shall be deemed the agent of the registrant for the purpose of receiving such appearance ticket or summons. Such operator-agent shall transmit such ticket or summons to the registrant of the vehicle or the hauling vehicle. If the registrant does not appear on the return date, a notice establishing a new return date and either containing all pertinent information relating to the charge which is contained on the summons or appearance ticket or accompanied by a copy of the information or complaint shall also be mailed by certified or registered mail by or on behalf of the court or administrative tribunal before whom the appearance ticket or summons is returnable to the registrant at the address given on the registration certificate for the vehicle, or if no registration certificate is produced at the time the appearance ticket or summons is issued, to the address of the registrant on file with the department or given to the person issuing the appearance ticket or summons. Whenever proceedings in a court or administrative tribunal of this state result in a conviction for a violation of this section, and the court or administrative tribunal has made the mailing specified herein, the court or administrative tribunal shall levy a mandatory surcharge, in addition to any sentence or other surcharge required or permitted by law, in the amount of thirty dollars. This mandatory surcharge shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first

ten days of the month following collection of the mandatory surcharge by a town or village court, the court shall pay such money to the state comptroller who shall, pursuant to subdivision two of section ninety-nine-a of the state finance law, credit such money to the account of the town or village which sent the mandatory surcharge. If such collecting authority is any other court of the unified system or administrative tribunal it shall, within such period, pay such money to the state comptroller who shall deposit such money into the state treasury. The provisions of this subdivision shall not apply to owner-operators of any motor vehicle or to any motor vehicle or trailer which is registered in the name of a person whose principal business is the lease or rental of motor vehicles or trailers unless the motor vehicle or trailer is being operated by an employee of the registrant or for a community of interest other than the lease or rental agreement between the parties to the lease or rental agreement. 21. The commissioner shall deposit daily the percentages listed below of all fees collected or received by the commissioner after March thirty-first, nineteen hundred ninety-three pursuant to certain registration fees imposed by (a) paragraph a of subdivision six, (b) all schedules of subdivision seven and (c) paragraph a of subdivision eight of this section in a responsible bank, banking house or trust company, which shall pay the highest rate of interest to the state for such deposit to the credit of the comptroller on account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law. The commissioner shall so deposit thirteen percent of all such registration fees so collected or so received after March thirty-first, nineteen hundred ninety-three, seventeen percent of all such registration fees so collected or so received after December thirty-first, nineteen hundred ninety-four, twenty percent of all such registration fees so collected or so received after December thirty-first, nineteen hundred ninety-five, twenty-eight percent of all such registration fees so collected or so received after March thirty-first, nineteen hundred ninety-eight, thirty-four percent of all such registration fees so collected or so received after June thirtieth, nineteen hundred ninety-eight, and forty-five and five-tenths percent of all such registration fees so collected or so received after January thirty-first, nineteen hundred ninety-nine. Every bank, banking house or trust company that accepts such deposits shall execute and file in the office of the department of audit and control an undertaking to the state, in the sum, and with such sureties, as are required and approved by the comptroller for the safe keeping and prompt payment on legal demand therefor of all such moneys held by or on deposit in such bank, banking house, or trust company, with interest thereon on daily balances at such rate as the comptroller may fix. Every such undertaking shall have endorsed thereon or annexed thereto the approval of the attorney general as to its form. The commissioner shall deposit daily the percentages listed below of all fees collected or received by the commissioner after March thirty-first, two thousand one pursuant to certain registration fees imposed by (a) paragraph a of subdivision six, (b) all schedules of subdivision seven, and (c) paragraph a of subdivision eight of this section in a responsible bank, banking house or trust company, which shall pay the highest rate of interest to the state for such deposit to the credit of the comptroller on account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation trust fund established pursuant to section eighty-nine-c of the state finance law and to distribute such deposit pursuant to the provisions of subdivision (d) of section three hundred one-j of the tax law. In addition to the percentages specified in the opening paragraph of this section, the commissioner shall so deposit twenty-three and five-tenths percent of all such registration fees so collected or so received after March thirty-first, two thousand one and fifty-four and five-tenths percent of all such registration fees so collected or so received after March thirty-first, two thousand two. Every bank, banking house or trust company that accepts such deposits shall execute and file in the office of the department of audit and control an undertaking to the state, in the sum, and with such sureties, as are required and approved by the comptroller for the safe keeping and prompt payment on legal demand therefor of all such moneys held by or in deposit in such bank, banking house or trust company, with interest thereon on daily balances at such rate as the comptroller may fix. Every such undertaking shall have endorsed thereon or annexed thereto the approval of the attorney general as to its form. Of the revenues so deposited, the comptroller shall retain in his hands such amount as the commissioner may determine to be necessary for refunds or reimbursements of the fees collected or received pursuant to (a) paragraph a of subdivision six, (b) all schedules of subdivision seven and (c) paragraph a of subdivision eight of this section to which registrants shall be entitled under the provisions of this article, out of which amount the commissioner shall pay any refunds or reimbursements of the fees collected or received pursuant to (a) paragraph a of subdivision six, (b) all schedules of subdivision seven and (c) paragraph a of subdivision eight of this section to which registrants shall be entitled under such provisions. The comptroller, after reserving the amount to pay such refunds or reimbursements, shall, on or before the last day of each month, deposit the balance of the revenue so deposited during such month into the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation trust fund established pursuant to section eighty-nine-c of the state finance law. Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in paragraph a of subdivision six of this section in effect on and after September first, two thousand nine and the registration fees set forth in such paragraph in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule A of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule B of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule C of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. Notwithstanding any inconsistent provision of this section,

the difference collected between the registration fees set forth in schedule E of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule F of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule G of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in schedule I of subdivision seven of this section in effect on and after September first, two thousand nine and the registration fees set forth in such schedule in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. Notwithstanding any inconsistent provision of this section, the difference collected between the registration fees set forth in subdivision eight of this section in effect on and after September first, two thousand nine and the registration fees set forth in such subdivision in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. Notwithstanding any inconsistent provision of this section, the registration fees collected pursuant to subdivisions two, six and eight of section four hundred twenty of this title shall be deposited pursuant to the provisions of this subdivision; provided, however, the difference collected between the registration fees set forth in such subdivisions two, six and eight in effect on and after September first, two thousand nine and the registration fees set forth in such subdivisions in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. Notwithstanding any inconsistent provision of this section, the registration fees collected pursuant to paragraph (b) of subdivision three of section twenty-two hundred sixty-one of this chapter shall be deposited pursuant to the provisions of this subdivision; provided, however, the difference collected between the registration fees set forth in paragraph (b) of subdivision three of section twenty-two hundred sixty-one of this chapter in effect on and after September first, two thousand nine and the registration fees set forth in such paragraph in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. Notwithstanding any inconsistent provision of this section, eleven dollars and fifty cents of the registration fees collected pursuant to paragraph (a) of subdivision five of section four hundred ten of this title shall be deposited pursuant to this subdivision. Three dollars and fifty cents of such fees collected in relation to applications for new registrations and renewals of existing registrations expiring on and after September first, two thousand nine shall be deposited to the credit of the dedicated highway and bridge trust fund. Two dollars and fifty cents of such registration fees shall be deposited into the motorcycle safety fund established pursuant to section ninety-two-g of the state finance law. 22. The commissioner shall not register any altered motor vehicle that fails to comply, as demonstrated to the satisfaction of the commissioner, with the certification requirements established by Part 567 of title 49 of the code of federal regulations for altered vehicles. 23. The commissioner shall revoke the registration of any altered motor vehicle which fails to comply with the certification requirements of Part 567 of title 49 of the code of federal regulations, as determined by the commissioner, and refund to or credit the account of any person who paid a registration fee for an altered motor vehicle, the pro rata unused portion of such registration fee.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles402-A - Facsimile License Plates.

§ 402-a. Facsimile license plates. 1. No person shall manufacture, sell, or offer for sale a decorative or facsimile license plate of a size, shape, color and design which is identical with the size, shape, color and design of license plates issued by the department. 2. Notwithstanding subdivision one of this section, the commissioner may authorize the manufacture and sale of decorative or facsimile license plates which are identical to those issued by the department for special events or productions. 3. Whenever there shall be a violation of this section, application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction by a special proceeding to issue an injunction and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of such violation or to enforce the provisions of this section; and if it shall appear to the satisfaction of the court or justice that the defendant has, in fact, violated this section, an injunction may be issued by such court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. Whenever the court shall determine that a violation of this section has occurred the court may impose a civil penalty of not more than five hundred dollars for each violation. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and issue subpoenas in accordance with the civil practice law and rules.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles402-B - Obscured and Obstructed License Plates.

§ 402-b. Obscured and obstructed license plates. 1. If any vehicle is driven or operated on a public highway in violation of subparagraph (ii), (ii-a), or (iii) of paragraph (b) of subdivision one of section four hundred two of this article and is committed in their presence, a police officer, as defined in section one hundred thirty-two of this chapter, shall be authorized to take such actions as may be required or permitted by the provisions of this section. 2. If the vehicle is being driven or operated in violation of subparagraph (ii), (ii-a) or (iii) of paragraph (b) of subdivision one of section four hundred two of this article, such officer shall issue

a summons, provided, however, that a summons shall not be issued if, in the discretion and at the request of such officer, the defect is corrected in the presence of such officer. The refusal of a police officer to permit the repair of any defect in their presence shall not be reviewable, and shall not be a defense to any violation charged in a summons issued pursuant to the provisions of this section. 3. Any complaint issued for any violation of subparagraph (ii), (ii-a) or (iii) of paragraph (b) of subdivision one of section four hundred two of this article may be dismissed by the court before which the summons is returnable if the violation as set forth in the summons is corrected not later than one-half hour after sunset on the first full business day after the issuance of the summons and proof of such correction is submitted to the court or administrative tribunal. For the purposes of this subdivision, "business day" shall mean any calendar day except Saturday and Sunday, or the following business holidays: New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles402 - Distinctive Number; Form of Number Plates; Trailers.

(b) (i) Number plates shall be kept clean and in a condition so as to be easily readable. (ii) Number plates shall not be knowingly covered or coated with any material or substance that conceals or obscures such number plates or that distorts a recorded or photographic image of such number plates. (ii-a) Number plates shall not be covered by glass or any plastic material, nor shall they be covered with a material appearing to be a number plate for display as proof of lawful registration but which has not been lawfully issued by the commissioner, the commissioner's agent, or the equivalent official or agents from another state, territory, district, province, nation or other jurisdiction. (iii) The view of such number plates shall not be obstructed by any part of the vehicle or by anything carried thereon, except for a receiver-transmitter issued by a publicly owned tolling facility in connection with electronic toll collection when such receiver-transmitter is affixed to the exterior of a vehicle in accordance with mounting instructions provided by the tolling facility. 2. Such number plates shall be of such material, form, design and dimensions and contain or set forth such distinguishing number or other identification marks as the commissioner shall prescribe, provided, however, that there shall be at all times a marked contrast between the color of the number plates and that of the numerals or letters thereon, and provided further that no vehicle shall display the number plates of more than one state at a time except where the vehicle is required to be registered in more than one state, and provided further that the number plates of a rental vehicle shall not display any indication of the rental status of such vehicle nor shall any plate be used other than those issued by the commissioner. 3. No person shall operate or drive a motor vehicle drawing a trailer on the public highways of the state, unless such trailer shall have a distinctive number assigned to it by the commissioner and a number plate issued by such commissioner with a number corresponding to that of the certificate of registration displayed and fastened on the rear in the manner provided for number plates on the rear of a motor vehicle. The provisions of subdivision two of this section relating to number plates for motor vehicles shall apply to number plates for any such trailer. The provisions of this subdivision shall not apply when a newly constructed trailer is being drawn to or from a weighing station solely for the purpose of determining the weight thereof. 4. No person shall operate or drive a motor vehicle upon the public highways of this state having displayed thereon number plates not proper for such vehicle under the provisions of this chapter and, upon a conviction for this offense, the number plates shall be surrendered to the court for delivery to the commissioner. The failure to produce the certificate of registration or registration renewal stub of a vehicle shall be presumptive evidence of displaying number plates not proper for the vehicle. Every annual number plate issued shall remain the property of the state until the correct registration fee is paid. Every number plate of a permanent nature for use with a removable date tag which shall be issued shall remain the property of the state unless and until the commissioner finds that the state no longer has use for it. Number plates belonging to the state shall be under the control of the commissioner. 5. No person shall knowingly authorize or permit a number plate issued for a motor vehicle or trailer owned and registered by him to be displayed on any motor vehicle or trailer other than a motor vehicle or trailer to which such number plate has been assigned by the commissioner, or upon which such number plate may legally be displayed under a temporary certificate of registration issued by a dealer under the provisions of section four hundred twenty of this chapter. 6. No owner shall knowingly cause or permit a vehicle owned by him to be operated, driven or parked upon the public highways of this state in violation of this section. Any violation of this section that occurs while a motor vehicle is parked on the public highways of this state shall constitute a parking violation. 7. It shall be unlawful for any person, firm, partnership, association, limited liability company or corporation to sell, offer for sale or distribute any: (a) artificial or synthetic material or substance for the purpose of application to a number plate that will, upon application to a number plate, distort a recorded or photographic image of such number plate; or (b) plate cover, material or device for the purpose of installation on, near or around a number plate that will, upon installation on, near or around a number plate, obstruct or obscure all or any part of the distinguishing number or other identification marks of such number plate; or (c) a material appearing to be a number plate for display as proof of lawful registration but which has not been lawfully issued by the commissioner, the commissioner's agent, or the equivalent official or agents from another state, territory, district, province, nation or other jurisdiction. 8. A violation of this section shall be punishable by a fine of not less than twenty-five nor more than two hundred dollars, except that: (a) A violation of subparagraph (ii), subparagraph (ii-a) or subparagraph (iii) of paragraph (b) of subdivision one of this section shall be punishable by a fine of not less than one hundred nor more than five hundred dollars. (b) A person convicted of a violation of subparagraph (ii-a) of paragraph (b) of subdivision one of this section shall surrender the glass or plastic covering or material appearing to be a number plate, as applicable, to the court or administrative tribunal for delivery to the commissioner. (c) Upon conviction of a violation of subparagraph (ii) of paragraph (b) of subdivision one of this section, the court or administrative tribunal having jurisdiction may, in addition to any penalty that may be imposed for such violation, order the removal of any material or substance that conceals or obscures such

number plates or the replacement of such number plates.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles403-A - Temporary Indicia of Registration.

§ 403-a. Temporary indicia of registration. The commissioner may promulgate regulations to provide for temporary indicia of registration which shall permit a person to operate or park a motor vehicle or trailer on the public highways of this state without number plates issued by the commissioner or validating stickers for a period not to exceed fifteen days when the number plate or plates or validating sticker for such motor vehicle or trailer has been lost, stolen, mutilated or destroyed. Such regulations may provide for the charging of a fee of not more than three dollars for any issuance of temporary indicia of registration. Any person who operates or parks a motor vehicle or trailer on the public highways of this state, which motor vehicle or trailer is in fact validly registered pursuant to the provisions of section four hundred one or four hundred ten of this chapter, without a number plate or plates or validating sticker, and who has complied with any such regulations promulgated by the commissioner under this section shall not be deemed to be operating or parking a motor vehicle or trailer in violation of subdivision one or three of section four hundred two or section four hundred three of this chapter. Falsifying any temporary indicia of registration prescribed by any regulation of the commissioner issued pursuant to this section shall be a traffic infraction.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles403-B - Sales of Certain Number or Distinctive License Plates by Certain Dealers.

§ 403-b. Sales of special number or distinctive license plates by certain dealers. 1. A dealer, retail dealer, new motor vehicle dealer or qualified dealer holding a certificate of registration issued pursuant to section four hundred fifteen of this title shall be authorized to obtain or order special number or distinctive license plates for a purchaser of a vehicle from such dealer in return for a processing fee not to exceed five dollars. Such dealer shall not be required to secure a license pursuant to section three hundred ninety-five of this chapter. 2. The commissioner is hereby authorized to promulgate rules and regulations necessary to implement the provisions of this section including, but not limited to, the provision of a credit for number plates or other interim or temporary plates issued in advance of the receipt of the special number or distinctive plate, and the requirement that dealers authorized by this section disclose the initial and annual fees applicable to any special number and distinctive plates that are ordered. The processing fee authorized in subdivision one of this section shall apply only upon orders of special or distinctive plates and shall be in addition to any other fee or fees authorized by regulation and charged by such dealers for obtaining motor vehicle registrations and/or titles.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles403 - Number Plates Continued.

§ 403. Number plates continued. 1. Notwithstanding any other provision of this chapter, the commissioner, upon registration or reregistration of any vehicle required to be registered under this chapter, may continue the use of number plates for an additional period as may be determined by him, in which event he shall issue and deliver a tag or other evidence of registration, which shall be attached or affixed in such manner as he may prescribe by regulation. The failure to affix or display such tag or other evidence of registration, in the manner prescribed by the commissioner, shall constitute a violation of this section. The removal from any vehicle, other than by the owner of the vehicle or person authorized by such owner or by a police officer in the performance of his duties, of such tag or other evidence of registration shall constitute a class B misdemeanor. 2. Notwithstanding the provisions of subdivision one of this section, the commissioner, upon registration or reregistration of any vehicle required to be registered under this chapter between July first, nineteen hundred eighty-six and June thirtieth, nineteen hundred eighty-eight, shall issue a new number plate or plates to each registrant or reregistrant, and provided further an emblem bearing the likeness of the Statue of Liberty shall appear on the number plate or plates except that such emblem, in the discretion of the commissioner, need not appear on a number plate or plates less than ten inches long. The commissioner shall promulgate rules and regulations for plate reissuance including which plates will be required to be replaced in which year. The commissioner is authorized to take whatever actions are necessary to ensure that the transaction necessary for the reissuance of such number plate or plates shall be accomplished by mail so as to minimize the need for the reregistrant to process the transaction in person. 3. a. Upon the request of an applicant and payment by the applicant of a one-time fee not to exceed twenty dollars, and subject to regulations promulgated by the commissioner, the commissioner shall provide a number plate or plates bearing the same distinctive numerals and/or letters as the number plate being replaced. Such one-time fee shall be in addition to the regular fee prescribed by section four hundred one of this article. b. Notwithstanding the provisions of paragraph a of this subdivision, no such one-time fee shall be charged for any plate subject to the provisions of section four hundred four or four hundred four-l of this article, for which an annual service charge is paid in addition to the regular fee prescribed by section four hundred one of this article. c. Nothing contained in paragraph a of this subdivision shall be deemed to authorize the imposition of a fee for a number plate or plates which is higher than any fee otherwise authorized by this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-A - Registration of Motor Vehicles of Severely Disabled Persons.

2. Registration of vehicles owned by severely disabled persons. The commissioner shall assign to such motor vehicles, including any

van or pick-up truck used for transporting persons with disabilities which is not used for commercial purposes, owned by such persons, a distinctive number and issue and deliver in such manner as the commissioner may select to the owner a certification of registration, in such form as the commissioner shall prescribe and two number plates, called disabled person plates. Said disabled person plates shall conform to the requirements of section four hundred one of this chapter, but shall bear distinctive marks to distinguish them from number plates to be issued to other persons, qualifying under this chapter. The commissioner, in his discretion, may issue, for any registration year, only one plate as a set for a motor vehicle, in which event a set of disabled person plates for a motor vehicle shall consist of one plate. Where a severely disabled person owns more than one vehicle and such vehicle or vehicles is or are used by severely disabled members of the owner's family who reside with the owner, the commissioner shall issue one set of plates for each additional vehicle used by such severely disabled person, provided that such user qualifies as a severely disabled person in the manner required by this section. 3. Registration of vehicles owned by severely disabled veterans. The commissioner shall assign to such motor vehicles, including any vans or pick-up trucks used for transporting handicapped veterans which are not used for commercial purposes and which are owned by such veterans or a not-for-profit corporation serving such veterans, a distinctive number and issue and deliver in such manner as the commissioner may prescribe to the owner a certification of registration, in such form as the commissioner shall prescribe and two number plates, called disabled veteran plates. Said severely disabled veteran plates shall conform to the requirements of section four hundred one of this article, but shall bear distinctive marks to distinguish them from number plates to be issued to other persons, qualifying under this article. The commissioner in his discretion, may issue, for any registration year, only one plate as a set for a motor vehicle, in which event a set of severely disabled veteran plates for a motor vehicle shall consist of one plate. Where a severely disabled veteran owns more than one vehicle and such vehicle or vehicles is or are used by severely disabled members of the owner's family who reside with the owner, the commissioner shall issue one set of plates for each additional vehicle used by such severely disabled veteran, provided that such user qualifies as a severely disabled veteran in the manner required by this section. For purposes of this subdivision, the term "severely disabled veteran" shall mean a veteran as defined in section eighty-five of the civil service law, and whose disability qualifies him as a severely disabled person within the meaning of such term as defined in subdivision four of this section. 4. Issue of plates. The commissioner shall issue sets of plates to such person in accordance with subdivision two of this section with proof of such disability of such person or such members of his or her family certified by a physician, physician assistant or nurse practitioner, to the extent authorized by law and consistent with subdivision three of section six thousand nine hundred two of the education law, or podiatrist pursuant to subdivision four-a of this section or optometrist pursuant to subdivision four-b of this section, to the satisfaction of the commissioner who is empowered to carry out the effects of this section by formulating rules and regulations. For the purposes of this section, a "severely disabled person" shall mean any person having any one or more of the following impairments, disabilities or conditions which are permanent in nature:(a) Has limited or no use of one or both lower limbs;(b) Has a neuro-muscular dysfunction which severely limits mobility;(c) Has a physical or mental impairment or condition which is other than those specified above, but is of such nature as to impose unusual hardship in utilization of public transportation facilities and such condition is certified by a physician, physician assistant or nurse practitioner, to the extent authorized by law and consistent with subdivision three of section six thousand nine hundred two of the education law, duly licensed to practice in this state, or, pursuant to subdivision four-a of this section, a podiatrist duly licensed to practice podiatry in this state or, pursuant to subdivision four-b of this section, an optometrist duly licensed to practice optometry in this state, as constituting an equal degree of disability (specifying the particular condition) so as to prevent such person from getting around without great difficulty in accordance with subdivision two of this section; or(d) A blind person.4-a. Certification of disability by a podiatrist. A podiatrist duly licensed to practice podiatry in this state may certify only those conditions which he or she treats in the course of the practice of podiatry, as defined by section seventy hundred one of the education law.4-b. Certification of disability by an optometrist. An optometrist duly licensed to practice optometry in this state may certify only those conditions which he or she treats in the course of the practice of optometry, as defined in section seventy-one hundred one of the education law.5. Application for registration. (a) The application for registration under this section shall be filed with the commissioner of motor vehicles in such form and detail as the commissioner shall prescribe, setting forth such information as the commissioner may reasonably prescribe beyond such information required under section four hundred one of this chapter.(b) The commissioner may require the applicant for registration to furnish such proof of his or her disability or such proof of disability of such members of his or her family from a physician, physician assistant or nurse practitioner, to the extent authorized by law and consistent with subdivision three of section six thousand nine hundred two of the education law, or podiatrist pursuant to subdivision four-a of this section or optometrist pursuant to subdivision four-b of this section, as the commissioner deems necessary either for initial registration or renewal thereof; provided, however, that a handicapped or disabled permit issued by a municipality to such applicant pursuant to section twelve hundred three-a of this chapter shall be deemed sufficient proof of disability for purposes of this paragraph.(c) Application under this section shall only apply to a vehicle subject to registration pursuant to subdivision six of section four hundred one of this chapter and to a van or pick-up truck as provided in subdivision two of this section.6. Fee requirements. As provided in section four hundred one of this chapter, the registration and disabled person plates shall be accompanied only by the required fee otherwise required to be paid for vehicle registration.7. Refueling notice. Upon the issuance or renewal of a registration pursuant to this section, the commissioner shall notify the registrant of the availability of full service motor vehicle refueling at self service prices as provided for in section three hundred ninety-six-bb of the general business law. (a) Has limited or no use of one or both lower limbs; (b) Has a neuro-muscular dysfunction which severely limits mobility; (c) Has a physical or mental impairment or condition which is other than those specified above, but is of such nature as to impose unusual hardship in utilization of public transportation facilities and such condition is certified by a

physician, physician assistant or nurse practitioner, to the extent authorized by law and consistent with subdivision three of section six thousand nine hundred two of the education law, duly licensed to practice in this state, or, pursuant to subdivision four-a of this section, a podiatrist duly licensed to practice podiatry in this state or, pursuant to subdivision four-b of this section, an optometrist duly licensed to practice optometry in this state, as constituting an equal degree of disability (specifying the particular condition) so as to prevent such person from getting around without great difficulty in accordance with subdivision two of this section; or (d) A blind person. 4-a. Certification of disability by a podiatrist. A podiatrist duly licensed to practice podiatry in this state may certify only those conditions which he or she treats in the course of the practice of podiatry, as defined by section seventy hundred one of the education law. 4-b. Certification of disability by an optometrist. An optometrist duly licensed to practice optometry in this state may certify only those conditions which he or she treats in the course of the practice of optometry, as defined in section seventy-one hundred one of the education law. 5. Application for registration. (a) The application for registration under this section shall be filed with the commissioner of motor vehicles in such form and detail as the commissioner shall prescribe, setting forth such information as the commissioner may reasonably prescribe beyond such information required under section four hundred one of this chapter. (b) The commissioner may require the applicant for registration to furnish such proof of his or her disability or such proof of disability of such members of his or her family from a physician, physician assistant or nurse practitioner, to the extent authorized by law and consistent with subdivision three of section six thousand nine hundred two of the education law, or podiatrist pursuant to subdivision four-a of this section or optometrist pursuant to subdivision four-b of this section, as the commissioner deems necessary either for initial registration or renewal thereof; provided, however, that a handicapped or disabled permit issued by a municipality to such applicant pursuant to section twelve hundred three-a of this chapter shall be deemed sufficient proof of disability for purposes of this paragraph. (c) Application under this section shall only apply to a vehicle subject to registration pursuant to subdivision six of section four hundred one of this chapter and to a van or pick-up truck as provided in subdivision two of this section. 6. Fee requirements. As provided in section four hundred one of this chapter, the registration and disabled person plates shall be accompanied only by the required fee otherwise required to be paid for vehicle registration. 7. Refueling notice. Upon the issuance or renewal of a registration pursuant to this section, the commissioner shall notify the registrant of the availability of full service motor vehicle refueling at self service prices as provided for in section three hundred ninety-six-bb of the general business law.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-AA - Distinctive Plates for Members of the Catholic War Veterans of America.

§ 404-aa. Distinctive plates for members of the Catholic War Veterans of America. 1. Any member of the Catholic War Veterans of America residing in this state shall, upon request, be issued a license plate bearing the words "Catholic War Veterans of America". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. The distinctive plate authorized in this section shall be issued upon proof, satisfactory to the commissioner, that the applicant is a member of the Catholic War Veterans of America. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-B - Distinctive Plates for Volunteer Firefighters.

§ 404-b. Distinctive plates for volunteer firefighters. 1. Any member of any volunteer fire department or company in this state or the spouse of any such member shall, upon request, be issued a license plate bearing a Maltese cross and the letters "V.F.". If a distinctive plate is issued to any such member pursuant to this section, such a distinctive plate shall not be issued to the spouse of such member. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe, and shall be verified annually by the applicant. 2. The distinctive plate authorized in subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is presently an active member of a volunteer fire department or company. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this chapter and an initial one time service charge of fifteen dollars.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-BB - Distinctive Cystic Fibrosis Foundation License Plates.

§ 404-bb. Distinctive Cystic Fibrosis Foundation license plates. 1. Any person residing in this state shall, upon request, be issued a distinctive license plate in support of cystic fibrosis awareness and research bearing the phrase "Cystic Fibrosis Foundation". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates. 3. Each twenty-five dollars received as the annual service charge under this section shall be deposited to the credit of the "cystic fibrosis research and education fund" established pursuant to section ninety-seven-qqqq of the state finance law and shall be used for research and education programs undertaken pursuant to section ninety-seven-qqqq of the state finance law.

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-C - Distinctive Plates for Former Prisoners of War.

§ 404-c. Distinctive plates for former prisoners of war. 1. Any former prisoner of war residing in this state or the spouse of any such former prisoner of war shall, upon request, be issued a license plate bearing the words "former prisoner of war". If a distinctive plate is issued to a former prisoner of war pursuant to this section, additional distinctive plates may be issued for every vehicle registered in the name of the former prisoner of war residing in this state or the spouse of such former prisoner of war. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is a former prisoner of war. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this chapter provided, however, that no additional service charge shall be charged for such plate. 4. The unremarried widow or widower of a former prisoner of war married to such former prisoner at the time of his or her imprisonment shall be included in the term "spouse" for the purposes of this section. A distinctive plate issued pursuant to this subdivision shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this chapter, provided, however, that no additional service charge shall be charged for such plate. 5. Notwithstanding subdivision three of this section and the fees prescribed or permitted by section four hundred one of this article, there shall be no charge for the issuance of a number plate pursuant to this section to a former prisoner of war, nor shall there be imposed an additional service charge for the issuance of such a plate to such a person. Furthermore, upon the issuance of a distinctive plate pursuant to this section, such a former prisoner of war shall be exempt from the payment of any fees relating to the registration or renewal thereof as prescribed by section four hundred one of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-CC - Distinctive "Cure Chilhood Cancer" Plates.

§ 404-cc. Distinctive "Cure Childhood Cancer" plates. 1. Any person residing in this state shall upon request be issued a distinctive plate in support of childhood cancer research bearing the words "Cure Childhood Cancer". Application for such plates shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. 3. Each twenty-five dollars received as the annual service charge under this section shall be deposited to the credit of the "cure childhood cancer research fund" established pursuant to section ninety-nine-z of the state finance law and shall be used for research programs undertaken pursuant to section ninety-nine-z of the state finance law.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-D - Distinctive Plates for Members of the Organized Militia and Reserve.

§ 404-d. Distinctive plates for members of the organized militia and reserve. 1. Any member of the organized militia of the state of New York and any member of a reserve unit from this state of any branch of the armed forces of the United States or the spouse of any such member shall, upon request, be issued a license plate bearing a militiaman and the appropriate organization -- army national guard, air national guard, state guard or naval militia, army reserve, marine corps reserve, air force reserve, navy reserve or coast guard reserve. If a distinctive plate is issued to a member of the organized militia pursuant to this section, such a distinctive plate shall not be issued to the spouse of such member of the organized militia. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe, and shall be verified annually by the applicant. 2. The distinctive plate authorized in subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is presently an active member of the organized militia or reserve. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-DD*2 - Mental Illness Anti-Stigma License Plates.

* § 404-dd. Mental illness anti-stigma license plates. 1. Any person residing in this state shall, upon request, be issued a distinctive license plate of a design developed and approved by the commissioner in consultation with the commissioner of the office of mental health in support of ending the stigma related to mental illness research bearing the phrase "Healthy mind, healthy New York". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates. 3. Each twenty-five dollars received as the annual service charge under this section shall be deposited to the credit of the "mental illness anti-stigma fund" established pursuant to section ninety-five-h of the state finance law and shall be used for the purpose of providing grants to organizations dedicated to eliminating

the stigma attached to mental illness and persons with mental health needs pursuant to section 7.47 of the mental hygiene law. * NB There are 2 § 404-dd's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-DD - Distinctive Plates for Members of Amvets.

* § 404-dd. Distinctive plates for members of AMVETS. 1. Any member of AMVETS residing in this state shall, upon request, be issued a license plate bearing the word "AMVETS". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant is a member of AMVETS. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate. 4. For the purposes of this section, "AMVETS" shall mean the veterans service organization chartered by congress as a membership corporation created pursuant to chapter 227 of title 36 of the United States code. * NB There are 2 § 404-dd's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-E - Distinctive Plates for Purple Heart Recipients.

§ 404-e. Distinctive plates for purple heart recipients. 1. Any purple heart recipient residing in this state or the spouse of any such recipient shall, upon request, be issued a license plate bearing the words "combat wounded" and inscribed the purple heart medal imprint. If a distinctive plate is issued to a purple heart recipient pursuant to this section, additional distinctive plates may be issued for every vehicle registered in the name of the purple heart recipient residing in this state or the spouse of such purple heart recipient. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is a purple heart recipient. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that no service charge shall be charged for such plate.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-EE*2 - Distinctive Down's Syndrome Awareness License Plates.

* § 404-ee. Distinctive Down's syndrome awareness license plates. 1. Any person residing in this state shall, upon request, be issued a distinctive license plate in support of Down's syndrome awareness and research bearing the phrase "Down's Syndrome Awareness" and any other phrases and design approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates. 3. Each twenty-five dollars received as the annual service charge under this section shall be deposited to the credit of the "Down's syndrome research fund" established pursuant to section ninety-nine-ee of the state finance law and shall be used for research undertaken pursuant to section ninety-nine-ee of the state finance law. * NB There are 4 § 404-ee's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-EE*3 - Distinctive "September Eleventh, Two Thousand One Remembrance" License Plates.

* § 404-ee. Distinctive "September eleventh, two thousand one remembrance" license plates. 1. Any person residing in this state shall, upon request, be issued a distinctive "September eleventh, two thousand one remembrance" license plate. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates. 3. Each twenty-five dollars received as the annual service charge under this section shall be deposited to the credit of the "World Trade Center memorial scholarship fund" established pursuant to section ninety-six of the state finance law and shall be used for scholarships awarded pursuant to sections six hundred eight and six hundred sixty-eight-d of the education law. * NB There are 4 § 404-ee's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-EE*4 - Distinctive "Jamaican Bobsled Team" Number Plates.

* § 404-ee. Distinctive "Jamaican bobsled team" number plates. 1. Any person residing in this state shall, upon request, be issued a distinctive "Jamaican bobsled team" license plate of a design approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. * NB There are 4 § 404-ee's

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-EE - Distinctive "West Indian American Day Carnival" License Plates.

* § 404-ee. Distinctive "West Indian American Day Carnival" license plates. 1. Any person residing in this state shall, upon request, be issued a distinctive "West Indian American Day Carnival" license plate of a design approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. * NB There are 4 § 404-ee's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-F - Distinctive Plates for Members of Volunteer Ambulance Services.

§ 404-f. Distinctive plates for members of volunteer ambulance services. 1. Any member of any volunteer ambulance service in this state or the spouse of any such member shall, upon request, be issued a license plate bearing the letters "V.A.S." If a distinctive plate is issued to a volunteer ambulance service member pursuant to this section, such distinctive plate shall not be issued to the spouse of such member. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe, and shall be verified annually by the applicant. 2. The distinctive plate authorized in subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is presently an active member of a volunteer ambulance service. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this chapter and an additional annual service charge of fifteen dollars.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-G - Distinctive Plates Bearing the Words "Birthplace of Baseball".

§ 404-g. Distinctive plates bearing the words "Birthplace of Baseball". 1. Any person residing in this state shall, upon request, be issued a license plate bearing the words "Birthplace of Baseball" in honor of the Baseball Hall of Fame in Cooperstown, New York and the one hundred fiftieth anniversary of the game of baseball. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-H - Distinctive Plates for Members of the Jewish War Veterans of America.

§ 404-h. Distinctive plates for members of the Jewish War Veterans of America. 1. Any member of the Jewish War Veterans of America residing in this state shall, upon request, be issued a license plate bearing the words "Jewish War Veterans of America". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant is a member of the Jewish War Veterans of America. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-I - Distinctive Plates for Gold Star Mothers.

§ 404-i. Distinctive plates for gold star mothers. 1. Any gold star mother or the spouse of a gold star mother residing in this state shall, upon request, be issued a license plate bearing the words "gold star mother". If a distinctive plate is issued to a gold star mother pursuant to this section, additional distinctive plates may be issued for every vehicle registered in the name of the gold star mother recipient residing in this state or the spouse of such gold star mother. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is a gold star mother. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that no service charge shall be charged for such plate.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-J - Registration and Issuance of Special Number Plates for Veterans Who Survived the Pearl Harbor Attack.

2. Issue of plates. The commissioner shall issue sets of plates to such person in accordance with subdivision one of this section with proof by such person or the spouse of such person that such person survived the Pearl Harbor attack by Japan on December seventh,

nineteen hundred forty-one in a manner satisfactory to the commissioner who is empowered to carry out the effects of this section by formulating rules and regulations. Such plates shall not be considered as "vanity plates". The plates authorized to be issued hereunder are special and are to be issued in recognition of valiant service rendered by the veteran to the United States. 3. Application for registration. (a) The application for registration under this section shall be filed with the commissioner of motor vehicles in such form and detail as the commissioner shall prescribe, setting forth such information as the commissioner may reasonably prescribe beyond such information required under section four hundred one of this chapter.(b) Application under this section shall only apply to a vehicle subject to registration pursuant to subdivision six of section four hundred one of this chapter and as provided in subdivision one of this section.4. Fee. A special plate and registration issued pursuant to this section shall be issued upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate. (b) Application under this section shall only apply to a vehicle subject to registration pursuant to subdivision six of section four hundred one of this chapter and as provided in subdivision one of this section. 4. Fee. A special plate and registration issued pursuant to this section shall be issued upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-K - Distinctive Plates for Marine Corps League Members.

§ 404-k. Distinctive plates for Marine Corps League members. 1. Any member of the Marine Corps League residing in this state shall, upon request, be issued a license plate bearing the United States Marine Corps emblem and the words "Marine Corps League". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant is a member of the Marine Corps League. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-L - Distinctive Regional Design Plates.

§ 404-l. Distinctive regional design plates. 1. On or after October first, nineteen hundred ninety-two, any person residing in this state shall, upon request, be issued a license plate with a distinctive regional design approved by the commissioner. The commissioner may also issue such distinctive plates with special numerals and/or letters requested by the applicant. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of thirty-one dollars and twenty-five cents shall be charged for such plates, and provided that a further additional annual service charge of thirty-one dollars and twenty-five cents shall be charged for any such plate containing specially requested numerals and/or letters. Provided, however, in lieu of the annual fee specified herein, the commissioner may establish specific categories of plates for which an annual fee of not less than eighteen dollars and seventy-five cents nor more than thirty-one dollars and twenty-five cents may be charged subject to the approval of the director of the division of the budget. Notwithstanding any inconsistent provision of this section, the difference collected between the annual service charge or fee set forth in this subdivision in effect on and after September first, two thousand nine and the annual service charge or fee set forth in this subdivision in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-M - Distinctive License Plates Commemorating the World University Games.

§ 404-m. Distinctive license plates commemorating the World University Games. 1. Any person shall upon request be issued a license plate commemorating the World University Games bearing the name and logo of the World University Games. The arrangement of the name and logo on such license plate shall be in the sole discretion of the commissioner. 2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article and an additional annual service charge of forty dollars. 3. Of the forty dollar annual service charge collected by the commissioner pursuant to subdivision two of this section, twenty-five dollars shall be transmitted to the comptroller for deposit into the World University Games Fund established by section ninety-seven-nn of the state finance law to be made available to the Greater Buffalo Athletic Corporation.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-N - Issuance of Distinctive Conservation Plates.

§ 404-n. Issuance of distinctive conservation plates. 1. On or after April first, nineteen hundred ninety-four, any person residing in this state, upon filing a complete application and paying a fee as provided in subdivision two of this section, shall be issued his or her choice of a distinctive conservation license plate from those approved by the commissioner. Application for said license plate

shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive conservation plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. All moneys received as annual service charges under this section shall be deposited to the credit of the environmental protection fund established pursuant to section ninety-two-s of the state finance law; and shall be used for open space land conservation projects undertaken pursuant to title three of article fifty-four of the environmental conservation law. 3. The proceeds under this section shall be deposited in the environmental protection fund established pursuant to section ninety-two-s of the state finance law.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-O - Distinctive "Olympic Spirit" License Plates.

§ 404-o. Distinctive "Olympic Spirit" license plates. Any person shall upon request be issued distinctive "Olympic Spirit" license plates in support of the Lake Placid olympic training center bearing the "Olympic Spirit" logo designed by the United States olympic committee and approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive "Olympic Spirit" license plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty dollars shall be charged for each plate. Such service charge shall be transmitted by the commissioner to the comptroller for deposit into the United States Olympic Committee/Lake Placid Olympic Training Center Fund established by section eighty-four of the state finance law. Up to twenty percent of the moneys in the fund would be available to the department of motor vehicles to defray the costs of designing, producing, the availability of "Olympic Spirit" license plates.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-OO - Deposit of Service Charges for Distinctive License Plates.

§ 404-oo. Deposit of service charges for distinctive license plates. Notwithstanding any inconsistent provision of this chapter or of any other law, the first six thousand dollars of service charges collected for issuance of distinctive license plates established pursuant to this article on or after the effective date of this section and, unless otherwise specified, any amounts in excess of such six thousand dollars, shall be deposited to the credit of the department of motor vehicles distinctive plate development fund established pursuant to section ninety-five-g of the state finance law and shall be used for the production, design, advertising and distribution of such distinctive license plates established pursuant to this article on or after the effective date of this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-P*2 - Distinctive Plates for Congressional Medal of Honor Recipients.

* § 404-p. Distinctive plates for congressional medal of honor recipients. 1. Any congressional medal of honor recipient residing in this state or the spouse of any such recipient shall, upon request, be issued a license plate bearing the words "congressional medal of honor". If a distinctive plate is issued to a congressional medal of honor recipient pursuant to this section, additional distinctive plates may be issued for every vehicle registered in the name of the congressional medal of honor recipient residing in this state or the spouse of such congressional medal of honor recipient. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is a congressional medal of honor recipient. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates, provided, however, that no registration fee or service charge shall be charged for such plate. * NB There are 2 § 404-p's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-P - Distinctive "Animal Population Control Fund" License Plates.

* § 404-p. Distinctive "Animal Population Control Fund" license plates. 1. On or after October first, nineteen hundred ninety-six, any person residing in this state shall, upon request, be issued a distinctive "Animal Population Control Fund" license plate of a design approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive Animal Population Control Fund plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. All monies received as annual service charges under this section shall be deposited to the credit of the animal population control fund established pursuant to section ninety-seven-xx of the state finance law, and shall be used for animal population control programs undertaken pursuant to section one hundred seventeen-a of the agriculture and markets law. * NB There are 2 § 404-p's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-Q*2 - Distinctive Plates for the Council on the Arts.

* § 404-q. Distinctive plates for the council on the arts. 1. Any person residing in this state shall, upon request, be issued a

distinctive "Council on the Arts" license plate of a design approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive council on the arts plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fees prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. All monies received as annual service charges under this section shall be deposited to the credit of the arts capital revolving fund established pursuant to section ninety-seven-z of the state finance law; provided, however, that one year after the effective date of this section, funds in the amount of five thousand dollars, or so much thereof as may be available shall be allocated from such fund to the department to offset costs associated with the production of such license plate. * NB There are 2 § 404-q's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-Q - Distinctive "Drive for the Cure" License Plates.

* § 404-q. Distinctive "drive for the cure" license plates. 1. Any person residing in this state shall, upon request, be issued a distinctive "drive for the cure" license plate in support of breast, prostate and testicular cancer research bearing the phrase "drive for the cure". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive "drive for the cure" license plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. Twelve dollars and fifty cents from each twenty-five dollars received as annual service charges under this section shall be deposited to the credit of the breast cancer research and education fund established pursuant to section ninety-seven-yy of the state finance law and shall be used for research and education programs undertaken pursuant to section twenty-four hundred ten of the public health law. Twelve dollars and fifty cents from each twenty-five dollars received as annual service charges under this section shall be deposited to the credit of the New York State prostate and testicular cancer research and education fund established pursuant to section ninety-five-e of the state finance law and shall be used for research and education programs undertaken pursuant to section ninety-five-e of the state finance law. Provided, however that one year after the effective date of this section funds in the amount of six thousand dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates. * NB There are 2 § 404-q's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-R*2 - Distinctive Plates for New York State Licensed Dentists Who Are Members of the New York State Dental Association.

* § 404-r. Distinctive plates for New York state licensed dentists who are members of the New York State Dental Association. 1. Any New York state licensed dentist residing in this state who is a member of the New York State Dental Association as established pursuant to chapter six hundred eighty-three of the laws of nineteen hundred ninety-seven shall, upon request, be issued a license plate formatted at the discretion of the department bearing the letters "DDS" or "DMD" and the official logo of the New York State Dental Association. Such license plate need not contain the statue of liberty logo. If a distinctive plate is issued to a New York state licensed dentist pursuant to this section, such distinctive plate shall not be issued to the spouse of such member. Application for said license shall be filed with the commissioner in such form and detail as the commissioner shall prescribe, and shall be verified annually by the applicant. 2. The distinctive plate authorized in subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant is presently a dentist licensed to practice in the state of New York and a member of the New York State Dental Association. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article and an additional annual service charge of thirty dollars. Twenty dollars from each thirty dollars received as annual service charges under this section shall be deposited to a fund for the credit of the Percy T. Phillips Educational Foundation of The Dental Society of the State of New York, said fund established as a revolving fund pursuant to section ninety-seven-www of the state finance law; provided, however, that one year after the effective date of this section, funds in the amount of five thousand dollars, or so much thereof as may be available shall be allocated from such fund to the department to offset costs associated with the production of such license plates. * NB There are 2 § 404-r's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-R - Distinctive "Foreign Organization" License Plates.

* § 404-r. Distinctive "foreign organization" license plates. 1. The commissioner may issue special number plates bearing the words "foreign organization" to applicants of a foreign organization recognized by the United States. Applications for said license plate shall be filed with the commissioner in said form and detail as the commissioner shall prescribe. 2. The distinctive plate authorized herein shall be issued upon proof, satisfactory to the commissioner, that the applicant is an entity of a foreign government recognized by the United States before January first, nineteen hundred seventy-nine without diplomatic relations with the United States. Such plates may be issued for passenger vehicles and light commercial motor vehicles with a manufacturers rated carrying capacity of one ton or less. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an

additional annual service charge of thirty dollars shall be charged for such plate. 4. Nothing contained herein shall require the issuance of a special number plate under this section unless the commissioner is satisfied that the aggregate amount of annual service charges collected pursuant to subdivision three of this section will be sufficient to recover the costs of the design and manufacture of such special number plates. * NB There are 2 § 404-r's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-S*2 - Issuance of Distinctive Plates for Agriculture.

* § 404-s. Issuance of distinctive plates for agriculture. 1. On and after April first, two thousand two, any person residing in this state, upon filing a complete application and paying a fee as provided in subdivision two of this section, shall be issued his or her choice of a distinctive license plate for agriculture from those approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive plate for agriculture issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. All moneys received as annual service charges under this section shall be deposited to the credit of the "agriculture in the classroom fund" established pursuant to section ninety-seven-xxx of the state finance law; and shall be used for agriculture in the classroom programs. * NB There are 4 § 404-s's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-S*3 - Distinctive "Drive Out Diabetes" License Plates.

* § 404-s. Distinctive "drive out diabetes" license plates. 1. Any person residing in this state shall upon request be issued a distinctive "drive out diabetes" license plate in support of diabetes research bearing the phrase "drive out diabetes". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates. All monies received as the annual service charge under this section shall be deposited to the credit of the New York state "drive out diabetes research and education fund" established pursuant to section ninety-five-b of the state finance law and shall be used for research and education programs undertaken pursuant to article twenty-seven-H of the public health law as redesignated by chapter five hundred eighty-four of the laws of nineteen hundred eighty-eight. Provided, however that one year after the effective date of this section funds in the amount of seven thousand five hundred dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates. * NB There are 4 § 404-s's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-S*4 - Distinctive Plates for the Saratoga National Cemetery Honor Guard Association.

* § 404-s. Distinctive plates for the Saratoga national cemetery honor guard association. 1. Any member of the Saratoga national cemetery honor guard association residing in this state shall, upon request, be issued a license plate bearing the logo of such association as illustrated by such association's shoulder patch. Application for such license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe, and shall be verified annually by the applicant. 2. A distinctive plate authorized by subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant presently is an active member of the Saratoga national cemetery honor guard association. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of fifteen dollars shall be charged for such plate. Provided, however, that one year after the effective date of this section funds in the amount of six thousand dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates. * NB There are 4 § 404-s's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-S - Issuance of Distinctive "I Love New York" Plates.

* § 404-s. Issuance of distinctive "I Love New York" plates. 1. Any person residing in this state shall, upon request, be issued a distinctive "I Love New York" license plate. The design of such distinctive plate shall be developed by the commissioner in cooperation with the commissioner of the department of economic development and shall utilize the phrase "I Love New York", and/or a representative logo, in a manner consistent with usage thereof by the department of economic development and tourist promotion agencies recognized pursuant to section one hundred sixty-three of the economic development law. 2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of fifteen dollars shall be charged for such plate. Such service charge shall be deposited to the credit of the department of economic development and shall be made available for services and expenses for tourism marketing as provided for in subdivision sixteen of section one hundred of the economic development law provided, however, that the department of economic development shall

reimburse the department an amount not to exceed six thousand dollars for costs associated with the production of such plate. 3. A distinctive plate issued pursuant to this section to a person who purchases a lifetime license pursuant to section 11-0702 of the environmental conservation law or a lifetime vehicle access pass, also known as a lifetime empire passport, pursuant to article thirteen of the parks, recreation and historic preservation law between January first, two thousand fourteen and December thirty-first, two thousand fourteen shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that commencing upon the third registration period after the initial issuance of such plate, an additional annual service charge of fifteen dollars shall be charged for such plate. Such service charge shall be deposited and made available in the same manner as set forth in subdivision two of this section. Additionally, such person shall be exempt from the payment of (a) the twenty-five dollar fee required to be paid for the issuance of a set of reflectorized number plates pursuant to paragraph a of subdivision three of section four hundred one of this article, and (b) the fee of three dollars and twenty-five cents for the issuance of a new set of number plates pursuant to paragraph b of subdivision three of section four hundred one of this article. 4. A person who, prior to January first, two thousand fourteen, possesses a lifetime license pursuant to section 11-0702 of the environmental conservation law or a lifetime vehicle access pass, also known as a lifetime empire passport, or a three or five year vehicle access pass pursuant to article thirteen of the parks, recreation and historic preservation law shall, on request between April first, two thousand fourteen and March thirty-first, two thousand fifteen, be issued a distinctive plate pursuant to this section in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that commencing upon the third registration period after the initial issuance of such plate, an additional annual service charge of fifteen dollars shall be charged for such plate. Such service charge shall be deposited and made available in the same manner as set forth in subdivision two of this section. Additionally, such person shall be exempt from the payment of the fee of three dollars and twenty-five cents for the issuance of a new set of number plates pursuant to paragraph b of subdivision three of section four hundred one of this article. 5. Any New York resident who possesses a hunting, fishing or trapping license issued pursuant to title seven of article eleven of the environmental conservation law or an annual vehicle access pass, also known as an empire passport, pursuant to article thirteen of the parks, recreation and historic preservation law shall, upon request, be issued the distinctive plate available to a person who purchases a lifetime license or passport, which shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of fifteen dollars shall be charged for such plate. Such service charge shall be deposited and made available in the same manner as set forth in subdivision two of this section. * NB There are 4 § 404-s's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-T*2 - Distinctive Conserve Habitat License Plates.

* § 404-t. Distinctive conserve habitat license plates. 1. Any person residing in this state shall, upon request, be issued a distinctive "Conserve Habitat" license plate of a design approved by the commissioner, after consultation with the commissioner of environmental conservation. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive conserve habitat plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fees prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. Such service charge under this section shall be deposited to the credit of the conservation fund established pursuant to section eighty-three of the state finance law; provided, however, that one year after the effective date of this section, funds up to a maximum of six thousand dollars, or so much thereof as may be available, shall be allocated from such fund to the department to offset costs associated with the production of such license plate. * NB There are 3 § 404-t's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-T*3 - Distinctive "Peace at Home" License Plates.

* § 404-t. Distinctive "peace at home" license plates. 1. Any person residing in this state shall, upon request, be issued a distinctive "peace at home" license plate of a design approved by the commissioner in support of domestic violence awareness and prevention. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive "peace at home" license plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. Each twenty-five dollars received as annual service charges under this section shall be deposited to the credit of the domestic violence awareness fund established pursuant to section ninety-seven-yyy of the state finance law and shall be used for educational and prevention programs undertaken pursuant to article twenty-one of the executive law. Provided, however that one year after the effective date of this section funds in the amount of six thousand dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates. * NB There are 3 § 404-t's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-T - Distinctive Marine and Coastal District of New York License Plates.

* § 404-t. Distinctive marine and coastal district of New York license plates. 1. Any person residing in this state shall, upon request,

be issued a distinctive marine and coastal district of New York license plate in support of conservation, education, and research projects relating to such district, as described in section 13-0103 of the environmental conservation law. The design of such distinctive plate shall be developed by the commissioner in consultation with the commissioner of the department of environmental conservation and the commissioner of the department of economic development. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. All monies received for the annual service charge pursuant to this section shall be deposited to the credit of the marine and coastal district of New York conservation, education, and research fund established pursuant to section ninety-five-c of the state finance law and shall be used for conservation, education, and research projects approved by the marine and coastal district of New York conservation, education, and research board established pursuant to section 13-0503 of the environmental conservation law. Provided, however, that one year after the effective date of this section, funds in the amount of six thousand dollars, or so much thereof as may be available, shall be allocated from such fund to the department to offset costs associated with the production of such license plates. * NB There are 3 § 404-t's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-U*2 - Distinctive "National Multiple Sclerosis Society" License Plates.

* § 404-u. Distinctive "national multiple sclerosis society" license plates. 1. Any person residing in this state shall, upon request, be issued a distinctive license plate in support of multiple sclerosis research bearing the phrase "national multiple sclerosis society". 2. An application for such license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates. 4. Each twenty-five dollars received as the annual service charge under this section shall be deposited to the credit of the New York state "multiple sclerosis research fund" established pursuant to section ninety-five-d of the state finance law and shall be used for research programs undertaken pursuant to section ninety-five-d of the state finance law. Provided, however, that one year after the effective date of this section, funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated from such fund to the department to offset costs associated with the production of such license plates. * NB There are 4 § 404-u's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-U*3 - Distinctive Gift of Life License Plates.

* § 404-u. Distinctive gift of life license plates. 1. Any person residing in this state shall upon request be issued a distinctive license plate bearing the words "Life Pass It On". Application for said license plates shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. Any distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. Twenty dollars of each such twenty-five dollar annual service charge shall be deposited to the credit of the "life pass it on trust fund" established pursuant to section ninety-five-d of the state finance law and shall be used for research and education programs approved by the commissioner of health. Provided, however that one year after the effective date of this section, funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates. * NB There are 4 § 404-u's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-U*4 - Distinctive "Erie Canal" License Plates.

* § 404-u. Distinctive "Erie canal" license plates. 1. Any person residing in this state shall, upon request, be issued a distinctive "Erie canal" license plate of a design approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive "Erie canal" license plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article and an additional annual service charge of twenty-five dollars. Twenty dollars from each twenty-five dollars received as annual service charges under this section shall be deposited to the credit of the Erie canal museum fund, established as a revolving fund pursuant to section ninety-seven-cccc of the state finance law. Provided, however, that one year after the effective date of this section, funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated from such fund to the department to offset costs associated with the production of such license plates. * NB There are 4 § 404-u's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-U - Distinctive "Keep Kids Drug Free" License Plates.

* § 404-u. Distinctive "keep kids drug free" license plates. 1. Any person residing in this state shall, upon request, be issued a

distinctive "keep kids drug free" license plate in support of youth drug prevention and treatment programs. Application for such license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive "keep kids drug free" license plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. The additional service charge of twenty-five dollars shall be deposited to the credit of the office of alcoholism and substance abuse services and shall be used to support programs which seek to reduce alcoholism and substance abuse among the youth population in New York state through prevention and/or treatment. Such deposits shall not be used to replace, offset, or supplant any existing funding streams which aid the office, but shall be in addition thereto. Provided, however, that one year after the effective date of this section, funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates. * NB There are 4 §404-u's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-V*2 - Distinctive Plates for the United States Naval Armed Guard.

* § 404-v. Distinctive plates for the United States Naval Armed Guard. 1. Any member of the United States Naval Armed Guard residing in this state shall, upon request, be issued a license plate bearing the words "United States Naval Armed Guard", or such other phrase as the commissioner shall designate showing the registrant served in the United States Naval Armed Guard. Application for such license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. The distinctive plate authorized pursuant to this section shall be issued upon proof, satisfactory to the commissioner, that the applicant is a veteran who served in the United States Naval Armed Guard and who (1) was honorably discharged from such service, or (2) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (3) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate. Provided, however, that one year after the effective date of this section funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated from such funds to the department to offset costs associated with the production of such license plates. * NB There are 7 § 404-v's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-V*3 - Distinctive Plates for the Arts and Cultural Institutions and Museums.

* § 404-v. Distinctive plates for the arts and cultural institutions and museums. 1. Any person residing in this state shall, upon request, be issued a distinctive New York state cultural institutions and museums license plate of a design approved by the commissioner. Application for such license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive New York state cultural institutions and museums plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fees prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. Fifteen dollars from each twenty-five dollars received as annual service charges under this section shall be deposited to the credit of the arts capital revolving fund established pursuant to section ninety-seven-z of the state finance law; provided, however, that one year after the effective date of this section, funds in the amount of five thousand dollars, or so much thereof as may be available shall be allocated from such fund to the department to offset costs associated with the production of such license plate. * NB There are 7 § 404-v's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-V*4 - Distinctive Plates for Members of the Eighth Air Force Historical Society.

* § 404-v. Distinctive plates for members of the Eighth Air Force Historical Society. 1. Any member of the Eighth Air Force Historical Society residing in this state shall, upon request, be issued a license plate bearing the words "Eighth Air Force". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. The distinctive plate authorized in this section shall be issued upon proof, satisfactory to the commissioner, that the applicant is a member of the Eighth Air Force Historical Society. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of fifteen dollars shall be charged for such plate. Such annual service charge shall be deposited to the credit of the Eighth Air Force Historical Society fund established pursuant to section ninety-five-f of the state finance law and shall be used for veterans' counseling services provided by local veterans' service agencies pursuant to section fourteen of the veterans' services law under the direction of the department of veterans' services. Provided, however, that one year after the effective date of this section funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates. * NB There are 7 § 404-v's

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-V*5 - Issuance of Distinctive "Discover Queens" License Plates.

* § 404-v. Issuance of distinctive "Discover Queens" license plates. 1. Any person residing in this state shall, upon request, be issued a distinctive "Discover Queens" license plate. The design of such distinctive plate shall be developed by the commissioner in cooperation with the Queens Tourism Council, a not-for-profit corporation organized and operated under the laws of this state, and recognized pursuant to section one hundred sixty-three of the economic development law, and shall utilize the trademarked "Discover Queens" logo, as well as any other language or information appropriate to the promotion of tourism in the Borough of Queens. 2. A distinctive "Discover Queens" plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fees prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. Each twenty-five dollars received as annual service charges under this section shall be deposited to the credit of the New York state "Discover Queens fund" established pursuant to section ninety-seven-aa of the state finance law and shall be used for tourism promotion projects pursuant to such section ninety-seven-aa within the county of Queens. 3. Provided, however, that one year after the effective date of this section, funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated from such fund to the department to offset costs associated with the production of such license plates. * NB There are 7 § 404-v's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-V*6 - Distinctive Autism Awareness License Plates.

* § 404-v. Distinctive autism awareness license plates. 1. Any person residing in this state shall, upon request, be issued a distinctive license plate in support of autism awareness and research bearing the phrase "Autism Society of America" and any other phrases and design approved by the commissioner in consultation with the Autism Society of America. 2. An application for such license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates. 4. Each twenty-five dollars received as the annual service charge under this section shall be deposited to the credit of the New York state autism awareness and research fund established pursuant to section ninety-five-e of the state finance law and shall be used for research programs undertaken pursuant to section ninety-five-e of the state finance law. Provided, however, that one year after the effective date of this section, funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated from such fund to the department to offset costs associated with the production of such license plates except that no such funds shall be so allocated if the department has received funds for such purpose from the Autism Society of America. * NB There are 7 § 404-v's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-V*7 - Distinctive "Love Your Library" Plates.

* § 404-v. Distinctive "Love your library" plates. 1. Any person residing in this state shall, upon request, be issued a distinctive "Love your library" license plate of a design approved by the commissioner. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon the payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. All moneys received as annual service charges under this section shall be deposited to the credit of the love your library fund established pursuant to section ninety-nine-l of the state finance law; and shall be used for library related programs and resources authorized by the commissioner of education. Provided, however, that one year after the effective date of this section, funds in the amount of six thousand dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates. * NB There are 7 § 404-v's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-V - Distinctive Plates for Water Rescue Team Members.

* § 404-v. Distinctive plates for water rescue team members. 1. Any member of a water rescue team shall, upon request, be issued a license plate bearing the emblem and words "New York State" on the top of the license plate and "Water Rescue" on the bottom of the license plate. A dive flag shall be included on the face of the distinctive plate. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe and shall be verified annually by the applicant. 2. The distinctive plate authorized in subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant is presently an active member of a water rescue team and shall be surrendered upon the separation from a water rescue team. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. Such annual service charge shall be deposited to the credit of the New York state water rescue team awareness and research fund established pursuant to section ninety-five-f of the state finance

law and shall be used for water team rescue awareness and research projects approved by the office of parks, recreation and historic preservation. Provided, however, that one year after the effective date of this section funds in the amount of five thousand dollars, or so much thereof as may be available, shall be allocated to the department to offset costs associated with the production of such license plates. * NB There are 7 § 404-v's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-W*2 - Distinctive Plates for Persian Gulf Veterans.

* § 404-w. Distinctive plates for Persian Gulf veterans. 1. Any Persian Gulf veteran or the spouse of any such veteran shall, upon request, be issued a license plate bearing the words "Persian Gulf Veteran". If a distinctive plate is issued to a veteran pursuant to this section, such a distinctive plate shall not be issued to the spouse of such veteran. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. The distinctive plate authorized in subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is a Persian Gulf veteran. 3. For the purposes of this section, "Persian Gulf veteran" shall mean a person who is a resident of this state, who served in the armed forces of the United States in the hostilities that occurred in the Persian Gulf from the second day of August, nineteen hundred ninety to the end of such hostilities, and was (a) honorably discharged from the military, or (b) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (c) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service. 4. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one time service charge of ten dollars shall be charged for such plate. 5. Nothing contained herein shall require the issuance of a special number plate under this section unless the commissioner is satisfied that the aggregate amount of annual service charges collected pursuant to subdivision four of this section will be sufficient to recover the costs of the design and manufacture of such special plates. * NB There are 2 § 404-w's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-W - Distinctive Plates for War on Terror Veterans.

(a) a person who served in the armed forces of the United States in the hostilities that occurred in the Persian Gulf from the eleventh day of September, two thousand one, to the end of such hostilities, who (i) was discharged therefrom under other than dishonorable conditions, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service; or (b) a person who served in the armed forces of the United States, in the hostilities that occurred in Afghanistan from the eleventh day of September, two thousand one, to the end of such hostilities, who (i) was discharged therefrom under other than dishonorable conditions, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service. 2. The distinctive plate authorized by this section shall be issued upon proof, satisfactory to the commissioner, that the applicant is a war on terror veteran. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred of this article, provided, however, that an additional one-time service charge of ten dollars shall be charged for such plate. * NB There are 2 § 404-w's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-X - Distinctive "Ducks Unlimited" License Plates.

§ 404-x. Distinctive "Ducks Unlimited" license plates. 1. Any person residing in this state shall, upon request, be issued a distinctive license plate bearing the name and logo of "Ducks Unlimited". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-Y*2 - Distinctive "Appalachian Trail" License Plates.

* § 404-y. Distinctive "Appalachian Trail" license plates. 1. Any person residing in this state shall, upon request, be issued a distinctive license plate bearing the words "Appalachian Trail". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. * NB There are 6 § 404-y's

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-Y*3 - Distinctive Plates for Members of the Kiwanis International.

* § 404-y. Distinctive plates for members of the Kiwanis International. 1. Any member of Kiwanis International residing in this state shall, upon request, be issued a license plate bearing the words "Kiwanis International". Application for such license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. The distinctive plate authorized pursuant to this section shall be issued upon proof, satisfactory to the commissioner, that the applicant is a member of Kiwanis International. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate. * NB There are 6 § 404-y's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-Y*4 - Distinctive Plates for Conspicuous Service Cross Recipients.

* § 404-y. Distinctive plates for conspicuous service cross recipients. 1. Any conspicuous service cross recipient residing in this state or the spouse of any such recipient shall, upon request, be issued a license plate bearing the words "conspicuous service cross recipient". If a distinctive plate is issued to a conspicuous service cross recipient pursuant to this section, such a distinctive plate shall not be issued to the spouse of such conspicuous service cross recipient. Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. The distinctive plate authorized in subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is a conspicuous service cross recipient. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional, one-time service charge of ten dollars shall be charged for such plate. * NB There are 6 § 404-y's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-Y*5 - Distinctive Lupus Awareness License Plates.

* § 404-y. Distinctive lupus awareness license plates. 1. Any person residing in this state shall, upon request, be issued a distinctive license plate in support of lupus awareness and research bearing the phrase "Lupus Awareness". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates. 3. Each twenty-five dollars received as the annual service charge under this section shall be deposited to the credit of the "lupus research and education fund" established pursuant to section ninety-seven-pppp of the state finance law and shall be used for research and education programs undertaken pursuant to section ninety-seven-pppp of the state finance law. * NB There are 6 § 404-y's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-Y*6 - Distinctive Sickle Cell Disease Awareness License Plates.

* § 404-y. Distinctive sickle cell disease awareness license plates. 1. Any person residing in this state shall, upon request, be issued a distinctive license plate in support of sickle cell disease awareness and research bearing the phrase "Sickle Cell Disease Awareness". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe. 2. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article; provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plates. 3. Each twenty-five dollars received as the annual service charge under this section shall be deposited to the credit of the "sickle cell disease research and education fund" established pursuant to section ninety-seven-pppp of the state finance law and shall be used for research and education programs undertaken pursuant to section ninety-seven-pppp of the state finance law. * NB There are 6 § 404-y's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-Y - Distinctive Plates for Veterans of the Iraq War and Veterans of the Afghanistan War.

2. The distinctive plates authorized in subdivision one of this section shall be issued upon proof, satisfactory to the commissioner, that the applicant or the spouse of the applicant is a veteran of the Iraq War or the Afghanistan War. 3. For the purposes of this section, the following terms shall have the following meanings:(a) "Veteran of the Iraq War" shall mean a person who is a resident of this state, who served in the armed forces of the United States in the hostilities that occurred in Iraq from the sixteenth day of October, two thousand two to the end of such hostilities who (i) was discharged therefrom under other than dishonorable conditions or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service; and(b) "Veteran of the Afghanistan

War" shall mean a person who is a resident of this state, who served in the armed forces of the United States in the hostilities that occurred in Afghanistan from the seventh day of October, two thousand one to the end of such hostilities who (i) was discharged therefrom under other than dishonorable conditions or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service.4. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one time service charge of ten dollars shall be charged for such plate.* NB There are 6 § 404-y's (a) "Veteran of the Iraq War" shall mean a person who is a resident of this state, who served in the armed forces of the United States in the hostilities that occurred in Iraq from the sixteenth day of October, two thousand two to the end of such hostilities who (i) was discharged therefrom under other than dishonorable conditions or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service; and (b) "Veteran of the Afghanistan War" shall mean a person who is a resident of this state, who served in the armed forces of the United States in the hostilities that occurred in Afghanistan from the seventh day of October, two thousand one to the end of such hostilities who (i) was discharged therefrom under other than dishonorable conditions or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service. 4. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article provided, however, that an additional one time service charge of ten dollars shall be charged for such plate. * NB There are 6 § 404-y's

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404-Z - Distinctive "Elks Association" License Plates.

§ 404-z. Distinctive "Elks Association" license plates. 1. Any member of the New York state Elks association of the benevolent and protective order of the Elks residing in this state shall, upon request, be issued a license plate bearing the words "Elks Association". Application for said license plate shall be filed with the commissioner in such form and detail as the commissioner shall prescribe, and shall be verified annually by the applicant. 2. The distinctive plate authorized in this section shall be issued upon proof, satisfactory to the commissioner, that the applicant is presently an active member of the New York state Elks association of the benevolent and protective order of the Elks. 3. A distinctive plate issued pursuant to this section shall be issued in the same manner as other number plates upon payment of the regular registration fee prescribed by section four hundred one of this article, provided, however, that an additional annual service charge of twenty-five dollars shall be charged for such plate.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 14 - Registration of Motor Vehicles404 - Issuance of Special Number Plates.

§ 404. Issuance of special number plates. 1. The commissioner may issue special number plates to applicants therefor in the same manner as other number plates are issued pursuant to this article. Such special number plates shall be issued only upon payment of an annual service charge of thirty-one dollars and twenty-five cents in addition to the regular fee prescribed by section four hundred one of this article. Application for special number plates shall be made in accordance with regulations promulgated by the commissioner with respect to issuance of such number plates. Provided, however, in lieu of the annual fee specified herein, the commissioner may establish specific categories of plates for which an annual fee of not less than eighteen dollars and seventy-five cents nor more than thirty-one dollars and twenty-five cents may be charged subject to the approval of the director of the division of the budget. Notwithstanding any inconsistent provision of this section, the difference collected between the special plates fee or service charge set forth in this subdivision in effect on and after September first, two thousand nine and the special plates fee or service charge set forth in this subdivision in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. 1-a. The commissioner may issue special number plates to applicants who are members of veterans organizations in the same manner as other number plates are issued pursuant to this article. Such special number plates shall be issued only upon (a) payment of a one-time service charge of ten dollars in addition to the regular registration fee prescribed by section four hundred one of this article, and (b) submission of proof, satisfactory to the commissioner, that the applicant is presently a member of the veterans organization for which such plate is requested. Such membership shall be verified annually by the applicant. Application for such plates shall be made in accordance with regulations promulgated by the commissioner with respect to the issuance of such plates. Provided, however, that nothing contained herein shall be deemed to supersede the provisions of section four hundred four-d, four hundred four-e, four hundred four-h, four hundred four-i, four hundred four-j, four hundred four-k, four hundred four-p, four hundred four-aa, or four hundred four-dd of this article. 2. For purposes of this section, a special number plate shall be a plate which contains not more than eight letters, numerals or any combination thereof and which is reserved by the commissioner for issuance in accordance with the provisions of this section, or a plate reserved for issuance in a series for vehicles owned by public officers, physicians, visiting nurses, accredited representatives of the press or other groups. In issuing special number plates the commissioner shall give those applicants who held a special number plate at the time of the enactment of this section the right to

retain such special number plate upon the payment of the annual service charge of thirty-one dollars and twenty-five cents. Provided, however, that such right of retention shall apply only to the first renewal of the registration of such special number plate following the enactment of this section. Notwithstanding any inconsistent provision of this section, the difference collected between the annual service charge set forth in this subdivision in effect on and after September first, two thousand nine and the annual service charge set forth in this subdivision in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. 3. This section shall not apply to any plates in a series reserved in the public interest for purposes of facilitating identification of state and municipal vehicles and those owned by members of international governmental organizations or any other vehicles which are exempt from the payment of registration fees, nor to plates or series of plates assigned by the commissioner for issuance by county clerks. 4. Nothing contained in this section shall be construed to require the commissioner to issue a special number plate or plates.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 15-A - Reciprocity Agreements for the Recognition of the Agricultural Truck Registration Class413 - Reciprocity Agreements for the Recognition of the Agricultural Truck Registration Class.

§ 413. Reciprocity agreements for the recognition of the agricultural truck registration class. The commissioner is authorized and empowered to enter into a reciprocal agreement or agreements on behalf of the state with the duly authorized representatives of any state of the United States, the District of Columbia, or a state or province of a foreign country, or territory or possession of either the United States or of a foreign country, to effectuate the reciprocal recognition by these jurisdictions of the New York state agricultural truck registration class as set forth in schedule E of subdivision seven of section four hundred one of this title. The commissioner is granted, as part of any such reciprocal agreement or agreements, the authority to recognize the equivalent motor vehicle registration class of other jurisdictions which are parties to any such agreement or agreements as being a fully reciprocal agricultural truck registration class within the state of New York. Provided, however, that nothing contained in this section shall be deemed to supersede any of the provisions of section two hundred fifty of this chapter applicable to agricultural trucks.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 15 - Registration of Motorcycles410-A - Motorcycle Safety Program.

§ 410-a. Motorcycle safety program. 1. The commissioner shall establish and administer a motorcycle safety program which shall consist of approved motorcycle rider training courses, motorcycle course instructor training, program promotion, and public awareness. Approved rider training courses shall meet nationally recognized standards for motorcycle rider training courses, or standards for motorcycle rider safety programs which are approved by the department and are comparable to the standards of the motorcycle safety foundation's motorcycle rider safety program. Approved courses shall include at least eight hours of instruction in the actual operation of a motorcycle. Monies from the motorcycle safety fund established pursuant to section ninety-two-g of the state finance law shall be used for the establishment and implementation of this program. 2. The commissioner shall issue a request for proposals for the coordination of a motorcycle safety program which shall set requirements for the preparation of bids. The commissioner shall enter into a contract, for a period of five years, with a motorcycle rider training coordinating organization selected pursuant to such process. The contract shall be awarded following the consideration of factors which shall include, but not be limited to, the most favorable financial advantage for the state, the greatest utility to the motorcyclist, the comprehensiveness and effectiveness of such organization and its compatibility with the existing rider education programs. The motorcycle rider training coordination organization shall be subject to periodic reporting requirements established by the department outlining the administration and effectiveness of its program and an itemization of all motorcycle safety fund allocations. Such motorcycle rider training coordinating organization shall have at least three years experience in the administration of a statewide motorcycle rider education program, and have as its administrator an individual who has no financial or proprietary interest in a motorcycle training school or facility. 3. The motorcycle rider training coordinating organization shall submit to the commissioner for approval requests for advances pursuant to a contract and reimbursements from the motorcycle safety fund for equipment, operating and administrative costs and other expenses necessary to carry out the provisions of this section. The commissioner shall approve all such requests for expenditures that are in accordance with the provisions of this section. 4. The commissioner shall annually file a report on expenditures from the motorcycle safety fund, established pursuant to section ninety-two-g of the state finance law, with the legislature. Such report shall include the name of the funded motorcycle rider training coordinating organization and the amount of funds distributed to it and shall provide an evaluation of the overall effectiveness of the funded programs and any recommendations for programmatic changes.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 15 - Registration of Motorcycles410 - Registration of Motorcycles; Fees; Renewals.

§ 410. Registration of motorcycles; fees; renewals. 1. Registration by owners. No motorcycles shall be operated or driven upon the public highways of this state without first being registered in accordance with the provisions of this article, except as otherwise expressly provided in this chapter. Every owner of a motorcycle which shall be operated or driven upon the public highways of this state shall, except as otherwise expressly provided, cause to be filed, by mail or otherwise, in the office or a branch office of the commissioner, or with an agent of the commissioner, constituted as provided in this chapter, an application for registration, addressed to the commissioner, and on a blank to be prepared under the direction of and furnished by the commissioner for that

purpose, containing: (a) A brief description of the motorcycle to be registered, including the name of the manufacturer and factory number of such vehicle; (b) the name, residence, including county and business address of the owner of such motorcycle. 2. Registration record. Upon the receipt of a sufficient application for registration, as provided in this article, the commissioner or agent receiving it shall register such motorcycle, and maintain a record of the registration of such motorcycle under the distinctive number assigned to such motorcycle, as provided in this section, and the information in such record may be obtained upon payment of the fees specified in section two hundred two of this chapter. 3. Certificate of registration. a. Upon the filing of such application and the payment of the fee hereinafter provided, the commissioner shall assign to such motorcycle a distinctive number and, without expense to the applicant, issue and deliver in such manner as the commissioner may select to the owner a certificate of registration, in such form as the commissioner may prescribe, and a number plate at a place within the state of New York named by the applicant in his application. In the event of the loss, mutilation or destruction of any certificate of registration or number plate, the owner of a registered vehicle may file such statement and proof of the facts as the commissioner shall require, with a fee of three dollars, in the office of the commissioner, or, unless and until the commissioner shall otherwise direct, in the office of the agent who issued the certificate or plate and the commissioner or his agent, as the case may be, shall issue a duplicate or substitute. No application for registration shall be accepted unless the applicant is at least sixteen years of age. b. Upon the issuance of a certificate of registration, the commissioner shall provide the owner of such vehicle with a notice regarding the laws governing unidentifiable motorcycle parts, in such form and manner as the commissioner may prescribe. 4. Times for registration and reregistration. Registration applied for and certificates issued under any application shall expire on a date determined by the commissioner. Registration shall be renewed periodically in the same manner and upon payment of the same annual fee as provided in this section for registration, to take effect and to expire on dates to be determined by the commissioner. Provided, however, that the commissioner shall have authority to fix the length of time for which any such vehicle which is registered without fee shall be registered. Provided further, however, that renewal of a registration may be used preceding the expiration date of such registration including such expiration date. 5. Registration fees. a. The annual fee for registration or reregistration of a motorcycle shall be eleven dollars and fifty cents. Beginning April first, nineteen hundred ninety-eight the annual fee for registration or reregistration of a motorcycle shall be seventeen dollars and fifty cents. b. Where a registration is made for a period of more or less than one calendar year, the registration fee shall not be prorated. The provisions hereof with respect to the payment of registration fees shall not apply to motorcycles owned or controlled by the state, a city, county, village or town or any of the departments thereof, or any school district or county extension service association, but in other respects shall be applicable. 6. Fees in lieu of taxes. The registration fees imposed by this article upon such vehicles shall be in lieu of all taxes, general or local, to which motorcycles may be subject. 7. "Motorcycle" as used in this section shall mean a motorcycle as defined by section one hundred twenty-three of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 15 - Registration of Motorcycles411-A - Issuance of Special Number Plates.

§ 411-a. Issuance of special number plates. 1. The commissioner may issue special number plates to applicants therefor in the same manner as other number plates are issued pursuant to this article. Such special number plates shall be issued only upon payment of an annual service charge of eighteen dollars and seventy-five cents in addition to the regular fee prescribed by section four hundred ten of this article. Application for special number plates shall be made in accordance with regulations promulgated by the commissioner with respect to issuance of such number plates. Notwithstanding any inconsistent provision of this section, the difference collected between the service charge set forth in this subdivision in effect on and after September first, two thousand nine and the service charge set forth in this subdivision in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. 2. For purposes of this section, a special number plate shall be a plate which contains not more than six letters, numerals or any combination thereof and which is reserved by the commissioner for issuance in accordance with the provisions of this section, or a plate reserved for issuance in a series for motorcycles owned by public officers, physicians, accredited representatives of the press or other groups. In issuing special number plates the commissioner shall give those applicants who held a special number plate at the time of the enactment of this section the right to retain such special number plate upon the payment of the annual service charge of fifteen dollars. Provided, however, that such right of retention shall apply only to the first renewal of the registration of such special number plate following the enactment of this section. 3. This section shall not apply to any plates in a series reserved in the public interest for purposes of facilitating identification of state and municipal motorcycles and those owned by members of international governmental organizations or any other vehicles which are exempt from the payment of registration fees, nor to plates or series of plates assigned by the commissioner for issuance by county clerks. 4. Nothing contained in this section shall be construed to require the commissioner to issue a special number plate or plates.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 15 - Registration of Motorcycles411-B - Registration Fee Schedule for Historical Motorcycles.

§ 411-b. Registration fee schedule for historical motorcycles. For each motorcycle which is owned and operated as an exhibition piece or collectors item, and is used for participation in club activities, exhibit, tours, parades, occasional transportation and similar uses, but not used for general daily transportation, an annual fee of twenty-five dollars. For purposes of this section, a historical motorcycle shall mean any motorcycle manufactured more than twenty-five years prior to the current calendar year, and any other model, year and type motorcycle which has unique characteristics and which is determined by the commissioner to be of historical, classic or exhibition value. Registration plates for such motorcycles shall be of a type and design approved by the commissioner, but

shall be of a distinctive nature, except that, with the approval of the commissioner, an owner of any such motorcycle may utilize registration plates of this state with the date of year corresponding to the model year date when the vehicle was manufactured, if the model year date registration plate is legible and serviceable, as determined by the department, in lieu of the registration plates otherwise required by this chapter. Such plates shall be used only for the operation of the motorcycle listed on the registration application and on other motorcycles which would qualify for registration under this schedule owned by persons other than the registrant for the purpose of test driving by the registrant or his agent in anticipation of possible purchase. No such registration will be issued unless evidence of financial security, in a form prescribed by the commissioner, is submitted which provides coverage for the motorcycle listed on the registration application and for non-owned motorcycles being operated with such plates. Notwithstanding any inconsistent provision of this section, the difference collected between the fees set forth in this section in effect on and after September first, two thousand nine and the fees set forth in this section in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 15 - Registration of Motorcycles411 - Distinctive Number; Form of Number Plates.

§ 411. Distinctive number; form of number plates. 1. No person shall operate or drive a motorcycle on the public highways of this state unless such motorcycle shall have a distinctive number assigned to it by the commissioner and a number plate issued by the commissioner with a number corresponding to that of the certificate of registration conspicuously displayed on the rear of such motorcycle, securely fastened so as to prevent the same from swinging. 2. Such number plates shall be of such material, form, design and dimensions and contain or set forth such distinguishing number or other identification marks as the commissioner shall prescribe, provided, however, that there shall be at all times a marked contrast between the color of the number plates and that of the numerals or letters thereon, and provided further that no motorcycle shall display the number plates of more than one state at a time, nor shall any plate be used other than those issued by the commissioner. 3. No person shall operate or drive a motorcycle upon the public highways of this state having displayed thereon a number plate not proper for such motorcycle under the provisions of this chapter and, upon conviction for this offense, the number plate shall be surrendered to the court for delivery to the commissioner. 4. No person shall knowingly authorize or permit a number plate issued for a motorcycle owned and registered by him to be displayed on any motorcycle other than a motorcycle to which such number plate has been assigned by the commissioner, or upon which such number plate may legally be displayed under a temporary certificate of registration issued by a dealer under the provisions of section four hundred twenty of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 15 - Registration of Motorcycles412 - Punishment for Violation.

§ 412. Punishment for violation. The violation of any of the provisions of section four hundred ten of this chapter shall be punishable by a fine of not less than fifty nor more than two hundred dollars, or by imprisonment for not more than fifteen days, or by both such fine and imprisonment except, if the violation consists of failure to renew a registration which was valid within sixty days, the fine shall be not less than twenty-five dollars. A violation of any of the provisions of section four hundred eleven of this chapter shall be punishable by a fine of not less than twenty-five nor more than two hundred dollars or by imprisonment for not more than fifteen days, or by both such fine and imprisonment.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 16 - Registration of Dealers and Transporters415-A - Vehicle Dismantlers and Other Persons Engaged in the Transfer or Disposal of Junk and Salvage Vehicles.

1-a. Definition and registration of salvage pools. A salvage pool is any person, acting on behalf of the vehicle owner or an insurance company, who sells, offers for sale or solicits bids for the sale of junk or salvage vehicles or major component parts of such vehicles, or displays or permits the display of such vehicles or parts upon premises owned or controlled by him, but who does not dismantle vehicles. No person shall engage in business as a salvage pool unless there shall have been issued to him a registration in accordance with the provisions of this section. A violation of this subdivision shall be a class A misdemeanor. 1-b. Definition and registration of mobile car crushers. A mobile car crusher is any person who engages in the business of operating a transportable car crusher, but who does not acquire ownership of the vehicles which he crushes. No person shall engage in the business of or operate as a mobile car crusher unless there shall have been issued to him a registration in accordance with the provisions of this section. A violation of this subdivision shall be a class A misdemeanor. 1-c. Itinerant vehicle collectors. An itinerant vehicle collector is any person who is engaged in the business of acquiring non-operable vehicles and who sells such vehicles or major component parts thereof to a vehicle dismantler or scrap processor. No person shall engage in business as an itinerant vehicle collector unless there shall have been issued to him a registration in accordance with the provisions of this section. A violation of this subdivision shall be a class A misdemeanor. 2. Application for registration. An application for registration as a vehicle dismantler, salvage pool, mobile car crusher or itinerant vehicle collector shall be made to the commissioner on a form prescribed by him which shall contain the name and address of the applicant and the names and addresses of all persons having a financial interest in the business. Such application shall contain a listing of all felony convictions and all other convictions relating to the illegal sale or possession of a motor vehicle or motor vehicle parts, and a listing of all arrests for any such violations by the applicant and any other person required to be named in such application. On and after January first, nineteen hundred ninety-two, such application for or renewal of

registration as a vehicle dismantler shall, in addition to the foregoing, contain a statement indicating that the applicant has purchased approved motor vehicle refrigerant recycling equipment or refrigerant recapturing equipment in accordance with section 38-0107 of the environmental conservation law. Applicants who are vehicle dismantlers must submit along with their application either a manufacturer's certificate issued upon purchase or an invoice with proof of payment. All such documents shall contain the name and address of the repair shop and manufacturer, the date purchased, and the serial numbers of the units acquired. The application shall also contain the business address of the applicant and may contain any other information required by the commissioner. 3. Fees. The annual fee for registration as a vehicle dismantler, salvage pool, mobile car crusher or itinerant vehicle collector shall be fifty dollars. Upon approval of an application, an appropriate registration shall be issued for a period of time determined by the commissioner and if issued for a period of more or less than one year, the fee shall be prorated on a monthly basis. Fees assessed under this section shall be paid to the commissioner for deposit to the general fund. 4. Requirements for registration. (a) Except as otherwise provided herein, no registration shall be issued or renewed unless the applicant has a permanent place of business at which the activity requiring registration is performed which conforms to section one hundred thirty-six of the general municipal law as such section applies and to all local laws or ordinances and the applicant and all persons having a financial interest in the business have been determined by the commissioner to be fit persons to engage in such business. However, the commissioner may issue a temporary registration pending final investigation of an application.(b) The provisions of this subdivision requiring a place of business at which the activity requiring registration is performed shall not apply to a mobile car crusher nor to an itinerant vehicle collector. However, the mobile car crusher or itinerant vehicle collector must otherwise comply with all applicable local licensing laws or ordinances.(c) Notwithstanding the provisions of paragraph (a) of this subdivision, the commissioner may issue a registration to an applicant for registration as a vehicle dismantler or salvage pool to a person who may not comply with local laws relating to zoning provided that the applicant has engaged in business at that location as a vehicle dismantler since September first, nineteen hundred seventy-three. However, the issuance of such registration shall not be a defense with respect to any action brought with respect to violation of any such local law.5. Records and identification.(a) Any records required by this section shall apply only to vehicles or parts of vehicles for which a certificate of title has been issued by the commissioner or which would be eligible to have such a certificate of title issued. Every person required to be registered pursuant to this section shall maintain a record of all motor vehicles, trailers, and major component parts thereof, coming into his or her possession together with a record of the disposition of any such motor vehicle, trailer or part thereof and the date such motor vehicle, trailer or part thereof is received and shall maintain proof of ownership for any motor vehicle, trailer or major component part thereof while in his or her possession. For the purposes of this article an inflatable restraint system shall be a major component part and a catalytic converter shall be a major component part. Such records shall be maintained in a manner and form prescribed by the commissioner. The commissioner may, by regulation, exempt vehicles or major component parts of vehicles from all or a portion of the record keeping requirements based upon the age of the vehicle if the commissioner deems that such record keeping requirements would not further the purposes of the motor vehicle theft prevention program established by section two hundred twenty-three of this chapter. Upon request of an agent of the commissioner or of any police officer and during his or her regular and usual business hours, a vehicle dismantler shall produce such records and permit said agent or police officer to examine them and any vehicles or parts of vehicles which are subject to the record keeping requirements of this section and which are on the premises. In addition, the commissioner shall require every vehicle dismantler to produce, every sixty days, all records regarding the number of catalytic converters they took in within such sixty-day period subject to the record keeping requirements of this section. Upon request of any agent of the commissioner and during his or her regular and usual business hours, a salvage pool, mobile car crusher or itinerant vehicle collector shall produce such records and permit said agent or police officer to examine them and any vehicles or parts of vehicles which are subject to the record keeping requirements of this section and which are on the premises. The failure to produce such records or to permit such inspection on the part of any person required to be registered pursuant to this section as required by this paragraph shall be a class A misdemeanor. If a vehicle dismantler has gained money or property by failing to produce records of the number of catalytic converters they take in as required by the commissioner pursuant to this paragraph, the court may order such defendant to pay an amount, fixed by the court, not to exceed double the amount of such defendant's gain from the commission of such offense.(b) Every vehicle dismantler and salvage pool shall display at his place of business at least one sign upon which his registration number and any other information required by the commissioner is affixed in a manner prescribed by the commissioner and further shall affix his registration number on all advertising, business cards, and vehicles used by him in connection with his business. The commissioner is hereby empowered to require, by regulation, that vehicle dismantlers and salvage pools mark, stamp or tag major component parts of vehicles in their possession in a manner prescribed by the commissioner so as to enable the part so marked to be identified as having come from a particular vehicle and from a particular vehicle dismantler and salvage pool. A violation of this paragraph shall be a class A misdemeanor.(c) For the purposes of this article, the term "catalytic converter" shall mean a device installed in the exhaust system of an internal combustion engine that utilizes catalytic action to oxidize hydrocarbon and carbon monoxide emissions to carbon dioxide and water.5-a. Improper display of signs. (a) The holder of a vehicle dismantler or salvage pool registration shall remove or cause to be removed any sign which contains the license number of the facility which is visible to the public and which is required to be displayed by this article or regulations promulgated thereunder if the registration is revoked or suspended or the vehicle dismantler or salvage pool is out of business. If the registration is only suspended, the holder may cover up the sign instead of removing it.(b) No person shall permit the display of any sign required to be displayed by this article or regulations promulgated thereunder indicating to the public that an official vehicle dismantler or salvage pool is operating unless a dismantler or salvage pool registration has been issued to that person and is currently valid.6. Suspension, revocation and refusal to renew a registration; civil

penalty. (a) A registration may be suspended or revoked, or renewal of a registration refused upon a conviction of any provision of the penal law relating to motor vehicle theft, illegal possession of a stolen vehicle or illegal possession of stolen motor vehicle parts, or after the registrant has had an opportunity to be heard upon any change of status of the registrant which would have resulted in refusal to issue a registration, any false statement in an application for a registration, an egregious and willful violation of title twenty-three of article twenty-seven of the environmental conservation law, any violation of subdivision five of this section or regulations promulgated by the commissioner with respect to this section, or any violation of title ten of this chapter.(b) Civil penalty. The commissioner, or any person deputized by him, in addition to or in lieu of revoking or suspending the registration of a registrant in accordance with the provisions of this article, may in any one proceeding by order require the registrant to pay to the people of this state a civil penalty in a sum not exceeding one thousand dollars for each violation and upon the failure of such registrant to pay such penalty within twenty days after the mailing of such order, postage prepaid, registered or certified, and addressed to the last known place of business of such registrant, unless such order is stayed by an order of a court of competent jurisdiction, the commissioner may revoke the registration of such registrant or may suspend the same for such period as he may determine. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner.(c) In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.7. Registration as a dealer and as a vehicle dismantler or salvage pool. A person may be registered as a dealer under section four hundred fifteen of this chapter as well as a vehicle dismantler or a salvage pool under this section. However, any such person must obtain a separate registration for each activity and must maintain separate records for each activity.8. Vehicle rebuilders. (a) A vehicle rebuilder is any person engaged in the business of acquiring damaged vehicles for the purpose of repairing and reselling such vehicles. In order to engage in such business, a person must be registered as a vehicle dismantler pursuant to this section or as a dealer pursuant to section four hundred fifteen of this chapter.(b) A vehicle rebuilder shall maintain a record of all vehicles or major component parts thereof coming into his possession for the purpose of rebuilding and all major component parts used in connection with such rebuilding in a manner prescribed by the commissioner. Upon request of an agent of the commissioner or any police officer during his regular and usual business hours, a vehicle rebuilder shall produce such records and permit said agent or police officer to examine them and any vehicles or parts of vehicles which are subject to the record keeping requirements of this section and which are on the premises. The failure to produce such records or to permit such records or to permit such inspection as required by this paragraph shall be a class A misdemeanor.9. Scrap processor. (a) A scrap processor is any person required to be licensed under article six-C of the general business law who purchases material which is or may have been a vehicle or vehicle part for processing into a form other than a vehicle or vehicle part, but who, except as otherwise provided by regulation of the commissioner, does not sell any such material as a motor vehicle, a trailer or a major component part thereof. No person shall engage in business or operate as a scrap processor as defined in this paragraph unless he has given notice to the commissioner that he is a scrap processor and that he has complied with article six-C of the general business law, and he has been certified by the commissioner as a scrap processor. A violation of this paragraph shall be a class A misdemeanor.(b) A scrap processor shall maintain a record of vehicles and a record of major component parts by weight coming into his possession thereof in a manner prescribed by the commissioner. This paragraph shall not apply to any major component part included in a mixed load. Upon request of an agent of the commissioner or any police officer or during his regular and usual business hours, a scrap processor shall produce such records and permit such agent or police officer to inspect them and to inspect any vehicles or major component parts of vehicles at the time of the delivery of such vehicles or parts to him. The failure to produce such records or to permit such inspection as required by this paragraph shall be a class A misdemeanor.10. Scrap collectors and repair shops. (a) A scrap collector is any person, other than a governmental agency, whose primary business is the collection of miscellaneous scrap for disposal, who may as an incident of such business collect vehicular parts as scrap. No person shall engage in the business or operate as a scrap collector as defined in this paragraph unless he has given notice to the commissioner that he is a scrap collector and has been certified as a scrap collector by the commissioner. A violation of this provision shall be a class A misdemeanor. No person shall be certified as a scrap collector eligible to do business within a city having a population of one million or more, or any county contiguous to such city, unless such person complies with all local requirements applicable to such business.(b) If required by regulation of the commissioner, a scrap collector shall keep records of his acquisition and disposition of vehicular scrap in a manner prescribed by the commissioner. Upon request of an agent of the commissioner or any police officer, a scrap collector shall produce such records as may be required to be kept and permit said agent or police officer to inspect them during usual business hours or while business is being conducted. The failure to produce such records as required by this paragraph shall be a class A misdemeanor.(c) A repair shop registered pursuant to article twelve-A of this chapter which disposes of vehicular scrap to a certified scrap processor shall apply to the commissioner for certification to carry out this disposal. The repair shop shall include in the application for certification the names and addresses of those scrap processors with whom it arranges for the disposal of its scrap. Thereafter the repair shop shall give notice to the commissioner within thirty days of any change in the scrap processors with whom it deals. The failure to comply with this paragraph or to make fraudulent statements regarding the scrap processors with which a repair shop arranges for the disposal of vehicular scrap shall be a class A misdemeanor.11. Out-of-state businesses. A person doing

business in this state who does not have a place of business in this state, but has a place of business or engages in such business in another state or province of Canada and who would be required to be registered or certified pursuant to this section if it were in this state, shall apply to the commissioner for an identification number in a manner prescribed by the commissioner. Such identification number shall be issued provided that such person complies with all the laws and regulations of the jurisdiction in which he has his principal place of business or engages in such business applicable to such business.12. Identification of certified persons. (a) Every person who is certified or who has been issued an identification number by the commissioner shall display such certification or identification number upon any vehicle used by him for the business of transporting vehicles or parts of vehicles, in accordance with regulations prescribed by the commissioner.(b) It shall be a class A misdemeanor for any person required to be registered or certified pursuant to the provisions of this section to transport a vehicle or major component parts out of New York state without having and displaying his registration or certification number as provided for in this section.13. Suspension or revocation of identification number or certification. An identification number and/or certification issued pursuant to subdivision eight, nine, ten or eleven of this section may be suspended or revoked upon conviction of any provision of the penal law relating to motor vehicle theft, illegal possession of a stolen vehicle or illegal possession of stolen motor vehicle parts. The commissioner may also revoke or suspend registration or certification, after an appropriate hearing where the holder of the registration or certification has had an opportunity to be heard, upon a finding of: (a) that there has been a change to the holder's status which would have resulted in a refusal to issue in the first instance, or (b) that the issuance was based upon a false statement by the holder, or (c) that there was a violation of the record keeping requirements, or (d) that there was a violation of the regulations promulgated by the commissioner pursuant to this section, or (e) that there was a violation of title X of this chapter.14. Restrictions on scrap processors. A certified scrap processor shall not purchase any material which may have been a vehicle or a major component part of a vehicle, if recognizable as such, from any person other than a dealer registered pursuant to section four hundred fifteen of this chapter, an insurance company, a governmental agency, a person in whose name a certificate of title or other ownership document has been issued for such vehicle or a person registered or certified or issued an identification number pursuant to this section. A violation of this subdivision shall be a class A misdemeanor.15. Regulations. The commissioner shall prescribe such rules and regulations as he shall deem necessary to carry out the provisions of this section. (b) The provisions of this subdivision requiring a place of business at which the activity requiring registration is performed shall not apply to a mobile car crusher nor to an itinerant vehicle collector. However, the mobile car crusher or itinerant vehicle collector must otherwise comply with all applicable local licensing laws or ordinances. (c) Notwithstanding the provisions of paragraph (a) of this subdivision, the commissioner may issue a registration to an applicant for registration as a vehicle dismantler or salvage pool to a person who may not comply with local laws relating to zoning provided that the applicant has engaged in business at that location as a vehicle dismantler since September first, nineteen hundred seventy-three. However, the issuance of such registration shall not be a defense with respect to any action brought with respect to violation of any such local law. 5. Records and identification. (a) Any records required by this section shall apply only to vehicles or parts of vehicles for which a certificate of title has been issued by the commissioner or which would be eligible to have such a certificate of title issued. Every person required to be registered pursuant to this section shall maintain a record of all motor vehicles, trailers, and major component parts thereof, coming into his or her possession together with a record of the disposition of any such motor vehicle, trailer or part thereof and the date such motor vehicle, trailer or part thereof is received and shall maintain proof of ownership for any motor vehicle, trailer or major component part thereof while in his or her possession. For the purposes of this article an inflatable restraint system shall be a major component part and a catalytic converter shall be a major component part. Such records shall be maintained in a manner and form prescribed by the commissioner. The commissioner may, by regulation, exempt vehicles or major component parts of vehicles from all or a portion of the record keeping requirements based upon the age of the vehicle if the commissioner deems that such record keeping requirements would not further the purposes of the motor vehicle theft prevention program established by section two hundred twenty-three of this chapter. Upon request of an agent of the commissioner or of any police officer and during his or her regular and usual business hours, a vehicle dismantler shall produce such records and permit said agent or police officer to examine them and any vehicles or parts of vehicles which are subject to the record keeping requirements of this section and which are on the premises. In addition, the commissioner shall require every vehicle dismantler to produce, every sixty days, all records regarding the number of catalytic converters they took in within such sixty-day period subject to the record keeping requirements of this section. Upon request of any agent of the commissioner and during his or her regular and usual business hours, a salvage pool, mobile car crusher or itinerant vehicle collector shall produce such records and permit said agent or police officer to examine them and any vehicles or parts of vehicles which are subject to the record keeping requirements of this section and which are on the premises. The failure to produce such records or to permit such inspection on the part of any person required to be registered pursuant to this section as required by this paragraph shall be a class A misdemeanor. If a vehicle dismantler has gained money or property by failing to produce records of the number of catalytic converters they take in as required by the commissioner pursuant to this paragraph, the court may order such defendant to pay an amount, fixed by the court, not to exceed double the amount of such defendant's gain from the commission of such offense. (b) Every vehicle dismantler and salvage pool shall display at his place of business at least one sign upon which his registration number and any other information required by the commissioner is affixed in a manner prescribed by the commissioner and further shall affix his registration number on all advertising, business cards, and vehicles used by him in connection with his business. The commissioner is hereby empowered to require, by regulation, that vehicle dismantlers and salvage pools mark, stamp or tag major component parts of vehicles in their possession in a manner prescribed by the commissioner so as to enable the part so marked to be identified as having come from a particular vehicle and from a particular vehicle dismantler and salvage pool. A violation of this paragraph shall be a class A

misdemeanor. (c) For the purposes of this article, the term "catalytic converter" shall mean a device installed in the exhaust system of an internal combustion engine that utilizes catalytic action to oxidize hydrocarbon and carbon monoxide emissions to carbon dioxide and water. 5-a. Improper display of signs. (a) The holder of a vehicle dismantler or salvage pool registration shall remove or cause to be removed any sign which contains the license number of the facility which is visible to the public and which is required to be displayed by this article or regulations promulgated thereunder if the registration is revoked or suspended or the vehicle dismantler or salvage pool is out of business. If the registration is only suspended, the holder may cover up the sign instead of removing it. (b) No person shall permit the display of any sign required to be displayed by this article or regulations promulgated thereunder indicating to the public that an official vehicle dismantler or salvage pool is operating unless a dismantler or salvage pool registration has been issued to that person and is currently valid. 6. Suspension, revocation and refusal to renew a registration; civil penalty. (a) A registration may be suspended or revoked, or renewal of a registration refused upon a conviction of any provision of the penal law relating to motor vehicle theft, illegal possession of a stolen vehicle or illegal possession of stolen motor vehicle parts, or after the registrant has had an opportunity to be heard upon any change of status of the registrant which would have resulted in refusal to issue a registration, any false statement in an application for a registration, an egregious and willful violation of title twenty-three of article twenty-seven of the environmental conservation law, any violation of subdivision five of this section or regulations promulgated by the commissioner with respect to this section, or any violation of title ten of this chapter. (b) Civil penalty. The commissioner, or any person deputized by him, in addition to or in lieu of revoking or suspending the registration of a registrant in accordance with the provisions of this article, may in any one proceeding by order require the registrant to pay to the people of this state a civil penalty in a sum not exceeding one thousand dollars for each violation and upon the failure of such registrant to pay such penalty within twenty days after the mailing of such order, postage prepaid, registered or certified, and addressed to the last known place of business of such registrant, unless such order is stayed by an order of a court of competent jurisdiction, the commissioner may revoke the registration of such registrant or may suspend the same for such period as he may determine. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. (c) In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record. 7. Registration as a dealer and as a vehicle dismantler or salvage pool. A person may be registered as a dealer under section four hundred fifteen of this chapter as well as a vehicle dismantler or a salvage pool under this section. However, any such person must obtain a separate registration for each activity and must maintain separate records for each activity. 8. Vehicle rebuilders. (a) A vehicle rebuilder is any person engaged in the business of acquiring damaged vehicles for the purpose of repairing and reselling such vehicles. In order to engage in such business, a person must be registered as a vehicle dismantler pursuant to this section or as a dealer pursuant to section four hundred fifteen of this chapter. (b) A vehicle rebuilder shall maintain a record of all vehicles or major component parts thereof coming into his possession for the purpose of rebuilding and all major component parts used in connection with such rebuilding in a manner prescribed by the commissioner. Upon request of an agent of the commissioner or any police officer during his regular and usual business hours, a vehicle rebuilder shall produce such records and permit said agent or police officer to examine them and any vehicles or parts of vehicles which are subject to the record keeping requirements of this section and which are on the premises. The failure to produce such records or to permit such records or to permit such inspection as required by this paragraph shall be a class A misdemeanor. 9. Scrap processor. (a) A scrap processor is any person required to be licensed under article six-C of the general business law who purchases material which is or may have been a vehicle or vehicle part for processing into a form other than a vehicle or vehicle part, but who, except as otherwise provided by regulation of the commissioner, does not sell any such material as a motor vehicle, a trailer or a major component part thereof. No person shall engage in business or operate as a scrap processor as defined in this paragraph unless he has given notice to the commissioner that he is a scrap processor and that he has complied with article six-C of the general business law, and he has been certified by the commissioner as a scrap processor. A violation of this paragraph shall be a class A misdemeanor. (b) A scrap processor shall maintain a record of vehicles and a record of major component parts by weight coming into his possession thereof in a manner prescribed by the commissioner. This paragraph shall not apply to any major component part included in a mixed load. Upon request of an agent of the commissioner or any police officer or during his regular and usual business hours, a scrap processor shall produce such records and permit such agent or police officer to inspect them and to inspect any vehicles or major component parts of vehicles at the time of the delivery of such vehicles or parts to him. The failure to produce such records or to permit such inspection as required by this paragraph shall be a class A misdemeanor. 10. Scrap collectors and repair shops. (a) A scrap collector is any person, other than a governmental agency, whose primary business is the collection of miscellaneous scrap for disposal, who may as an incident of such business collect vehicular parts as scrap. No person shall engage in the business or operate as a scrap collector as defined in this paragraph unless he has given notice to the commissioner that he is a scrap collector and has been certified as a scrap collector by the commissioner. A violation of this provision shall be a class A misdemeanor. No person shall be certified as a scrap collector eligible to do business within a city having a population of one million or more, or any county contiguous to such city, unless such person complies with all local requirements applicable to such business. (b) If required by regulation of the commissioner, a scrap collector shall keep records of his acquisition and disposition of vehicular scrap in a manner

prescribed by the commissioner. Upon request of an agent of the commissioner or any police officer, a scrap collector shall produce such records as may be required to be kept and permit said agent or police officer to inspect them during usual business hours or while business is being conducted. The failure to produce such records as required by this paragraph shall be a class A misdemeanor. (c) A repair shop registered pursuant to article twelve-A of this chapter which disposes of vehicular scrap to a certified scrap processor shall apply to the commissioner for certification to carry out this disposal. The repair shop shall include in the application for certification the names and addresses of those scrap processors with whom it arranges for the disposal of its scrap. Thereafter the repair shop shall give notice to the commissioner within thirty days of any change in the scrap processors with whom it deals. The failure to comply with this paragraph or to make fraudulent statements regarding the scrap processors with which a repair shop arranges for the disposal of vehicular scrap shall be a class A misdemeanor. 11. Out-of-state businesses. A person doing business in this state who does not have a place of business in this state, but has a place of business or engages in such business in another state or province of Canada and who would be required to be registered or certified pursuant to this section if it were in this state, shall apply to the commissioner for an identification number in a manner prescribed by the commissioner. Such identification number shall be issued provided that such person complies with all the laws and regulations of the jurisdiction in which he has his principal place of business or engages in such business applicable to such business. 12. Identification of certified persons. (a) Every person who is certified or who has been issued an identification number by the commissioner shall display such certification or identification number upon any vehicle used by him for the business of transporting vehicles or parts of vehicles, in accordance with regulations prescribed by the commissioner. (b) It shall be a class A misdemeanor for any person required to be registered or certified pursuant to the provisions of this section to transport a vehicle or major component parts out of New York state without having and displaying his registration or certification number as provided for in this section. 13. Suspension or revocation of identification number or certification. An identification number and/or certification issued pursuant to subdivision eight, nine, ten or eleven of this section may be suspended or revoked upon conviction of any provision of the penal law relating to motor vehicle theft, illegal possession of a stolen vehicle or illegal possession of stolen motor vehicle parts. The commissioner may also revoke or suspend registration or certification, after an appropriate hearing where the holder of the registration or certification has had an opportunity to be heard, upon a finding of: (a) that there has been a change to the holder's status which would have resulted in a refusal to issue in the first instance, or (b) that the issuance was based upon a false statement by the holder, or (c) that there was a violation of the record keeping requirements, or (d) that there was a violation of the regulations promulgated by the commissioner pursuant to this section, or (e) that there was a violation of title X of this chapter. 14. Restrictions on scrap processors. A certified scrap processor shall not purchase any material which may have been a vehicle or a major component part of a vehicle, if recognizable as such, from any person other than a dealer registered pursuant to section four hundred fifteen of this chapter, an insurance company, a governmental agency, a person in whose name a certificate of title or other ownership document has been issued for such vehicle or a person registered or certified or issued an identification number pursuant to this section. A violation of this subdivision shall be a class A misdemeanor. 15. Regulations. The commissioner shall prescribe such rules and regulations as he shall deem necessary to carry out the provisions of this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 16 - Registration of Dealers and Transporters415-B - Local Regulation of Vehicle Dismantlers in Cities Having a Population in Excess of One Million.

§ 415-b. Local regulation of vehicle dismantlers in cities having a population in excess of one million. The legislative body of any city having a population in excess of one million may, by local law: 1. provide for the licensing of vehicle dismantlers as defined in subdivision one of section four hundred fifteen-a of this chapter by the department of consumer affairs of such city, and further provide that no person may act as a vehicle dismantler in such city without having obtained a license from such department. The provisions of such local law shall not be inconsistent with the provisions of this article or any rule or regulation promulgated thereunder; and 2. adopt any other provisions relating to the operation of the business of a vehicle dismantler which are neither duplicative of, nor inconsistent with, any provision of this article or any rule or regulation promulgated thereunder.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 16 - Registration of Dealers and Transporters415-C - Sale of Salvaged Inflatable Restraint Systems; Restrictions.

§ 415-c. Sale of salvaged inflatable restraint systems; restrictions. 1. On and after January first, nineteen hundred ninety-seven, prior to offering any salvaged inflatable restraint system for sale such salvaged inflatable restraint system part indentification number and the vehicle identification number of the vehicle from which the salvaged inflatable restraint system was taken shall be referred to a nationally recognized theft index bureau approved by the commissioner, in consultation with the superintendent of financial services, for the purposes of determining prior to sale that neither the salvaged inflatable restraint system nor the motor vehicle were stolen, as determined at the time of inquiry. The sales invoice shall state the date and the result of the inquiry to such theft index bureau. 2. On and after March first, nineteen hundred ninety-nine, prior to offering any salvaged inflatable restraint system for sale such salvaged inflatable restraint system shall be certified according to standards established by a nationally recognized testing, engineering and research body approved by the commissioner in consultation with the superintendent of financial services.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 16 - Registration of Dealers and Transporters415 - Registration of Manufacturers, Dealers, Repairmen and Others.

a. "Dealer" means a person engaged in the business of buying, selling or dealing in motor vehicles, motorcycles or trailers, other

than mobile homes or manufactured homes, at retail or wholesale; except, however, trailers with an unladen weight of less than one thousand pounds. For the purposes of this section, a "mobile home" or "manufactured home" means a mobile home or manufactured home as defined in section one hundred twenty-two-c of this chapter. Any person who sells, or offers for sale more than five motor vehicles, motorcycles or trailers in any calendar year or who displays or permits the display of three or more motor vehicles, motorcycles or trailers for sale at any one time or within any one calendar month upon premises owned or controlled by him or her, if such vehicles were purchased, acquired or otherwise obtained by such person for the purpose of resale, will be regarded as a dealer. Except as otherwise provided in subdivisions three, five, six-b, and seven of this section, the term "dealer" shall include a "new motor vehicle dealer" as defined by paragraph f of this subdivision and a "qualified dealer" as defined in paragraph g of this subdivision. b. "Person" means any natural person, firm, corporation, partnership, limited liability company, entity, joint venture, association or organization. c. "Place of business" means a designated location at which the business of the dealer is conducted, and, in relation to a retail dealer, facilities for displaying new or used motor vehicles. d. "Retail dealer" means a dealer whose business consists in whole or in part of buying, selling or dealing in motor vehicles, motorcycles or trailers at retail. e. "Wholesale dealer" means a dealer whose business consists exclusively of buying, selling or dealing in motor vehicles, motorcycles or trailers at wholesale. f. "New motor vehicle dealer" means a dealer who engages in the activities described in paragraph a of this subdivision if such activities relate to new motor vehicles and if such dealer is party to a franchise, as the terms "new motor vehicle" and "franchise" are defined in section four hundred sixty-two of this title; provided, however, for purposes of this definition, a new motor vehicle shall include only those motor vehicles commonly classified as a passenger automobile, sport utility vehicle, light truck, pickup truck, van, minivan, or suburban, with a gross vehicle weight rating of ten thousand pounds or less, and shall not include (i) any such vehicle which has been converted for use as a tow truck, or (ii) a motor vehicle for which the current ownership document is a statement of acquisition issued pursuant to section four hundred twenty-nine of this title, a salvage certificate, salvage certificate of title, nonrepairable certificate, or similar document issued by any state or jurisdiction; or (iii) any motor vehicle commonly classified as a bus, school bus, garbage truck, marine trailer, tow truck, motorcycle, recreational vehicle, snowmobile, trailer, mobile home or construction equipment; and provided further that: (i) a dealer is a new motor vehicle dealer only with respect to those vehicles which are of the same make as those which that dealer is authorized to sell at that location pursuant to a valid franchise agreement; and (ii) a dealer is not acting as a new motor vehicle dealer when displaying, advertising, storing and/or demonstrating a new mobility vehicle. g. "Qualified dealer" means a dealer, other than a new motor vehicle dealer or a dealer owned in whole or in part, directly or indirectly, by a manufacturer, who:(i) acting through a single person, but operating at one or more locations of such single person, has displayed new motor vehicles for sale and/or lease, and has sold and/or leased (excluding sales or leases of any affiliates) a minimum of four thousand new and/or used motor vehicles annually (of which at least forty percent annually were new motor vehicles) at retail regardless of make or model from any one or more locations of such single person within the state, in each year from nineteen hundred ninety-five through and including nineteen hundred ninety-eight, exclusively; or(ii) has displayed new motor vehicles for sale and/or lease, and has sold and/or leased (excluding sales or leases of any affiliates) a minimum of two hundred twenty-five new and/or used motor vehicles (of which at least thirty-three and one-third percent were new motor vehicles) at retail, regardless of make or model, from any one or more locations within the state, in the twelve-month period preceding August thirty-first, nineteen hundred ninety-nine; or(iii) was issued an original certificate of registration as a dealer with a validation date of May, nineteen hundred ninety-nine, has displayed new motor vehicles for sale and/or lease, and has sold and/or leased (excluding sales or leases of any affiliates) a minimum of one hundred fifty new and/or used motor vehicles (of which at least fifty were new motor vehicles), regardless of make or model, from any one or more locations within the state, in the period between July first, nineteen hundred ninety-nine and the effective date of chapter seven of the laws of two thousand. Notwithstanding the provisions of subdivision eighteen of this section, the total number of locations from which a qualified dealer eligible pursuant to this subparagraph may operate shall not exceed that number of locations operated by such qualified dealer on August thirty-first, nineteen hundred ninety-nine; or(iv) was issued a certificate of registration as a dealer new and used with a validation date of February, nineteen hundred ninety-eight and has continuously held a certificate of registration as a dealer for the ten years preceding the effective date of chapter seven of the laws of two thousand, and has sold and/or leased (excluding sales or leases of any affiliates) a minimum of two hundred new and/or used motor vehicles (of which at least twenty percent were new motor vehicles) regardless of make or model, from one or more locations within the state in the period between September first, nineteen hundred ninety-eight through and including August thirty-first, nineteen hundred ninety-nine.h. For the purposes of this section, "new motor vehicle" means a motor vehicle commonly classified as a passenger automobile, sport utility vehicle, light truck, pick up truck, van, minivan or suburban which meets any one or more of the following criteria:(i) a motor vehicle which has not been placed in consumer use; or(ii) a motor vehicle which has not been transferred to someone other than a distributor, new motor vehicle dealer, or qualified dealer; or(iii) a motor vehicle which has less than one thousand miles on the odometer.Provided, however, that such term shall not include any such vehicle which has been converted for use as a tow truck or any motor vehicle commonly classified as a bus, school bus, garbage truck, marine trailer, tow truck, motorcycle, recreational vehicle, snowmobile, trailer, mobile home or construction equipment.i. "Used motor vehicle" means any vehicle not included in the definition of a new motor vehicle. Provided, however, that such term as used in paragraph g of this subdivision shall include only those motor vehicles commonly classified as a passenger automobile, sport utility vehicle, light truck, pick up truck, van, minivan or suburban, with a gross vehicle weight rating of ten thousand pounds or less, which (i) is not deemed to be a "new motor vehicle" pursuant to paragraph h of this subdivision, or (ii) has not been converted for use as a tow truck, or (iii) is not commonly classified as a bus, school bus, garbage truck, marine trailer, tow truck, motorcycle, recreational vehicle, snowmobile, trailer, mobile home, or construction equipment.j. "Lease" means to

arrange for a person to enter into an agreement subject to the provisions of article nine-A of the personal property law, or to act as a lessor as defined in such article.k. "Mobility vehicle" means a motor vehicle that is specially converted and equipped to transport a person with a disability and is altered or modified for such use by an alterer or final stage manufacturer pursuant to parts 567 and 568 of title 49 of the code of federal regulations or a modifier pursuant to part 595 of title 49 of the code of federal regulations and that:(i) has a chassis that contains: (A) a permanently lowered floor or permanently lowered frame; or (B) a permanently raised roof and raised door; and(ii) contains at least one of the following: (A) an electronic or mechanical wheelchair, scooter, or platform lift that enables a person to enter or exit the vehicle while occupying a wheelchair or scooter; (B) an electronic or mechanical wheelchair ramp that is installed as an integral part or permanent attachment to the motor vehicle.For the purposes of this section, the terms "alterer" and "final-stage manufacturer" shall have the same meanings as such terms are defined in part 567.3 of title 49 of the code of federal regulations, and the term "modifier" shall mean any motor vehicle repair business that modifies a motor vehicle to enable a person with a disability to operate, or ride as a passenger in, the motor vehicle.l. "New mobility vehicle" means a mobility vehicle that has not previously been titled or registered for operation by a consumer, either as a mobility vehicle or as a motor vehicle.m. "Automobile broker business" shall have the meaning set forth in subdivision one of section seven hundred thirty-six of the general business law.2. Registration of manufacturers, repairmen and certain others. A person engaged in a business requiring the limited operation of motor vehicles, motorcycles or trailers in order to facilitate the delivery, repair or improvement thereof, or the foreclosure or repossession thereof or the installation of something thereon or for the purpose of dismantling such motor vehicle, motorcycle or trailer, may, instead of obtaining vehicle registration, as provided by sections four hundred one and four hundred ten of this chapter, apply to the commissioner for registration under this section.3. Registration of new motor vehicle dealers, qualified dealers, and other motor vehicle dealers. a. No person shall engage in business as a new motor vehicle dealer, or represent, advertise, or otherwise hold himself or herself out as engaged or intending to engage in the business of selling new motor vehicles in this state, unless there shall have been issued to him or her, for a particular make, a certificate of registration as a new motor vehicle dealer as provided in subdivision seven of this section, or unless there shall have been issued to him or her a certificate of registration as a qualified dealer as defined in paragraph g of subdivision one of this section; provided, however, for purposes of this subdivision, a new motor vehicle shall have the same meaning as set forth in paragraph h of subdivision one of this section, but shall not include a motor vehicle for which the current ownership document is a statement of acquisition issued pursuant to section four hundred twenty-nine of this title, a salvage certificate, salvage certificate of title, nonrepairable certificate, or similar document issued by any state or jurisdiction. Only a person who has been issued a certificate as a new motor vehicle dealer or a qualified dealer shall be entitled to engage in all dealer activities authorized under this article and shall not be required to obtain an additional certificate of registration under paragraph c of subdivision seven of this section. A qualified dealer shall be entitled to sell new motor vehicles of any make.b. No person shall engage in the business of selling new motor vehicles, or represent or advertise that he or she is engaged or intends to engage in the business of selling new motor vehicles in this state, unless there shall have been issued to him or her a certificate of registration as a new motor vehicle dealer or as a qualified dealer as provided in subdivision seven of this section. No person shall engage in business as a dealer, or represent or advertise that he or she is engaged or intends to engage in such business in this state, unless there shall have been issued to him or her a certificate of registration as provided in subdivision seven of this section. No provision of this section shall be deemed to prohibit any dealer located outside of the state from selling a new motor vehicle to a new motor vehicle dealer or a qualified dealer. No provision of this section shall be deemed to prohibit any person engaged in the leasing of new motor vehicles from selling a new motor vehicle to a third-party bank, finance company or other commercial lending institution, provided that such sale is made incidental to and concurrently with the lease of such new motor vehicle by such third party bank, finance company, or other commercial lending institution as the lessor, to a retail customer.c. The issuance of such certificate of registration to a new motor vehicle dealer, a qualified dealer, or other motor vehicle dealer shall be deemed to include the right to operate motor vehicles, motorcycles and trailers to the extent permitted by subdivision eight of this section, instead of obtaining vehicle registration as provided by sections four hundred one and four hundred ten of this title. The provisions of this section shall not apply to persons engaged in the business of buying, selling or dealing in snowmobiles and/or snow travellers.3-a. Automobile broker business registration. No person shall engage in the automobile broker business or represent or advertise that he or she is engaged or intends to engage in the automobile broker business in this state, unless there shall have been issued to him or her a certificate of registration as an automobile broker business by the commissioner under this section pursuant to an application for registration submitted pursuant to subdivision five of this section.4. Number plates. A dealer, manufacturer, or other person, qualifying for limited use of motor vehicles, motorcycles or trailers under subdivisions two and three of this section, shall be entitled to receive one or more sets of number plates for display thereon as the commissioner may determine, upon payment of the required fee for each set. Number plates issued to dealers under this section shall bear distinctive marks to distinguish them from manufacturer and transporter plates to be issued to other persons qualifying under this section. Number plates issued to manufacturers under this section shall bear distinctive marks to distinguish them from dealer and transporter plates to be issued to other persons qualifying under this section. A set of number plates shall consist of two plates in the case of a motor vehicle and one plate in the case of a motorcycle or trailer; provided, however, that the commissioner, in his or her discretion, may issue, for any registration year, only one number as a set for a motor vehicle, in which event a set of number plates for a motor vehicle shall consist of one plate.5. Application for registration. The application for registration under this section shall be filed with the commissioner in such form and detail as the commissioner shall prescribe, setting forth:a. Name and residence address of applicant; if an individual, the name under which he intends to conduct business; if a co-partnership, the name and residence address of each member thereof, and the name under which the business is to be conducted; if a corporation, the name of the corporation and the

name and residence address of each of the officers.b. The place or places, including the complete address or addresses where the business is to be conducted and, in the case of an application to do business as a new motor vehicle dealer, the names of each line or make of new motor vehicle which a manufacturer or distributor has authorized the applicant to sell from each location and the date of inception of the franchise, as defined in section four hundred sixty-two of this title, which authorizes the applicant to sell such line or make from each location. A copy of each such franchise, or other documentation in lieu thereof satisfactory to the commissioner, shall be submitted to the commissioner at the time of application and upon each renewal of each certificate to do business as a new motor vehicle dealer.b-1. The name and address of the surety company which will issue the bond required by subdivision six-b of this section. If the bond is to be issued by an authorized agent of the surety company licensed by the state, then the name and address of that agent may be provided in lieu of the information concerning the surety company.b-2. A statement indicating any interest in the applicant's franchise entity by a person or entity described in paragraph f of subdivision seven of this section.b-3. In the case of an application for registration as an automobile broker business, the name and address of the surety company which will issue the bond required by subdivision one of section seven hundred forty-a of the general business law. If the bond is to be issued by an authorized agent of the surety company licensed by the state, then the name and address of that agent may be provided in lieu of the information concerning the surety company.c. Such further information as the commissioner may reasonably prescribe.d. Before an application for an original certificate of registration is approved, the applicant must have on the premises to be licensed adequate space and proper facilities to retain and safeguard all records and documents he must maintain upon the licensed premises as required by the vehicle and traffic law and the regulations of the commissioner.The commissioner may require the applicant for registration to appear at such time and place as may be designated by the commissioner for examination to enable him to determine the accuracy of the facts set forth in the written application, either for initial registration or renewal thereof.Every application under this section shall be verified by the applicant.* 6. Fees. Every original application for registration as a dealer, automobile broker or transporter shall be accompanied by an application fee of thirty-seven dollars and fifty cents, which shall in no event be refunded. The annual fee for registration as a dealer, automobile broker or transporter or for renewal thereof shall be two hundred twenty-five dollars. The annual fee for any other registration under this section shall be fifty dollars. However, the commissioner may, in his or her discretion, issue a renewal of either registration for a period of two years. The fee for a two-year renewal shall be twice the annual fee. The annual fee for dealer, manufacturer, or transporter number plates shall be twenty dollars for each set. If the commissioner issues to dealers a document which is required to be used by a dealer to sell or transfer a vehicle, the fee for the issuance of each such document shall be five dollars. There shall be no refund of registration fee or fees for number plates in the event of suspension, revocation or voluntary cancellation of registration. The fee for any such transfer document issued by the commissioner shall be refunded only upon the surrender of such document upon voluntary cancellation of registration.* NB Effective until April 1, 2026* 6. Fees. Every original application for registration as a dealer, automobile broker or transporter shall be accompanied by an application fee of twenty-five dollars, which shall in no event be refunded. The annual fee for registration as a dealer, automobile broker or transporter or for renewal thereof shall be one hundred fifty dollars. The annual fee for any other registration under this section shall be fifty dollars. However, the commissioner may, in his or her discretion, issue a renewal of either registration for a period of two years. The fee for a two-year renewal shall be twice the annual fee. The annual fee for dealer, manufacturer, or transporter number plates shall be twenty dollars for each set. If the commissioner issues to dealers a document which is required to be used by a dealer to sell or transfer a vehicle, the fee for the issuance of each such document shall be one dollar. There shall be no refund of registration fee or fees for number plates in the event of suspension, revocation or voluntary cancellation of registration. The fee for any such transfer document issued by the commissioner shall be refunded only upon the surrender of such document upon voluntary cancellation of registration.* NB Effective April 1, 2026* 6-a. Fees; deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the general fund, with the exception of the four dollar increase in the fee for issuance of a document to be used by a dealer to sell or transfer a vehicle collected pursuant to subdivision six of this section, which shall be deposited to the general fund through March thirty-first, two thousand four and from April first, two thousand four and thereafter to the dedicated highway and bridge trust fund; and with the exception of the twelve dollar and fifty cent increase in the fee for original application for registration as a dealer or transporter pursuant to subdivision six of this section and the seventy-five dollar increase in the annual fee for registration as a dealer or transporter or for renewal pursuant to subdivision six of this section, which shall be deposited to the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law.* NB Effective until April 1, 2026* 6-a. Fees; deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the general fund.* NB Effective April 1, 20266-b. Dealer, qualified dealer, and new motor vehicle dealer surety bond. a. As a condition to obtaining a registration certificate pursuant to this section, every new motor vehicle dealer applicant and every qualified dealer applicant shall obtain and continue in effect a surety bond in an amount of fifty thousand dollars executed by a surety company authorized to transact business in the state by the department of financial services of the state. As a condition to obtaining a registration certificate pursuant to this section, every dealer applicant who is applying for a registration certificate in the first instance or who sold fifty motor vehicles or fewer in the previous calendar year shall obtain and continue in effect a surety bond in an amount of twenty thousand dollars executed by a surety company authorized to transact business in the state by the department of financial services of the state. As a condition of obtaining a registration certificate pursuant to this section, every dealer applicant who sold more than fifty motor vehicles in the previous calendar year shall obtain and continue in effect a surety bond in an amount of one hundred thousand dollars executed by a surety company authorized to transact business in the state

by the department of financial services of the state. The bonds shall be approved as to form by the commissioner and shall be conditioned on the new motor vehicle dealer's, qualified dealer's, and dealer's: payment of all valid bank drafts, including checks, drawn by such dealer for the purchase of motor vehicles; transfer of good title to each motor vehicle such dealer sells; safekeeping of all customer deposits related to the sale of a motor vehicle between the time of receipt of such customer deposit and the transfer of good title to the vehicle to the customer; payment for all fines imposed upon the new motor vehicle dealer, qualified dealer, or dealer by the commissioner pursuant to the provisions of this chapter; and such dealer's repayment of any overcharges of a customer by such dealer for the vehicle registration and titling charges payable to the commissioner for registering and titling the sold vehicle. Any such dealer which is bonded pursuant to this section prior to the effective date of the chapter of the laws of two thousand sixteen which amended this paragraph shall be required to comply with the amendments made by such chapter upon renewal, replacement, alteration, or extension of such dealer's current surety bond.b. Recovery against a bond may be made by a person, including the state, who obtains a judgment against the new motor vehicle dealer, qualified dealer, or dealer for an act or omission on which the bond is conditioned if the act or omission occurred during the term of the bond. The total liability imposed on the surety under this section for all breaches of the bond condition is limited to the face amount of the bond. Such liability may include, but is not limited to, the amount of the valid bank drafts, including checks, drawn by the new motor vehicle dealer, qualified dealer, or dealer for the purchase of motor vehicles or the amount of overcharge by such dealer for registration or title fees or the amount paid to such dealer or the deposit, as the case may be, for the motor vehicle for which good title was not delivered. In no event shall the surety on a bond be liable for total claims in excess of the bond amount, regardless of the number or nature of claims made against the bond or the number of years the bond remained in force, nor shall any such surety bond provide coverage for transactions involving sales of any motor vehicles for which a bond is not required pursuant to the provisions of paragraph d of this subdivision.c. Any surety issuing a bond pursuant to this subdivision shall be required to provide sixty days' notice to the commissioner prior to the effective date of cancellation or lapse of the bond, and shall provide additional notice to the commissioner upon the date of the cancellation or lapse of such bond. Upon the cancellation or lapse of any surety bond required by this subdivision, the commissioner shall, within five days of such cancellation or lapse, verify that the dealer holds a surety bond which meets the requirements of this subdivision.d. For purposes of this subdivision, the term "motor vehicle" means a motor vehicle commonly classified as a passenger automobile, sport utility vehicle, light truck, pick up truck, van, minivan, or suburban, with a gross vehicle weight rating of ten thousand pounds or less. Notwithstanding the provisions of paragraphs a and b of this subdivision, the requirement to post a surety bond as set forth in this subdivision shall not apply to any dealer who is engaged exclusively in the business of buying, selling or dealing in motor vehicles other than those motor vehicles with a gross vehicle weight rating of ten thousand pounds or less and which are commonly classified as a passenger automobile, sport utility vehicle, light truck, pick up truck, van, minivan, or suburban, such as buses, school buses, garbage trucks, marine trailers, tow trucks, motorcycles, recreational vehicles, snowmobiles, trailers, mobile homes, or construction equipment. Provided, further, that such requirement also shall not apply to any dealer who is engaged exclusively in the business of buying, selling or dealing in motor vehicles solely for conversion for use as a tow truck.7. Issuance of certificate. a. If the commissioner is satisfied that the applicant for a new motor vehicle dealer registration certificate is party to a franchise or franchises authorizing such applicant to sell or lease lines or makes of new motor vehicles which the applicant proposes to sell or lease from the locations described in the application for the sale or lease of such lines or makes and if the commissioner otherwise approves the application, upon payment of the prescribed fee, he or she shall issue a new motor vehicle dealer registration certificate in such form as he or she may prescribe. Every new motor vehicle dealer registration certificate shall by its terms permit the sale or lease of the particular lines or makes of new motor vehicles only from a location or locations authorized for such sale or lease in the franchise or franchises between such new motor vehicle dealer and the manufacturers or distributors of such new motor vehicles. The commissioner may, in his or her discretion, issue such certificates of registration and number plates on a staggered expiration basis, in which event the fees set forth in subdivision six of this section for such certificate shall be prorated on a monthly basis. A new motor vehicle dealer registered under this section shall notify the commissioner of any change of address of the locations of his or her place or places of business and whether or not such locations are approved as locations for the sale or lease of new motor vehicles in a franchise and which lines or makes are so approved for sale or lease at each location pursuant to the franchise or franchises within thirty days after such change is made, and the commissioner shall be authorized to cancel the registration upon failure to give such notice. A copy of each franchise affected by any such change or other proof satisfactory to the commissioner shall accompany the notice to the commissioner. If any location shall cease to be approved by the new motor vehicle manufacturer or distributor for the sale or lease of the line or make of new motor vehicle, then such new motor vehicle dealer shall immediately cease selling or leasing such line or make of new motor vehicle from such location and shall notify the commissioner within thirty days of such change, after which such new motor vehicle dealer registration certificate shall be modified to reflect such change.b. Registration certificate for qualified dealer. If a dealer makes application, under penalty of perjury, for a registration certificate as a qualified dealer, the commissioner shall issue a registration as a qualified dealer to such dealer upon payment of the prescribed fee.c. Registration certificate for other than new motor vehicle dealer or qualified dealer. If the commissioner approves the application of an applicant for a registration certificate other than a new motor vehicle dealer certificate or a qualified dealer certificate, upon payment of the prescribed fee, he or she shall issue a registration certificate in such form as he or she may prescribe.c-1. Special provisions relating to mobility vehicles. (i) Any dealer, other than a new motor vehicle dealer, engaged in displaying, advertising, storing and/or demonstrating mobility vehicles shall notify prospective purchasers regarding any warranty on the mobility modifications and the effect of any such modifications or alterations on any warranty on the underlying motor vehicle and, upon the sale of any such mobility vehicle, provide the purchaser with any

warranty information available to any such dealer relating to the underlying motor vehicle.(ii) Notwithstanding the provisions of article twelve-A of this chapter, a dealer engaged in displaying, advertising, storing and/or demonstrating mobility vehicles may, without obtaining a repair shop license pursuant to such article twelve-A, perform repairs on those parts of the mobility vehicle that are unique to the modifications made thereto and which are not part of the original manufactured motor vehicle.d. The commissioner may, in his or her discretion, issue such certificates of registration and number plates on a staggered expiration basis, in which event the fees set forth in subdivision six of this section for such certificate shall be prorated on a monthly basis. A registrant shall notify the commissioner of any change of address of his or her principal place of business within thirty days after such change is made, and the commissioner shall be authorized to cancel the registration upon failure to give such notice.e. A registration issued under this section may be renewed upon application therefor in such form as the commissioner may prescribe, upon payment of the fee as herein prescribed.f. Except as provided in paragraph (bb) of subdivision two of section four hundred sixty-three of this title and subparagraph (iii) of this paragraph:(i) The commissioner shall not issue any certificate of registration authorized by this section to any franchisor, manufacturer, distributor, distributor branch or factory branch, as such terms are defined in section four hundred sixty-two of this title, or to any subsidiary, affiliate or controlled entity thereof, except that the commissioner may renew such certificate previously issued or otherwise approved to operate to a franchisor prior to July first, two thousand six. Nothing in this section shall preclude the establishment of such facilities necessary to continue the ongoing operation of any holder of a certificate of registration authorized by this section or otherwise approved to operate to a franchisor provided such original certificate or approval was granted prior to July first, two thousand six.(ii) On or after the effective date of this subparagraph, the commissioner shall not issue any certificate of registration, or renew any certificate, unless the original certificate was issued before July first, two thousand six, to any motor vehicle dealer in which a franchisor, manufacturer, distributor, distributor branch or factory branch, as such terms are defined in section four hundred sixty-two of this title, or any subsidiary, affiliate or controlled entity thereof, has acquired, or possesses, a controlling interest in the franchise entity except:(1) when operating such franchise for a temporary period, not to exceed one year, during the transition from one owner of the motor vehicle dealership to another, provided, however, that such temporary period may be extended once for an additional period not to exceed one year for good cause. Provided that for franchisors of house coaches, the period of temporary ownership of a franchised house coach dealership may be extended in one year increments for good cause shown, except that the aggregate of such extensions shall not exceed five years; or(2) when operating such franchise temporarily under a plan with an independent individual who is obligated to make a significant investment in the dealership that is subject to loss and has an ownership interest or expects to acquire full ownership in a reasonable period under reasonable terms and conditions, provided that a reasonable period shall be presumed to not exceed eight years.(iii) Notwithstanding any other provision of this paragraph or any provision of paragraph (bb) of subdivision two of section four hundred sixty-three of this title, the commissioner may renew any certificate of registration that was issued to a franchisor, manufacturer, distributor, distributor branch or factory branch, as such terms are defined in section four hundred sixty-two of this title, or to any subsidiary, affiliate or controlled entity thereof, prior to March twenty-sixth, two thousand fourteen; provided, however, that such franchisor, manufacturer, distributor, distributor branch or factory branch, or any subsidiary, affiliate or controlled entity thereof, is a manufacturer that manufactures or assembles exclusively zero emissions vehicles, or is a subsidiary, affiliate, or controlled entity of such a manufacturer; and provided further that a controlling interest in such original franchisor, manufacturer, distributor, distributor branch or factory branch or any subsidiary, affiliate or controlled entity was not transferred, sold or conveyed to another person or entity, other than to a subsidiary, affiliate or controlled entity of such franchisor, manufacturer, distributor, distributor branch or factory branch. For purposes of this paragraph, zero emission vehicles shall have the same meaning as under part two hundred eighteen of title six of the New York code of rules and regulations.(iv) Notwithstanding any other provision of this paragraph or any provision of paragraph (bb) of subdivision two of section four hundred sixty-three of this title, the commissioner may issue or renew any certificate of registration to a franchisor, manufacturer, distributor, distributor branch or factory branch, as such terms are defined in section four hundred sixty-two of this title, or to any subsidiary, affiliate or controlled entity thereof, that manufactures or assembles buses exclusively; provided, however, that such certificate shall be issued exclusively for the sale of buses to public transportation providers; and provided further, however, that such franchisor, manufacturer, distributor, distributor branch or factory branch, or any subsidiary, affiliate or controlled entity thereof: (1) is a manufacturer that manufactures or assembles exclusively buses, or is a subsidiary, affiliate, or controlled entity of such a manufacturer; and (2) sells such buses under such certificate of registration solely to public transportation providers. For purposes of this subparagraph, the term "public transportation provider" shall mean public transportation systems eligible to receive operating assistance under the provisions of section eighteen-b of the transportation law, and the term "public transportation system" shall mean: (A) any public benefit corporation constituting a transportation authority, or a subsidiary thereof, or any public transportation corporation constituted as an instrumentality of the state, or a subsidiary thereof, directly or through a contract with another entity, that provides mass transportation services to the general public; or (B) any Indian tribe or any county, city, town or village that provides mass transportation services to the general public directly or through a contract with another entity pursuant to section one hundred nineteen-r of the general municipal law.8. Use. Transporter number plates issued under this section shall be used only for the limited operation of vehicles owned or controlled by the registrant for the purpose of weighing, testing, dismantling, transporting or delivering the same, or for the purpose of moving such vehicles in connection with making installations thereon or improvements thereto, or the repossession or foreclosure thereof, or for the operation, for demonstration purposes, of any vehicle owned by a manufacturer, or for transporting or delivering the vehicle upon which the plates are displayed and additional vehicles carried in whole or in part upon such vehicle.Except as provided in section four hundred sixteen of this article, dealer number plates issued under this section may be used for all purposes for which

transporter plates may be used and, in addition, may be used for the operation of any vehicle owned or controlled by the registrant and held for sale or demonstration, except a vehicle rented to another, a vehicle used to transport passengers for hire, a vehicle commonly called a "tow truck" or "wrecker" and used by the dealer for such purposes, a vehicle equipped for the purpose of towing or pushing disabled or nonoperated vehicles or a commercial or suburban type vehicle used by the dealer for commercial purposes other than directly affecting the sale or demonstration of that particular vehicle. In addition, dealer, manufacturer, or transporter number plates may be used for any non-self-propelled device used for the transport of modular homes. Except as provided in section four hundred sixteen of this article, manufacturer number plates issued under this section may be used for all purposes for which transporter plates may be used and, in addition, may be used for the operation of any vehicle owned or controlled by the registrant and held for demonstration, except a vehicle rented to another, a vehicle used to transport passengers for hire, a vehicle commonly called a "tow truck" or "wrecker" and used by the manufacturer for such purposes, a vehicle equipped for the purpose of towing or pushing disabled or nonoperated vehicles or a commercial or suburban type vehicle used by the manufacturer for commercial purposes other than directly affecting the demonstration of that particular vehicle.Dealer, manufacturer, or transporter number plates issued upon renewal of a dealer, manufacturer, or transporter registration may be used during the thirty day period immediately preceding the expiration date of such registration, including such expiration date.9. Suspension, revocation and refusal to issue or to renew a registration. The commissioner or any person deputized by him may deny the application of any person for registration under this section and suspend or revoke a registration under this section or refuse to issue a renewal thereof if he or such deputy determines that such applicant or registrant or any officer, director, stockholder, or partner, or any other person directly or indirectly interested in the business:a. Has made a material false statement in his application; orb. Has used or permitted the use of number plates contrary to law; orc. Has been guilty of fraud or fraudulent practices, or has practiced dishonest or misleading advertising; ord. Has failed to comply with any of the rules and regulations of the commissioner for the enforcement of this article or with any provision of this chapter or article thirty-five-B of the general business law applicable thereto; ore. Has wilfully violated any provisions of the motor vehicle retail instalment sales act, the motor vehicle retail leasing act or section one hundred ninety-eight-c of the general business law; orf. Does not have a place of business within the meaning of this section; org. Has been convicted of any crime involving dishonesty or deceit; orh. Was the former holder, or was an officer, director, stockholder, or partner, in a corporation or partnership which was the former holder of a dealer's registration, which was suspended or revoked by the commissioner.9-a. Hearings; temporary suspension. (a) No registration shall be suspended or revoked, or renewal refused, except upon notice to the registrant and after an opportunity to be heard. Provided however, upon a written notice of temporary suspension delivered by certified mail to the registrant, a registration may be temporarily suspended pending a hearing. Any such notice of temporary suspension shall provide that the suspension is effective seventy-two hours after mailing of such notice and shall provide that a hearing be scheduled within ten days after the effective date of the temporary suspension.(b) The applicant may be heard in person or by counsel. The hearing shall be at such time and place as the commissioner shall prescribe. The commissioner or the commissioner's designee may inspect the pertinent books, records, letters and contracts of a registrant relating to any written complaint or charge against such registrant. The commissioner or the commissioner's designee shall have the power to subpoena and bring before a hearing officer any person in this state, and administer an oath to and take testimony of any person or cause the person's deposition to be taken. A subpoena issued under this section shall be regulated by the civil practice law and rules.10. Suspension and revocation of number plates. The commissioner may suspend or revoke number plates issued pursuant to subdivision four of this section, if he determines that the registrant to whom these plates have been issued has used or permitted the use of such number plates contrary to law or to the regulations of the commissioner with respect to the use thereof. The registrant to whom such number plates have been issued shall have an opportunity to be heard, and the provisions of subdivision nine of this section shall apply to hearings held under this subdivision, and to review of determinations made by the commissioner hereunder.11. Following the suspension or revocation of the certificate of registration of a dealer, manufacturer, or transporter or number plates, pursuant to this section, the failure of the holder or any other person possessing the certificate of registration, number plates or certificates of sale issued to a dealer pursuant to the regulations of the commissioner, to deliver the same to the suspending or revoking officer, peace officer acting pursuant to his or her special duties, police officer directed by the commissioner to secure possession thereof, or agent of the commissioner, displaying authorization to act in such capacity along with a certified copy of the order revoking or suspending such registration or number plates, shall be a misdemeanor.If any person shall fail to deliver a certificate of registration, number plates or certificates of sale as provided herein, the commissioner shall forthwith direct any peace officer acting pursuant to his or her special duties or police officer to secure possession thereof and to return the same to the commissioner.12. The commissioner, or any person deputized by him, in addition to or in lieu of revoking or suspending the certificate of registration of a registrant in accordance with the provisions of this article, may in any one proceeding by order require the registrant to pay to the people of this state a penalty for a first violation a sum not exceeding one thousand dollars for each violation found to have been committed; and for a second or subsequent violation not arising out of the same incident both of which were committed within a period of thirty months, a sum of not more than one thousand five hundred dollars for each violation found to have been committed; provided, however, the penalty for each and any violation of paragraph c of subdivision nine of this section found to have been committed shall be no less than three hundred and fifty dollars and no more than one thousand five hundred dollars, except that if a finding of financial loss has been made pursuant to subdivision fourteen of this section, the amount of such penalty may be increased by the amount of financial loss so found, and upon the failure of such registrant to pay such penalty within twenty days after the mailing of such order, postage prepaid, registered or certified, and addressed to the last known place of business of such registrant, unless such order is stayed by an order of a court of competent jurisdiction, the commissioner may

revoke the certificate of registration of such registrant or may suspend the same for such period as he may determine. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner.13. In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.14. Restitution; assessment. a. Upon a determination that a registrant has done or failed to do any act for which suspension of the registrant's registration or a civil penalty against the registrant could be imposed, the person making such determination may make a finding of financial loss to any complainant or complainants resulting from the actions of the registrant. The person making such finding may provide that if the registrant makes restitution to the complainant or complainants for the amount or amounts so found, that payment of such restitution may be substituted in lieu of any suspension or civil penalty, or a specified portion thereof imposed upon the registrant. However, a finding of financial loss shall only be made if the complainant (i) agrees to accept the amount so found, if offered by the registrant, and (ii) is not a party to any litigation which is pending or which has gone to judgment in relation to the same matter in any civil court.b. The amount of financial loss which may be found and proposed as restitution shall be limited to an amount necessary to compensate the complainant or complainants for actual losses caused by the registrant's improper activity. Neither punitive nor incidental damages may be included in the finding of financial loss.c. If payment of restitution to the complainant is authorized in lieu of all or a portion of a suspension or civil penalty, in order for the registrant to exercise the option to make such payment, such payment must be made by means of a certified check or money order payable to the complainant or complainants delivered to an office of the department as directed by the commissioner or his agent within thirty days of the date of notice of suspension and/or civil penalty. Upon receipt of such certified check or money order, the department shall forward the same to the complainant or complainants. In the event that the registrant should fail to make payment for restitution within such thirty days, but, at a later time, pays such civil penalty, the department shall deduct from such civil penalty the amount assessed for restitution, and shall mail a check for such amount to the complainant or complainants.d. If payment of restitution may be substituted in lieu of a civil penalty or portion of a civil penalty, and the registrant does not exercise the option to make such payment, the civil penalty becomes due as provided in subdivision twelve of this section and the provisions of that subdivision and subdivision thirteen of this section relating to suspension of registration and recovery of civil penalties shall apply.e. Any payment made in compliance with such a finding of financial loss shall not preclude any civil action which may be brought by either the complainant or registrant, and any such finding may be considered but shall not be binding upon any court before which any such action is brought.15. Miscellaneous provisions. The commissioner may, in his or her discretion, limit the number of sets of number plates which shall be issued to any registrant. The provisions of subdivision three of section four hundred one of this title with respect to the fee for lost, mutilated or destroyed certificates and number plates shall apply to certificates and number plates issued under this section.In the event of the loss or theft of any dealer, manufacturer, or transporter number plate or set of such number plates whether with or without a date tag or tags, or any date tag or set of date tags, the dealer or manufacturer must immediately notify the police of such fact and in the event of loss, theft, mutilation or destruction of any such items the dealer or manufacturer must immediately file a statement and proof of the facts as the commissioner shall require. The provisions of section four hundred two and four hundred eleven of this title with respect to the care and display of number plates shall apply to number plates issued under this section. Registration under this section shall be upon the condition that the registrant shall conform to such reasonable requirements as shall be prescribed by the commissioner.The commissioner may, in his or her discretion, require a registrant to maintain a record in a prescribed form of all vehicles received or disposed of by him or her, which records shall be open at all times for inspection by the commissioner, his or her representatives and any peace officer, acting pursuant to his or her special duties, or police officer.If registration under this section shall be issued in the names of two or more persons as partners and a change occurs in the membership of such partnership, the registration shall not expire so long as any one of the persons named in such registration is a member of the partnership or carries on the business of the partnership as surviving member of the partnership. However, when any such change occurs and the registration does not expire, the partners or surviving member after such change shall forthwith file with the commissioner a statement regarding such partnership in such form and giving such information as the commissioner shall require, and the commissioner shall issue a new certificate of registration.16. Unregistered operation; operation while suspended or revoked; procedures and penalties. a. The commissioner or any person deputized by him shall hear and determine any allegation that a person has operated as a dealer without being registered as required by subdivision three of this section or while registration is suspended or revoked. Upon a determination that a person has so operated, the commissioner or person deputized by him shall assess civil penalties as provided in paragraphs b and c of this subdivision.b. Except as provided in paragraph c of this subdivision, any person who operates as a dealer without being registered shall be required to pay to the people of this state a civil penalty in the sum of one thousand dollars. However, any such person against whom such penalty has been assessed may avoid all but five hundred dollars of such penalty by obtaining a registration as required by this article, provided that application for such registration is made not more than ten days after the imposition of such penalty.c. (i) Any person who operates as a dealer while his registration is revoked or suspended, shall pay to the people of this state a civil penalty in the sum of one thousand dollars. Such civil penalty may not be avoided.(ii) Any person who operates as a dealer without being registered as required by subdivision three of this section who has previously had a civil penalty assessed for unregistered operation shall pay to the people of this state a civil penalty in the sum of one thousand dollars. Any person who

operates as a dealer without being registered as required by subdivision three of this section who has had two previous civil penalties assessed for unregistered operation not arising from the same incident all of which were committed within a period of thirty months shall pay to the people of this state a civil penalty in the sum of four thousand ten dollars. Such civil penalties may not be avoided.(iii) No person who operates as a dealer without being registered as required by subdivision three of this section or while his or her registration is revoked or suspended shall park a motor vehicle, which he or she owns or controls and holds for sale or demonstration, upon a public highway of this state without first being registered in accordance with the provisions of section four hundred one of this chapter. Any such person shall, in addition to any penalties imposed pursuant to paragraph b of this subdivision or subparagraph (ii) of this paragraph, be required to pay to the people of this state an additional civil penalty of three hundred dollars for each motor vehicle owned or controlled and held for sale or demonstration by such person which is parked upon the public highways of this state without first being registered in accordance with the provisions of section four hundred one of this chapter.d. The commissioner, or any person deputized by him, in addition to imposing a civil penalty for unregistered operation as a dealer, may, in any one proceeding, make a determination that the unregistered dealer has caused a financial loss to a complainant or complainants and may increase the civil penalty by the amount of financial loss. The person making such finding may provide that if the unregistered dealer makes restitution to the complainant or complainants for the amount or amounts so found, that payment of such restitution may be substituted for the increase in the civil penalty caused by the finding of financial loss. However, a finding of financial loss shall only be made if the complainant (i) agrees to accept the amount so found, if offered by the unregistered dealer, and (ii) is not a party to any litigation which is pending or in which judgment has been entered in any civil action in any court of competent jurisdiction.e. Civil penalties assessed under this section shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record.f. No allegation of unregistered operation as a dealer shall be heard or determined unless notice of such allegation has been mailed to such person within two years after the date of the alleged unregistered operation.17. Improper display of signs. a. The holder of a dealer registration shall remove or cause to be removed any sign which contains the registration number of the dealer which is visible to the public and which is required to be displayed by this article or regulations promulgated thereunder if the registration is revoked or suspended or the dealer is out of business. If the registration is only suspended, the holder may cover up the sign instead of removing it.b. No person shall permit the display of any sign required to be displayed by this article or regulations promulgated thereunder indicating to the public that an official dealer is operating unless a dealer registration has been issued to that person and is currently valid.18. Rights of dealers. The rights of all new motor vehicle dealers under this article may be exercised from any location or locations which are from time to time approved by their franchisors and the commissioner as prescribed in this article. The rights of all qualified dealers under this article may be exercised from any location or locations from which they operate from time to time; provided, however, that no qualified dealer shall operate from more than two locations within the four counties of Kings, Queens, Nassau, and Suffolk; and provided further that no qualified dealer shall operate from more than one location in any one county. The total number of locations from which a qualified dealer may operate shall not exceed that number of locations operated by such qualified dealer on December thirty-first, nineteen hundred ninety-eight. It shall be unlawful for any person to interfere with the rights of, or discriminate against, any new motor vehicle dealer or any qualified dealer under this article. The commissioner shall penalize those persons who violate the provisions of this section as enacted by chapter four hundred fifty-one of the laws of nineteen hundred ninety-nine and the chapter of the laws of two thousand which amended this subdivision as provided by this section. Nothing contained in this article shall be construed to prohibit a new motor vehicle dealer, a qualified dealer, or a dealer, respectively, from utilizing the internet to engage in such activities as each are respectively permitted under this article and under other applicable laws, or affect where a new motor vehicle dealer or a qualified dealer may deliver a new motor vehicle.19. Disclosures by qualified dealers; penalties. a. Every qualified dealer who advertises in newspapers, magazines, or by direct mail the availability of new motor vehicles for sale shall clearly disclose that such qualified dealer is not a franchised new motor vehicle dealer.b. Every qualified dealer shall prominently and conspicuously post a sign, in such a manner that it is likely to be noticeable to anyone entering the premises, which sign shall clearly state: "(name of qualified dealer) is not a franchised dealership and does not represent a manufacturer. We are not authorized to perform recall or original factory warranty work."c. Every contract for the sale of a new motor vehicle entered into by a qualified dealer and the purchaser shall contain the following statement: "(name of qualified dealer) is not a franchised dealership and does not represent a manufacturer. We are not authorized to perform recall or original factory warranty work."d. A qualified dealer who fails to comply with the requirements of this subdivision, shall be subject to the penalties provided by this section. Further, a person who has purchased a new motor vehicle from a qualified dealer pursuant to a contract which does not contain the disclosure required under paragraph c of this subdivision, shall be entitled to rescind the sale and obtain full restitution of any amounts paid, plus reasonable court costs and attorneys fees, within four months of the date of purchase.20. Restrictions on transferability and operation of certain qualified dealerships. a. A qualified dealer may sell, devise, assign, convey or otherwise transfer any or all of its assets, including without limitation all rights to conduct the activities of a qualified dealer hereunder and further, the owner of an equity interest in a qualified dealership may sell, devise, assign, convey or otherwise transfer any or all of its equity interest in such qualified dealership, subject to the conditions set forth in

this subdivision. To the extent that such qualified dealer conducts such activities at more than one location as permitted under this article, then such qualified dealer may transfer such rights on a location by location basis; provided, however, that such a transferee shall acquire no greater rights to relocate than those of his or her transferor, and provided further below, that such transferee shall remain subject to the provisions of this subdivision exactly as they applied to his or her transferor.b. A transferee who acquires the assets and/or an equity interest in a qualified dealer as defined in subparagraph (ii), (iii) or (iv) of paragraph g of subdivision one of this section and is the parent, spouse, child or sibling of an individual who was an equity holder of such qualified dealer may conduct activities as specified pursuant to this section without restriction.c. A transferee who acquires substantially all of the assets and/or a controlling equity interest in a qualified dealer as defined in subparagraph (ii), (iii) or (iv) of paragraph g of subdivision one of this section who is not the parent, spouse, child or sibling of an individual who was an equity holder of such qualified dealer may conduct activities as specified pursuant to this section; provided, however, that such transferee, in any calendar year, shall not be permitted to sell more than one hundred ten percent of the number of new motor vehicles sold by the transferor or qualified dealer during the twelve month period ending on the last day of the calendar month preceding the date of transfer of such rights.d. A transferee who acquires ten per cent or more of an equity interest after August 31, 1999 in a qualified dealer as defined in subparagraph (ii), (iii), or (iv) of paragragh g of subdivision one of this section and is a publicly traded corporation may conduct activities as specified pursuant to this section; provided, however, that such transferee, in any calendar year, shall not be permitted to sell more than one hundred ten percent of the number of new motor vehicles sold by the transferor or qualified dealer during the twelve month period ending on the last day of the calendar month preceding the date of transfer of such rights.e. Each transferee who acquires substantially all of the assets and/or a controlling equity interest in a qualified dealer from a transferee as defined in paragraph b, c or d of this subdivision shall not be permitted to sell a number of new motor vehicles in any calendar year in excess of the number of new motor vehicles sold by such transferor qualified dealer during the twelve month period ending on the last day of the calendar month preceding the date of transfer of such rights.f. The rights of a qualified dealer under subparagraph (ii), (iii) or (iv) of paragraph g of subdivision one of this section are also deemed transferred for purposes hereof in the event that, after August thirty-first, nineteen hundred ninety-nine, (i) the controlling equity interest of such qualified dealer is transferred (in any one or series of transactions) to any person or persons, other than the parent, spouse, child or sibling of an individual who is an equity holder of such qualified dealer, or (ii) there occurs any merger, combination or consolidation of, with or into the business entity which constitutes such qualified dealer.g. Nothing contained herein shall (i) prohibit a qualified dealer or the parent, spouse, child or sibling who is the equity holder of such qualified dealer from forming a corporation or limited liability company to operate and wholly own the qualified dealer; (ii) restrict the ability of a qualified dealer to transfer a controlling equity interest to a corporation or a limited liability company operated and wholly owned by an individual who is an equity holder of such qualified dealer; or (iii) restrict the ability of a qualified dealer to transfer an equity interest in the stock and/or assets of a qualified dealer to a full-time employee of such qualified dealer.21. New motor vehicle etching kits. Every new motor vehicle dealer and every qualified dealer shall be required to stock etching kits that are capable of etching a traceable serial number onto the catalytic converter of a new motor vehicle that can be clearly seen and quickly linked back to the vehicle. Such etching kits shall be offered by every new motor vehicle dealer and qualified dealer to any person purchasing a new motor vehicle, at no more than the cost of such etching kit to such dealer.* 22. Compliance. All dealers and automobile broker businesses registered under subdivisions three and three-a of this section shall certify and attest to compliance with sections three hundred ninety-nine-cc, as added by chapter 655 of the laws of 2005, three hundred ninety-nine-dd, as added by chapter 487 of the laws of 2006, three hundred ninety-nine-ddd, three hundred ninety-nine-h, three hundred ninety-nine-oo, three hundred ninety-nine-p, three hundred ninety-nine-pp, eight hundred ninety-nine-bb of the general business law, and part three hundred fourteen of title sixteen of the code of federal regulations as applicable.* NB Effective June 19, 2025* 23. Automobile broker record requirements. (a) For each completed transaction and within three business days of consummation thereof, automobile brokers shall maintain a permanent paper file record that clearly evidences and records the make, model, year, color and vehicle identification number of all previously unregistered motor vehicles for which such broker has provided a service of purchasing, arranging, assisting, facilitating or effecting the purchase or lease of such motor vehicle. Such records shall be maintained for a six-year period after consummation of the transaction. Such records shall also include the name and address of the purchaser or lessee of such motor vehicle, the date of sale or commencement of lease with respect to such motor vehicle and the name and address of the dealer from which the motor vehicle was purchased or leased.(b) The records maintained by the automobile broker businesses shall include a copy of the dealer rate sheets received by the automobile broker from the dealers that were relied upon by the automobile broker in connection with such transaction.(c) Such records shall be open for inspection by the commissioner, or his or her agent, during reasonable business hours.(d) As an alternative to paper file records, an automobile broker may use a computer and appropriate software to maintain the records required to be kept by this section, provided all information required by paragraphs (a) and (b) of this subdivision are duly recorded and maintained in accordance with this subdivision.* NB Effective June 19, 2025* 24. Maintenance records. For each sale or lease of a motor vehicle that involves an automobile broker business, the dealer must obtain evidence of the automobile broker business' registration and the broker's registration number and maintain such records in the deal jacket for each transaction which also shall contain the purchase order, copies of the title and registration documents, the bill of sale and the retail installment sale contract required under article ten of the personal property law or the retail lease agreement required under article nine-A of the personal property law.* NB Effective June 19, 2025* 25. Broker compensation. No dealer may offer or pay an automobile broker business any fee, or commission, other than compensation disclosed pursuant to section seven hundred thirty-eight or seven hundred forty-one-b of the general business law or section three hundred two or three hundred thirty-seven of the personal property law; provided, however, that the automobile

broker business may not accept any such fee or commission from the dealer if the broker has or will accept payment from the buyer or lessee of the automobile.* NB Effective June 19, 2025 (i) acting through a single person, but operating at one or more locations of such single person, has displayed new motor vehicles for sale and/or lease, and has sold and/or leased (excluding sales or leases of any affiliates) a minimum of four thousand new and/or used motor vehicles annually (of which at least forty percent annually were new motor vehicles) at retail regardless of make or model from any one or more locations of such single person within the state, in each year from nineteen hundred ninety-five through and including nineteen hundred ninety-eight, exclusively; or (ii) has displayed new motor vehicles for sale and/or lease, and has sold and/or leased (excluding sales or leases of any affiliates) a minimum of two hundred twenty-five new and/or used motor vehicles (of which at least thirty-three and one-third percent were new motor vehicles) at retail, regardless of make or model, from any one or more locations within the state, in the twelve-month period preceding August thirty-first, nineteen hundred ninety-nine; or (iii) was issued an original certificate of registration as a dealer with a validation date of May, nineteen hundred ninety-nine, has displayed new motor vehicles for sale and/or lease, and has sold and/or leased (excluding sales or leases of any affiliates) a minimum of one hundred fifty new and/or used motor vehicles (of which at least fifty were new motor vehicles), regardless of make or model, from any one or more locations within the state, in the period between July first, nineteen hundred ninety-nine and the effective date of chapter seven of the laws of two thousand. Notwithstanding the provisions of subdivision eighteen of this section, the total number of locations from which a qualified dealer eligible pursuant to this subparagraph may operate shall not exceed that number of locations operated by such qualified dealer on August thirty-first, nineteen hundred ninety-nine; or (iv) was issued a certificate of registration as a dealer new and used with a validation date of February, nineteen hundred ninety-eight and has continuously held a certificate of registration as a dealer for the ten years preceding the effective date of chapter seven of the laws of two thousand, and has sold and/or leased (excluding sales or leases of any affiliates) a minimum of two hundred new and/or used motor vehicles (of which at least twenty percent were new motor vehicles) regardless of make or model, from one or more locations within the state in the period between September first, nineteen hundred ninety-eight through and including August thirty-first, nineteen hundred ninety-nine. h. For the purposes of this section, "new motor vehicle" means a motor vehicle commonly classified as a passenger automobile, sport utility vehicle, light truck, pick up truck, van, minivan or suburban which meets any one or more of the following criteria: (i) a motor vehicle which has not been placed in consumer use; or (ii) a motor vehicle which has not been transferred to someone other than a distributor, new motor vehicle dealer, or qualified dealer; or (iii) a motor vehicle which has less than one thousand miles on the odometer. Provided, however, that such term shall not include any such vehicle which has been converted for use as a tow truck or any motor vehicle commonly classified as a bus, school bus, garbage truck, marine trailer, tow truck, motorcycle, recreational vehicle, snowmobile, trailer, mobile home or construction equipment. i. "Used motor vehicle" means any vehicle not included in the definition of a new motor vehicle. Provided, however, that such term as used in paragraph g of this subdivision shall include only those motor vehicles commonly classified as a passenger automobile, sport utility vehicle, light truck, pick up truck, van, minivan or suburban, with a gross vehicle weight rating of ten thousand pounds or less, which (i) is not deemed to be a "new motor vehicle" pursuant to paragraph h of this subdivision, or (ii) has not been converted for use as a tow truck, or (iii) is not commonly classified as a bus, school bus, garbage truck, marine trailer, tow truck, motorcycle, recreational vehicle, snowmobile, trailer, mobile home, or construction equipment. j. "Lease" means to arrange for a person to enter into an agreement subject to the provisions of article nine-A of the personal property law, or to act as a lessor as defined in such article. k. "Mobility vehicle" means a motor vehicle that is specially converted and equipped to transport a person with a disability and is altered or modified for such use by an alterer or final stage manufacturer pursuant to parts 567 and 568 of title 49 of the code of federal regulations or a modifier pursuant to part 595 of title 49 of the code of federal regulations and that: (i) has a chassis that contains: (A) a permanently lowered floor or permanently lowered frame; or (B) a permanently raised roof and raised door; and (ii) contains at least one of the following: (A) an electronic or mechanical wheelchair, scooter, or platform lift that enables a person to enter or exit the vehicle while occupying a wheelchair or scooter; (B) an electronic or mechanical wheelchair ramp that is installed as an integral part or permanent attachment to the motor vehicle. For the purposes of this section, the terms "alterer" and "final-stage manufacturer" shall have the same meanings as such terms are defined in part 567.3 of title 49 of the code of federal regulations, and the term "modifier" shall mean any motor vehicle repair business that modifies a motor vehicle to enable a person with a disability to operate, or ride as a passenger in, the motor vehicle. l. "New mobility vehicle" means a mobility vehicle that has not previously been titled or registered for operation by a consumer, either as a mobility vehicle or as a motor vehicle. m. "Automobile broker business" shall have the meaning set forth in subdivision one of section seven hundred thirty-six of the general business law. 2. Registration of manufacturers, repairmen and certain others. A person engaged in a business requiring the limited operation of motor vehicles, motorcycles or trailers in order to facilitate the delivery, repair or improvement thereof, or the foreclosure or repossession thereof or the installation of something thereon or for the purpose of dismantling such motor vehicle, motorcycle or trailer, may, instead of obtaining vehicle registration, as provided by sections four hundred one and four hundred ten of this chapter, apply to the commissioner for registration under this section. 3. Registration of new motor vehicle dealers, qualified dealers, and other motor vehicle dealers. a. No person shall engage in business as a new motor vehicle dealer, or represent, advertise, or otherwise hold himself or herself out as engaged or intending to engage in the business of selling new motor vehicles in this state, unless there shall have been issued to him or her, for a particular make, a certificate of registration as a new motor vehicle dealer as provided in subdivision seven of this section, or unless there shall have been issued to him or her a certificate of registration as a qualified dealer as defined in paragraph g of subdivision one of this section; provided, however, for purposes of this subdivision, a new motor vehicle shall have the same meaning as set forth in paragraph h of subdivision one of this section, but shall not include a motor vehicle for which the current ownership document is a statement of acquisition issued pursuant

to section four hundred twenty-nine of this title, a salvage certificate, salvage certificate of title, nonrepairable certificate, or similar document issued by any state or jurisdiction. Only a person who has been issued a certificate as a new motor vehicle dealer or a qualified dealer shall be entitled to engage in all dealer activities authorized under this article and shall not be required to obtain an additional certificate of registration under paragraph c of subdivision seven of this section. A qualified dealer shall be entitled to sell new motor vehicles of any make. b. No person shall engage in the business of selling new motor vehicles, or represent or advertise that he or she is engaged or intends to engage in the business of selling new motor vehicles in this state, unless there shall have been issued to him or her a certificate of registration as a new motor vehicle dealer or as a qualified dealer as provided in subdivision seven of this section. No person shall engage in business as a dealer, or represent or advertise that he or she is engaged or intends to engage in such business in this state, unless there shall have been issued to him or her a certificate of registration as provided in subdivision seven of this section. No provision of this section shall be deemed to prohibit any dealer located outside of the state from selling a new motor vehicle to a new motor vehicle dealer or a qualified dealer. No provision of this section shall be deemed to prohibit any person engaged in the leasing of new motor vehicles from selling a new motor vehicle to a third-party bank, finance company or other commercial lending institution, provided that such sale is made incidental to and concurrently with the lease of such new motor vehicle by such third party bank, finance company, or other commercial lending institution as the lessor, to a retail customer. c. The issuance of such certificate of registration to a new motor vehicle dealer, a qualified dealer, or other motor vehicle dealer shall be deemed to include the right to operate motor vehicles, motorcycles and trailers to the extent permitted by subdivision eight of this section, instead of obtaining vehicle registration as provided by sections four hundred one and four hundred ten of this title. The provisions of this section shall not apply to persons engaged in the business of buying, selling or dealing in snowmobiles and/or snow travellers. 3-a. Automobile broker business registration. No person shall engage in the automobile broker business or represent or advertise that he or she is engaged or intends to engage in the automobile broker business in this state, unless there shall have been issued to him or her a certificate of registration as an automobile broker business by the commissioner under this section pursuant to an application for registration submitted pursuant to subdivision five of this section. 4. Number plates. A dealer, manufacturer, or other person, qualifying for limited use of motor vehicles, motorcycles or trailers under subdivisions two and three of this section, shall be entitled to receive one or more sets of number plates for display thereon as the commissioner may determine, upon payment of the required fee for each set. Number plates issued to dealers under this section shall bear distinctive marks to distinguish them from manufacturer and transporter plates to be issued to other persons qualifying under this section. Number plates issued to manufacturers under this section shall bear distinctive marks to distinguish them from dealer and transporter plates to be issued to other persons qualifying under this section. A set of number plates shall consist of two plates in the case of a motor vehicle and one plate in the case of a motorcycle or trailer; provided, however, that the commissioner, in his or her discretion, may issue, for any registration year, only one number as a set for a motor vehicle, in which event a set of number plates for a motor vehicle shall consist of one plate. 5. Application for registration. The application for registration under this section shall be filed with the commissioner in such form and detail as the commissioner shall prescribe, setting forth: a. Name and residence address of applicant; if an individual, the name under which he intends to conduct business; if a co-partnership, the name and residence address of each member thereof, and the name under which the business is to be conducted; if a corporation, the name of the corporation and the name and residence address of each of the officers. b. The place or places, including the complete address or addresses where the business is to be conducted and, in the case of an application to do business as a new motor vehicle dealer, the names of each line or make of new motor vehicle which a manufacturer or distributor has authorized the applicant to sell from each location and the date of inception of the franchise, as defined in section four hundred sixty-two of this title, which authorizes the applicant to sell such line or make from each location. A copy of each such franchise, or other documentation in lieu thereof satisfactory to the commissioner, shall be submitted to the commissioner at the time of application and upon each renewal of each certificate to do business as a new motor vehicle dealer. b-1. The name and address of the surety company which will issue the bond required by subdivision six-b of this section. If the bond is to be issued by an authorized agent of the surety company licensed by the state, then the name and address of that agent may be provided in lieu of the information concerning the surety company. b-2. A statement indicating any interest in the applicant's franchise entity by a person or entity described in paragraph f of subdivision seven of this section. b-3. In the case of an application for registration as an automobile broker business, the name and address of the surety company which will issue the bond required by subdivision one of section seven hundred forty-a of the general business law. If the bond is to be issued by an authorized agent of the surety company licensed by the state, then the name and address of that agent may be provided in lieu of the information concerning the surety company. c. Such further information as the commissioner may reasonably prescribe. d. Before an application for an original certificate of registration is approved, the applicant must have on the premises to be licensed adequate space and proper facilities to retain and safeguard all records and documents he must maintain upon the licensed premises as required by the vehicle and traffic law and the regulations of the commissioner. The commissioner may require the applicant for registration to appear at such time and place as may be designated by the commissioner for examination to enable him to determine the accuracy of the facts set forth in the written application, either for initial registration or renewal thereof. Every application under this section shall be verified by the applicant. * 6. Fees. Every original application for registration as a dealer, automobile broker or transporter shall be accompanied by an application fee of thirty-seven dollars and fifty cents, which shall in no event be refunded. The annual fee for registration as a dealer, automobile broker or transporter or for renewal thereof shall be two hundred twenty-five dollars. The annual fee for any other registration under this section shall be fifty dollars. However, the commissioner may, in his or her discretion, issue a renewal of either registration for a period of two years. The fee for a two-year renewal shall be twice the annual fee. The annual fee for dealer, manufacturer, or transporter number plates shall

be twenty dollars for each set. If the commissioner issues to dealers a document which is required to be used by a dealer to sell or transfer a vehicle, the fee for the issuance of each such document shall be five dollars. There shall be no refund of registration fee or fees for number plates in the event of suspension, revocation or voluntary cancellation of registration. The fee for any such transfer document issued by the commissioner shall be refunded only upon the surrender of such document upon voluntary cancellation of registration. * NB Effective until April 1, 2026 * 6. Fees. Every original application for registration as a dealer, automobile broker or transporter shall be accompanied by an application fee of twenty-five dollars, which shall in no event be refunded. The annual fee for registration as a dealer, automobile broker or transporter or for renewal thereof shall be one hundred fifty dollars. The annual fee for any other registration under this section shall be fifty dollars. However, the commissioner may, in his or her discretion, issue a renewal of either registration for a period of two years. The fee for a two-year renewal shall be twice the annual fee. The annual fee for dealer, manufacturer, or transporter number plates shall be twenty dollars for each set. If the commissioner issues to dealers a document which is required to be used by a dealer to sell or transfer a vehicle, the fee for the issuance of each such document shall be one dollar. There shall be no refund of registration fee or fees for number plates in the event of suspension, revocation or voluntary cancellation of registration. The fee for any such transfer document issued by the commissioner shall be refunded only upon the surrender of such document upon voluntary cancellation of registration. * NB Effective April 1, 2026 * 6-a. Fees; deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the general fund, with the exception of the four dollar increase in the fee for issuance of a document to be used by a dealer to sell or transfer a vehicle collected pursuant to subdivision six of this section, which shall be deposited to the general fund through March thirty-first, two thousand four and from April first, two thousand four and thereafter to the dedicated highway and bridge trust fund; and with the exception of the twelve dollar and fifty cent increase in the fee for original application for registration as a dealer or transporter pursuant to subdivision six of this section and the seventy-five dollar increase in the annual fee for registration as a dealer or transporter or for renewal pursuant to subdivision six of this section, which shall be deposited to the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law. * NB Effective until April 1, 2026 * 6-a. Fees; deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the general fund. * NB Effective April 1, 2026 6-b. Dealer, qualified dealer, and new motor vehicle dealer surety bond. a. As a condition to obtaining a registration certificate pursuant to this section, every new motor vehicle dealer applicant and every qualified dealer applicant shall obtain and continue in effect a surety bond in an amount of fifty thousand dollars executed by a surety company authorized to transact business in the state by the department of financial services of the state. As a condition to obtaining a registration certificate pursuant to this section, every dealer applicant who is applying for a registration certificate in the first instance or who sold fifty motor vehicles or fewer in the previous calendar year shall obtain and continue in effect a surety bond in an amount of twenty thousand dollars executed by a surety company authorized to transact business in the state by the department of financial services of the state. As a condition of obtaining a registration certificate pursuant to this section, every dealer applicant who sold more than fifty motor vehicles in the previous calendar year shall obtain and continue in effect a surety bond in an amount of one hundred thousand dollars executed by a surety company authorized to transact business in the state by the department of financial services of the state. The bonds shall be approved as to form by the commissioner and shall be conditioned on the new motor vehicle dealer's, qualified dealer's, and dealer's: payment of all valid bank drafts, including checks, drawn by such dealer for the purchase of motor vehicles; transfer of good title to each motor vehicle such dealer sells; safekeeping of all customer deposits related to the sale of a motor vehicle between the time of receipt of such customer deposit and the transfer of good title to the vehicle to the customer; payment for all fines imposed upon the new motor vehicle dealer, qualified dealer, or dealer by the commissioner pursuant to the provisions of this chapter; and such dealer's repayment of any overcharges of a customer by such dealer for the vehicle registration and titling charges payable to the commissioner for registering and titling the sold vehicle. Any such dealer which is bonded pursuant to this section prior to the effective date of the chapter of the laws of two thousand sixteen which amended this paragraph shall be required to comply with the amendments made by such chapter upon renewal, replacement, alteration, or extension of such dealer's current surety bond. b. Recovery against a bond may be made by a person, including the state, who obtains a judgment against the new motor vehicle dealer, qualified dealer, or dealer for an act or omission on which the bond is conditioned if the act or omission occurred during the term of the bond. The total liability imposed on the surety under this section for all breaches of the bond condition is limited to the face amount of the bond. Such liability may include, but is not limited to, the amount of the valid bank drafts, including checks, drawn by the new motor vehicle dealer, qualified dealer, or dealer for the purchase of motor vehicles or the amount of overcharge by such dealer for registration or title fees or the amount paid to such dealer or the deposit, as the case may be, for the motor vehicle for which good title was not delivered. In no event shall the surety on a bond be liable for total claims in excess of the bond amount, regardless of the number or nature of claims made against the bond or the number of years the bond remained in force, nor shall any such surety bond provide coverage for transactions involving sales of any motor vehicles for which a bond is not required pursuant to the provisions of paragraph d of this subdivision. c. Any surety issuing a bond pursuant to this subdivision shall be required to provide sixty days' notice to the commissioner prior to the effective date of cancellation or lapse of the bond, and shall provide additional notice to the commissioner upon the date of the cancellation or lapse of such bond. Upon the cancellation or lapse of any surety bond required by this subdivision, the commissioner shall, within five days of such cancellation or lapse, verify that the dealer holds a surety bond which meets the requirements of this subdivision. d. For purposes of this subdivision, the term "motor vehicle" means a motor vehicle commonly classified as a passenger automobile, sport utility vehicle, light truck, pick up truck, van, minivan, or suburban, with a gross vehicle weight rating of ten

thousand pounds or less. Notwithstanding the provisions of paragraphs a and b of this subdivision, the requirement to post a surety bond as set forth in this subdivision shall not apply to any dealer who is engaged exclusively in the business of buying, selling or dealing in motor vehicles other than those motor vehicles with a gross vehicle weight rating of ten thousand pounds or less and which are commonly classified as a passenger automobile, sport utility vehicle, light truck, pick up truck, van, minivan, or suburban, such as buses, school buses, garbage trucks, marine trailers, tow trucks, motorcycles, recreational vehicles, snowmobiles, trailers, mobile homes, or construction equipment. Provided, further, that such requirement also shall not apply to any dealer who is engaged exclusively in the business of buying, selling or dealing in motor vehicles solely for conversion for use as a tow truck. 7. Issuance of certificate. a. If the commissioner is satisfied that the applicant for a new motor vehicle dealer registration certificate is party to a franchise or franchises authorizing such applicant to sell or lease lines or makes of new motor vehicles which the applicant proposes to sell or lease from the locations described in the application for the sale or lease of such lines or makes and if the commissioner otherwise approves the application, upon payment of the prescribed fee, he or she shall issue a new motor vehicle dealer registration certificate in such form as he or she may prescribe. Every new motor vehicle dealer registration certificate shall by its terms permit the sale or lease of the particular lines or makes of new motor vehicles only from a location or locations authorized for such sale or lease in the franchise or franchises between such new motor vehicle dealer and the manufacturers or distributors of such new motor vehicles. The commissioner may, in his or her discretion, issue such certificates of registration and number plates on a staggered expiration basis, in which event the fees set forth in subdivision six of this section for such certificate shall be prorated on a monthly basis. A new motor vehicle dealer registered under this section shall notify the commissioner of any change of address of the locations of his or her place or places of business and whether or not such locations are approved as locations for the sale or lease of new motor vehicles in a franchise and which lines or makes are so approved for sale or lease at each location pursuant to the franchise or franchises within thirty days after such change is made, and the commissioner shall be authorized to cancel the registration upon failure to give such notice. A copy of each franchise affected by any such change or other proof satisfactory to the commissioner shall accompany the notice to the commissioner. If any location shall cease to be approved by the new motor vehicle manufacturer or distributor for the sale or lease of the line or make of new motor vehicle, then such new motor vehicle dealer shall immediately cease selling or leasing such line or make of new motor vehicle from such location and shall notify the commissioner within thirty days of such change, after which such new motor vehicle dealer registration certificate shall be modified to reflect such change. b. Registration certificate for qualified dealer. If a dealer makes application, under penalty of perjury, for a registration certificate as a qualified dealer, the commissioner shall issue a registration as a qualified dealer to such dealer upon payment of the prescribed fee. c. Registration certificate for other than new motor vehicle dealer or qualified dealer. If the commissioner approves the application of an applicant for a registration certificate other than a new motor vehicle dealer certificate or a qualified dealer certificate, upon payment of the prescribed fee, he or she shall issue a registration certificate in such form as he or she may prescribe. c-1. Special provisions relating to mobility vehicles. (i) Any dealer, other than a new motor vehicle dealer, engaged in displaying, advertising, storing and/or demonstrating mobility vehicles shall notify prospective purchasers regarding any warranty on the mobility modifications and the effect of any such modifications or alterations on any warranty on the underlying motor vehicle and, upon the sale of any such mobility vehicle, provide the purchaser with any warranty information available to any such dealer relating to the underlying motor vehicle. (ii) Notwithstanding the provisions of article twelve-A of this chapter, a dealer engaged in displaying, advertising, storing and/or demonstrating mobility vehicles may, without obtaining a repair shop license pursuant to such article twelve-A, perform repairs on those parts of the mobility vehicle that are unique to the modifications made thereto and which are not part of the original manufactured motor vehicle. d. The commissioner may, in his or her discretion, issue such certificates of registration and number plates on a staggered expiration basis, in which event the fees set forth in subdivision six of this section for such certificate shall be prorated on a monthly basis. A registrant shall notify the commissioner of any change of address of his or her principal place of business within thirty days after such change is made, and the commissioner shall be authorized to cancel the registration upon failure to give such notice. e. A registration issued under this section may be renewed upon application therefor in such form as the commissioner may prescribe, upon payment of the fee as herein prescribed. f. Except as provided in paragraph (bb) of subdivision two of section four hundred sixty-three of this title and subparagraph (iii) of this paragraph: (i) The commissioner shall not issue any certificate of registration authorized by this section to any franchisor, manufacturer, distributor, distributor branch or factory branch, as such terms are defined in section four hundred sixty-two of this title, or to any subsidiary, affiliate or controlled entity thereof, except that the commissioner may renew such certificate previously issued or otherwise approved to operate to a franchisor prior to July first, two thousand six. Nothing in this section shall preclude the establishment of such facilities necessary to continue the ongoing operation of any holder of a certificate of registration authorized by this section or otherwise approved to operate to a franchisor provided such original certificate or approval was granted prior to July first, two thousand six. (ii) On or after the effective date of this subparagraph, the commissioner shall not issue any certificate of registration, or renew any certificate, unless the original certificate was issued before July first, two thousand six, to any motor vehicle dealer in which a franchisor, manufacturer, distributor, distributor branch or factory branch, as such terms are defined in section four hundred sixty-two of this title, or any subsidiary, affiliate or controlled entity thereof, has acquired, or possesses, a controlling interest in the franchise entity except: (1) when operating such franchise for a temporary period, not to exceed one year, during the transition from one owner of the motor vehicle dealership to another, provided, however, that such temporary period may be extended once for an additional period not to exceed one year for good cause. Provided that for franchisors of house coaches, the period of temporary ownership of a franchised house coach dealership may be extended in one year increments for good cause shown, except that the aggregate of such extensions shall not exceed five years; or (2) when operating such franchise temporarily

under a plan with an independent individual who is obligated to make a significant investment in the dealership that is subject to loss and has an ownership interest or expects to acquire full ownership in a reasonable period under reasonable terms and conditions, provided that a reasonable period shall be presumed to not exceed eight years. (iii) Notwithstanding any other provision of this paragraph or any provision of paragraph (bb) of subdivision two of section four hundred sixty-three of this title, the commissioner may renew any certificate of registration that was issued to a franchisor, manufacturer, distributor, distributor branch or factory branch, as such terms are defined in section four hundred sixty-two of this title, or to any subsidiary, affiliate or controlled entity thereof, prior to March twenty-sixth, two thousand fourteen; provided, however, that such franchisor, manufacturer, distributor, distributor branch or factory branch, or any subsidiary, affiliate or controlled entity thereof, is a manufacturer that manufactures or assembles exclusively zero emissions vehicles, or is a subsidiary, affiliate, or controlled entity of such a manufacturer; and provided further that a controlling interest in such original franchisor, manufacturer, distributor, distributor branch or factory branch or any subsidiary, affiliate or controlled entity was not transferred, sold or conveyed to another person or entity, other than to a subsidiary, affiliate or controlled entity of such franchisor, manufacturer, distributor, distributor branch or factory branch. For purposes of this paragraph, zero emission vehicles shall have the same meaning as under part two hundred eighteen of title six of the New York code of rules and regulations. (iv) Notwithstanding any other provision of this paragraph or any provision of paragraph (bb) of subdivision two of section four hundred sixty-three of this title, the commissioner may issue or renew any certificate of registration to a franchisor, manufacturer, distributor, distributor branch or factory branch, as such terms are defined in section four hundred sixty-two of this title, or to any subsidiary, affiliate or controlled entity thereof, that manufactures or assembles buses exclusively; provided, however, that such certificate shall be issued exclusively for the sale of buses to public transportation providers; and provided further, however, that such franchisor, manufacturer, distributor, distributor branch or factory branch, or any subsidiary, affiliate or controlled entity thereof: (1) is a manufacturer that manufactures or assembles exclusively buses, or is a subsidiary, affiliate, or controlled entity of such a manufacturer; and (2) sells such buses under such certificate of registration solely to public transportation providers. For purposes of this subparagraph, the term "public transportation provider" shall mean public transportation systems eligible to receive operating assistance under the provisions of section eighteen-b of the transportation law, and the term "public transportation system" shall mean: (A) any public benefit corporation constituting a transportation authority, or a subsidiary thereof, or any public transportation corporation constituted as an instrumentality of the state, or a subsidiary thereof, directly or through a contract with another entity, that provides mass transportation services to the general public; or (B) any Indian tribe or any county, city, town or village that provides mass transportation services to the general public directly or through a contract with another entity pursuant to section one hundred nineteen-r of the general municipal law. 8. Use. Transporter number plates issued under this section shall be used only for the limited operation of vehicles owned or controlled by the registrant for the purpose of weighing, testing, dismantling, transporting or delivering the same, or for the purpose of moving such vehicles in connection with making installations thereon or improvements thereto, or the repossession or foreclosure thereof, or for the operation, for demonstration purposes, of any vehicle owned by a manufacturer, or for transporting or delivering the vehicle upon which the plates are displayed and additional vehicles carried in whole or in part upon such vehicle. Except as provided in section four hundred sixteen of this article, dealer number plates issued under this section may be used for all purposes for which transporter plates may be used and, in addition, may be used for the operation of any vehicle owned or controlled by the registrant and held for sale or demonstration, except a vehicle rented to another, a vehicle used to transport passengers for hire, a vehicle commonly called a "tow truck" or "wrecker" and used by the dealer for such purposes, a vehicle equipped for the purpose of towing or pushing disabled or nonoperated vehicles or a commercial or suburban type vehicle used by the dealer for commercial purposes other than directly affecting the sale or demonstration of that particular vehicle. In addition, dealer, manufacturer, or transporter number plates may be used for any non-self-propelled device used for the transport of modular homes. Except as provided in section four hundred sixteen of this article, manufacturer number plates issued under this section may be used for all purposes for which transporter plates may be used and, in addition, may be used for the operation of any vehicle owned or controlled by the registrant and held for demonstration, except a vehicle rented to another, a vehicle used to transport passengers for hire, a vehicle commonly called a "tow truck" or "wrecker" and used by the manufacturer for such purposes, a vehicle equipped for the purpose of towing or pushing disabled or nonoperated vehicles or a commercial or suburban type vehicle used by the manufacturer for commercial purposes other than directly affecting the demonstration of that particular vehicle. Dealer, manufacturer, or transporter number plates issued upon renewal of a dealer, manufacturer, or transporter registration may be used during the thirty day period immediately preceding the expiration date of such registration, including such expiration date. 9. Suspension, revocation and refusal to issue or to renew a registration. The commissioner or any person deputized by him may deny the application of any person for registration under this section and suspend or revoke a registration under this section or refuse to issue a renewal thereof if he or such deputy determines that such applicant or registrant or any officer, director, stockholder, or partner, or any other person directly or indirectly interested in the business: a. Has made a material false statement in his application; or b. Has used or permitted the use of number plates contrary to law; or c. Has been guilty of fraud or fraudulent practices, or has practiced dishonest or misleading advertising; or d. Has failed to comply with any of the rules and regulations of the commissioner for the enforcement of this article or with any provision of this chapter or article thirty-five-B of the general business law applicable thereto; or e. Has wilfully violated any provisions of the motor vehicle retail instalment sales act, the motor vehicle retail leasing act or section one hundred ninety-eight-c of the general business law; or f. Does not have a place of business within the meaning of this section; or g. Has been convicted of any crime involving dishonesty or deceit; or h. Was the former holder, or was an officer, director, stockholder, or partner, in a corporation or partnership which was the former holder of a dealer's registration, which was suspended or revoked by the commissioner. 9-a.

Hearings; temporary suspension. (a) No registration shall be suspended or revoked, or renewal refused, except upon notice to the registrant and after an opportunity to be heard. Provided however, upon a written notice of temporary suspension delivered by certified mail to the registrant, a registration may be temporarily suspended pending a hearing. Any such notice of temporary suspension shall provide that the suspension is effective seventy-two hours after mailing of such notice and shall provide that a hearing be scheduled within ten days after the effective date of the temporary suspension. (b) The applicant may be heard in person or by counsel. The hearing shall be at such time and place as the commissioner shall prescribe. The commissioner or the commissioner's designee may inspect the pertinent books, records, letters and contracts of a registrant relating to any written complaint or charge against such registrant. The commissioner or the commissioner's designee shall have the power to subpoena and bring before a hearing officer any person in this state, and administer an oath to and take testimony of any person or cause the person's deposition to be taken. A subpoena issued under this section shall be regulated by the civil practice law and rules. 10. Suspension and revocation of number plates. The commissioner may suspend or revoke number plates issued pursuant to subdivision four of this section, if he determines that the registrant to whom these plates have been issued has used or permitted the use of such number plates contrary to law or to the regulations of the commissioner with respect to the use thereof. The registrant to whom such number plates have been issued shall have an opportunity to be heard, and the provisions of subdivision nine of this section shall apply to hearings held under this subdivision, and to review of determinations made by the commissioner hereunder. 11. Following the suspension or revocation of the certificate of registration of a dealer, manufacturer, or transporter or number plates, pursuant to this section, the failure of the holder or any other person possessing the certificate of registration, number plates or certificates of sale issued to a dealer pursuant to the regulations of the commissioner, to deliver the same to the suspending or revoking officer, peace officer acting pursuant to his or her special duties, police officer directed by the commissioner to secure possession thereof, or agent of the commissioner, displaying authorization to act in such capacity along with a certified copy of the order revoking or suspending such registration or number plates, shall be a misdemeanor. If any person shall fail to deliver a certificate of registration, number plates or certificates of sale as provided herein, the commissioner shall forthwith direct any peace officer acting pursuant to his or her special duties or police officer to secure possession thereof and to return the same to the commissioner. 12. The commissioner, or any person deputized by him, in addition to or in lieu of revoking or suspending the certificate of registration of a registrant in accordance with the provisions of this article, may in any one proceeding by order require the registrant to pay to the people of this state a penalty for a first violation a sum not exceeding one thousand dollars for each violation found to have been committed; and for a second or subsequent violation not arising out of the same incident both of which were committed within a period of thirty months, a sum of not more than one thousand five hundred dollars for each violation found to have been committed; provided, however, the penalty for each and any violation of paragraph c of subdivision nine of this section found to have been committed shall be no less than three hundred and fifty dollars and no more than one thousand five hundred dollars, except that if a finding of financial loss has been made pursuant to subdivision fourteen of this section, the amount of such penalty may be increased by the amount of financial loss so found, and upon the failure of such registrant to pay such penalty within twenty days after the mailing of such order, postage prepaid, registered or certified, and addressed to the last known place of business of such registrant, unless such order is stayed by an order of a court of competent jurisdiction, the commissioner may revoke the certificate of registration of such registrant or may suspend the same for such period as he may determine. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. 13. In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record. 14. Restitution; assessment. a. Upon a determination that a registrant has done or failed to do any act for which suspension of the registrant's registration or a civil penalty against the registrant could be imposed, the person making such determination may make a finding of financial loss to any complainant or complainants resulting from the actions of the registrant. The person making such finding may provide that if the registrant makes restitution to the complainant or complainants for the amount or amounts so found, that payment of such restitution may be substituted in lieu of any suspension or civil penalty, or a specified portion thereof imposed upon the registrant. However, a finding of financial loss shall only be made if the complainant (i) agrees to accept the amount so found, if offered by the registrant, and (ii) is not a party to any litigation which is pending or which has gone to judgment in relation to the same matter in any civil court. b. The amount of financial loss which may be found and proposed as restitution shall be limited to an amount necessary to compensate the complainant or complainants for actual losses caused by the registrant's improper activity. Neither punitive nor incidental damages may be included in the finding of financial loss. c. If payment of restitution to the complainant is authorized in lieu of all or a portion of a suspension or civil penalty, in order for the registrant to exercise the option to make such payment, such payment must be made by means of a certified check or money order payable to the complainant or complainants delivered to an office of the department as directed by the commissioner or his agent within thirty days of the date of notice of suspension and/or civil penalty. Upon receipt of such certified check or money order, the department shall forward the same to the complainant or complainants. In the event that the registrant should fail to make payment for restitution within such thirty days, but, at a later time, pays such civil penalty, the department shall deduct from such civil penalty the amount assessed for restitution, and shall mail a check for such amount to the complainant or complainants. d. If payment of restitution may be substituted in lieu of a civil penalty

or portion of a civil penalty, and the registrant does not exercise the option to make such payment, the civil penalty becomes due as provided in subdivision twelve of this section and the provisions of that subdivision and subdivision thirteen of this section relating to suspension of registration and recovery of civil penalties shall apply. e. Any payment made in compliance with such a finding of financial loss shall not preclude any civil action which may be brought by either the complainant or registrant, and any such finding may be considered but shall not be binding upon any court before which any such action is brought. 15. Miscellaneous provisions. The commissioner may, in his or her discretion, limit the number of sets of number plates which shall be issued to any registrant. The provisions of subdivision three of section four hundred one of this title with respect to the fee for lost, mutilated or destroyed certificates and number plates shall apply to certificates and number plates issued under this section. In the event of the loss or theft of any dealer, manufacturer, or transporter number plate or set of such number plates whether with or without a date tag or tags, or any date tag or set of date tags, the dealer or manufacturer must immediately notify the police of such fact and in the event of loss, theft, mutilation or destruction of any such items the dealer or manufacturer must immediately file a statement and proof of the facts as the commissioner shall require. The provisions of section four hundred two and four hundred eleven of this title with respect to the care and display of number plates shall apply to number plates issued under this section. Registration under this section shall be upon the condition that the registrant shall conform to such reasonable requirements as shall be prescribed by the commissioner. The commissioner may, in his or her discretion, require a registrant to maintain a record in a prescribed form of all vehicles received or disposed of by him or her, which records shall be open at all times for inspection by the commissioner, his or her representatives and any peace officer, acting pursuant to his or her special duties, or police officer. If registration under this section shall be issued in the names of two or more persons as partners and a change occurs in the membership of such partnership, the registration shall not expire so long as any one of the persons named in such registration is a member of the partnership or carries on the business of the partnership as surviving member of the partnership. However, when any such change occurs and the registration does not expire, the partners or surviving member after such change shall forthwith file with the commissioner a statement regarding such partnership in such form and giving such information as the commissioner shall require, and the commissioner shall issue a new certificate of registration. 16. Unregistered operation; operation while suspended or revoked; procedures and penalties. a. The commissioner or any person deputized by him shall hear and determine any allegation that a person has operated as a dealer without being registered as required by subdivision three of this section or while registration is suspended or revoked. Upon a determination that a person has so operated, the commissioner or person deputized by him shall assess civil penalties as provided in paragraphs b and c of this subdivision. b. Except as provided in paragraph c of this subdivision, any person who operates as a dealer without being registered shall be required to pay to the people of this state a civil penalty in the sum of one thousand dollars. However, any such person against whom such penalty has been assessed may avoid all but five hundred dollars of such penalty by obtaining a registration as required by this article, provided that application for such registration is made not more than ten days after the imposition of such penalty. c. (i) Any person who operates as a dealer while his registration is revoked or suspended, shall pay to the people of this state a civil penalty in the sum of one thousand dollars. Such civil penalty may not be avoided. (ii) Any person who operates as a dealer without being registered as required by subdivision three of this section who has previously had a civil penalty assessed for unregistered operation shall pay to the people of this state a civil penalty in the sum of one thousand dollars. Any person who operates as a dealer without being registered as required by subdivision three of this section who has had two previous civil penalties assessed for unregistered operation not arising from the same incident all of which were committed within a period of thirty months shall pay to the people of this state a civil penalty in the sum of four thousand ten dollars. Such civil penalties may not be avoided. (iii) No person who operates as a dealer without being registered as required by subdivision three of this section or while his or her registration is revoked or suspended shall park a motor vehicle, which he or she owns or controls and holds for sale or demonstration, upon a public highway of this state without first being registered in accordance with the provisions of section four hundred one of this chapter. Any such person shall, in addition to any penalties imposed pursuant to paragraph b of this subdivision or subparagraph (ii) of this paragraph, be required to pay to the people of this state an additional civil penalty of three hundred dollars for each motor vehicle owned or controlled and held for sale or demonstration by such person which is parked upon the public highways of this state without first being registered in accordance with the provisions of section four hundred one of this chapter. d. The commissioner, or any person deputized by him, in addition to imposing a civil penalty for unregistered operation as a dealer, may, in any one proceeding, make a determination that the unregistered dealer has caused a financial loss to a complainant or complainants and may increase the civil penalty by the amount of financial loss. The person making such finding may provide that if the unregistered dealer makes restitution to the complainant or complainants for the amount or amounts so found, that payment of such restitution may be substituted for the increase in the civil penalty caused by the finding of financial loss. However, a finding of financial loss shall only be made if the complainant (i) agrees to accept the amount so found, if offered by the unregistered dealer, and (ii) is not a party to any litigation which is pending or in which judgment has been entered in any civil action in any court of competent jurisdiction. e. Civil penalties assessed under this section shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record. f. No allegation of unregistered operation as a dealer shall be heard or determined unless notice of such allegation has been

mailed to such person within two years after the date of the alleged unregistered operation. 17. Improper display of signs. a. The holder of a dealer registration shall remove or cause to be removed any sign which contains the registration number of the dealer which is visible to the public and which is required to be displayed by this article or regulations promulgated thereunder if the registration is revoked or suspended or the dealer is out of business. If the registration is only suspended, the holder may cover up the sign instead of removing it. b. No person shall permit the display of any sign required to be displayed by this article or regulations promulgated thereunder indicating to the public that an official dealer is operating unless a dealer registration has been issued to that person and is currently valid. 18. Rights of dealers. The rights of all new motor vehicle dealers under this article may be exercised from any location or locations which are from time to time approved by their franchisors and the commissioner as prescribed in this article. The rights of all qualified dealers under this article may be exercised from any location or locations from which they operate from time to time; provided, however, that no qualified dealer shall operate from more than two locations within the four counties of Kings, Queens, Nassau, and Suffolk; and provided further that no qualified dealer shall operate from more than one location in any one county. The total number of locations from which a qualified dealer may operate shall not exceed that number of locations operated by such qualified dealer on December thirty-first, nineteen hundred ninety-eight. It shall be unlawful for any person to interfere with the rights of, or discriminate against, any new motor vehicle dealer or any qualified dealer under this article. The commissioner shall penalize those persons who violate the provisions of this section as enacted by chapter four hundred fifty-one of the laws of nineteen hundred ninety-nine and the chapter of the laws of two thousand which amended this subdivision as provided by this section. Nothing contained in this article shall be construed to prohibit a new motor vehicle dealer, a qualified dealer, or a dealer, respectively, from utilizing the internet to engage in such activities as each are respectively permitted under this article and under other applicable laws, or affect where a new motor vehicle dealer or a qualified dealer may deliver a new motor vehicle. 19. Disclosures by qualified dealers; penalties. a. Every qualified dealer who advertises in newspapers, magazines, or by direct mail the availability of new motor vehicles for sale shall clearly disclose that such qualified dealer is not a franchised new motor vehicle dealer. b. Every qualified dealer shall prominently and conspicuously post a sign, in such a manner that it is likely to be noticeable to anyone entering the premises, which sign shall clearly state: "(name of qualified dealer) is not a franchised dealership and does not represent a manufacturer. We are not authorized to perform recall or original factory warranty work." c. Every contract for the sale of a new motor vehicle entered into by a qualified dealer and the purchaser shall contain the following statement: "(name of qualified dealer) is not a franchised dealership and does not represent a manufacturer. We are not authorized to perform recall or original factory warranty work." d. A qualified dealer who fails to comply with the requirements of this subdivision, shall be subject to the penalties provided by this section. Further, a person who has purchased a new motor vehicle from a qualified dealer pursuant to a contract which does not contain the disclosure required under paragraph c of this subdivision, shall be entitled to rescind the sale and obtain full restitution of any amounts paid, plus reasonable court costs and attorneys fees, within four months of the date of purchase. 20. Restrictions on transferability and operation of certain qualified dealerships. a. A qualified dealer may sell, devise, assign, convey or otherwise transfer any or all of its assets, including without limitation all rights to conduct the activities of a qualified dealer hereunder and further, the owner of an equity interest in a qualified dealership may sell, devise, assign, convey or otherwise transfer any or all of its equity interest in such qualified dealership, subject to the conditions set forth in this subdivision. To the extent that such qualified dealer conducts such activities at more than one location as permitted under this article, then such qualified dealer may transfer such rights on a location by location basis; provided, however, that such a transferee shall acquire no greater rights to relocate than those of his or her transferor, and provided further below, that such transferee shall remain subject to the provisions of this subdivision exactly as they applied to his or her transferor. b. A transferee who acquires the assets and/or an equity interest in a qualified dealer as defined in subparagraph (ii), (iii) or (iv) of paragraph g of subdivision one of this section and is the parent, spouse, child or sibling of an individual who was an equity holder of such qualified dealer may conduct activities as specified pursuant to this section without restriction. c. A transferee who acquires substantially all of the assets and/or a controlling equity interest in a qualified dealer as defined in subparagraph (ii), (iii) or (iv) of paragraph g of subdivision one of this section who is not the parent, spouse, child or sibling of an individual who was an equity holder of such qualified dealer may conduct activities as specified pursuant to this section; provided, however, that such transferee, in any calendar year, shall not be permitted to sell more than one hundred ten percent of the number of new motor vehicles sold by the transferor or qualified dealer during the twelve month period ending on the last day of the calendar month preceding the date of transfer of such rights. d. A transferee who acquires ten per cent or more of an equity interest after August 31, 1999 in a qualified dealer as defined in subparagraph (ii), (iii), or (iv) of paragragh g of subdivision one of this section and is a publicly traded corporation may conduct activities as specified pursuant to this section; provided, however, that such transferee, in any calendar year, shall not be permitted to sell more than one hundred ten percent of the number of new motor vehicles sold by the transferor or qualified dealer during the twelve month period ending on the last day of the calendar month preceding the date of transfer of such rights. e. Each transferee who acquires substantially all of the assets and/or a controlling equity interest in a qualified dealer from a transferee as defined in paragraph b, c or d of this subdivision shall not be permitted to sell a number of new motor vehicles in any calendar year in excess of the number of new motor vehicles sold by such transferor qualified dealer during the twelve month period ending on the last day of the calendar month preceding the date of transfer of such rights. f. The rights of a qualified dealer under subparagraph (ii), (iii) or (iv) of paragraph g of subdivision one of this section are also deemed transferred for purposes hereof in the event that, after August thirty-first, nineteen hundred ninety-nine, (i) the controlling equity interest of such qualified dealer is transferred (in any one or series of transactions) to any person or persons, other than the parent, spouse, child or sibling of an individual who is an equity holder of such qualified dealer, or (ii) there occurs any merger, combination or consolidation of, with or into the business entity

which constitutes such qualified dealer. g. Nothing contained herein shall (i) prohibit a qualified dealer or the parent, spouse, child or sibling who is the equity holder of such qualified dealer from forming a corporation or limited liability company to operate and wholly own the qualified dealer; (ii) restrict the ability of a qualified dealer to transfer a controlling equity interest to a corporation or a limited liability company operated and wholly owned by an individual who is an equity holder of such qualified dealer; or (iii) restrict the ability of a qualified dealer to transfer an equity interest in the stock and/or assets of a qualified dealer to a full-time employee of such qualified dealer. 21. New motor vehicle etching kits. Every new motor vehicle dealer and every qualified dealer shall be required to stock etching kits that are capable of etching a traceable serial number onto the catalytic converter of a new motor vehicle that can be clearly seen and quickly linked back to the vehicle. Such etching kits shall be offered by every new motor vehicle dealer and qualified dealer to any person purchasing a new motor vehicle, at no more than the cost of such etching kit to such dealer. * 22. Compliance. All dealers and automobile broker businesses registered under subdivisions three and three-a of this section shall certify and attest to compliance with sections three hundred ninety-nine-cc, as added by chapter 655 of the laws of 2005, three hundred ninety-nine-dd, as added by chapter 487 of the laws of 2006, three hundred ninety-nine-ddd, three hundred ninety-nine-h, three hundred ninety-nine-oo, three hundred ninety-nine-p, three hundred ninety-nine-pp, eight hundred ninety-nine-bb of the general business law, and part three hundred fourteen of title sixteen of the code of federal regulations as applicable. * NB Effective June 19, 2025 * 23. Automobile broker record requirements. (a) For each completed transaction and within three business days of consummation thereof, automobile brokers shall maintain a permanent paper file record that clearly evidences and records the make, model, year, color and vehicle identification number of all previously unregistered motor vehicles for which such broker has provided a service of purchasing, arranging, assisting, facilitating or effecting the purchase or lease of such motor vehicle. Such records shall be maintained for a six-year period after consummation of the transaction. Such records shall also include the name and address of the purchaser or lessee of such motor vehicle, the date of sale or commencement of lease with respect to such motor vehicle and the name and address of the dealer from which the motor vehicle was purchased or leased. (b) The records maintained by the automobile broker businesses shall include a copy of the dealer rate sheets received by the automobile broker from the dealers that were relied upon by the automobile broker in connection with such transaction. (c) Such records shall be open for inspection by the commissioner, or his or her agent, during reasonable business hours. (d) As an alternative to paper file records, an automobile broker may use a computer and appropriate software to maintain the records required to be kept by this section, provided all information required by paragraphs (a) and (b) of this subdivision are duly recorded and maintained in accordance with this subdivision. * NB Effective June 19, 2025 * 24. Maintenance records. For each sale or lease of a motor vehicle that involves an automobile broker business, the dealer must obtain evidence of the automobile broker business' registration and the broker's registration number and maintain such records in the deal jacket for each transaction which also shall contain the purchase order, copies of the title and registration documents, the bill of sale and the retail installment sale contract required under article ten of the personal property law or the retail lease agreement required under article nine-A of the personal property law. * NB Effective June 19, 2025 * 25. Broker compensation. No dealer may offer or pay an automobile broker business any fee, or commission, other than compensation disclosed pursuant to section seven hundred thirty-eight or seven hundred forty-one-b of the general business law or section three hundred two or three hundred thirty-seven of the personal property law; provided, however, that the automobile broker business may not accept any such fee or commission from the dealer if the broker has or will accept payment from the buyer or lessee of the automobile. * NB Effective June 19, 2025

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 16 - Registration of Dealers and Transporters416-A - Bumper Quality Label Requirements.

§ 416-a. Bumper quality label requirements. 1. It shall be unlawful after January first, nineteen hundred ninety-three for any manufacturer to sell or lease or to offer to sell or lease in this state for the purpose of registration in this state any new passenger type motor vehicle manufactured or assembled after said date designated as a nineteen hundred ninety-three or subsequent model, except omnibus and multipurpose passenger vehicles, unless such vehicle has affixed thereto a bumper quality label, placed conspicuously upon that window or windshield where the manufacturer's suggested retail price sticker has been posted. The commissioner shall determine the size, type legibility and placement of such label. Such label shall include the following information: "This vehicle is equipped with a front bumper that has been tested at an impact speed of (specified by vehicle manufacturer) _____ miles per hour and a rear bumper that has been tested at an impact speed of (specified by the vehicle manufacturer) _____ miles per hour, and has sustained no damage to the vehicle's body and minimal damage to the bumper and attachment hardware. Minimal damage to the bumper means damage that can be repaired with the use of a common repair materials and without replacing any parts. The stronger the bumper, the less likely the car will require repair after a low-speed collision." 2. The impact speed required to be specified in the notice pursuant to subdivision one of this section is the maximum speed of impact upon the bumper of the vehicle at which the vehicle sustains no damage to the body and safety systems and only minimal damage to the bumper when subjected to the fixed barrier and pendulum impact tests, and when subjected to the corner impact test at not less than sixty percent of that maximum speed, conducted pursuant to the practices, procedures and regulations promulgated under the concurrent authority of the Federal Motor Vehicle Information and Cost Savings Act (Cost Savings Act)(15 U.S.C. 1901 et seq.) and the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381, et seq.) 3. For purposes of this section, "no damage" means that, when a passenger vehicle is subjected to applicable impact testing practices and procedures, the exterior surfaces shall have no separations of surface materials, paint, polymeric coatings or other covering materials from the surface to which they are bonded, and no permanent deviations from their original contours thirty minutes after completion of each pendulum and barrier impact test,

except where such damage occurs to the bumper face bar and the components and associated fasteners that directly attach the bumper face bar to the chassis frame. There shall be no breakage or release of fasteners or joints except as described above. 4. Any manufacturer who violates subdivision one of this section, without just cause, shall be subject to a civil fine of not more than fifty dollars per vehicle with respect to which there has been a violation of this section. Civil penalties so assessed may not be deducted as an expense from any tax liability due to any local or state tax jurisdiction.

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2. As used in this section, (a) "event data recorder" means a feature that is installed by the manufacturer of the vehicle and does one or more of the following, for the purpose of capturing data for retrieval after a crash:(i) Records vehicle speed and/or direction.(ii) Records vehicle location.(iii) Records vehicle steering performance.(iv) Records brake performance, including, but not limited to, whether brakes were applied before a crash.(v) Records the driver's seatbelt status.(vi) Has the ability to transmit information concerning a crash in which the motor vehicle has been involved to a central communications system when a crash occurs.(b) "owner" means a person having all the incidents of ownership, including the legal title of a vehicle whether or not such person lends, rents or creates a security interest in the vehicle; a person entitled to the possession of a vehicle as the purchaser under a security agreement; or the person entitled to possession of the vehicle as lessee pursuant to a written lease agreement, provided such agreement at inception is for a period in excess of three months.3. Data described in subdivision two of this section that is recorded on an event data recorder may not be downloaded or otherwise retrieved by a person other than the owner of the motor vehicle at the time the data is accessed, except under one of the following circumstances:(a) The owner of the motor vehicle or the owner's agent or legal representative consents to the retrieval of the information.(b) In response to an order of a court or other judicial or administrative authority having jurisdiction to issue the order.(c) For the purpose of improving motor vehicle safety, security or traffic management including for medical research of the human body's reaction to motor vehicle crashes, provided that the identity of the registered owner or driver is not disclosed in connection with that retrieved data. For purposes of this section the disclosure of the vehicle identification number (VIN) with the last four digits deleted, does not constitute the disclosure of the identity of the registered owner or driver.(d) The data is retrieved by a licensed new motor vehicle dealer as defined in section four hundred fifteen of this article or by an automotive technician trained in such retrieval and employed by a registered motor vehicle repair shop as defined in article twelve-A of this chapter, for the purpose of diagnosing, servicing, or repairing the motor vehicle.(e) The data is retrieved for the purpose of determining the need for or facilitating emergency medical response in the event of a motor vehicle crash.4. A person, including a service or data processor operating on behalf of such a person authorized to download or otherwise retrieve data from an event data recorder pursuant to paragraph (c) of subdivision three of this section, may not release that data, except for the purposes of motor vehicle safety and medical research communities to advance motor vehicle safety, security or traffic management, or to a data processor solely for the purpose permitted by this subdivision, and only if the identity of the owner or driver is not disclosed.5. (a) If a motor vehicle is equipped with a recording device that is capable of recording or transmitting information as described in subparagraph (ii) or (vi) of paragraph (a) of subdivision two of this section and that capability is part of a subscription service, the fact that the information may be recorded or transmitted shall be disclosed in the subscription service agreement.(b) Subdivision three of this section does not apply to subscription services meeting the requirements of paragraph (a) of this subdivision. (i) Records vehicle speed and/or direction. (ii) Records vehicle location. (iii) Records vehicle steering performance. (iv) Records brake performance, including, but not limited to, whether brakes were applied before a crash. (v) Records the driver's seatbelt status. (vi) Has the ability to transmit information concerning a crash in which the motor vehicle has been involved to a central communications system when a crash occurs. (b) "owner" means a person having all the incidents of ownership, including the legal title of a vehicle whether or not such person lends, rents or creates a security interest in the vehicle; a person entitled to the possession of a vehicle as the purchaser under a security agreement; or the person entitled to possession of the vehicle as lessee pursuant to a written lease agreement, provided such agreement at inception is for a period in excess of three months. 3. Data described in subdivision two of this section that is recorded on an event data recorder may not be downloaded or otherwise retrieved by a person other than the owner of the motor vehicle at the time the data is accessed, except under one of the following circumstances: (a) The owner of the motor vehicle or the owner's agent or legal representative consents to the retrieval of the information. (b) In response to an order of a court or other judicial or administrative authority having jurisdiction to issue the order. (c) For the purpose of improving motor vehicle safety, security or traffic management including for medical research of the human body's reaction to motor vehicle crashes, provided that the identity of the registered owner or driver is not disclosed in connection with that retrieved data. For purposes of this section the disclosure of the vehicle identification number (VIN) with the last four digits deleted, does not constitute the disclosure of the identity of the registered owner or driver. (d) The data is retrieved by a licensed new motor vehicle dealer as defined in section four hundred fifteen of this article or by an automotive technician trained in such retrieval and employed by a registered motor vehicle repair shop as defined in article twelve-A of this chapter, for the purpose of diagnosing, servicing, or repairing the motor vehicle. (e) The data is retrieved for the purpose of determining the need for or facilitating emergency medical response in the event of a motor vehicle crash. 4. A person, including a service or data processor operating on behalf of such a person authorized to download or otherwise retrieve data from an event data recorder pursuant to paragraph (c) of subdivision three of this section, may not release that data, except for the purposes of motor vehicle safety and medical research communities to advance motor vehicle safety, security or traffic management, or to a data processor solely for the purpose permitted by this subdivision, and only if the identity of the owner or driver is not disclosed. 5. (a) If a motor vehicle is

equipped with a recording device that is capable of recording or transmitting information as described in subparagraph (ii) or (vi) of paragraph (a) of subdivision two of this section and that capability is part of a subscription service, the fact that the information may be recorded or transmitted shall be disclosed in the subscription service agreement. (b) Subdivision three of this section does not apply to subscription services meeting the requirements of paragraph (a) of this subdivision.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 16 - Registration of Dealers and Transporters416 - Limited Use of Dealer's, Manufacturer's, and Transporter's Number Plates by Vendee or Lessee.

§ 416. Limited use of dealer's, manufacturer's, and transporter's number plates by vendee or lessee. Upon the sale or lease of a motor vehicle or motorcycle the vendee or lessee shall be allowed to operate the same upon the public highways for the period of five days after taking possession thereof, without carrying number plates issued upon a registration under section four hundred one, if a motor vehicle, or under section four hundred ten, if a motorcycle, provided the motor vehicle or motorcycle shall have attached thereto and displayed thereon, in the manner therein provided, a set of dealer's, manufacturer's, or transporter's number plates issued to the vendor or lessor under section four hundred fifteen, and if a proper application for registration and number plates for such vehicle, under the provisions of section four hundred one or four hundred ten of this title, as the case may be, shall have been mailed or presented to the commissioner, or agent, accompanied with the payment of the required fee within twenty-four hours after he or she has taken possession thereof. If the motor vehicle or motorcycle is to be registered in a jurisdiction other than the state of New York, the requirement for filing or presenting such application shall not apply. No person shall operate or drive upon the public highways any motor vehicle or motorcycle on which is fastened or displayed any such dealer's, manufacturer's, or transporter's number plates after a sale or lease of such vehicle by the dealer or lessor, except in compliance with the foregoing provisions. A vendee or lessee to whom number plates are delivered or by whom they are held under the provisions of this section shall return the same, and the accompanying registration certificate, to the dealer or lessor before the expiration of six days after he or she took possession of the motor vehicle or motorcycle purchased or leased. If number plates so delivered or held, or such certificate, are not returned within the time above limited, the dealer or lessor shall immediately notify the commissioner of that fact by mail, describing the plates according to the general and distinctive numbers and characters thereon. The provisions of this section shall apply also to the sale or lease of a trailer and to the use by the vendee or lessee of dealer's, manufacturer's, or transporter's number plates on the trailer sold or leased, and for the purpose of applying such provisions a trailer shall be deemed to be a motor vehicle.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 16 - Registration of Dealers and Transporters417-A - Mandatory Disclosures by Sellers Prior to Resale.

(b) Upon the sale or transfer of title by a dealer of any passenger motor vehicle that the dealer knows or has reason to know was previously used as a driver education vehicle, the dealer shall execute and deliver to the buyer an instrument in writing in a form prescribed by the commissioner acknowledging such prior use. 2. Certificate of prior nonconformity by manufacturer or dealer. Upon the sale or transfer of title by a manufacturer, its agent or any dealer of any second-hand motor vehicle, previously returned to a manufacturer or dealer for nonconformity to its warranty or after final determination, adjudication or settlement pursuant to section one hundred ninety-eight-a or one hundred ninety-eight-b of the general business law, the manufacturer or dealer shall execute and deliver to the buyer an instrument in writing in a form prescribed by the commissioner setting forth the following information in ten point, all capital type: "IMPORTANT: THIS VEHICLE WAS RETURNED TO THE MANUFACTURER OR DEALER BECAUSE IT DID NOT CONFORM TO ITS WARRANTY AND THE DEFECT OR CONDITION WAS NOT FIXED WITHIN A REASONABLE TIME AS PROVIDED BY NEW YORK LAW." Such notice that a vehicle was returned to the manufacturer or dealer because it did not conform to its warranty shall also be conspicuously printed on the motor vehicle's certificate of title. 3. Violation. The failure of a dealer to deliver to the buyer the instrument required by this section or the delivery of an instrument containing false or misleading information shall constitute a violation of this section. 4. Private Remedy. A consumer injured by a violation of this section may bring an action to recover damages. Judgment may be entered for three times the actual damages suffered by a consumer or one hundred dollars, whichever is greater. A court also may award reasonable attorneys' fees to a prevailing plaintiff buyer. 5. a. Action by the attorney general. Upon any violation of this section, an application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of the violation. If it shall appear to the satisfaction of the court or justice that the defendant has violated this section, an injunction may be issued by the court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. b. Whenever the court shall determine that a violation of this section has occurred, it may impose a civil penalty of not more than one thousand dollars for each violation. In connection with an application made under this subdivision, the attorney general is authorized to take proof and to make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

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§ 417-b. Mandatory disclosures by second-hand dealers prior to resale. 1. Upon the sale or transfer of title by any dealer of any second-hand motor vehicle which was manufactured or assembled on or after July first, nineteen hundred ninety-one and designed

as a nineteen hundred ninety-two or later model and which the dealer knows or has reason to know that such vehicle is not equipped with a tamper-resistant odometer as provided in subdivision forty-six of section three hundred seventy-five of this chapter, the dealer shall execute and deliver to the buyer an instrument in writing in a form prescribed by the commissioner setting forth the following information in ten point, all capital type: "IMPORTANT: THIS VEHICLE IS NOT EQUIPPED WITH A TAMPER-RESISTANT ODOMETER." Such notice that a vehicle is not equipped with a tamper-resistant odometer shall also be conspicuously printed on the motor vehicle's certificate of title. 2. The failure of a dealer to deliver to the buyer the instrument required by this section or the delivery of an instrument containing false or misleading information shall constitute a violation of this section. 3. A consumer injured by a violation of this section may bring an action to recover damages. Judgment may be entered for three times the actual damages suffered by a consumer or one hundred dollars, whichever is greater. A court also may award reasonable attorneys' fees to a prevailing plaintiff buyer. 4. a. Upon any violation of this section, an application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of the violation. If it shall appear to the satisfaction of the court or justice that the defendant has violated this section, an injunction may be issued by the court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. b. Whenever the court shall determine that a violation of this section has occurred, it may impose a civil penalty of not more than one thousand dollars for each violation. In connection with an application made under this subdivision, the attorney general is authorized to take proof and to make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

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§ 417-c. Mandatory disclosures by sellers prior to resale. 1. Certificate of prior nonconformity by manufacturer or dealer. Upon the sale or transfer of title by a manufacturer, its agent or any dealer of any second-hand fire vehicle or ambulance, previously returned to a manufacturer or dealer for nonconformity to its warranty or after final determination, adjudication or settlement pursuant to section one hundred nine-d of the general municipal law, the manufacturer or dealer shall execute and deliver to the buyer an instrument in writing in a form prescribed by the commissioner setting forth the following information printed in conspicuous in ten point, all capital type: "IMPORTANT: THIS VEHICLE WAS RETURNED TO THE MANUFACTURER OR DEALER BECAUSE IT DID NOT CONFORM TO ITS WARRANTY AND THE DEFECT OR CONDITION WAS NOT FIXED WITHIN A REASONABLE TIME AS PROVIDED BY NEW YORK LAW." Such notice that a vehicle was returned to the manufacturer or dealer because it did not conform to its warranty shall also be conspicuously printed on the motor vehicle's certificate of title. 2. Violation. The failure of a manufacturer or dealer to deliver to the buyer the instrument required by this section or the delivery of an instrument containing false or misleading information shall constitute a violation of this section. 3. Private remedy. A consumer injured by a violation of this section may bring an action to recover damages. Judgment may be entered for three times the actual damages suffered by a consumer or one hundred dollars, whichever is greater. A court also may award reasonable attorneys' fees to a prevailing plaintiff buyer. 4. Action by the attorney general. a. Upon any violation of this section, an application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction to issue an injunction, and upon notice to the defendant of not less than five days, to enjoin and restrain the continuance of the violation. If it shall appear to the satisfaction of the court or justice that the defendant has violated this section, an injunction may be issued by the court or justice, enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may award a sum not exceeding two thousand dollars against each defendant, whether or not costs have been awarded, and direct restitution. b. Whenever the court shall determine that a violation of this section has occurred, it may impose a civil penalty of not more than one thousand dollars for each violation. In connection with an application made under this subdivision, the attorney general is authorized to take proof and to make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 16 - Registration of Dealers and Transporters417 - Certificates by Retail Dealers on Sales of Second Hand Motor Vehicles.

§ 417. Certificates by retail dealers on sales of second hand motor vehicles. Upon the sale or transfer of title by a retail dealer of any second hand motor vehicle, intended for use by the buyer, his agent or representative upon the public highways, the vendor shall execute and deliver to the vendee an instrument in writing, in a form prescribed by the commissioner, in which shall be given the make, year of manufacture and identification number of the said motor vehicle, the name and address of the vendee, and the date of delivery to the vendee. Such notice shall also contain a certification that said motor vehicle complies with such requirements of this chapter as shall be specified by the commissioner and that it is in condition and repair to render, under normal use, satisfactory and adequate service upon the public highway at the time of delivery. It shall also certify that such vehicle complies with the equipment requirements in section four hundred nineteen-a of this article. The failure of the vendor to deliver to the vendee the certificate required by this section or delivery of a false certificate knowing the same to be false or misleading or without making an appropriate inspection to determine whether the contents of such certificate are true shall constitute a violation of this section. The delivery of a false certificate shall raise presumption that such certificate was issued without an appropriate inspection. This section

shall not apply to a motor vehicle transferred to a lessee, a family member of a lessee, or an employee of a lessee, who has had possession of the vehicle for a period of one hundred twenty days or more under a lease.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 16 - Registration of Dealers and Transporters418 - Punishment for Violations.

§ 418. Punishment for violations. Except as otherwise provided, the violation of any of the provisions of sections four hundred fifteen and four hundred sixteen of this chapter shall be a traffic infraction.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 16 - Registration of Dealers and Transporters419-A - Inflatable Restraint System, Required Equipment Upon Sale.

§ 419-a. Inflatable restraint system, required equipment upon sale. No retail dealer may sell a second hand motor vehicle which is subject to federal motor vehicle safety standards for inflatable restraint systems as provided in part 571.208 of title 49 of the code of federal regulations, unless such vehicle is equipped with an inflatable restraint system which conforms to such federal motor vehicle safety standard applicable to that vehicle and the readiness indicator light does not indicate a malfunction of the inflatable restraint system.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 16 - Registration of Dealers and Transporters419 - Recreational Vehicle Shows or Exhibits.

§ 419. Recreational vehicle shows or exhibits. Notwithstanding any other provision of this article to the contrary, a recreational vehicle dealer licensed to do business as such in another state or jurisdiction may participate in a vehicle show or exhibit which has, when it opens to the public, at least a total of fifty dealers from both this state and outside this state manning recreational vehicle manufacturer displays if the show or exhibit is trade-oriented and is predominantly funded by recreational vehicle manufacturers. All of the participating dealers who are not licensed by this state must be from a state contiguous to this state which permits recreational vehicle dealers licensed as such in this state to participate in like shows or exhibits in that state under conditions substantially equivalent to the conditions which are imposed upon dealers from that state who participate in recreational vehicle shows or exhibits in this state and are duly licensed and authorized by their state of residence to sell recreational vehicles. Except as otherwise provided, nothing herein shall be deemed to waive or alter any other provision of law, rule or regulation. For the purpose of this section, the term "recreational vehicle" shall have the same meaning as "house coach" as such term is defined in section one hundred nineteen of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17-A* - Non-Driver Identification Card490 - Definition; Application for and Issuance of Identification Card.

2. Application. (a) Any person to whom a driver's license or learner's permit has not been issued by the commissioner, or whose driver's license or learner's permit is expired, suspended, revoked or surrendered, may make application to the commissioner for the issuance of an identification card. The commissioner shall ensure that space is provided on the application so that the applicant shall register or decline registration in the donate life registry for organ and tissue donations pursuant to section forty-three hundred ten of the public health law and that the following is stated on the application in clear and conspicuous type: "You must fill out the following section: Would you like to be added to the Donate Life Registry? Check box for 'yes' or 'skip this question'." The commissioner of health shall not maintain records of any person who checks "skip this question". Except where the application is made in person or electronically, failure to check a box shall not impair the validity of an application, and failure to check "yes" or checking "skip this question" shall not be construed to imply a wish not to donate. In the case of an applicant under eighteen years of age, checking "yes" shall not constitute consent to make an anatomical gift or registration in the donate life registry, except as otherwise provided pursuant to the provisions of paragraph (b) of subdivision one of section forty-three hundred one of the public health law. Where an applicant has previously consented to make an anatomical gift or registered in the donate life registry, checking "skip this question" or failing to check a box shall not impair that consent or registration.(b) The identification card shall display the sex designation of M, F, or X as certified by the applicant, with no additional documentation required. The applicant may amend the sex designation of their identification card upon request.3. Issuance. (a) (i) The commissioner shall upon submission of an appropriate application, upon payment of the prescribed fee, and upon being satisfied that the person described is the applicant and that such applicant meets the requirements set forth in subdivision two of this section, issue to such applicant a nontransferable identification card. In addition, the commissioner also shall require that an applicant for an identification card or renewal thereof provide his or her social security number. The commissioner shall provide space so that an applicant may request a notation upon such identification card that he or she is a veteran of the United States armed forces.(ii) In the case of a person (A) sixty-two years of age or older or (B) a recipient of supplemental security income benefits as defined in section two hundred eight of the social services law, application for a card which expires ten years after the date of issuance shall be made on a form prescribed by the commissioner and shall include proof that such person is sixty-two years of age or older or a recipient of such supplemental security income benefits, as the case may be.(iii) Notwithstanding any other law, rule or regulation to the contrary, a person who is either (A) sixty-two years of age or older and a recipient of supplemental security income benefits or (B) a recipient of public assistance, as defined in subdivision nineteen of section two of the social services law, supplemental nutrition assistance program benefits,

pursuant to section ninety-five of the social services law, or medical assistance, as defined in paragraph (a) of subdivision thirty-eight of section two of the social services law, and who has not been issued a driver's license, or whose driver's license is expired, or who surrendered his or her driver's license, shall be issued an identification card without the payment of any fee, upon submitting the appropriate application. For persons applying for an identification card pursuant to clause (B) of this subparagraph, such application shall include proof that such person is in receipt of public assistance, supplemental nutrition assistance program benefits, or medical assistance, as the case may be.(b) The identification card shall contain a distinguishing number or mark and adequate space upon which an anatomical gift, pursuant to article forty-three of the public health law, by the holder may be recorded and shall contain such other information and shall be issued in such form as the commissioner shall determine; provided, however, every identification card or renewal thereof issued to a person under the age of twenty-one years shall have prominently imprinted thereon the statement "UNDER 21 YEARS OF AGE" in notably distinctive print or format. Provided, further, however, that every identification card issued to an applicant who was a member of the armed forces of the United States and (i) received an honorable discharge or was released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, shall, upon his or her request and submission of proof as set forth herein, contain a distinguishing mark, in such form as the commissioner shall determine, indicating that he or she is a veteran. Such proof shall consist of a certificate of release or discharge from active duty including but not limited to a DD Form 214 or other proof satisfactory to the commissioner. The commissioner shall not require fees for the issuance of such identification cards or renewals thereof to persons under twenty-one years of age which are different from the fees required for the issuance of identification cards or renewals thereof to persons twenty-one years of age or over, nor fees to persons requesting a veteran distinguishing mark which are different from fees that would otherwise be required. Provided, however, that notwithstanding the provisions of section four hundred ninety-one of this article, the commissioner shall not require any fees for the duplication or amendment of an identification card prior to its renewal if such duplication or amendment was solely for the purpose of adding a veteran distinguishing mark to such identification card.(c) The identification card may also contain the photograph of the holder pursuant to regulations established by the commissioner. Any photograph taken as part of the application procedure for an identification card shall not be a public record. (b) The identification card shall display the sex designation of M, F, or X as certified by the applicant, with no additional documentation required. The applicant may amend the sex designation of their identification card upon request. 3. Issuance. (a) (i) The commissioner shall upon submission of an appropriate application, upon payment of the prescribed fee, and upon being satisfied that the person described is the applicant and that such applicant meets the requirements set forth in subdivision two of this section, issue to such applicant a nontransferable identification card. In addition, the commissioner also shall require that an applicant for an identification card or renewal thereof provide his or her social security number. The commissioner shall provide space so that an applicant may request a notation upon such identification card that he or she is a veteran of the United States armed forces. (ii) In the case of a person (A) sixty-two years of age or older or (B) a recipient of supplemental security income benefits as defined in section two hundred eight of the social services law, application for a card which expires ten years after the date of issuance shall be made on a form prescribed by the commissioner and shall include proof that such person is sixty-two years of age or older or a recipient of such supplemental security income benefits, as the case may be. (iii) Notwithstanding any other law, rule or regulation to the contrary, a person who is either (A) sixty-two years of age or older and a recipient of supplemental security income benefits or (B) a recipient of public assistance, as defined in subdivision nineteen of section two of the social services law, supplemental nutrition assistance program benefits, pursuant to section ninety-five of the social services law, or medical assistance, as defined in paragraph (a) of subdivision thirty-eight of section two of the social services law, and who has not been issued a driver's license, or whose driver's license is expired, or who surrendered his or her driver's license, shall be issued an identification card without the payment of any fee, upon submitting the appropriate application. For persons applying for an identification card pursuant to clause (B) of this subparagraph, such application shall include proof that such person is in receipt of public assistance, supplemental nutrition assistance program benefits, or medical assistance, as the case may be. (b) The identification card shall contain a distinguishing number or mark and adequate space upon which an anatomical gift, pursuant to article forty-three of the public health law, by the holder may be recorded and shall contain such other information and shall be issued in such form as the commissioner shall determine; provided, however, every identification card or renewal thereof issued to a person under the age of twenty-one years shall have prominently imprinted thereon the statement "UNDER 21 YEARS OF AGE" in notably distinctive print or format. Provided, further, however, that every identification card issued to an applicant who was a member of the armed forces of the United States and (i) received an honorable discharge or was released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, shall, upon his or her request and submission of proof as set forth herein, contain a distinguishing mark, in such form as the commissioner shall determine, indicating that he or she is a veteran. Such proof shall consist of a certificate of release or discharge from active duty including but not limited to a DD Form 214 or other proof satisfactory to the commissioner. The commissioner shall not require fees for the issuance of such identification cards or renewals thereof to persons under twenty-one years of age which are different from the fees required for the issuance of identification cards or renewals thereof to persons twenty-one years of age or over, nor fees to persons requesting a veteran distinguishing mark which are different from fees that would otherwise be required. Provided, however, that notwithstanding the

provisions of section four hundred ninety-one of this article, the commissioner shall not require any fees for the duplication or amendment of an identification card prior to its renewal if such duplication or amendment was solely for the purpose of adding a veteran distinguishing mark to such identification card. (c) The identification card may also contain the photograph of the holder pursuant to regulations established by the commissioner. Any photograph taken as part of the application procedure for an identification card shall not be a public record.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17-A* - Non-Driver Identification Card491 - Period of Validity of Identification Card; Required Fees.

2. Fees. (a) The fee for an identification card shall be fifty cents for each six months, or any portion thereof of the identification card's validity, except that the fee which shall be charged for the issuance of any original, duplicate, or renewal identification card issued (i) any person sixty-two years of age or older or (ii) any recipient of supplemental security income benefits as defined in section two hundred eight of the social services law, shall be one dollar and fifty cents for a period of ten years.(b) The fee for a duplicate of an identification card shall be three dollars.(c) In addition to other fees prescribed herein, an additional fee shall be charged for the issuance of any original, duplicate or renewal identification card which contains a photograph of the holder. Such fee shall not exceed the additional cost of providing a photograph on an identification card rounded to the next highest twenty-five cents.(d) There shall be no fee other than a fee prescribed in paragraph (c) of this subdivision for an amended identification card.(e) In addition to any other fee prescribed in this section, an additional fee of thirty dollars shall be charged for any non-driver identification card, issued to a New York state resident who is a citizen of the United States, that can be used for certain land and sea border crossings pursuant to section 7209 of the Intelligence Reform and Terrorism Prevention Act of Two Thousand Four, Public Law 108-458, or the regulations promulgated thereunder.3. Waiver of fee. The commissioner may waive the payment of fees required by subdivision two of this section if the applicant is (a) an incarcerated individual in an institution or correctional facility under the jurisdiction of a state department or agency, or (b) a victim of a crime and the identification card applied for is a replacement for one that was lost or destroyed as a result of the crime. (b) The fee for a duplicate of an identification card shall be three dollars. (c) In addition to other fees prescribed herein, an additional fee shall be charged for the issuance of any original, duplicate or renewal identification card which contains a photograph of the holder. Such fee shall not exceed the additional cost of providing a photograph on an identification card rounded to the next highest twenty-five cents. (d) There shall be no fee other than a fee prescribed in paragraph (c) of this subdivision for an amended identification card. (e) In addition to any other fee prescribed in this section, an additional fee of thirty dollars shall be charged for any non-driver identification card, issued to a New York state resident who is a citizen of the United States, that can be used for certain land and sea border crossings pursuant to section 7209 of the Intelligence Reform and Terrorism Prevention Act of Two Thousand Four, Public Law 108-458, or the regulations promulgated thereunder. 3. Waiver of fee. The commissioner may waive the payment of fees required by subdivision two of this section if the applicant is (a) an incarcerated individual in an institution or correctional facility under the jurisdiction of a state department or agency, or (b) a victim of a crime and the identification card applied for is a replacement for one that was lost or destroyed as a result of the crime.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17-A* - Non-Driver Identification Card492 - Duplicate Identification Card; Change of Address.

§ 492. Duplicate identification card; change of address. 1. Lost, mutilated or destroyed identification card. In the event of the loss, mutilation or destruction of any identification card, the holder thereof may file with the commissioner proof of the facts with respect to such loss, mutilation or destruction, together with the fee prescribed by law. If the commissioner is satisfied that the applicant is entitled to a duplicate thereof, he shall issue a duplicate of the lost, mutilated or destroyed identification card. 2. Amendment of identification card. Any person holding an identification card which contains any error other than a clerical error made by the issuing agency, with respect to the information contained thereon, shall file an application with the commissioner for an amended identification card to have such error corrected. The commissioner shall require such person to submit proof acceptable to him with respect to the facts, and upon approval of such proof and the surrender of the prior identification card, the commissioner shall issue an appropriate amended identification card. 3. Change of address. It shall be the duty of every holder of an identification card to notify the commissioner in writing of any change of residence of such holder within ten days after such change occurs.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17-A* - Non-Driver Identification Card493 - Revocation of Identification Card.

§ 493. Revocation of identification card. The commissioner may by regulation prescribe when and under what circumstances an identification card shall be revoked or otherwise terminated and be surrendered by the holder thereof. Provided, however, that nothing contained herein shall limit or restrict the right and power of a judge of a court of record in the state of New York to order the surrender of an identification card following a determination that said identification card has been used in connection with a violation of the provisions of section four hundred ninety-five of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17-A* - Non-Driver Identification Card494 - Administrative Procedure.

§ 494. Administrative procedure. 1. Any application required to be filed under this article shall be in a manner and on a form or forms prescribed by the commissioner. The applicant shall furnish all information required by statute and such other information as the commissioner shall deem appropriate. 2. The commissioner may promulgate regulations with respect to the administration of the provisions of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17-A* - Non-Driver Identification Card495 - Prohibition Against Transfer.

§ 495. Prohibition against transfer. It shall be unlawful for the owner of any identification card to transfer said card to any other person. Any person who shall transfer such identification card shall be guilty of a violation, and upon conviction thereof, shall be fined not more than two hundred fifty dollars or be imprisoned for not more than fifteen days or both.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17-A - Franchised Motor Vehicle Dealer Act460 - Legislative Findings.

§ 460. Legislative findings. The legislature finds and declares that the distribution and sale of motor vehicles within this state vitally affects the general economy of the state and the public interest and the public welfare, and that in order to promote the public interest and the public welfare and in the exercise of its police power, it is necessary to regulate motor vehicle manufacturers, distributors and factory or distributor representatives and to regulate dealers of motor vehicles doing business in this state in order to prevent frauds, impositions and other abuses upon its citizens and to protect and preserve the investments and properties of the citizens of this state.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17-A - Franchised Motor Vehicle Dealer Act461 - Short Title.

§ 461. Short title. This article shall be known and may be cited as the "franchised motor vehicle dealer act".

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17-A - Franchised Motor Vehicle Dealer Act462 - Definitions.

1. "Distributor" means any person who primarily offers, sells or distributes new motor vehicles to franchised motor vehicle dealers or maintains distributor representatives within the state. 2. "Distributor branch" means a branch office maintained by a distributor which offers, sells or distributes new motor vehicles to franchised motor vehicle dealers in this state. 3. "Distributor representative" means a representative employed by a distributor branch or distributor. 4. "Factory branch" means a branch office maintained for directing and supervising the representatives of the manufacturer or which office is maintained for the sale of motor vehicles. 5. "Factory representative" means a representative employed by a factory branch for the purpose of making or promoting the sale of motor vehicles or for supervising, servicing, instructing or contacting franchised motor vehicle dealers or prospective motor vehicle dealers. 6. "Franchise" means a written arrangement for a definite or indefinite period in which a manufacturer or distributor grants to a franchised motor vehicle dealer a license to use a trade name, service mark or related characteristic, and in which there is a community of interest in the marketing of motor vehicles or services related thereto at wholesale, retail, by lease or otherwise and/or pursuant to which a franchised motor vehicle dealer purchases and resells or offers (as agent, principal, or otherwise) products associated with the name or mark or related components of the franchise. 7. "Franchised motor vehicle dealer" means: (a) any person required to be registered pursuant to section four hundred fifteen of this title which has been granted a franchise as defined in subdivision six of this section, or (b) any person engaged in the business of selling snowmobiles, all terrain vehicles and/or personal watercraft at wholesale or retail who has been granted a franchise; provided, however, that any person primarily engaged in the sale of vessels and other marine items who meets the definition of "dealer" as provided in subdivision one of section eight hundred ten of the general business law shall not be a "franchised motor vehicle dealer" pursuant to this article. 8. "Franchisor" means any manufacturer, distributor, distributor branch or factory branch, importer or other person, partnership, corporation, association, or entity, whether resident or non-resident, which enters into or is presently a party to a franchise with a franchised motor vehicle dealer. 8-a. "Good faith" means, in addition to any common law definitions of that term, honesty in fact and the observation of reasonable commercial standards of fair dealing in the trade. 9. "Manufacturer" means any person, partnership, corporation, association, factory branch or other entity engaged in the business of manufacturing or assemblying new and unused motor vehicles for sale in this state. 10. "Motor vehicle" means: (a) any motor vehicle as defined in section one hundred twenty-five of this chapter, (b) any snowmobile as defined in article forty-seven of this chapter, (c) any all terrain vehicle as defined in article forty-eight-B of this chapter and (d) any personal watercraft as defined in section two of the navigation law, provided the commissioner shall have authority to except by regulation vehicles other than passenger automobiles, trucks and motorcycles from such definition. 11. "New motor vehicle" means a vehicle sold or transferred by a manufacturer, distributor or dealer, which has not been placed in consumer use or used as a demonstrator. 12. "New motor vehicle product" means any motor vehicle which is of the same line make of motor vehicle as those which the franchisor has authorized its existing franchised motor vehicle dealers to sell under the existing franchises between franchised motor vehicle dealers and the franchisor. 13. "Line make" means all models of a specific brand of motor vehicle manufactured by a manufacturer that may manufacture several brands, each of which are a separate line of make; except that, as such term applies to the sale of any new house coach, means that group or those groups of house coaches, as defined by the terms of

the written franchise. 14. Notwithstanding the provisions of section one hundred nineteen of this chapter, for purposes of this article the term "house coach" shall mean any vehicle motivated by a power connected therewith or propelled by a power within itself, which is designed to provide temporary living quarters, and which is built onto, as an integral part of, or is permanently attached to a motor vehicle chassis, and contains at least four of the following independent life support systems if each is permanently installed and designed to be removed only for purposes of repair or replacement and meets the standards of the American National Standards Institute for recreation vehicles:(a) a cooking facility with an on-board fuel source;(b) a gas or electric refrigerator;(c) a toilet with exterior evacuation;(d) a heating or air conditioning system with an on-board power or fuel source separate from the vehicle engine;(e) a potable water supply system that includes at least a sink, a faucet and a water tank with an exterior service supply connection; and(f) a 110-125 volt electric power supply.15. "Relevant market area" means:(a) if the proposed additional or relocated motor vehicle dealer is to be located in a county having a population in excess of one hundred thousand, the area within the radius of six miles of the intended site of the proposed or relocated dealer. Such six mile distance shall be determined by measuring the distance between the nearest surveyed boundary of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's place of business; or(b) if the proposed additional or relocated motor vehicle dealer is to be within a county having a population of less than one hundred thousand, the area within the radius of ten miles of the intended site of the proposed or relocated dealer. Such ten mile distance shall be determined by measuring the distance between the nearest surveyed boundary line of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business.In determining the population of a county, the most recent census by the U.S. Bureau of Census or the most recent population update, either from the National Planning Data Corporation or other similar recognized source, shall be used.16. "Captive finance source" means any finance source that provides automotive-related loans, or purchases retail installment contracts or lease contracts for motor vehicles and is, directly or indirectly, owned, operated or controlled, in whole or in part, by a manufacturer, factory branch, distributor or distributor branch.17. "Termination" and "terminate" as such terms are used in connection with the removal of a franchise by a franchisor, means a franchisor's proposed termination, cancellation, non-renewal, or rescission. (a) a cooking facility with an on-board fuel source; (b) a gas or electric refrigerator; (c) a toilet with exterior evacuation; (d) a heating or air conditioning system with an on-board power or fuel source separate from the vehicle engine; (e) a potable water supply system that includes at least a sink, a faucet and a water tank with an exterior service supply connection; and (f) a 110-125 volt electric power supply. 15. "Relevant market area" means: (a) if the proposed additional or relocated motor vehicle dealer is to be located in a county having a population in excess of one hundred thousand, the area within the radius of six miles of the intended site of the proposed or relocated dealer. Such six mile distance shall be determined by measuring the distance between the nearest surveyed boundary of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's place of business; or (b) if the proposed additional or relocated motor vehicle dealer is to be within a county having a population of less than one hundred thousand, the area within the radius of ten miles of the intended site of the proposed or relocated dealer. Such ten mile distance shall be determined by measuring the distance between the nearest surveyed boundary line of the existing new motor vehicle dealer's principal place of business and the nearest surveyed boundary line of the proposed or relocated new motor vehicle dealer's principal place of business. In determining the population of a county, the most recent census by the U.S. Bureau of Census or the most recent population update, either from the National Planning Data Corporation or other similar recognized source, shall be used. 16. "Captive finance source" means any finance source that provides automotive-related loans, or purchases retail installment contracts or lease contracts for motor vehicles and is, directly or indirectly, owned, operated or controlled, in whole or in part, by a manufacturer, factory branch, distributor or distributor branch. 17. "Termination" and "terminate" as such terms are used in connection with the removal of a franchise by a franchisor, means a franchisor's proposed termination, cancellation, non-renewal, or rescission.

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(a) To order or accept delivery of any motor vehicle or vehicles, appliances, tools, machinery, equipment, parts or accessories therefor or any other commodity or commodities which shall not have been voluntarily ordered by said franchised motor vehicle dealer except any such items required by a recall campaign. (b) To order or accept delivery of any motor vehicle with special features, appliances, accessories or equipment not included in the list price of said motor vehicle as publicly advertised by the franchisor. (c) To contribute or pay money or anything of value into any cooperative or other advertising program or fund unless such program or fund shall be controlled by a dealer or group of dealers. (d) To participate in any training program unless such program is expressly limited to specific information necessary to sell or service the models of vehicles the dealer is authorized to sell or service under the dealer's franchise with that franchisor. A franchisor shall not unreasonably require an owner or dealer principal of a dealership to attend any meeting or training program. A franchisor who requires participation in a training program as authorized by this paragraph shall to the largest extent practicable make all reasonable efforts to limit or reimburse the expenses of a dealer incurred in attending such program. Nothing in this paragraph shall be deemed to prohibit any training program located within a dealer's own principal place of business. (e) To sell, or sell exclusively an extended service contract, extended maintenance plan or similar product, including, but not limited to, gap products offered, endorsed or sponsored by the franchisor by the following means: (1) by a statement made by the franchisor that failure to do so will substantially and adversely impact the dealer; or (2) by a provision in a franchise agreement that the dealer sell, or sell exclusively an extended service contract, extended maintenance plan

or similar product offered, endorsed or sponsored by the franchisor; or (3) by measuring the dealer's performance under the franchise based on the sale of extended service contracts, extended maintenance plans or similar products offered, endorsed or sponsored by the manufacturer or distributor; or (4) by requiring the dealer to exclusively promote the sale of extended service contracts, extended maintenance plans or similar products offered, endorsed or sponsored by the franchisor. Nothing in this section shall prohibit a franchisor from: (A) providing incentives to a dealer that makes the voluntary decision to sell or sell exclusively an extended service contract, extended maintenance plan or similar product, including, but not limited to, gap products offered, endorsed or sponsored by the franchisor, or (B) requiring that a dealer that sells an extended service contract, extended maintenance plan, or similar product that is not offered, endorsed or sponsored by the franchisor, disclose to the consumer the disclosures required under section seven thousand nine hundred five of the insurance law, and a separate statement, acknowledged by the consumer, that the extended service contract, extended maintenance plan or similar product is not offered, endorsed or sponsored by the franchisor, if that is the case. 2. It shall be unlawful for any franchisor, notwithstanding the terms of any franchise contract: (a) To refuse to deliver in reasonable quantity and within a reasonable time after receipt of a dealer's order to any franchised motor vehicle dealer any vehicle covered by such franchise which is publicly advertised by such franchisor to be available for immediate delivery. Provided, however, the failure to deliver any motor vehicle shall not be considered a violation of this article if such failure be due to acts of God, work stoppages or delays due to strikes or labor difficulties, freight embargoes, shortage of materials, a lack of manufacturing capacity or other causes over which the franchisor shall have no control. (b) To directly or indirectly coerce or attempt to coerce any franchised motor vehicle dealer to enter into any agreement with such franchisor or officer, agent or other representative thereof, or to do any other act prejudicial to the monetary interests or property rights of said dealer by threatening to terminate said dealer. Provided, however, that good faith notice to any franchised motor vehicle dealer of said dealer's violation of any terms or provisions of such franchise shall not constitute a violation of this article. (c) (1) To condition the renewal or extension of a franchise on a franchised motor vehicle dealer's substantial renovation of the dealer's place of business or on the construction, purchase, acquisition or rental of a new place of business by the franchised motor vehicle dealer unless the franchisor has advised the franchised motor vehicle dealer in writing of its intent to impose such a condition within a reasonable time prior to the effective date of the proposed date of renewal or extension (but in no case less than one hundred eighty days) and provided the franchisor demonstrates the need for such change in the place of business and the reasonableness of such demand in view of the need to service the public and the economic conditions existing in the automobile industry at the time such action would be required of the franchised motor vehicle dealer. As part of any such condition the franchisor shall agree, in writing, to supply the dealer with a reasonable quantity and mix of additional new motor vehicles which, as determined by a reasonable analysis of market conditions, are projected to meet the sales levels necessary to support the increased overhead incurred by the franchised motor vehicle dealer by reason of such renovation, construction, purchase, acquisition or rental of a new place of business. (2) To require a franchised motor vehicle dealer to purchase goods, building materials, or services for the dealer's place of business, including, but not limited to, office furniture, design features, flooring, and wall coverings, from a vendor chosen by the franchisor if goods, building materials, or services of substantially similar quality and design are available from other sources, provided, however, that the goods or building materials are not subject to the franchisor's intellectual property or trademark rights and the franchised motor vehicle dealer has received the franchisor's approval, which approval may not be unreasonably withheld. Nothing in this subdivision shall be construed to allow a franchised motor vehicle dealer to impair or eliminate a franchisor's intellectual property or trademark rights and trade dress usage guidelines, or to impair other intellectual property interests owned or controlled by the franchisor. (3) Except as necessary to comply with a health or safety law, or to comply with a technology requirement, which is necessary to sell or service a motor vehicle that the franchised motor vehicle dealer is authorized or licensed by the franchisor to sell or service, to require a franchised motor vehicle dealer to construct a new dealer facility or substantially alter or remodel an existing dealer facility before the date that is ten years after the date the construction of the new dealer facility or such alteration or remodeling at that location was completed and shall continue with any successor owner provided such owner has been designated and approved by the franchisor in the franchise agreement, and such construction, alteration or remodeling substantially complied with the franchisor's brand image standards or plans that the franchisor provided at the time the construction, alteration, or remodeling was completed. (i) As used in this subparagraph, "substantially alter": (A) refers to an alteration that has a major impact on the architectural features, characteristics, or integrity of a structure or lot; and (B) does not include routine maintenance, such as interior painting, reasonably necessary to keep a dealership facility in attractive condition. (ii) Nothing in this paragraph shall prohibit a franchisor from: (A) continuing a facility improvement program that is in effect as of the effective date of this paragraph with more than one franchised motor vehicle dealer in the state or to renewing or modifying such program; or (B) providing lump sum or regularly-scheduled payments to assist a franchised motor vehicle dealer in making a facility improvement, including construction, alteration or remodeling, or installing signage or a franchisor image element; (C) providing reimbursement to a franchised motor vehicle dealer on reasonable, written terms for a portion of the franchised motor vehicle dealer's cost of making a facility improvement, including construction, alteration or remodeling, the purchase of goods, building materials or services, or installing signage or a franchisor image element. (4) To deny a franchised motor vehicle dealer a franchisor image element payment, incentive or allowance if the franchised motor vehicle dealer, with the franchisor's approval, began construction, alterations or remodeling intended to comply with the franchisor's image element program before the franchisor substantially changed or terminated the program prior to the program's scheduled ending date provided the dealer is otherwise eligible for program payments and provided that after such substantial change or termination, the compensation payable to the dealer shall be limited to image element payments, incentives or allowances that the dealer would have earned through program's scheduled ending date, provided that the dealer complies with all

program requirements, and provided, further, that such program or payments are not otherwise prohibited by law or regulation. (5) To require or attempt to require a franchised motor vehicle dealer to establish or maintain exclusive dealership facilities unless justified by current and reasonably expected future economic conditions existing in the dealer's relevant market area at the time the request for exclusive facilities is made; provided that the foregoing shall not restrict the terms and conditions of any agreement for which the dealer has voluntarily accepted valuable consideration separate from the franchised motor vehicle dealer's right to sell and service motor vehicles for the franchisor. The fact that local market share, facing competitive brand dealerships have exclusive dealership facilities shall constitute evidence that current economic conditions may justify the requirement to establish and maintain exclusive dealership facilities. (6) To require a site control provision regarding the dealer's place of business to survive or continue after the termination of such dealer's franchise if the termination is due to the discontinuation of the line-make that was the subject of the agreement. (d) (1) To terminate, cancel or refuse to renew the franchise of any franchised motor vehicle dealer except for due cause, regardless of the terms of the franchise. A franchisor shall notify a franchised motor vehicle dealer, in writing, of its intention to terminate, cancel or refuse to renew the franchise of such dealer at least ninety days before the effective date thereof, stating the specific grounds for such termination, cancellation or refusal to renew. In no event shall the term of any such franchise expire without the written consent of the franchised motor vehicle dealer involved prior to the expiration of at least ninety days following such written notice except as hereinafter provided. (2) A change in ownership of a manufacturer or distributor that contemplates a continuation of that line make in the state shall not directly or indirectly, through actions of any parent of the manufacturer or distributor, subsidiary of the manufacturer or distributor, or common entity cause a termination, cancellation, or nonrenewal of a dealer agreement by a present or previous manufacturer or distributor of an existing agreement unless the manufacturer or distributor offers the new vehicle dealer an agreement substantially similar to that offered to other dealers of the same line make. (3) The provisions of subparagraphs one and two of this paragraph notwithstanding, a franchisor may terminate its franchise with a franchised motor vehicle dealer upon at least fifteen days written notice upon the occurrence of any of the following: (i) conviction of a franchised motor vehicle dealer, or one of its principal owners, of a felony or a crime punishable by imprisonment which substantially adversely affects the business of the franchisor, or (ii) the failure of the franchised motor vehicle dealer to conduct its customary sales and service operations for a continuous period of seven business days, except for acts of God or circumstances beyond the direct control of the franchised motor vehicle dealer or when any license required by the franchised motor vehicle dealer is suspended for a period of thirty days or less, or (iii) insolvency of the franchised motor vehicle dealer, or filing of any petition by or against the franchised motor vehicle dealer under any bankruptcy or receivership law. (e) (1) Any franchised motor vehicle dealer who receives a written notice of termination or a written notice of a franchisor's demand that the dealer substantially renovate an existing place of business, or buy, construct or rent a new place of business as a condition of franchise renewal or extension may have a review of the demand to change the place of business or the threatened termination by instituting an action, as provided in section four hundred sixty-nine of this article. If such action is commenced within four months of receipt of notice, such action shall serve to stay, without bond, the proposed termination or renovation or demand to change the place of business until the final judgment has been rendered in an adjudicatory proceeding or action, as provided in section four hundred sixty-nine of this article. (2) The issues to be determined in an action commenced pursuant to subparagraph one of this paragraph are whether the franchisor's notice of termination was issued with due cause and in good faith. The burden of proof shall be upon the franchisor to prove that due cause and good faith exist. The franchisor shall also have the burden of proving that all portions of its current or proposed sales and service requirements for the protesting franchised new motor vehicle dealer are reasonable. The determination of due cause shall be that there exists a material breach by a new motor vehicle dealer of a reasonable and necessary provision of a franchise if the breach is not cured within a reasonable time after written notice of the breach has been received from the manufacturer or distributor. (3) The franchisor shall provide notification in writing to the dealer that the dealer has one hundred eighty days to correct dealer sales and service performance deficiencies or breaches and that the franchise is subject to termination under this section if the dealer does not correct those deficiencies or breaches. If the termination is based upon performance of the dealer in sales and service then there shall be no due cause if the dealer substantially complies with the reasonable performance provisions of the franchise during such cure period and, no due cause if the failure to demonstrate such substantial compliance was due to factors which were beyond the control of such dealer. (f) To intentionally resort to or use any false or misleading advertisements. (g) To sell or offer to sell any new motor vehicle to any franchised motor vehicle dealer at a lower actual price therefor than the actual price offered to any other franchised motor vehicle dealer for the same model vehicle similarly equipped or to utilize any device including, but not limited to, sales promotion plans or programs which result in such lesser actual price. Provided, however, the provisions of this paragraph shall not apply to sales to a franchised motor vehicle dealer for: (i) resale to any unit of government; or (ii) donation or use by said dealer in a driver education program. This paragraph shall not be construed to prevent the offering of incentive programs or other discounts provided such incentives or discounts are reasonably available to all franchised motor vehicle dealers in this state on a proportionately equal basis. (h) To sell or offer to sell any new motor vehicle to any person, except a distributor, at a lower actual price therefor than the actual price offered and charged to a franchised motor vehicle dealer for the same model vehicle similarly equipped or to utilize any device which results in such lesser actual price. (i) To sell or offer to sell parts and/or accessories to any franchised motor vehicle dealer at a lower actual price therefor than the actual price offered to any other franchised motor vehicle dealer for similar parts and/or accessories for use in his own business. Provided, however, that nothing herein contained shall be construed to prevent a manufacturer or distributor, or any agent thereof, from selling to a franchised motor vehicle dealer, who operates and serves as a wholesaler of parts and accessories, such parts and accessories as may be ordered by such franchised motor vehicle dealer for resale to retail outlets at a lower actual price than the actual price offered a franchised motor vehicle dealer who

does not operate or serve as a wholesaler of parts and accessories. This paragraph shall not be construed to prevent the offering of incentive programs or other discounts provided the franchisor demonstrates that such incentives or discounts are reasonably available to all franchised motor vehicle dealers in the state on a proportionately equal basis. (j) To prevent or attempt to prevent, by contract or otherwise, any franchised motor vehicle dealer from changing the capital structure of its dealership, or the means by or through which it finances the operation of its dealership, or finances the acquisition or retention of inventory, provided the dealer at all times meets any capital standards agreed to between the dealer and the franchisor and as applied by the franchisor to all other comparable franchised motor vehicle dealers of the franchisor located within the state. (k) To unreasonably withhold consent to the sale or transfer of an interest, in whole or in part, to any other person or party by any franchised motor vehicle dealer or any partner or stockholder of any franchised motor vehicle dealer. If such consent to sale or transfer shall be withheld by the franchisor, the franchisor shall provide specific reasons for its withholding of consent within sixty days of receipt of the request for such consent provided such request is accompanied by proper documentation as may reasonably be required by the franchisor. Upon receipt of notice and reasons for the franchisor's withholding of consent, the franchised motor vehicle dealer may within one hundred twenty days have a review of the manufacturer's decision as provided in section four hundred sixty-nine of this article. (l) To require a franchised motor vehicle dealer to assent to a release, assignment, novation, waiver or estoppel which would relieve any person from liability imposed under this article, provided that this paragraph shall not be construed to prevent a franchised motor vehicle dealer from entering into a valid release or settlement agreement with a franchisor. (m) (1) To deny to the surviving spouse or heirs of an individual franchised motor vehicle dealer or of a partner of an unincorporated franchised motor vehicle dealer or of a stockholder of a corporate franchised motor vehicle dealer the right to succeed to the interest of the decedent in such franchised motor vehicle dealership enterprise or directly or indirectly to interfere with, hinder or prevent the continuance of the business of the franchised motor vehicle dealer by reason of such succession to the interest of the decedent. Provided, however, that the continuation of the business of the franchised motor vehicle dealer shall be conducted under competent management acceptable to the franchisor, whose acceptance shall not be unreasonably withheld. (2) Notwithstanding the foregoing, in the event the franchised motor vehicle dealer and franchisor have duly executed an agreement concerning succession rights prior to the individual dealer's, partner's or stockholder's death and if such agreement has not been revoked by the franchised motor vehicle dealer, such agreement shall be observed, even if it designates an individual other than the surviving spouse or heirs of the decedent. (n) To fail to indemnify and hold harmless its franchised motor vehicle dealers against any losses or damages including, but not limited to, court costs and attorneys' fees arising out of actions, claims or proceedings including, but not limited to, those based upon strict liability, negligence, misrepresentation, warranty (expressed or implied) or revocation as described in section 2-608 of the uniform commercial code, where the action, claim or proceeding directly relates to the manufacture, assembly or design of new motor vehicles, parts or accessories or other functions of the franchisor including, without limitation, the selection by the franchisor of parts or components for the vehicle or any damages to merchandise or vehicles occurring in transit where the carrier is designated by the franchisor, notwithstanding the terms of any franchise. If the action, claim or proceeding includes independent allegations against the franchised motor vehicle dealer, the franchisor shall bear only that portion of the costs, fees and judgment which is directly related to the manufacture, assembly or design of the vehicle, parts or accessories, or other function of the franchisor beyond the control of the franchised motor vehicle dealer. (o) (1) Upon a termination of a franchise by a franchisor or franchised motor vehicle dealer under this article, to refuse to accept a return of new and unused current model motor vehicle inventory which has been acquired from the franchisor, new and unused noncurrent model motor vehicle inventory which has been acquired from the franchisor within one hundred eighty days of the effective date of the termination; supplies, parts, equipment, signage, special tools, and furnishings purchased from the franchisor or its approved sources. The obligation of the franchisor, except with respect to signage shall be limited to the repurchase of the above property which is unaltered and undamaged, in good and useable condition, and, in the case of supplies, parts and equipment to those items which are currently listed in the franchisor's supplies and parts list. In the case of signage, the franchisor shall be obligated to repurchase any franchisor required signage, purchased within the five years preceding termination and which is in good and useable condition less depreciation as set forth in the Internal Revenue Code of one-fifteenth of the initial cost per year starting the year following the dealer's acquisition of the item. Furthermore, the obligation of the franchisor to repurchase supplies upon a termination, cancellation or nonrenewal by a franchised motor vehicle dealer shall be limited to supplies mandated by the franchisor. Parts eligible for repurchase shall include parts which have been renumbered in the current parts list but which are identical in design and material to the currently numbered part. The return rights afforded the franchised motor vehicle dealer under the provisions of the paragraph shall be in addition to those, if any, provided in the franchise agreement. (2) The franchisor shall pay fair and reasonable compensation for the above described property upon repurchase. In the case of new motor vehicle inventory, accessories and parts, fair and reasonable compensation shall in no instance be less than the net acquisition price paid by the franchised motor vehicle dealer to the franchisor or its approved sources. Upon a termination of a franchise by a franchisor, within thirty days of such termination, the franchisor shall send to the franchised motor vehicle dealer instructions on the methodology by which the franchised motor vehicle dealer must ship the above described property to the franchisor; the franchisor shall then remit payment for such property to the franchised motor vehicle dealer within sixty days after receipt of such property. (3) Upon a termination of a franchise by a franchised motor vehicle dealer where the franchise consists primarily of the distribution and sale of house coaches, the franchisor's repurchase obligations set forth in this paragraph shall not apply. (4) In addition to any other requirements of this subdivision, in the event a franchisor terminates a franchise due to termination of a line make, the franchisor shall compensate the dealer for any franchisor required facility construction, alterations or remodeling, or construction, alterations or remodeling required for participation in any incentive programs which were completed by

the dealer within three years of the date the franchisor announced the termination of the line make. For the purposes of this section, completion shall be deemed to occur at the later of the franchisor's final approval of the construction, alterations, or remodeling or the issuance of a certificate of occupancy. The compensation required under this section shall be in an amount equal to the dealer's cost for the facility upgrades less any assistance provided to the dealer within three years of the date the franchisor announced the termination of the line make by the manufacturer or distributor, and less the amount for depreciation as set forth in Internal Revenue Code of one thirty-ninth of the total initial cost of such construction, alterations, or remodeling per year starting the year following the dealer's completion of the facility construction, alterations, or remodeling. (5) In addition to the requirements of subparagraph four of this paragraph, in the event a franchisor terminates a franchise due to a termination of a line make, the franchisor shall compensate the dealer in an amount equal to the amount remaining on the terminated dealer's management computer system lease or contract, or one year of lease payments, whichever is less if the dealer management computer system will no longer be utilized as a result of the termination and the franchisor required the dealer to utilize the particular dealer management computer system. (p) To refuse to repurchase for cost, including transportation charges, a new vehicle which has been substantially damaged by the franchisor or its agent; or to sell or transfer to a franchised motor vehicle dealer a new motor vehicle which has been subjected to repairs with a retail value in excess of five percent of the lesser of the manufacturer's or distributor's suggested retail price where such repairs are performed after shipment from the franchisor including damage to the vehicle while in transit without so notifying the franchised motor vehicle dealer to whom such new motor vehicle so repaired is sold or transferred. Such notice shall be in writing, advise of such repairs, and be provided prior to the receipt of any payment for such motor vehicle. If the franchisor shall fail to provide such notice, any franchised motor vehicle dealer suffering a loss by reason of such failure shall be entitled to reimbursement from the franchisor who failed to provide such notice. (q) To provide directly or to grant to any person the right to perform warranty or recall service on any new motor vehicle line other than a house coach line but deny to said person the right to purchase the motor vehicles of that line for resale to consumers in this state as new motor vehicles provided, however, that this paragraph shall not prohibit a franchisor from: (1) authorizing warranty service by employees of a fleet operator or governmental entity on owned vehicles; or (2) authorizing such other persons to perform warranty service as the franchisor deems necessary to protect its interests as they may be affected by section one hundred ninety-eight-a of the general business law. A "fleet operator" shall be required to own for its own use or for the use of others the minimum number of vehicles of the current or preceding model year manufactured or sold by the same franchisor as determined by the standards of such franchisor applied on a general and consistent basis to substantially all fleet operators. Notwithstanding the preceding, a franchisor which withdraws from the United States market shall continue to allow its former franchised motor vehicle dealers to continue servicing and supplying parts, including service and parts supplied under the franchisor's warranty to vehicle owners, for a period of at least five years after such withdrawal from the United States market. (r) To establish or attempt to establish the actual resale price for any new motor vehicle, part or accessory charged by a franchised motor vehicle dealer in the state, provided, however, nothing contained herein shall prohibit publication of recommended resale prices or historical information by a franchisor. (s) To grant a commission to any person other than a franchised motor vehicle dealer within the state involved in the sale of a new motor vehicle by such franchised motor vehicle dealer without said franchised motor vehicle dealer's written consent. This prohibition shall not apply to sales incentive programs for employees of franchised motor vehicle dealers as long as the payments are made by the franchisor to such employees and not charged to the dealer. (t) To require or attempt to require by the terms of the franchise that any dispute arising out of or in connection with the interpretation, performance or nonperformance of the parties to the franchise or in any way related to the franchise be determined through the application of any other state's laws. (u) To use any subsidiary corporation, affiliated corporation, captive finance source or any other controlled corporation, partnership, association or person to accomplish what would otherwise be unlawful conduct under this article on the part of the franchisor. (v) To use a CSI (customer satisfaction index) or other system measuring a customer's degree of satisfaction with a franchised motor vehicle dealer as a sale or service provider unless any such system is designed and implemented in such a way that it is fair and equitable to both the franchisor and the franchised motor vehicle dealer. In any dispute between a franchisor and a franchised motor vehicle dealer the party claiming the benefit of the system as justification for acts in relation to the franchise shall have the burden of demonstrating the fairness and equity of the system both in design and implementation in relation to the pending dispute. Upon request of any franchised motor vehicle dealer, a franchisor shall disclose in writing to such dealer a description of how that system is designed and all relevant information pertaining to such dealer used in the application of that system to such dealer. (w) To withhold from a franchised motor vehicle dealer a new motor vehicle product of the same line make which the franchised motor vehicle dealer is authorized to sell under its franchise. Provided that the failure to deliver any motor vehicle shall not be considered to be a violation of this article if such failure is due to an act of God, work stoppages or delays due to strikes or labor difficulties, freight embargoes, shortages of materials, a lack of manufacturing capacity, or other causes over which the franchisor shall have no control. A franchised motor vehicle dealer shall be entitled to sell and service all the manufacturer's new motor vehicles which the franchised motor vehicle dealer is authorized to sell pursuant to the franchise, provided, however, a franchisor may impose reasonable facility, capital, training, tools and parts inventory requirements as a condition to the franchised motor vehicle dealer being permitted to sell such new motor vehicle products. Conditions imposed by the franchisor shall be reasonably applied to all of its franchised motor vehicle dealers. Franchised motor vehicle dealers who are presently parties to a franchise with the franchisor shall be offered the right to sell and service any new motor vehicle product of the same line make owned or generally distributed by such franchisor's franchised motor vehicle dealer within such franchised motor vehicle dealer's designated area of responsibility designated in the franchise agreement before any person not a party to such a franchise for the sale of motor vehicles within such area of responsibility is offered or granted a

franchise to sell such new motor vehicle product from a location within such area of responsibility. (x) To require a franchised motor vehicle dealer to agree to a term or condition in a franchise, or as a condition to the offer, grant or renewal of the franchise, lease or agreement, which: (1) unless preempted by federal law, requires the franchised motor vehicle dealer to waive trial by jury in actions involving the franchisor; or (2) unless preempted by federal law, specifies the jurisdiction, venues or tribunals in which disputes arising with respect to the franchise, lease or agreement shall or shall not be submitted for resolution or otherwise prohibits a franchised motor vehicle dealer from bringing an action in a particular forum otherwise available. (y) Subject to the provisions of paragraph (w) of this subdivision, to sell or offer to sell or lease or offer to lease a motor vehicle other than to a franchised motor vehicle dealer in this state; provided, however, that this paragraph shall not apply to sales or leases of new motor vehicles made by a franchisor to its employees, immediate family members of employees, retirees or immediate family members of retirees which are hereby authorized notwithstanding the provisions of section four hundred fifteen of this title. Nothing in this paragraph shall prohibit a franchisor from utilizing direct marketing designed to generate leads via mail, phone, or any other medium, provided that leads developed thereby are referred to the franchised motor vehicle dealers in this state and in proximity to the consumer pursuant to a fair and equitable system of allocating such leads or to the franchised motor vehicle dealer as specified by the consumer. The provisions of this paragraph shall not apply to franchisors of house coaches when the franchisor does not have any franchised house coach dealers in this state. (z) To refuse to allocate, sell, or deliver motor vehicles, to charge back or withhold payments or other things of value for which the franchisee is otherwise eligible, or to take or threaten to take any adverse action against a franchised motor vehicle dealer, in connection with or as a result of any new motor vehicle sold by the franchised motor vehicle dealer and subsequently exported, providing such dealer can demonstrate that he exercised due diligence and that the sale was made in good faith including that the dealer did not know nor reasonably should have known of the purchaser's intention to export the motor vehicle. A franchised motor vehicle dealer which causes a new motor vehicle to be registered in this state or in a foreign state and causes to be collected the appropriate sales and use tax, or that reasonably relied on a franchisor to complete a sale shall be presumed to have exercised good faith and due diligence. Prior to taking an adverse action, including a charge back, as a result of an export, a franchisor shall provide written notice to the franchised motor vehicle dealer of the adverse action, and, if a charge back, the specific amount of the charge back, and the vehicle or vehicles at issue. A dealer shall not be liable for the delivery of any vehicle sold through a franchisor's fleet program for any such delivery in which the sale or lease was not initiated or negotiated by the dealer and its function was to provide delivery on behalf of the franchisor. (aa) To: (1) sell directly to a franchised motor vehicle dealer or, to or through a franchised motor vehicle dealer in which the franchisor owns any interest or controls the management, directly or indirectly, motor vehicles, parts, warranties, or services at a price that is lower than the price which the franchisor charges to all other franchised motor vehicle dealers; or (2) sell directly to a consumer at retail new original equipment manufacturer's parts (OEM) at a price that is lower than the price which the franchisor makes available to franchised motor vehicle dealers; or (3) otherwise provide a franchised motor vehicle dealer in which the franchisor owns any interest or controls the management, directly or indirectly, goods or services at a price that is lower than the price charged to all other franchised motor vehicle dealers. (bb) On and after the effective date of this paragraph, to acquire any interest in any additional motor vehicle dealer in this state, with the exception of stock in a publicly held dealer when ownership is passive and for investment purposes only; provided, however, that nothing in this paragraph shall prohibit a franchisor and its affiliates that own an interest in a franchised motor vehicle dealership that operates or is approved to operate, within one hundred twenty days after the effective date of this paragraph, from selling or servicing a new line make of the franchisor or its affiliates that was not distributed in this state as of the effective date of this paragraph. Provided, further, that nothing in this paragraph shall prohibit a franchisor from acquiring any interest in any franchised motor vehicle dealership: (1) when operating such franchise for a temporary period, not to exceed one year, during the transition from one owner of the motor vehicle dealership to another, provided, however, that such temporary period may be extended once for an additional period not to exceed one year for good cause. Provided that for franchisors of house coaches, the period of temporary ownership of a franchised house coach dealership may be extended in one year increments for good cause shown, except that the aggregate of such extensions shall not exceed five years; or (2) when operating such franchise temporarily under a plan with an independent individual who is obligated to make a significant investment in the dealership that is subject to loss and has an ownership interest or expects to acquire full ownership in a reasonable period under reasonable terms and conditions, provided that a reasonable period shall be presumed to not exceed eight years; provided, however, that the exception provided in this subparagraph shall not apply to any franchisor, manufacturer, distributor, distributor branch or factory branch that holds a certificate or registration pursuant to subparagraph (iii) of paragraph f of subdivision seven of section four hundred fifteen of this title. (cc)(1) To enter into a franchise establishing an additional new motor vehicle dealer or relocating an existing new motor vehicle dealer into the relevant market area of an existing franchise motor vehicle dealer of the same line make unless the franchisor provides notice pursuant to the terms of this subdivision. All dealers that have a relevant market area that encompasses the proposed site shall be entitled to written notice, via certified mail return receipt requested, informing them of the proposed addition or relocation. Any new motor vehicle dealer may institute an action as provided in section four hundred sixty-nine of this article to protest the establishment or relocation of the new motor vehicle dealer following receipt of such notice, or following the end of any appeal procedure provided by the franchisor. In any action brought by the dealer, the franchisor shall have the burden of proving that there exists good cause for any such addition or relocation. Institution of an action pursuant to this subdivision shall serve to stay, without bond, the proposed addition or relocation until a final judgment has been rendered in a proceeding or action as provided in section four hundred sixty-nine of this article. (2) This subdivision shall not apply to: (i) the relocation or replacement, other than a replacement of a dealer who has moved within such area, of an existing new motor vehicle dealer within that dealer's own existing relevant market

area, provided that the relocation not be to a site within the relevant market area of a licensed new motor vehicle dealer for the same line make of motor vehicle, unless such existing franchise was previously located within such new motor vehicle dealer's relevant market area; or (ii) the addition of a new motor vehicle dealer or the establishment of a replacement new motor vehicle dealer, other than a replacement of a dealer who has moved within such area, at or within two miles of a location at which a former licensed new motor vehicle dealer for the same line make of new motor vehicle had ceased operating within the previous two years; or (iii) the relocation of an existing new motor vehicle dealer within two miles of the existing site of the new motor vehicle dealership if the franchise has been operating on a regular basis from the existing site for a minimum of three years immediately preceding the relocation; or (iv) the relocation of a new motor vehicle dealer of the same line make if that dealer or replacement dealer is moving further away from a motor vehicle dealer of of the same line make. (3) In determining whether good cause has been established for not entering into or relocating an additional new motor vehicle dealer for the same line make, there shall be individual findings with respect to the following: (i) the permanency of the investment of both the existing and proposed additional new motor vehicle dealers; (ii) growth or decline in population, density of population, and new car registrations in the area; (iii) effect on the consuming public in the area; (iv) whether it is injurious or beneficial to the public welfare for an additional new motor vehicle dealer to be established; (v) whether the new motor vehicle dealers of the same line make in that area are providing adequate competition and convenient customer care for the motor vehicles of the same line make including the adequacy of motor vehicle sales and service facilities, equipment, supply of motor vehicle parts, and qualified service personnel; (vi) whether the establishment of an additional new motor vehicle dealer or relocation of an existing new motor vehicle dealer in the relevant market area would increase competition in a manner beneficial to the long-term public interest; (vii) the effect on the dealer that proposed to relocate; and (viii) any other factor which may be deemed material by the finder of fact to the unique facts and circumstances presented. (dd) To unreasonably prevent or refuse to approve the relocation of a dealership to another site within that dealership's relevant market area. The dealership must provide prior written notice providing the address of the proposed new location and a site plan of the proposed facility. The franchisor must, within sixty days of receipt of such information, grant or deny the dealer's relocation request. Failure to timely deny the request shall be deemed consent to the relocation. (ee) To fail to reimburse a dealer in full for the actual cost of providing a loaner vehicle to any customer who is having a vehicle serviced at the dealership if the provision of such a loaner vehicle is required by the franchisor. For the purposes of this paragraph, actual cost shall not exceed the average cost in the dealer's region for the rental of a substantially similar make and model as the vehicle being serviced. (ff)(1) To modify the franchise of any franchised motor vehicle dealer unless the franchisor notifies the franchised motor vehicle dealer, in writing, of its intention to modify the franchise of such dealer at least ninety days before the effective date thereof, stating the specific grounds for such modification. (2) For purposes of this paragraph, the term "modify" or "modification" means any change or replacement of any franchise if such change or replacement may substantially and adversely affect the new motor vehicle dealer's rights, obligations, investment or return on investment. (3) If any franchised motor vehicle dealer who receives a written notice of modification institutes an action within one hundred twenty days of receipt of such notice as provided in section four hundred sixty-nine of this article to have a review of the threatened modification, such action shall serve to stay, without bond, the proposed modification until a final judgment has been rendered in an adjudicatory proceeding or action as provided in section four hundred sixty-nine of this article. A modification is deemed unfair if it is not undertaken in good faith; is not undertaken for good cause; or would adversely and substantially alter the rights, obligations, investment or return on investment of the franchised motor vehicle dealer under an existing franchise agreement. In any action brought by the dealer, the franchisor shall have the burden of proving that such modification is fair and not prohibited. (gg) To use an unreasonable, arbitrary or unfair sales or other performance standard in determining a franchised motor vehicle dealer's compliance with a franchise agreement. Before applying any sales, service or other performance standard to a franchised motor vehicle dealer, a franchisor shall communicate the performance standard in writing in a clear and concise manner. (hh) To require that a franchised motor vehicle dealer contribute monetarily to any program or promotion without first receiving the written consent of the franchised motor vehicle dealer to participate in such program or promotion. For purposes of this paragraph, the written consent specific to the particular program or promotion must be executed, by means of handwritten, typed or electronic signature, within sixty days prior to the start of the particular program or promotion, provided, however, that consent shall not be required to continue participation in a program or promotion to which the dealer has given written consent to renewal, and provided further, that the dealer shall be able to terminate such renewal upon reasonable written notice within thirty days following the start or renewal of the program or promotion. (ii) To allocate new motor vehicles to a franchised motor vehicle dealer based on a program that differentiates between vehicle sales by a franchised motor vehicle dealer within a territory or geographic area assigned to such dealer and vehicle sales outside of such territory or geographic area. (jj) To utilize a discriminatory, unreasonable, arbitrary or unfair system of allocation of new motor vehicle inventory. A franchisor shall communicate its system of allocation in writing in a clear and concise manner to all same line-make dealers located in this state. (kk) To refuse to disclose to any franchised motor vehicle dealer the manner and mode of distribution of vehicles in the franchised motor vehicle dealer's line make within the state, and an explanation of the allocation system, including the methodology used, in a clear and comprehensible form. 2-a. On and after the effective date of this subdivision, if a franchisor notifies a franchised motor vehicle dealer, in writing, of its decision to monitor the continued viability of the dealership, the franchisor shall include in such notice the specific reasons upon which the franchisor's decision is based. 2-b. It shall be unlawful for any franchisor to provide financial information particular to a franchised motor vehicle dealer, including but not limited to, selling prices and sales margins, that has been collected from such franchised motor vehicle dealer to any other franchised motor vehicle dealer including a franchised motor vehicle dealer in which the franchisor owns any interest or controls, directly or indirectly, the management thereof. Nothing

contained in this subdivision shall be deemed to prevent any franchisor from collecting and distributing any such financial information in an aggregate manner provided that the information from any motor vehicle dealer has been combined with the information from one or more franchised motor vehicle dealers such that the financial information from a particular dealer is no longer identifiable to such dealer. 3. In any action or proceeding instituted pursuant to the provisions of this section, there shall be available to the franchisor all of the defenses provided for under section thirteen-b of title fifteen, United States code, known as the Robinson-Patman Act.

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§ 464. Obligations of dealers prior to delivery to retail buyers. Every franchisor shall specify in writing the delivery and preparation obligations of its franchised motor vehicle dealers prior to delivery of new motor vehicles to retail buyers.

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§ 465. Procedures relating to warranties and sales incentives. 1. Every franchisor shall properly fulfill any warranty agreement and/or franchisor's service contract, including but not limited to all warranty repairs, extended warranty repairs, factory compensated repairs, recalls, diagnostics, parts and other voluntary stop-sell repairs, and shall compensate each of its franchised motor vehicle dealers for all warranty, recall, diagnostic labor operations and parts where applicable in amounts which reflect reasonable compensation for such work. For purposes of this section, reasonable compensation shall be the reasonable labor time allowances defined by the retail labor time guide reasonably utilized by a franchised motor vehicle dealer for non-warranty customer paid labor operations. All warranty claims and/or claims under a franchisor's service contract made by franchised motor vehicle dealers shall be paid within thirty days following their approval. For diagnosis work, parts reimbursement, other than components, systems, fixtures, appliances, furnishings, accessories and features of a house coach that are designed, used and maintained primarily for nonvehicular residential purposes, and for labor reimbursement, reasonable compensation shall not be less than the price and rate charged by the franchised motor vehicle dealer for like services to non-warranty and/or non-service contract customers. For purposes of this section, the price and rate charged by the franchised motor vehicle dealer for parts may be established by submitting to the franchisor one hundred sequential nonwarranty customer-paid service repair orders or the number of sequential nonwarranty customer-paid service repair orders written within a ninety day period, whichever is less, covering repairs made no more than one hundred eighty days before the submission, and declaring the price and rate, including average markup for the franchised motor vehicle dealer as its reimbursement rate. The reimbursement rate so declared shall go into effect thirty days following the declaration and shall be presumed to be reasonable, however a franchisor may rebut such presumption by showing that such rate so established is unreasonable in light of the practices of all other franchised motor vehicle dealers in the vicinity offering the same line make. The franchised motor vehicle dealer shall not request a change in the reimbursement rate more often than once in each calendar year. In establishing the labor reimbursement rate, the franchisor shall not require a franchised motor vehicle dealer to establish said rate by a methodology, or by requiring information, that is unduly burdensome or time consuming to provide, including, but not limited to, a transaction by transaction calculation. For the purposes of this section, the following parts or types of repairs shall be excluded from the parts and/or labor calculations and the franchisor's reimbursement requirements under this section: (a) parts sold at wholesale; (b) tires; (c) routine maintenance not covered under any retail customer warranty such as fluids, filters and belts not provided in the course of repairs; (d) vehicle reconditioning; and (e) batteries replaced as part of a routine maintenance operation. If the franchisor rejects the declaration or attempts to rebut the declaration because of an error in the dealer's submission, the franchisor shall identify with specificity the reason for rejection and identify the error or errors within the submission. In the event the franchisor rejects or rebuts the dealer's initial declaration, the dealer shall have the opportunity, within sixty days to resubmit the full and corrected declaration addressing the alleged error or errors identified by the franchisor. The franchisor shall respond within sixty days. The one hundred eighty day requirement for the repair orders shall be stayed from the date of initial submission. In any action or proceeding held pursuant to this subdivision, the franchisor shall have the burden of proving that the rate declared by the dealer was unreasonable as described in this subdivision and that the proposed adjustment of the average percentage markup or rejection of the submission is reasonable pursuant to the provisions of this subdivision. A warranty claim timely made shall not be deemed invalid solely because unavailable parts cause additional use and mileage on the vehicle. 2. All warranty or sales incentive claims shall be either approved or disapproved within thirty days after their receipt. When any such claim is disapproved the franchised motor vehicle dealer shall be notified in writing of its disapproval within said period. Each such notice shall state the specific grounds upon which the disapproval is based. Failure to disapprove a claim within thirty days shall be deemed approval. 3. No franchisor shall conduct an audit or charge back any warranty payment, or any sales, advertising or marketing incentive payment ("incentive payments") or otherwise hold a franchised motor vehicle dealer liable for charges more than one year, or five years in the case of fraud, after the date the franchisor made such payment to the dealer, without providing a notice to a franchised motor vehicle dealer of, or a mechanism that makes available to a franchised motor vehicle dealer, information regarding errors or issues regarding such dealer's warranty, sales, advertising or marketing incentive claims that are the subject of the audit or chargeback. Nothing in this section shall be deemed to grant a dealer the right to access any file held by the manufacturer evaluating such dealer. In connection with a claim for warranty reimbursements, the dealer's failure to document properly one part of a warranty repair that contains more than one part shall not be the sole basis to charge back the entire repair. A

manufacturer shall not deny a claim submitted under this section based solely on a dealer's incidental failure to comply with a specific claim processing requirement, a clerical error, or other administrative technicality, provided that the failure does not call into question the legitimacy of the claim and that the dealer corrects the claim according to franchisor guidelines. 4. A franchisor shall not charge a dealer back subsequent to the payment of a warranty, sales, advertising or marketing incentive claim unless a representative of the franchisor has met in person at the dealership, or by telephone, with an officer or employee of the dealer designated by the dealer and explained in detail the basis for each of the proposed charge backs and thereafter given the dealer's representative a reasonable opportunity at the meeting, or during the telephone call, to explain the dealer's position relating to each of the proposed charge backs. In the event the dealer was selected for audit or review on the basis that some or all of the dealer's claims were viewed as excessive in comparison to average, mean or aggregate data accumulated by the franchisor, or in relation to claims submitted by a group of other franchisees, the franchisor shall, at or prior to the meeting or telephone call with the dealer's representative, provide the dealer with a written statement containing the basis or methodology upon which the dealer was selected for audit or review. 5. A franchisor shall not deny or charge back a payment for warranty work claimed by the dealer unless the franchisor satisfies its burden of proof that the dealer did not make a good faith effort to comply with the reasonable written procedures of the franchisor or that the dealer did not actually perform the work. 6. A franchisor shall not deny or charge back a sales, advertising or marketing incentive payment made to a dealer unless the claim was materially false or fraudulent or the dealer failed to reasonably substantiate the claim in accordance with the manufacturer's reasonable procedures. 7. After all internal dispute resolution processes provided through the franchisor have been resolved, the franchisor shall give notice to the dealer of the final amount of a proposed warranty, sales, advertising or marketing incentive charge back. If the dealer institutes an action pursuant to this article within thirty days of receipt of such notice, the proposed charge back shall be stayed, without bond, during the pendency of such action and until the final judgment has been rendered in an adjudicatory proceeding or action as provided in section four hundred sixty-nine of this article. The franchisor shall not impose the chargeback, debit the dealer's account, or otherwise seek to obtain all or any part of the chargeback funds from the dealer during the thirty-day period in which the dealer has the opportunity to file an action as set forth above.

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§ 466. Unreasonable restrictions. 1. It shall be unlawful for a franchisor directly or indirectly to impose unreasonable restrictions on the franchised motor vehicle dealer relative to transfer, sale, right to renew or termination of a franchise, discipline, noncompetition covenants, site-control (whether by sublease, collateral pledge of lease or otherwise), right of first refusal to purchase, option to purchase, compliance with subjective standards and assertion of legal or equitable rights with respect to its franchise or dealership. 2. It shall be deemed an unreasonable restriction upon the sale or transfer of a dealership for a franchisor (i) directly or indirectly to prevent or attempt to prevent a franchised motor vehicle dealer from obtaining the fair value of the franchise or the fair value of the dealership business as a going concern; or (ii) to refuse to approve the sale or transfer of a dealership due to the fact that the franchised motor vehicle dealer owns, has an investment in, participates in the management of or holds a franchise for the sale or service of another line make of new motor vehicles, or that the franchised motor vehicle dealer has established another franchise in the same dealership facilities for the sale or service of another line make of new motor vehicles prior to the effective date of this paragraph, or the other franchise has been approved in writing by the franchisor.

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§ 467. Dealership facilities assistance upon termination, cancellation or nonrenewal. Upon a permitted termination, cancellation or nonrenewal by the franchisor, unless such termination, cancellation or nonrenewal is for a reason or reasons set forth in subparagraph three of paragraph (d) of subdivision two of section four hundred sixty-three of this article, the franchisor shall assume the obligations for any lease of the dealership facilities or arrange for a new lease of the dealership facilities or pay the dealer the lease payments for one year, whatever is less, or negotiate a lease termination for the dealership facilities at the franchisor's expense. If the facilities are owned by the franchised motor vehicle dealer, the franchisor shall pay such dealer a sum equivalent to the reasonable rental value of the dealership facility for one year, provided the franchised motor vehicle dealer shall mitigate damages in the case of an owned facility.

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§ 468. Preservation of consumer protection statutes. Nothing contained herein shall in any way be construed or interpreted to modify, limit or affect the full powers and duties heretofore or hereafter granted to consumer protection agencies created by statute or regulation enacted by state, city, county or local municipalities and the rights of consumers to make complaints thereto, it being the intent of this article to provide for the settlement and/or determination of disputes under the franchised motor vehicle dealer act as between franchisors and franchised motor vehicle dealers as defined herein.

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§ 469-a. Powers of the commissioner. 1. In addition to any other powers and duties of the commissioner set forth in this chapter, the commissioner shall have the power to enforce the provisions of this article, in accordance with section four hundred seventy-one-a of this article. 2. The commissioner shall prescribe such rules and regulations as the commissioner shall deem necessary for the implementation of this section and section four hundred seventy-one-a of this article.

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§ 469. Private actions. 1. A franchised motor vehicle dealer who is or may be aggrieved by a violation of this article shall be entitled to request an adjudicatory proceeding, as prescribed in section four hundred seventy-one-a of this article, or in lieu thereof, sue for, and have, injunctive relief and damages in any court of the state having jurisdiction over the parties. In any such judicial action or proceeding, the court may award necessary costs and disbursements plus a reasonable attorney's fee to any party. 2. Whenever a franchise provides for the use of arbitration to resolve a controversy arising out of or relating to such contract, arbitration may be used to settle such controversy only if after such controversy arises all parties to such controversy consent in writing to use arbitration to settle such controversy.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17-A - Franchised Motor Vehicle Dealer Act470 - Construction of Article.

§ 470. Construction of article. The provisions of this article shall be in addition to and not in lieu of those contained in the uniform commercial code.

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(b) If the matter has not been resolved by mediation, the franchisor and franchised motor vehicle dealer have not agreed to mediation, or the mediation has not been completed within the period set forth in subparagraph (ii) of paragraph (a) of this subdivision, the franchised motor vehicle dealer may file with the commissioner a request for an adjudicatory proceeding pursuant to this section. The request shall be in writing and contain a short and plain statement of the facts relied upon by the dealer to support a claim that the franchisor has violated one or more specific provisions of this article together with a request for a specific remedy other than damages. The request shall be accompanied by copies of all correspondence between the dealer and the franchisor and other documents relevant to the claims made in the request. The request shall be accompanied by a non-refundable filing fee of two thousand dollars. (c) A true copy of the request with copies of all documents filed with the request shall be served upon the franchisor at the same time as the request is filed with the commissioner by transmitting such documents in any manner specifically permitted under the terms of the franchise agreement or, if no such manner is specified in such agreement, then by certified mail, return receipt requested, addressed to the officer or employee of the franchisor from whom the dealer has received correspondence relevant to the claims made in the request. A certificate of service shall accompany the request. (d) The hearing shall be at such time and place as the commissioner shall prescribe. The commissioner shall mail to the dealer and the franchisor a notice stating the name of the presiding officer assigned to the matter, and the place and time of the hearing. The hearing shall be commenced as soon as practicable, but in no event sooner than sixty days from the date of the notice. (e) The notice shall be sent by ordinary mail to the address of the dealer or attorney shown in the request and to the address to which the copy of the request was sent as shown in the certificate of service or such other address as the franchisor has designated for receiving such notices. The notice shall advise the franchisor of the right to submit within twenty days of receipt of such notice a short and plain statement of answers to the allegations of the request and of facts on which the franchisor relies in defense of such allegations. Such answering statement shall be mailed to the commissioner or his or her designee and the dealer at addresses shown on the notice. (f) The dealer may submit within twenty days of receipt of the franchisor's answering statement and additional statement of facts and documentary material only to the extent of answering new matter raised by the franchisor. Except as set forth in paragraph (g) of this subdivision, after receipt by a party of the notice from the commissioner, all correspondence and other communications relating to the dispute shall be with the presiding officer with copies to the opposing party. (g) In accordance with the rules and regulations prescribed by the commissioner, each party shall disclose to the other all documents or other materials, including those that may have been maintained in electronic form, that the party intends to introduce at the hearing. 2. Hearings and other proceedings and presiding officers. Except as otherwise set forth in this section, hearings and other proceedings authorized under this article shall comply with article three of the state administrative procedure act and shall be presided over by the presiding officer appointed by the commissioner. The presiding officer shall be admitted to practice as an attorney in the state of New York and shall rule on all motions, procedures and other legal objections. 3. Resolution without a hearing. Either party may request resolution of the dispute without a hearing. A request for a resolution without a hearing shall be accompanied by sufficient information to permit a determination of whether any unresolved material issue of fact exists, and may be accompanied by a legal memorandum. The other party shall have an opportunity to respond. Such a request shall be granted if the presiding officer determines that no unresolved material issue of fact is presented in the matter. No hearing shall be conducted until the request for a resolution without a hearing has been determined. 4. Presiding officer decision. The presiding officer shall render a decision upon the conclusion of the hearing or without a hearing pursuant to subdivision three of this section not later than ninety days after the close of the hearing or the granting of the request for resolution without a hearing. The decision of the presiding officer shall be based on the preponderance of

the evidence. The presiding officer shall prepare a decision which shall include: (a) findings of fact; (b) a determination on each charge; and (c) in the event of a determination of a violation of this article, the remedy to be ordered. The decision of the presiding officer shall be deemed the determination of the commissioner. 5. Right of appeal. Any party may file an appeal of a determination made pursuant to this section in accordance with section two hundred sixty-one of this chapter. 6. Litigation costs. In any administrative proceeding pursuant to this section, each party shall bear its own litigation costs and attorneys' fees. 7. Penalties. Any party to a proceeding held pursuant to this section shall comply with the commissioner's decision in such proceeding, unless a stay or extension of the date for compliance is granted by the commissioner or a court of competent jurisdiction. If, after notice to such party and an opportunity to respond, the commissioner finds that a party has not complied with the commissioner's decision by the designated date of compliance, unless a stay or extension of such date has been granted, the commissioner, in addition to any other enforcement powers the commissioner holds, may assess such party a civil penalty not to exceed one thousand dollars per day of noncompliance. Civil penalties assessed under this section shall be paid to the commissioner for deposit in the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. In addition, as an alternative to such civil action and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the dealer or franchisor is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments by a court of record.

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§ 471-b. Judicial review. A decision of the presiding officer under section four hundred seventy-one-a of this article shall be subject to review by the supreme court in the manner provided by article seventy-eight of the civil practice law and rules.

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§ 471. Notice requirement. 1. A dealer shall not display for sale, exchange or sell any new motor vehicle, or any used motor vehicle, that was originally sold by a manufacturer for distribution outside the United States without prominently displaying a label on the vehicle stating that "This vehicle was not sold by the manufacturer for distribution within the United States. It may not have the same standard features, emissions equipment, safety equipment, optional equipment, specifications and warranty, or otherwise be identical to the other motor vehicles which are sold by the manufacturer for distribution in the United States". 2. Any person who violates this section and any person who knowingly aids and abets any such violation of this section shall be liable to any person aggrieved to the extent of any additional margin obtained or obtainable on such purchase and resale.

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§ 472. Separability. If any part or provision of this article or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part, provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this article or the application thereof to other persons or circumstances.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17-A - Franchised Motor Vehicle Dealer Act473 - Savings Clause.

§ 473. Savings clause. Nothing in this article shall prohibit, limit, restrict or impose conditions on: 1. The business activities (including, without limitation, the dealings with motor vehicle manufacturers and their representatives and affiliates) of any person that is primarily engaged in the business of rental of motor vehicles and industrial and construction equipment and activities incidental to that business provided that (a) any motor vehicles sold by such person are limited to used motor vehicles that have been previously used exclusively and regularly by such person in the conduct of business and used motor vehicles traded in on motor vehicles sold by such person, (b) warranty repairs performed by such person on motor vehicles are limited to those motor vehicles that it owns, previously owned or takes in trade, and (c) motor vehicle financing provided by such person to retail consumers for motor vehicles is limited to vehicles sold by such person in the conduct of business; or 2. The direct or indirect ownership, affiliation or control of a person described in subdivision one of this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17-B - Interjurisdictional Pre-Arranged For-Hire Vehicle Operation498 - Interjurisdictional Pre-Arranged For-Hire Vehicle Operation.

§ 498. Interjurisdictional pre-arranged for-hire vehicle operation. 1. Definitions: When used in this section, the following terms shall have the following meanings: a. "Driver's license" shall mean a license issued by the department pursuant to article nineteen of this chapter or by a similar regulatory agency of another state. b. "Licensing jurisdiction" shall mean a city with a population of one

million or more, or a county within New York state contiguous to such city, the county of Suffolk, the county of Rockland or the county of Dutchess or the county of Ulster, that requires the issuance of a license, permit, registration, certification or other approval for a vehicle to perform the pre-arranged pick up or drop off of one or more passengers in such jurisdiction for compensation. c. "Pre-arranged for-hire vehicle" shall mean a motor vehicle, other than a bus, that is used in the business of transporting passengers for compensation on a pre-arranged basis, and operated in such business under a license or permit issued by a licensing jurisdiction. The term "pre-arranged for-hire vehicle" shall apply to vehicles as defined herein regardless of any other provision of local law or rule defining or describing such vehicles by any other terms such as livery, black car, or luxury limousine. d. "Pre-arranged for-hire vehicle license" shall mean a license, permit, registration, certification or other approval issued by a licensing jurisdiction to the owner of a pre-arranged for-hire vehicle for the purpose of providing pre-arranged transportation for compensation. e. "Pre-arranged for-hire vehicle driver's license" shall mean a license, permit or other approval to operate a pre-arranged for-hire vehicle issued by a licensing jurisdiction. f. "Serious criminal offense" shall mean a conviction of (i) a felony involving the use of a motor vehicle except a felony as described in subparagraph (ii) of this paragraph; (ii) a felony involving manufacturing, distributing or dispensing a drug as defined in section one hundred fourteen-a of this chapter or possession of any such drug with intent to manufacture, distribute or dispense such drug in which a motor vehicle was used; (iii) a violation of subdivision one or two of section six hundred of this chapter; (iv) operating a pre-arranged for-hire vehicle when, as a result of prior violations committed while operating a pre-arranged for-hire vehicle, the driver's license is revoked, suspended, or canceled; (v) causing a fatality through the negligent operation of a pre-arranged for-hire vehicle, including but not limited to the crimes of vehicular manslaughter or criminally negligent homicide; (vi) homicide; and (vii) a felony for assault, sexual offenses, kidnapping, or burglary. 2. Reciprocity. a. A pre-arranged for-hire vehicle that is licensed to provide pre-arranged transportation for compensation by a licensing jurisdiction meeting the standards and requirements set forth in subdivisions three, four and six of this section shall be authorized to pick up passengers in such jurisdiction for drop off within the same jurisdiction, to pick up passengers in another licensing jurisdiction for drop off within the licensing jurisdiction licensing such pre-arranged for-hire vehicle, to drop off passengers in another licensing jurisdiction who were picked up within the licensing jurisdiction licensing such pre-arranged for-hire vehicle, and to transit other licensing jurisdictions. No other licensing jurisdiction may require a pre-arranged for-hire vehicle providing pre-arranged transportation for compensation, which is licensed by a licensing jurisdiction meeting the standards and requirements set forth in subdivisions three, four and six of this section, to also be licensed by such other licensing jurisdiction or to pay any pre-arranged for-hire vehicle license fee in order to be allowed to pick up or drop off passengers within or to transit such jurisdiction. A licensing jurisdiction meeting the standards and requirements set forth in subdivisions three, four and six of this section shall provide written confirmation thereof to other licensing jurisdictions, containing information sufficient to establish that such licensing jurisdiction meets all such standards and requirements, and which shall be verifiable by such other licensing jurisdictions. Such written confirmation shall be resubmitted to such other licensing jurisdictions every three years. b. A pre-arranged for-hire vehicle licensed by a licensing jurisdiction not meeting the standards and requirements set forth in subdivisions three, four and six of this section shall be authorized to pick up and/or drop off passengers in any other licensing jurisdiction only (i) pursuant to the terms of a separate written agreement or memorandum of understanding entered into between such licensing jurisdictions or (ii) if the owner of such vehicle obtains a pre-arranged for-hire vehicle license from such other licensing jurisdiction. c. Where pre-arranged transportation is provided by a pre-arranged for-hire vehicle licensed by a licensing jurisdiction meeting the standards and requirements set forth in subdivisions three, four and six of this section and such transportation begins with the pick up or the drop off of a passenger outside of such jurisdiction, such pre-arranged for-hire vehicle shall be authorized to temporarily discharge and subsequently pick up such passenger outside the licensing jurisdiction during the course of such transportation, provided no intra-jurisdictional transportation is provided at that time to any other person who is not covered by the pre-arranged transportation agreement. 3. Standards for pre-arranged for-hire vehicle transportation. A licensing jurisdiction shall be deemed to comply with the provisions of this subdivision if the following conditions are met: a. The licensing jurisdiction requires the suspension of the pre-arranged for-hire vehicle license of a pre-arranged for-hire vehicle owner, or the pre-arranged for-hire vehicle driver's license of a driver, against whom there is an outstanding judgment or an unpaid civil penalty owed for a violation of this chapter relating to traffic in any other licensing jurisdiction meeting the standards and requirements of this subdivision and subdivisions four and six of this section, or a violation of regulations promulgated by such other licensing jurisdiction duplicating or incorporating by reference any of the provisions of this chapter, until such judgment is satisfied or such civil penalty is paid. b. The licensing jurisdiction requires that each pre-arranged for-hire vehicle it licenses shall display evidence of a current, valid pre-arranged for-hire vehicle license affixed to the windshield in a form and manner that may be further specified by the regulations of such jurisdiction. c. The licensing jurisdiction requires the owner of each pre-arranged for-hire vehicle it licenses to maintain, for purposes of insurance or other financial security, coverage in a specified amount per person, payable for those expenses specified in paragraphs one, two and three of subsection (a) of section five thousand one hundred two of the insurance law, and coverage in specified amounts of minimum and maximum liability for bodily injury and death, as said terms are defined in subdivision one of section three hundred seventy of this chapter. d. The licensing jurisdiction requires (i) each pre-arranged for-hire vehicle it licenses to be inspected no less frequently than every twelve months by an official inspection station licensed pursuant to section three hundred three of this chapter, or, if the pre-arranged for-hire vehicle is registered in another state, by the agency responsible for vehicle registration and inspection in that state, and (ii) each pre-arranged for-hire vehicle to display a valid inspection sticker indicating the date of the last inspection and/or the expiration date, if such stickers are issued by the state of registration. e. The licensing jurisdiction provides, by means of a dedicated telephone line or read-only access to an electronic database, the following information to other jurisdictions meeting the

standards and requirements set forth in this subdivision and subdivisions four and six of this section: the name of the holder of a pre-arranged for-hire vehicle license; the vehicle identification number of a licensed pre-arranged for-hire vehicle; the date first licensed; the date such licenses were most recently renewed; and all violations issued to each licensee and the disposition of each such violation. Such information obtained by a licensing jurisdiction from other licensing jurisdictions shall be used solely for the enforcement of laws and regulations applicable to the provision of transportation for compensation on a pre-arranged basis. f. The licensing jurisdiction requires that a pre-arranged for-hire vehicle be driven only by the holder of a driver's license which is valid to operate such motor vehicle in this state. g. The licensing jurisdiction requires that a pre-arranged for-hire vehicle be driven only by the holder of a pre-arranged for-hire vehicle driver's license. h. The licensing jurisdiction requires that a pre-arranged for-hire vehicle driver display his or her pre-arranged for-hire vehicle driver's license in such vehicle in a manner clearly visible to passengers or have such license readily available to produce upon the request of a passenger or law enforcement personnel. i. The licensing jurisdiction requires that a record of each interjurisdictional trip be entered prior to the commencement of such trip in a log maintained and kept readily accessible in the vehicle in a form and manner prescribed by the licensing jurisdiction and produced at the request of any police officer or peace officer acting pursuant to his or her special duties or other enforcement personnel authorized by such jurisdiction. Such record shall be kept for a period of no less than one year after such trip. Failure to produce such a log maintained in the manner prescribed by such jurisdiction when requested by a police officer or other enforcement personnel shall be presumptive evidence of illegal interjurisdictional operation. j. The licensing jurisdiction requires that the owner of each motor vehicle licensed as a pre-arranged for-hire vehicle hold a valid vehicle registration for such vehicle issued by the department for which a registration fee has been paid pursuant to schedule C of subdivision seven of section four hundred one of this title, or, in the case of a non-resident of this state, a vehicle registration issued by the state of residence. k. No owner of a vehicle licensed as a pre-arranged for-hire vehicle by a licensing jurisdiction meeting the standards and requirements of this subdivision and subdivisions four and six of this section or any person or business engaged in the for-hire transportation of passengers by motor vehicle that is affiliated with such licensee shall do business within any jurisdiction in which it seeks to operate on an interjurisdictional basis. "Do business" shall mean having a place of business or telephone number in such jurisdiction relating to for-hire transportation of passengers by motor vehicle. 4. Standards for drivers of pre-arranged for-hire vehicles. A licensing jurisdiction shall be deemed to comply with the provisions of this subdivision if it requires the following as conditions of licensure of pre-arranged for-hire vehicle drivers: a. The pre-arranged for-hire vehicle driver is fingerprinted and his or her criminal history obtained from the department of criminal justice services. b. The licensing jurisdiction adopts criteria pursuant to which an applicant for a new or renewal pre-arranged for-hire vehicle driver's license shall be denied, and a pre-arranged for-hire vehicle driver's license shall be suspended or revoked, upon conviction of the applicant or licensee for a serious criminal offense, subject to applicable laws, including, but not limited to, article twenty-three-A of the correction law. c. The licensing jurisdiction provides by regulation for the continuing review of the driving record of every pre-arranged for-hire vehicle driver licensed by such jurisdiction, as reflected in the number and type of convictions accumulated on the driver's license issued to such driver. Such regulation shall provide for the mandatory suspension for a thirty-day period of a pre-arranged for-hire vehicle driver's license upon the accumulation of a specified number and type of conviction on such person's driver's license within a fifteen-month period, and the mandatory revocation of a pre-arranged for-hire vehicle driver's license upon the accumulation of an additional number of convictions of a specified number and type on such person's driver's license within a fifteen-month period. d. The licensing jurisdiction requires that an applicant for a pre-arranged for-hire vehicle driver's license submit to drug testing, and that licensed pre-arranged for-hire vehicle drivers be required to submit to additional drug testing upon each application for renewal of such person's pre-arranged for-hire vehicle driver's license, and additional drug testing such that each licensee shall submit to such drug testing no less often than once each year; and that any applicant who tests positive for drugs or intoxicating liquors shall be denied a pre-arranged for-hire vehicle driver's license, and the pre-arranged for-hire vehicle driver's license of any licensee who tests positive for drugs or intoxicating liquors shall be revoked after notice and an opportunity to be heard. Such drug test shall be administered by a person or entity holding the requisite permit from the New York state department of health. Individual test results and any related medical information about such applicant or licensee shall be confidential, shall not be disclosed except to the applicant or licensee or his or her representative, and shall not be entered or received as evidence at any civil, criminal or administrative trial, hearing or proceeding other than an administrative trial, hearing or proceeding for the denial or revocation of the pre-arranged for-hire vehicle driver's license as set forth in this paragraph. No person, other than an applicant or licensee who is the subject of such records to whom such records are disclosed, may redisclose such records. e. The licensing jurisdiction requires that every individual applying for a pre-arranged for-hire vehicle driver's license must submit proof of completion of a state-approved defensive driving course no more than six months prior to the date of application. The licensing jurisdiction shall further require that any individual renewing a pre-arranged for-hire vehicle driver's license must submit proof of completion of a state-approved defensive driving course no more than three years prior to the date of the renewal application. 5. On-street inspections. The enforcement authorities of a licensing jurisdiction meeting the standards and requirements set forth in subdivisions three, four and six of this section may conduct on-street inspections of all vehicles operating as pre-arranged for-hire vehicles within such jurisdiction. A pre-arranged for-hire vehicle owner may be ordered by such licensing jurisdiction to repair or replace such vehicle where it appears that it no longer meets the reasonable standards for safe operation prescribed by regulations of such jurisdiction. Upon failure of the pre-arranged for-hire vehicle owner to comply with such an order within ten days after service thereof, the recognition of such owner's pre-arranged for-hire vehicle license shall be suspended by the licensing jurisdiction. Provided, however, that this subdivision shall not impair such authority to conduct on-street inspections of pre-arranged for-hire vehicles as may otherwise exist. 6. Notification. A licensing

jurisdiction meeting the standards and requirements set forth in this subdivision and subdivisions three and four of this section shall, upon both the issuance and disposition of a summons issued in such jurisdiction to a pre-arranged for-hire vehicle licensed in another jurisdiction, notify such other jurisdiction of such issuance and disposition.

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§ 499-a. Metropolitan commuter transportation district supplemental registration fee. Registrants residing in the metropolitan commuter transportation district shall upon the registration or renewal of a motor vehicle be charged a supplemental registration fee to be paid to the commissioner or his or her agent in accordance with the provisions of this article.

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§ 499-b. Collection of supplemental fee. All registrants of motor vehicles who reside in the metropolitan commuter transportation district shall pay to the commissioner or his or her agent the supplemental registration fee provided for in this article upon registration or renewal of motor vehicles subject to registration fees pursuant to the following sections of this chapter: paragraph a of subdivision six of section four hundred one; schedules A, B, C, E, F, G, I and K of subdivision seven of section four hundred one; paragraph a of subdivision eight of section four hundred one; paragraph a of subdivision five of section four hundred ten; and section four hundred eleven-b.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17-C - Metropolitan Commuter Transportation District Supplemental Registration Fee499-C - Calculation of Supplemental Registration Fee.

§ 499-c. Calculation of supplemental registration fee. The supplemental registration fee to be charged pursuant to section four hundred ninety-nine-b of this article, shall be calculated at a rate of twenty-five dollars per annum for each year or portion of a year that such registration is valid.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17-C - Metropolitan Commuter Transportation District Supplemental Registration Fee499-D - Deposit and Disposition of Revenue From Supplemental Fee.

§ 499-d. Deposit and disposition of revenue from supplemental fee. The commissioner shall deposit daily all funds derived from the collection of the supplemental fee established pursuant to this article with such responsible banks, banking houses or trust companies as may be designated by the state comptroller, in trust for the credit of the metropolitan transportation authority. An account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. On or before the twelfth day of each month, the commissioner shall certify to the comptroller the amount of all revenues received pursuant to this article during the prior month as a result of the supplemental fee imposed, including any interest and penalties thereon. The revenues so certified over the prior three months in total shall be paid over by the fifteenth day of the last month of each calendar quarter from such account, without appropriation, into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section. Any money collected pursuant to this section that is deposited by the comptroller in the corporate transportation account of the metropolitan transportation authority special assistance fund shall be held in such fund free and clear of any claim by any person or entity paying an additional fee pursuant to this section, including, without limiting the generality of the foregoing, any right or claim against the metropolitan transportation authority, any of its bondholders, or any subsidiary or affiliate of the metropolitan transportation authority.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17-C - Metropolitan Commuter Transportation District Supplemental Registration Fee499 - Definition.

§ 499. Definition. For the purposes of this article "metropolitan commuter transportation district" shall mean the area of the state included in the district created and governed by section twelve hundred sixty-two of the public authorities law.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17 - Other Provisions Relating to Registration and Possession420-A - Dealer Issued Temporary Registration.

§ 420-a. Dealer issued temporary registration. 1. Where a dealer having a registration under the provisions of section four hundred fifteen of this chapter sells or transfers a vehicle, he may issue a temporary registration for such vehicle, which registration shall permit, such vehicle to be operated as a duly registered vehicle for a period of thirty days from the date of issuance, other provisions of this chapter notwithstanding. Such temporary registration may be extended by the commissioner for an additional thirty days and shall consist of a form or forms which shall be obtained from the commissioner by the dealer, and executed, issued and displayed in accordance with the provisions of this section and in such manner as the commissioner shall prescribe. 2. A qualified dealer may obtain temporary registrations to be issued in accordance with the provisions of this section by applying to the commissioner and paying a fee of five dollars for each such temporary registration. The commissioner may limit the number of temporary registrations

given to a dealer at any one time or the number of unissued temporary registrations in the possession of a dealer at one time. 3. A qualified dealer may issue a temporary registration under this section only to a person to whom he has sold or transferred a vehicle. Such a temporary registration may not be issued for a vehicle which is eligible for issuance of a temporary certificate of registration pursuant to subdivision seven of section four hundred twenty of this article. The commissioner may, by regulation, exclude specific classes or types of vehicles from the provisions of this section. 4. Before issuing a temporary registration, a qualified dealer must have in his possession all application forms properly completed, all documents, fees and any other charges which must be submitted to the commissioner for the issuance of a registration by the commissioner. Such dealer must make application for registration for such vehicle and must submit all such forms, documents, fees and charges to the commissioner in a manner prescribed by the commissioner and, unless otherwise provided by the commissioner, within five calendar days of the date of issuance of the temporary registration. 5. Any registration issued by the commissioner as a result of an application submitted by a qualified dealer who has issued a temporary registration for such vehicle pursuant to this section shall be issued as of the date the dealer issued the temporary registration. 6. In order for a temporary registration issued pursuant to this section to be valid, it must be displayed on the vehicle for which it is issued in the manner prescribed by the commissioner. 7. A dealer may not make a separate charge for the issuance of a temporary registration. 8. The commissioner may refuse to issue temporary registrations to a dealer registered pursuant to section four hundred fifteen of this chapter or he may require the surrender of unissued temporary registrations in the possession of such dealer, if he determines that the dealer has not complied with the provisions of this section or any regulations promulgated thereunder. If the commissioner refuses to issue such temporary registrations or requires the surrender of such temporary registrations, a qualified dealer may request a hearing on such determination by making a written request for such hearing to the commissioner. Upon receipt of such request, a hearing must be held within ten days of receipt. 9. If a dealer registration expires or is suspended or revoked, or if a dealer goes out of business, all unissued temporary registrations in the possession of such dealer must be surrendered to the commissioner. Upon application by such dealer, the fee for such unissued temporary registrations shall be refunded upon surrender, except that no such refund shall be made if the dealer registration has been suspended or revoked or the commissioner has required that temporary registrations be surrendered pursuant to subdivision eight of this section. 10. The commissioner shall prescribe such rules and regulations as may be necessary to carry out the provisions of this section. 11. Fees; deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the general fund, with the exception of the three dollar increase in the fee for issuance of temporary registrations pursuant to subdivision two of this section, which shall be deposited to the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17 - Other Provisions Relating to Registration and Possession420 - Transfer of Registration.

§ 420. Transfer of registration. 1. Upon the transfer of ownership or the destruction of a motor vehicle, motorcycle or trailer, its registration shall expire; and the seller, or the owner in case of destruction, shall remove the number plates from the vehicle. 2. Such seller or owner may, however, register another vehicle and use said number plates thereon, if appropriate, upon making application for such registration, paying a transfer fee of ten dollars, and paying the proportional excess, if any, of the annual fee for registering the second vehicle over the annual fee for registering the first vehicle for each day or fraction thereof constituting the unexpired registration period. If the number plates of the first vehicle are not appropriate for the second vehicle, the commissioner or his or her agent shall, upon the surrender of such number plates, furnish appropriate number plates. 3. Provided, however, that upon the death of an owner of a registered motor vehicle, motorcycle or trailer, its registration shall, unless the vehicle is destroyed, be deemed to continue in force as a valid registration until the end of the year or until the ownership of such vehicle is transferred by the executor or administrator of the estate of such owner or by the distributees of his personal property, whichever occurs first. If the ownership of such vehicle is transferred as exempt property under section 5-3.1 of the estates, powers and trusts law to the surviving spouse of the owner, the fee for the initial registration issued to such surviving spouse shall be the fee for such registration reduced by the amount of the fee remaining for the unexpired term of the registration issued to the deceased. 4. Provided, further, that upon the permanent removal of a vehicle from the state, the owner may remove the number plates and be entitled to the same privileges as though the vehicle had been sold or destroyed. 5. Provided, further, that a holder of manufacturers' and dealers' registration having a motor vehicle, motorcycle or trailer registered in his or its name under the provisions of this chapter may, if such vehicle is placed in stock for sale, also remove the number plates and be entitled to the same privileges as though the vehicle had been sold or destroyed. 6. Provided, further, that the registration of a vehicle registered in the names of two or more persons, as partners or otherwise, shall not expire upon a change in ownership of the vehicle so long as any of the persons named in such registration as owners of the vehicle is the owner or part owner of the vehicle. However, when any change in the ownership of such a vehicle occurs and the registration does not expire, the owner or owners after such change shall forthwith file with the commissioner a statement of the ownership of such vehicle in such form as the commissioner shall require, together with a fee of ten dollars, and the commissioner shall issue a new certificate of registration. 7. Where a dealer having registration under the provisions of section four hundred fifteen of this chapter sells or trades a vehicle to a person who has another vehicle duly registered under this chapter, or who had another vehicle previously so registered, and the registration of such vehicle is eligible for transfer to the purchased vehicle under the provisions of this section and the number plates of the first vehicle are appropriate, such dealer may issue on any date on which the registration of a motor vehicle may be used a temporary certificate of registration of the second vehicle under which such vehicle

may be operated as a duly registered vehicle for a period of thirty days from the date of issuance, other provisions of this chapter notwithstanding. Such temporary certificate of registration may be extended by the commissioner for an additional thirty days, except that in no event shall any such temporary certificate of registration be valid after the expiration date of the registration for the first vehicle. Such certificate shall be issued upon a form furnished by the commissioner and shall be executed in such manner as he shall prescribe. 8. The owner of a registered motor vehicle, motorcycle or trailer may transfer the registration and, if appropriate, the number plates thereof to another vehicle owned by him or her upon making application for such transfer, paying a transfer fee of ten dollars, and paying the proportionate excess, if any, of the annual fee for registering the second vehicle over the annual fee for registering the first vehicle for each day or fraction thereof constituting the unexpired registration period, provided, however, that the registration and number plates for the second vehicle, if such vehicle is registered in this state, are either surrendered to the commissioner or transferred to another vehicle as provided herein. If the number plates of the first vehicle are not appropriate for the second vehicle, the commissioner or his or her agent shall, upon the surrender of such number plates, furnish appropriate number plates. Whenever a total fee for reregistration prescribed in this section shall amount to a fee other than a whole dollar amount, the fee required to be paid shall be rounded to the nearest twenty-five cents.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17 - Other Provisions Relating to Registration and Possession421 - Sale of Motor Vehicle, Trailer or Part Thereof With Changed Identification Number.

§ 421. Sale of motor vehicle, trailer or part thereof with changed identification number. 1. Any person engaged in the business of buying or selling motor vehicles, trailers, or parts thereof, shall be presumed to have determined and to know the original vehicle identification numbers and special identification numbers on any motor vehicle, trailers or parts thereof purchased or sold by such person, both at the time of purchase and sale. 2. Any person engaged in the business of buying or selling motor vehicles, trailers, or parts thereof, who sells or offers for sale a motor vehicle, trailer, or part thereof, the original vehicle identification number or special identification number of which shall have been destroyed, removed, altered, defaced or so covered as to be effectually concealed, without having complied with regulations promulgated by the commissioner, shall be guilty of a class E felony. 3. Any person, other than a person engaged in the business of buying or selling motor vehicles, trailers, or parts thereof, who knowingly sells or offers for sale a motor vehicle, trailer, or part thereof, the original vehicle identification number or special identification number of which shall have been destroyed, removed, altered, defaced or so covered as to be effectually concealed shall be guilty of a class E felony. In any prosecution under this subdivision, the purchase of the motor vehicle, trailer or part from a dealer registered pursuant to section four hundred fifteen of this chapter, a vehicle dismantler registered pursuant to section four hundred fifteen-a of this chapter, or a motor vehicle repair shop registered pursuant to section three hundred ninety-eight-c of this chapter shall be presumptive evidence that the purchaser did not have knowledge of the destruction, removal, alteration, defacing or covering of the original vehicle identification number or special identification number. 4. For the purposes of this article, the term "original identification number" shall mean any number embossed, engraved, etched, affixed to a label, sticker or plate or similarly marked on any part of a motor vehicle, trailer or vehicle part which is assigned by the manufacturer for the purpose of identification of that particular motor vehicle, trailer or vehicle part and the location of which number is made available to the public.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17 - Other Provisions Relating to Registration and Possession422 - Special Vehicle Identification Numbers.

§ 422. Special vehicle identification numbers. The commissioner may, by regulation, provide for the issuance of a special vehicle identification number. Such regulations shall be applicable whenever a special vehicle identification number is required by any provision of law. With respect to a vehicle part for which an inspection is required pursuant to subdivision two of section four hundred twenty-three-a of this chapter, a special identification number may consist of a distinguishing mark. Such special vehicle identification number shall be affixed only by or under the direction of a member of the department of motor vehicles who has the powers of a peace officer pursuant to section three hundred ninety-two-b of this chapter. A fee of twenty-five dollars shall be paid to the commissioner before such number shall be issued, except that no fee shall be required of a governmental agency.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17 - Other Provisions Relating to Registration and Possession423-A - Enforcement Procedures for Insuring the Retention of Vehicle Identification Numbers on Vehicles.

(b) The commissioner shall establish standards for determining whether an identification number on a motor vehicle, trailer or part thereof is destroyed, removed, altered, defaced or so covered as to be effectually concealed. Whenever a vehicle described in paragraph (a) of this subdivision is seized or confiscated, members of the state police, local police department or peace officers acting pursuant to their special duties, if warranted, shall arrest the supposed owner or custodian thereof, and cause prosecution to be brought in a court of competent jurisdiction. It shall be the duty of the appropriate agency or the department of motor vehicles to retain the custody of each motor vehicle, trailer or part seized pending the prosecution of the person arrested until the ownership of such motor vehicle, trailer or part shall have been ascertained. If the ownership of such motor vehicle, trailer or part cannot be ascertained, or if the owner or custodian is convicted of the theft or unlawful possession of said motor vehicle, trailer or part, such motor vehicle, trailer or part, if in the possession of the state police or any other state agency shall, at the direction of the office of general services, be held for, or delivered into the possession of, such office, and title shall vest in such office, or if in the possession of a local police department or other local authority, such motor vehicle or trailer shall be treated as an abandoned vehicle pursuant

to section twelve hundred twenty-four of this chapter, or such part may be sold by the local authority to a registered dealer or to a registered vehicle dismantler or certified scrap processor as defined in subdivision nine of section four hundred fifteen-a of this chapter. 2. Assignment of a new identification number. If a person other than the person arrested be the owner, the motor vehicle, trailer or part shall be returned to him as soon as he has arranged to have the department of motor vehicles affix a new number, or in the case of a part, inspect such part, and the department has done so, as provided in section four hundred twenty-two of this chapter. Prior to the return of the motor vehicle, trailer or part, or the transfer of custody of said motor vehicle, trailer or part, the arresting officer shall transmit notice of the arrest to the commissioner. 3. Disposition of certain motor vehicles, trailers and parts. (a) If the owner of a motor vehicle or trailer cannot be ascertained, or if the owner or custodian is arrested and convicted of the theft or unlawful possession of said motor vehicle or trailer, and such motor vehicle or trailer is held for or is in the possession of the office of general services, the office of general services shall sell the motor vehicle or trailer at public auction or by bid, or, it may be registered for use by the office or by a state agency in the performance of the duties of the office or of such state agency, provided that the department of motor vehicles first affixes a special identification number to the motor vehicle or trailer, if required. The special identification number shall thereafter be used for identification, registration and all purposes of this chapter, and the purchaser thereof may sell and transfer the motor vehicle or trailer bearing such a special identification number or numbers. (b) If the owner of a part or parts of a motor vehicle or trailer cannot be ascertained, or if the owner or custodian is arrested and convicted of the theft or unlawful possession thereof, and such part is held for or is in the possession of the office of general services, the office of general services shall sell such part or parts to a registered dealer or to a registered vehicle dismantler or a certified scrap processor as defined in subdivision nine of section four hundred fifteen-a of this chapter. (c) Notwithstanding any other provision of this section, ownership of an unidentifiable part in an otherwise identifiable vehicle, other than a stolen vehicle, held by the department or by a police department may be transferred to the owner of such vehicle provided that the department or police department has made findings that such owner had no knowledge that the part was unidentifiable and that such owner was neither responsible for rendering such part unidentifiable nor acting in concert with any person who rendered or had such part rendered unidentifiable. Such a transfer may be made to a person who is presumed to have determined and to know identification numbers on motor vehicles and parts pursuant to subdivision one of section four hundred twenty-one of this article only upon payment to the department or to the police department of an amount equal to the reasonable wholesale value of the part. Such a transfer may be made to any other person without any payment being made to the department or police department provided that the department or police department is satisfied that the person has been the owner of the vehicle with the unidentifiable part contained therein for a period of at least eighteen months. Such findings may only be made after an investigation and, if appropriate, a hearing. Such investigation shall be made promptly by the department or the police department upon the request of such owner. Proceeds from the transfer of any such part shall be paid into the general fund of the state if transferred by the department or the division of state police, or into the general fund of the appropriate local authority, if transferred by a local police department. No such part shall be so transferred until a special identification number has been affixed to such part and the appropriate fee has been paid by the owner of the vehicle. 4. Whenever a vehicle or part which is in the possession of the state police or any other state agency or a local police agency or other local authority is returned to an owner, the cost of making delivery of the vehicle or part shall be a charge upon such owner. With respect to motor vehicles, trailers and parts held by the state police or any other state agency, the commissioner of the office of general services, after consultation with the commissioner of motor vehicles, shall promulgate regulations to effectuate the provisions of this section. Such regulations may include, but shall not be limited to, provisions for the removal of parts from vehicles, the storage and sale of vehicles and parts and the recovery of costs incurred in performing the duties required herein. 5. Notwithstanding any other provision of law, if the commissioner is holding a vehicle or vehicle part, upon determination of the rightful owner of the vehicle or vehicle part, the commissioner shall give written notice to the owner to retrieve such vehicle or vehicle part. Fifteen days after the receipt of such notice by certified mail, the commissioner shall impose a storage charge of ten dollars a day for a vehicle and five dollars a day for a vehicle part or parts. Unpaid storage charges shall be a lien upon the vehicle or vehicle part and such lien may be foreclosed in accordance with article nine of the lien law. Any moneys collected as storage charges or as the result of foreclosure of liens for storage shall be used to fund the motor vehicle theft prevention program established by section two hundred twenty-three of this chapter.

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§ 423. Peace officers and their duties. The officers and members of the state police, any local police department and any peace officer acting pursuant to his special duties shall have and exercise the power and it shall be their duty to investigate and make arrests for violations of the provisions of this chapter. They shall investigate any theft of a motor vehicle or trailer, of which they receive notice or have information, and arrest or cause the arrest of any person where reasonable grounds exist to believe that such person has stolen a motor vehicle or trailer, and, when necessary for such arrest, make complaint on information before the proper court or magistrate.

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(b) For the purposes of this subdivision the term "impound" shall be deemed to include the taking into possession by an agency of any motor vehicle which has been abandoned, repossessed, seized pending forfeiture proceedings, taken into custody or held as

evidence in the course of a police investigation, required to be impounded by law, or in any other way taken into possession or held by an agency under circumstances in which the owner may not reasonably have knowledge of the status of the vehicle. Nothing contained herein shall preclude a police department, which has taken a vehicle into custody under these or other circumstances, from entering a vehicle into the New York statewide police information network as an impounded vehicle to facilitate location of the vehicle by its owner. 2. Any police officer, state trooper or peace officer acting pursuant to his or her special duties shall have the power to seize any motor vehicle or trailer in the state when there is good reason to believe that such motor vehicle or trailer has been stolen. Unless the vehicle is subject to the provisions of section four hundred twenty-three-a of this article, the appropriate agency shall contact the owner of such motor vehicle or trailer, if known, and, after any stolen vehicle alarm resulting from such theft has been cancelled, release the vehicle to such owner. If the owner thereof cannot be ascertained in accordance with procedures established by regulations of the commissioner, a local police agency shall dispose of such vehicle as an abandoned vehicle pursuant to section twelve hundred twenty-four of this chapter, and the state police shall hold such vehicle for, or deliver it to the office of general services.

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§ 425. Repossession of motor vehicle or motorcycle; garageman's lien; notice to police. 1. Any person, firm or corporation, or agent, employee or representative thereof, repossessing or retaking a motor vehicle or motorcycle pursuant to the provisions of article nine of the uniform commercial code, or other authority of law, or any contract or agreement, shall, immediately following such repossession or retaking, personally appear at a station house or other office of the police department, or agency or officer performing like functions, in the locality wherein such repossession or retaking occurred, give notice to such department, agency or officer of such repossession or retaking and thereafter and within twenty-four hours of the tenth day after such repossession or retaking personally deliver or mail by first class mail to the nearest motor vehicle office of the state or county acting as an agent of the commissioner pursuant to section two hundred five of this chapter, (a) notice of such repossession or retaking in such form as the commissioner may require and (b) the number plates of such motor vehicle or motorcycle. Notice of such repossession or retaking, including the name and address of the person, firm or corporation repossessing or retaking the same, shall also be given within twenty-four hours thereof to the owner of such motor vehicle or motorcycle, either personally or by registered or certified mail, or by first class mail, with a certificate of mailing properly endorsed by the postal service to be obtained, directed to such owner at his or her last-known address. Unless the motor vehicle or motorcycle can be repossessed or retaken without breach of the peace, it shall be repossessed or retaken by legal process, but nothing herein contained shall be construed to authorize a violation of the criminal law. 2. Any person, firm or corporation, or agent, employee or representative thereof holding a motor vehicle or motorcycle under a lien for repairs or storage pursuant to any authority of law, or any contract or agreement shall return any registration plates for such vehicle which are in his possession to the registrant upon the registrant's request, or if not so returned shall, within twenty-four hours after such request, personally deliver or mail by special delivery first class mail to the nearest motor vehicle office (a) notice of such holding in such form as the commissioner may require and (b) the number plates of such motor vehicle or motorcycle.

2024 New York LawsVAT - Vehicle and TrafficTitle 4 - Registration of VehiclesArticle 17 - Other Provisions Relating to Registration and Possession426 - Punishment for Making False Statement; Stolen Vehicles.

§ 426. Punishment for making false statement; stolen vehicles. Any person who shall knowingly make any false statement of a material fact in any endorsement of a certificate of registration, certificate of title or other proof of ownership, upon a sale or transfer of a motor vehicle or trailer, or who, with intent to procure or pass title to a motor vehicle or trailer which he knows, or has reason to believe, has been stolen, shall receive or transfer possession of the same from or to another, or who shall have in his possession any motor vehicle or trailer which he knows, or has reason to believe, has been stolen, and who is not an officer of the law engaged at the time in the performance of his duty as such officer shall be guilty of a class E felony.

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§ 427. Disposition of registration fees. 1. The commissioner of motor vehicles shall deposit all fees collected under this chapter, except as otherwise provided in subdivision twenty-one of section four hundred one of this chapter, in a responsible bank, banking house or trust company in the city of Albany, which shall pay the highest rate of interest to the state for such deposit, to the credit of the comptroller on account of the motor vehicle law. Every such bank, banking house or trust company shall execute and file in the office of the department of audit and control an undertaking to the state, in the sum, and with such sureties, as are required and approved by the comptroller for the safe keeping and prompt payment on legal demand therefor of all such moneys held by or on deposit in such bank, banking house, or trust company, with interest thereon on daily balances at such rate as the comptroller may fix. Every such undertaking shall have endorsed thereon or annexed thereto the approval of the attorney-general as to its form. The comptroller shall on the first day of each month make a verified return to the department of taxation and finance, of all fees received by him under this chapter during the preceding calendar months, stating from what county received and by whom and when paid. 2. The comptroller, after reserving sufficient to provide at all times a fund in his hands of five thousand dollars out of which he shall pay any refund under this chapter, approved by him and by the commissioner, shall on or before the tenth day of each month pay to the department of taxation and finance the balance to his credit in such bank, banking house or trust company, on account of fees

collected under this chapter at the close of business on the last day of the preceding month and such department shall pay such balance into the general fund of the state treasury. 3. An amount equal to ninety per centum of the fees specified in subdivision two of this section shall be appropriated and used for the construction, reconstruction, maintenance and repair of highways and bridges, under the direction of the department of transportation; and for inspection, regulation, and research in the control of motor vehicle exhaust emissions under the direction of the department of environmental conservation. The amount available for control of motor vehicle exhaust emissions from said ninety per centum of the fees collected shall be computed at the rate of five cents per registration issued and shall be available for payment to the state purposes fund for repayment of advances made in the first instance from that fund for control of motor vehicle emissions.

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§ 428. Refunds. 1. Any fee paid for the registration of a vehicle under the provisions of this chapter shall be refunded, less the sum of one dollar, provided that the commissioner and the state comptroller are satisfied that the registration has not been used and the number plates and sticker have been surrendered to the commissioner within two months after the date the fee was paid or the beginning of the registration period for which the registration was issued, whichever comes later and application therefor is filed with the commissioner within the period of validity for which such registration was issued. 1-a. Notwithstanding the provisions of subdivision one of this section, if a registration is issued for a period of not less than two years pursuant to paragraph c of subdivision five of section four hundred one of this chapter, the registration fee paid for the period commencing after the first twelve month period of such registration shall be refunded less the sum of one dollar provided the number plates are surrendered to the commissioner before the end of the first twelve month period of such registration and application therefor is filed with the commissioner within two months from the expiration of the first twelve month period of such registration. 1-b. The commissioner is directed to make public notification that registration fees shall be refunded and to send by first class mail a written notice and an application for refund of any registration fees to any person entitled to a registration fee refund according to subdivision one-a of this section that has been unable to obtain a registration fee refund during the period commencing September first, nineteen hundred ninety-seven and ending June thirtieth, nineteen hundred ninety-eight. Such written notice shall advise such person that a registration fee shall be refunded after an application for refund is filed with the commissioner. Such public notification shall be made through such newspapers throughout all regions of the state as may be designated by the commissioner. No application for a refund of registration fees shall be denied because of the failure to file an application therefor within two months of the expiration date of the first twelve month period of such registration if such registration was surrendered between September first, nineteen hundred ninety-seven and June thirtieth, nineteen hundred ninety-eight and the applicant therefor has not received credit for such registration fees pursuant to section four hundred twenty of the vehicle and traffic law. 2. Upon the surrender to the commissioner of the number plates or plate issued for a vehicle registered under the provisions of this chapter and the furnishing of proof satisfactory to the commissioner and the state comptroller that the owner of the vehicle entered the armed forces of the United States after such vehicle was registered, and that the registration of such vehicle is in full effect, there shall be refunded to such owner, or to such person as he shall designate in writing, a sum equal to as many twelfths of the fee paid for the registration of the vehicle as there are full calendar months in the registration year following the date of the receipt of the number plates or plate, less the sum of one dollar. 3. Where a refund of any part of a registration fee is made pursuant to the foregoing provisions of this section, the registration shall thereupon be automatically cancelled. 4. The application fee accompanying an accepted application for a driver's license shall in no case be refunded. 5. Money paid for fees in excess of the amounts required by law may be refunded subject to approval of the commissioner and the state comptroller, provided application therefor is filed with the commissioner within one year after the date the fee was paid or, with respect to fees paid for a registration, on or before the expiration of the registration for which such fee was paid, whichever occurs later.

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(b) By a vehicle dismantler. Whenever a person who is engaged in a business requiring him to be registered as a vehicle dismantler or an itinerant vehicle collector acquires a motor vehicle which has been sold or otherwise disposed of as junk or for salvage, such person shall deliver a statement concerning such acquisition to the commissioner as provided in this section. Such person shall deliver the certificate of title or any other ownership documents relating to such motor vehicle properly executed to transfer title by the transferor to the vehicle dismantler or itinerant vehicle collector and notices of release of security interest from any lienholder whose lien has been satisfied to the commissioner with the required statement of acquisition. However, the provisions of this subdivision shall not apply to a vehicle which has been transferred to a vehicle dismantler registered under section four hundred fifteen-a of this chapter by means of a document issued pursuant to this section. The commissioner may, by regulation, allow the requirements of this subdivision with respect to the delivery of documents to be satisfied by an electronic filing of the necessary information by or on behalf of the person to whom such requirements apply. (c) By other persons. Whenever a person other than a person described in paragraph (a) or (b) of this subdivision acquires ownership of a motor vehicle which has been sold or otherwise disposed of as junk or salvage or which is to be dismantled for use other than as a motor vehicle, such person shall deliver a statement concerning such acquisition to the commissioner as provided in this section. Such person shall deliver the certificate of title and any other ownership documents relating to such motor vehicle properly executed to transfer title by the transferor to such

person and notices of release of security interest from any lienholder whose lien has been satisfied to the commissioner with the required statement of acquisition. However, the provisions of this subdivision shall not apply to a vehicle which has been transferred to any such person by means of a document issued pursuant to this section or to a scrap processor by a person registered or certified pursuant to section four hundred fifteen-a of this chapter. (d) A statement of acquisition and all documents required to be submitted to the commissioner pursuant to this section or regulations promulgated thereunder must be so submitted within the time specified by regulation of the commissioner. Any person who, knowingly and willfully, and with intent to defraud a subsequent purchaser as to the applicable status of a motor vehicle, makes any false statement on an application for title or duplicate title for a motor vehicle pursuant to this section or fails to submit the statement of acquisition and supporting documentation to the commissioner within the time specified by regulation shall be subject to a civil penalty of up to two thousand dollars for each offense found to have been committed. Such penalty may only be imposed if such person has had the opportunity to be heard before an officer or employee of the department designated for such purpose by the commissioner, upon any charge of a violation of this paragraph or regulations promulgated by the commissioner with respect to this paragraph. 1-a. Requirements for certain fleet vehicles. (a) Whenever a motor vehicle titled or registered by a fleet owner becomes a severely damaged fleet vehicle, prior to the transfer of such vehicle or any major component part thereof, the fleet owner shall deliver a statement concerning such occurrence to the commissioner as provided in this section. Such fleet owner shall deliver the certificate of title in its name or any other ownership documents relating to such motor vehicle and notices of release of security interest from any lienholder whose lien has been satisfied to the commissioner with the required statement concerning such occurrence. Such a statement shall be subject to all provisions of law applicable to a statement of acquisition except as may otherwise be specified by regulation of the commissioner. (b) For the purposes of this section, a fleet owner shall mean a person who has twenty-five or more vehicles titled or registered in his name in this state and who does not have such vehicles insured for damage or theft by an insurance company duly authorized to transact business in this state. (c) For the purposes of this section, a severely damaged fleet vehicle shall mean a motor vehicle titled or registered in the name of a fleet owner in this state or in any other state or province of Canada which has received damage and which has not been placed back in fleet use by the fleet owner subsequent to receipt of such damage. However, it shall not include a motor vehicle titled and registered in another state or a province of Canada if the damage was incurred outside of this state and the vehicle is sold by the fleet owner outside of this state, or shall include a motor vehicle which has a fair market value after such damage of at least sixty percent of the fair market value of an undamaged similar model vehicle unless such motor vehicle requires the replacement of the engine in order to be made operable. (d) If a severely damaged fleet vehicle is sold by a fleet owner in violation of this section, the purchaser or any subsequent good faith purchaser, may rescind such sale and recover the price he paid to his transferor for the vehicle from the fleet owner. Recovery of the purchase price may be enforced in a civil action to recover damages. (e) The provisions of this subdivision shall not apply to any vehicle titled or registered in the name of a public utility subject to the authority of the public service commission for which such utility has obtained an exemption in accordance with the following provisions of this subdivision. In order to obtain such exemption, the utility must forward to the commissioner a listing, including model year, make and vehicle identification number of any or all vehicles for which exemption is requested not more than sixty and not less than thirty days prior to the date of proposed sale of such vehicle or vehicles. Such listing shall contain the date, time and place of such proposed sale. Any vehicle contained on such listing shall be exempt from the provisions of this subdivision, but such exemption shall be applicable only with respect to a sale of any such vehicle made upon the date contained on the listing. 2. Transfer of junk and salvage vehicles. (a) When an insurance company, vehicle dismantler, fleet owner, or any other person submits a statement of acquisition for a junk or salvage vehicle or a severely damaged fleet vehicle, as provided in subdivision one or one-a of this section, such insurance company, vehicle dismantler, or other person shall prepare and distribute a statement of acquisition in accordance with regulations promulgated by the commissioner. A copy of such statement of acquisition designated by the commissioner shall serve as proof of ownership for the vehicle and shall provide a method of transfer of such a vehicle as a junk vehicle and may serve as an application for title if the vehicle is subsequently rehabilitated or repaired for the purpose of being operated upon the public highways. (b) The provisions of section four hundred twenty-one of this chapter prohibiting the sale of a motor vehicle with a removed, altered or defaced vehicle identification number plate shall not apply to the sale of any junk or salvage vehicle or any severely damaged fleet vehicle from an insurance company, a vehicle dismantler, a local authority, fleet owner or a dealer registered under section four hundred fifteen of this chapter provided the proof of ownership for such vehicle consists of a valid statement of acquisition and such statement of acquisition which transfers ownership of such vehicle indicates that the vehicle identification number plate is missing, altered or defaced. (c) No person shall sell or advertise for sale or solicit a bid for the purchase of a junk or salvage vehicle without notifying any prospective purchaser or bidder of the existence or non-existence of any security interest with respect to such junk or salvage vehicle. If a security interest exists with respect to such vehicle, the name or names and address or addresses of the secured party or parties must also be provided to the prospective purchaser or bidder. 3. Items to be surrendered before intentional destruction of motor vehicles. A certified scrap processor or registered vehicle dismantler may crush a motor vehicle still displaying a vehicle identification number plate. The crushing must be so complete that the vehicle identification number plate cannot be readily removed. No other person shall cause or permit a motor vehicle to be scrapped, permanently dismantled or otherwise intentionally destroyed unless the vehicle identification number plate of such motor vehicle has been removed therefrom and either destroyed or delivered to the commissioner together with all title or any other ownership documents pertaining to such motor vehicle as provided in this section. If the vehicle identification number plate is not delivered to the commissioner, a notice indicating the disposition of such plate must accompany the ownership documents required to be submitted to the commissioner. 4. Forms and documents. Any forms or documents used in conjunction with this section shall be in a form

prescribed by the commissioner and shall set forth a complete description of the motor vehicle, the name and address of the person to whom such motor vehicle was sold or transferred or from whom such motor vehicle was acquired together with any other information deemed necessary or desirable by the commissioner to effectuate the provisions and purposes of this section. Any such statement, document or item required to be delivered to the commissioner by any provision of this section shall be deemed to have been so delivered when it has been either personally delivered or sent by mail to the office of the commissioner at the address designated by him. 4-a. Fees for statement of acquisition. The statement of acquisition provided for in this section shall be issued as prescribed by regulation of the commissioner upon payment of a fee of five dollars for each such statement. Such fee shall be paid to the commissioner for deposit in the general fund. 5. Motor vehicle subject to requirements. The provisions of this section shall apply to all motor vehicles sold, surrendered or otherwise disposed of, or acquired, or intentionally destroyed, within this state for which a certificate of title has been issued by the commissioner or which would be eligible to have such a certificate of title issued. 6. Penalties. A violation of any provision of this section shall be a misdemeanor.

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2. The provisions of subdivision one of this section relating to inspection for identification by an employee of the department shall not apply to a motor vehicle which has been transferred to an insurance company in settlement of a claim for the theft of such vehicle, provided the following conditions are met:(i) no major component part of the motor vehicle has been replaced since the theft of such vehicle,(ii) repairs made to the motor vehicle since the recovery of such vehicle either have not exceeded one-fourth of the amount paid by the insurance company in settlement of the claim or have not exceeded one thousand dollars,(iii) the vehicle identification number and all other manufacturers' identifying numbers on the motor vehicle have been examined by the insurance company and are intact in the same form as at the time of the theft of such vehicle,(iv) an affidavit sworn to by an officer of the insurance company is submitted by the insurance company which made payment in settlement of the claim for theft with the application for title certifying to the above conditions, which affidavit shall also certify additional facts as required by the commissioner relating to the theft and recovery of such vehicle and the amount of settlement and repair costs.3. The commissioner may, by regulation, exempt vehicles from the physical examination required by subdivision one of this section based upon the age of the vehicles if the commissioner deems that such physical examination would not further the purposes of the motor vehicle theft prevention program established by section two hundred twenty-three of this chapter.4. Fees; deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the general fund, with the exception of the fifty dollar increase in the fee for scheduling an examination pursuant to subdivision one of this section, which shall be deposited to the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law. (i) no major component part of the motor vehicle has been replaced since the theft of such vehicle, (ii) repairs made to the motor vehicle since the recovery of such vehicle either have not exceeded one-fourth of the amount paid by the insurance company in settlement of the claim or have not exceeded one thousand dollars, (iii) the vehicle identification number and all other manufacturers' identifying numbers on the motor vehicle have been examined by the insurance company and are intact in the same form as at the time of the theft of such vehicle, (iv) an affidavit sworn to by an officer of the insurance company is submitted by the insurance company which made payment in settlement of the claim for theft with the application for title certifying to the above conditions, which affidavit shall also certify additional facts as required by the commissioner relating to the theft and recovery of such vehicle and the amount of settlement and repair costs. 3. The commissioner may, by regulation, exempt vehicles from the physical examination required by subdivision one of this section based upon the age of the vehicles if the commissioner deems that such physical examination would not further the purposes of the motor vehicle theft prevention program established by section two hundred twenty-three of this chapter. 4. Fees; deposited. Fees assessed under this section shall be paid to the commissioner for deposit to the general fund, with the exception of the fifty dollar increase in the fee for scheduling an examination pursuant to subdivision one of this section, which shall be deposited to the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law.

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§ 431. Vehicle identification numbers. 1. Every manufacturer or assembler of a vehicle sold in this state shall provide such vehicle with a vehicle identification number and, upon request of the commissioner, shall inform him concerning the location or locations of every vehicle identification number and other identifying numbers on such vehicle. The commissioner may refuse to register or issue a certificate of title for a vehicle made by a manufacturer or assembler who fails to comply with this section. 2. Whenever a special vehicle identification number has been issued by the commissioner, notification of such fact shall be promptly forwarded by the commissioner to the central organization designated by the superintendent of financial services pursuant to section three thousand four hundred twelve of the insurance law.

Title: vat

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§ 500. Application of this title. Except as otherwise expressly provided in this chapter, this title shall be exclusively controlling: a. Upon the licensing and regulation of drivers; and b. On their use of public highways.

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(2) driver or bus driver shall mean every person: (i) who is self-employed and drives a bus for hire or profit; or (ii) who is employed by a motor carrier and operates a bus owned, leased or rented by such employer; or (iii) who as a volunteer drives a bus which is owned, leased or rented by a motor carrier. Provided, however, bus driver shall not include those persons who are engaged in the maintenance, repair or garaging of such buses and in the course of their duties must incidentally drive a bus without passengers, or who, as a volunteer, drive a bus with passengers for less than thirty days each year; (3) motor carrier shall mean any person, corporation, municipality, or entity, public or private, who directs one or more bus drivers and who operates a bus wholly within or partly within and partly without this state in connection with the business of transporting passengers for hire or in the operation or administration of any business, or place of vocational, academic or religious instruction or religious service for persons under the age of twenty-one or persons of any age who are mentally disabled including nursery schools, day care centers and camps, or public agency, except such out-of-state public or governmental operators who may be exempted from the provisions of this article by the commissioner through regulation promulgated by the commissioner; (4) intoxicating liquor shall mean and include, alcohol, spirits, liquor, wine, beer and cider having alcoholic content; (5) drug shall mean any substance listed in section thirty-three hundred six of the public health law not dispensed or consumed pursuant to a lawful prescription; (6) controlled substance shall mean any substance listed in section thirty-three hundred six of the public health law not dispensed or consumed pursuant to lawful prescription. (7) accident shall include any accident with another vehicle, object or person, which occurs in this state or elsewhere, in which any person is killed or injured, or in which damage to the property of any one person, including the operator, in excess of one thousand five hundred dollars is sustained, or in which damage in excess of two thousand five hundred dollars is sustained to any bus as defined in section one hundred four of this chapter; provided however that accidents occurring outside this state shall not be recorded on the driver's license record.

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(1) is at least eighteen years old; (2) has been issued a currently valid driver's license or permit which is valid for the operation of the bus in this state; (3) has passed the bus driver physical examination administered pursuant to regulations established by the commissioner; and (4) is not disqualified to drive a motor vehicle pursuant to section five hundred nine-c or any other provision of this article.

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(2) The commissioner may require any person who meets the criteria set forth in subdivision one of this section to submit to such an examination as the commissioner shall deem appropriate. Every required road test shall be administered on an appropriate vehicle defined as a bus pursuant to section five hundred nine-a of this article. (3) For purposes of this section, one such accident shall not be counted if the person successfully completes a motor vehicle accident prevention course approved by the commissioner. (4) Upon the failure of the licensee to successfully complete a reexamination authorized by this section, the commissioner shall take such reasonable action as may be required. Such action may consist of imposing restrictions on the use of the license of such person, suspending such license for a definite or indefinite period, or revoking such license. The commissioner may revoke or suspend for an indefinite period the license of any person who after reasonable notice fails or refuses to submit to such reexamination. No person whose license has been suspended or revoked under this section shall be qualified to operate a bus until such person successfully completes a reexamination authorized by this section. (5) Upon a driver's successful completion of a reexamination required by this section, the commissioner shall issue an eighteen-month probationary license to such driver and all of the provisions of section five hundred ten-b of this article shall apply.

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(a) permanently, if that person has been convicted of or forfeited bond or collateral which forfeiture order has not been vacated or the subject of an order of remission upon a violation of section 130.30, 130.35, 130.45, 130.50, 130.60, or 130.65 of the penal law, or an offense committed under a former section of the penal law which would constitute a violation of the aforesaid sections of the penal law or any offense committed outside of this state which would constitute a violation of the aforesaid sections of the penal law, provided, however, the provisions of this paragraph shall not apply to convictions, suspensions or revocations or forfeitures of

bonds for collateral upon any of the charges listed in this paragraph for violations which occurred prior to September first, nineteen hundred seventy-four committed by a person employed as a bus driver on September first, nineteen hundred seventy-four. However, such disqualification may be waived provided that five years have expired since the applicant was discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. (b) for a period of five years from the date of last conviction specified herein, if that person (i) has been convicted of any violation of any subdivision of section eleven hundred ninety-two of this chapter or an offense committed outside this state which would constitute a violation of section eleven hundred ninety-two of this chapter, and the offense was committed while the driver was driving a bus in the employ of a motor carrier or in the furtherance of a commercial enterprise in interstate, intrastate or foreign commerce; (ii) has been twice convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter or offenses committed outside this state which would constitute a violation of section eleven hundred ninety-two of this chapter, committed within the preceding five year period; (iii) has been twice convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter, or an offense committed outside of this state which would constitute a violation of any subdivision of section eleven hundred ninety-two of this chapter, committed within any ten year period after September fifteenth, nineteen hundred eighty-five; or (iv) has been convicted of leaving the scene of an accident which resulted in personal injury or death under subdivision two of section six hundred of this chapter or an offense committed outside of this state which would constitute a violation of subdivision two of section six hundred of this chapter. Such disqualification shall be for a period of three years if such conviction occurred prior to September fifteenth, nineteen hundred eighty-five; or (v) has been convicted of a violation of section 120.04, 120.04-a, 125.13, 125.14 or 235.07 of the penal law. (c) for a period of five years from the date of last conviction, if that person has been convicted of a violation of subdivision three of section five hundred eleven of this chapter on or after September fifteenth, nineteen hundred eighty-five; (d) for a period of one year, if that person has accumulated nine or more points on his or her driving record for acts that occurred during an eighteen month period on or after September fifteenth, nineteen hundred eighty-five, provided, however, that the disqualification shall terminate if the person has reduced the points to less than nine through the successful completion of a motor vehicle accident prevention course. (e) for a period of one year, if that person was the operator of a motor vehicle involved in two or more accidents of a nature and type set forth in section five hundred nine-a of this article, where such accidents occurred within an eighteen-month period following a reexamination conducted pursuant to section five hundred nine-bb of this article, provided that accidents in which the driver was completely without fault shall not be included in determining whether such disqualification is required; (f) for a period of one year, if that person fails to pass a road test administered pursuant to section five hundred nine-bb of this article; provided, however, that such person shall be given the opportunity to complete a motor vehicle accident prevention course approved by the commissioner and to then undergo a second road test administered pursuant to section five hundred nine-bb of this article, and such disqualification shall cease if such person passes such second road test. (g) for the period that such person's license is revoked or suspended for violating section eleven hundred ninety-two of this chapter or an offense committed outside of this state which would constitute a violation of section eleven hundred ninety-two of this chapter. Such disqualification shall be for not less than six months. (2) All other bus drivers who are not subject to subdivision one of this section shall be disqualified from operating a bus as follows: (a) permanently, if that person has been convicted of or forfeited bond or collateral which forfeiture order has not been vacated or the subject of an order of remission upon a violation committed prior to September fifteenth, nineteen hundred eighty-five, of section 130.30, 130.35, 130.45, 130.50, 130.60, or 130.65 of the penal law, or an offense committed under a former section of the penal law which would constitute a violation of the aforesaid sections of the penal law or any offense committed outside of this state which would constitute a violation of the aforesaid sections of the penal law. However, such disqualification may be waived provided that five years have expired since the applicant was discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. (b) for a period of five years from the date of last conviction specified herein, if the person (i) has been convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter or an offense committed outside this state which would constitute a violation of section eleven hundred ninety-two of this chapter, and the offense was committed while the driver was driving a bus in the employ of a motor carrier or in the furtherance of a commercial enterprise in interstate, intrastate or foreign commerce; (ii) has been twice convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter or an offense committed outside of this state within any ten year period on or after September fifteenth, nineteen hundred eighty-five, which would constitute a violation of section eleven hundred ninety-two of this chapter; or (iii) has been convicted of leaving the scene of an accident which resulted in personal injury or death under subdivision two of section six hundred of this chapter or an offense committed outside of this state which would constitute a violation of subdivision two of section six hundred of this chapter; or (iv) has been convicted of a violation of section 120.04, 120.04-a, 125.13 or 235.07 of the penal law. (c) for a period of five years from the date of last conviction, if that person has been convicted of any violation of subdivision three of section five hundred eleven of this chapter on or after September fifteenth, nineteen hundred eighty-five; (d) for a period of one year, if that person accumulates nine or more points on his or her driving record for acts occurring during an eighteen month period, provided, however, that the disqualification shall terminate if the person has reduced the points to less than nine through the successful completion of a motor vehicle accident prevention course. (e) for a period of one year, if that person was the operator of a motor vehicle involved in two or more accidents of a nature and type set forth in section five hundred nine-a of this article, where such accidents occurred within an eighteen-month period following a

reexamination conducted pursuant to section five hundred nine-bb of this article, provided that accidents in which the driver was completely without fault shall not be included in determining whether such disqualification is required; (f) for a period of one year, if that person fails to pass a road test administered pursuant to section five hundred nine-bb of this article; provided, however, that such person shall be given the opportunity to complete a motor vehicle accident prevention course approved by the commissioner and to then undergo a second road test administered pursuant to section five hundred nine-bb of this article, and such disqualification shall cease if such person passes such second road test. (g) for the period that such person's license is revoked or suspended for violating section eleven hundred ninety-two of this chapter or an offense committed outside of this state which would constitute a violation of section eleven hundred ninety-two of this chapter. Such disqualification shall be for not less than six months. (3) A person shall be disqualified from operating a bus if that person has had any license, permit, or privilege to operate a motor vehicle suspended, revoked, withdrawn or denied and such license, permit or privilege has not been reinstated by the authority which took such action. Provided, however, that the provisions of this subdivision shall not apply to a person whose (i) license, permit or privilege to operate a motor vehicle cannot be reinstated because of non-residency in the state in which the license was suspended, revoked, withdrawn or denied or (ii) a person holds a conditional driver's license or a restricted use license issued by the commissioner pursuant to the provisions of article twenty-one or twenty-one-A of this chapter, and is not disqualified under any other provision of this article.

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(a) permanently, if that person (i) has been convicted of or forfeited bond or collateral which forfeiture order has not been vacated or the subject of an order of remission upon a violation committed prior to September fifteenth, nineteen hundred eighty-five, of section 130.30, 130.35, 130.45, 130.50, 130.60, or 130.65 of the penal law, or an offense committed under a former section of the penal law which would constitute a violation of the aforesaid sections of the penal law or any offense committed outside of this state which would constitute a violation of the aforesaid sections of the penal law, provided, however, the provisions of this subparagraph shall not apply to convictions, suspensions or revocations or forfeitures of bonds for collateral upon any of the charges listed in this subparagraph for violations which occurred prior to September first, nineteen hundred seventy-four committed by a person employed as a bus driver on September first, nineteen hundred seventy-four. However, such disqualification may be waived provided that five years have expired since the applicant was discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children to the applicant's prospective employment, prior to granting such a certificate; or (ii) has been convicted of an offense listed in paragraph (a) of subdivision four of this section that was committed on or after September fifteenth, nineteen hundred eighty-five. However, such disqualification may be waived by the commissioner provided that five years have expired since the applicant was discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children, prior to granting such a certificate; or (iii) has been convicted of an offense listed in paragraph (b) of subdivision four of this section that was committed on or after September fifteenth, nineteen hundred eighty-five. However, such disqualification shall be waived provided that five years have expired since the applicant discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children, prior to granting such a certificate. Provided, however, that at the discretion of the commissioner, the certificate of relief from disabilities may remove disqualification at any time; or (b) for a period of five years from the date of last conviction specified herein, if that person (i) has been convicted within the preceding five years of an offense listed in paragraph (c) of subdivision four of this section that was committed on or after September fifteenth, nineteen hundred eighty-five. However, such disqualification shall be waived provided that the applicant has been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children, prior to granting such a certificate; (ii) has been convicted of any violation of section eleven hundred

ninety-two of this chapter or an offense committed outside this state which would constitute a violation of section eleven hundred ninety-two of this chapter, and the offense was committed while the driver was driving a bus in the employ of a motor carrier or in the furtherance of a commercial enterprise in interstate, intrastate or foreign commerce; (iii) has been twice convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter or offenses committed outside this state which would constitute a violation of section eleven hundred ninety-two of this chapter, committed within the preceding five year period; (iv) has been twice convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter, or an offense committed outside of this state which would constitute a violation of any subdivision of section one thousand one hundred ninety-two of this chapter, committed within any ten year period after September fifteenth, nineteen hundred eighty-five; or (v) has been convicted of leaving the scene of an accident which resulted in personal injury or death under section six hundred of this chapter or an offense committed outside of this state which would constitute a violation of section six hundred of this chapter. (c) for a period of five years from the date of last conviction, if that person has been convicted of a violation of subdivision three of section five hundred eleven of this chapter on or after September fifteenth, nineteen hundred eighty-five; (d) for a period of one year, if that person has accumulated nine or more points on his or her driving record for acts that occurred during an eighteen month period on or after September fifteenth, nineteen hundred eighty-five, provided, however, that the disqualification shall terminate if the person has reduced the points to less than nine through the successful completion of a motor vehicle accident prevention course. (e) for a period of one year, if that person or was the operator of a motor vehicle involved in two or more accidents of a nature and type set forth in section five hundred nine-a of this article, where such accidents occurred within an eighteen-month period following a reexamination conducted pursuant to section five hundred nine-bb of this article, provided that accidents in which the driver was completely without fault shall not be included in determining whether such disqualification is required; (f) for a period of one year, if that person fails to pass a road test administered pursuant to section five hundred nine-bb of this article; provided, however, that such person shall be given the opportunity to complete a motor vehicle accident prevention course approved by the commissioner and to then undergo a second road test administered pursuant to section five hundred nine-bb of this article, and such disqualification shall cease if such person passes such second road test. (g) for the period that such person's license is revoked or suspended for violating section eleven hundred ninety-two of this chapter or an offense committed outside of this state which would constitute a violation of section eleven hundred ninety-two of this chapter. Such disqualification shall be for not less than six months. (2) All other school bus drivers who are not subject to subdivision one of this section shall be disqualified from operating a bus as follows: (a) permanently, if that person has been convicted of an offense listed in paragraph (a) of subdivision four of this section. However, such disqualification may be waived by the commissioner provided that five years have expired since the applicant was discharged or released from a sentence of imprisonment imposed pursuant to conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children to the applicant's prospective employment, prior to granting such a certificate. (b) permanently, if that person has been convicted of an offense listed in paragraph (b) of subdivision four of this section. However, such disqualification shall be waived provided that five years have expired since the applicant was incarcerated pursuant to a sentence of imprisonment imposed on conviction of an offense that requires disqualification under this paragraph and that the applicant shall have been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children, prior to granting such a certificate. Provided, however, that at the discretion of the commissioner the certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law may remove disqualification at any time. (c) for a period of five years from the date of last conviction specified herein, if that person (i) has been convicted within the preceding five years of an offense listed in paragraph (c) of subdivision four of this section. However, notwithstanding the provisions of subdivision three of section seven hundred one of the correction law. Such disqualification shall be waived provided that the applicant has been granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. When the certificate is issued by a court for a conviction which occurred in this state, it shall only be issued by the court having jurisdiction over such conviction. Such certificate shall specifically indicate that the authority granting such certificate has considered the bearing, if any, the criminal offense or offenses for which the person was convicted will have on the applicant's fitness or ability to operate a bus transporting school children, prior to granting such a certificate. (ii) has been convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter or an offense committed outside of this state which would constitute a violation of section eleven hundred ninety-two of this chapter, and the offense was committed while the driver was driving a bus in the employ of a motor carrier or in the furtherance of a commercial enterprise in interstate, intrastate or foreign commerce; (iii) has been twice convicted of a violation of any subdivision of section eleven hundred ninety-two of this chapter or an offense committed outside of this state within any ten year period on or after September fifteenth, nineteen hundred eighty-five, which would constitute a violation of section eleven hundred ninety-two of this chapter; or (iv) has been convicted of leaving the scene of an accident which resulted in personal injury

or death under subdivision two of section six hundred of this chapter or an offense committed outside of this state which would constitute a violation of subdivision two of section six hundred of this chapter; or (v) has been convicted of a violation of section 120.04, 120.04-a, 125.13, 125.14 or 235.07 of the penal law. (d) for a period of five years from the date of last conviction, if that person has been convicted of a violation of subdivision three of section five hundred eleven of this chapter on or after September fifteenth, nineteen hundred eighty-five; (e) for a period of one year, if that person accumulates nine or more points on his or her driving record for acts occurring during an eighteen month period, provided, however, that the disqualification shall terminate if the person has reduced the points to less than nine through the successful completion of a motor vehicle accident prevention course. (f) for a period of one year, if that person was the operator of a motor vehicle involved in two or more accidents of a nature and type set forth in section five hundred nine-a of this article, where such accidents occurred within an eighteen-month period following a reexamination conducted pursuant to section five hundred nine-bb of this article, provided that accidents in which the driver was completely without fault shall not be included in determining whether such disqualification is required; (g) for a period of one year, if that person fails to pass a road test administered pursuant to section five hundred nine-bb of this article; provided, however, that such person shall be given the opportunity to complete a motor vehicle accident prevention course approved by the commissioner and to then undergo a second road test administered pursuant to section five hundred nine-bb of this article, and such disqualification shall cease if such person passes such second road test. (h) for the period that such person's license is revoked or suspended for violating section eleven hundred ninety-two of this chapter or an offense committed outside of this state which would constitute a violation of section eleven hundred ninety-two of this chapter. Such disqualification shall be for not less than six months. (3) A person shall be disqualified from operating a school bus if that person has had any license, permit, or privilege to operate a motor vehicle suspended, revoked, withdrawn or denied and such license, permit or privilege has not been reinstated by the authority which took such action. Provided, however, that the provisions of this subdivision shall not apply to a person whose (i) license, permit or privilege to operate a motor vehicle cannot be reinstated because of non-residency in the state in which the license was suspended, revoked, withdrawn or denied or (ii) a person holds a conditional driver's license or a restricted use license issued by the commissioner pursuant to the provisions of article twenty-one or twenty-one-A of this chapter, and is not disqualified under any other provision of this article. (4) (a) The offenses referred to in subparagraph (ii) of paragraph (a) of subdivision one and paragraph (a) of subdivision two of this section that result in permanent disqualification shall include a conviction under sections 125.12, 125.13, 125.14, 125.15, 125.20, 125.21, 125.22, 125.25, 125.26, 125.27, 130.30, 130.35, former sections 130.45 and 130.50, sections 130.65, 130.66, 130.67, 130.70, 130.75, 130.80, 130.90, 130.95, 130.96, 135.25, 150.20, 230.30, 230.32, 230.34, 230.34-a, 235.22, 263.05, 263.10, 263.11, 263.15, 263.16 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law. (b) The offenses referred to in subparagraph (ii) of paragraph (a) of subdivision one and paragraph (b) of subdivision two of this section that result in permanent disqualification shall include a conviction under sections 100.13, 105.15, 105.17, 115.08, 120.12, 120.70, 125.10, 125.11, former section 130.40, sections 130.53, 130.60, 130.65-a, 135.20, 160.15, 220.18, 220.21, 220.39, 220.41, 220.43, 220.44, 230.25, 260.00, 265.04 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law. (c) The offenses referred to in subparagraph (i) of paragraph (b) of subdivision one and subparagraph (i) of paragraph (c) of subdivision two of this section that result in disqualification for a period of five years shall include a conviction under sections 100.10, 105.13, 115.05, 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13, 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17, 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09, 220.16, 220.31, 220.34, 220.60, 220.65, subdivision two of section 222.50, subdivision two of section 222.55, 230.00, 230.05, 230.06, 230.11, 230.12, 230.13, 230.19, 230.20, 235.05, 235.06, 235.07, 235.21, 240.06, 245.00, 260.10, subdivision two of section 260.20 and sections 260.25, 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the penal law or an attempt to commit any of the aforesaid offenses under section 110.00 of the penal law, or any similar offenses committed under a former section of the penal law, or any offenses committed under a former section of the penal law which would constitute violations of the aforesaid sections of the penal law, or any offenses committed outside this state which would constitute violations of the aforesaid sections of the penal law. (5) As a part of such determination concerning whether an individual is disqualified from operating a school bus pursuant to this section, the department shall submit a prospective driver's fingerprints to the division of criminal justice services for a state criminal history record check, as defined in subdivision one of section three thousand thirty-five of the education law, and may submit such fingerprints to the federal bureau of investigation for a national criminal history record check.

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(i) require such person to pass a medical examination to drive a bus as provided in section five hundred nine-g of this article; (ii) obtain a driving record from the appropriate agency in every state in which the person resided or worked and/or held a driver's license or learner's permit during the preceding three years in a manner prescribed by the commissioner; (iii) investigate the person's employment record during the preceding three years in a manner prescribed by the commissioner. (2) Investigations and inquiries of drivers of school buses; maintenance of file; availability to subsequent employer. (a) A motor carrier shall request the department to

initiate a criminal history check for persons employed as drivers of school buses, as defined in paragraph (a) of subdivision one of section five hundred nine-a of this chapter, on September fourteenth, nineteen hundred eighty-five by such motor carrier, in accordance with regulations of the commissioner by requiring such school bus drivers to submit to the mandated fingerprinting procedure. The department of motor vehicles at the request of the motor carrier shall initiate a criminal history check of all current school bus drivers of such motor carrier as well as those hired on or after September fifteenth, nineteen hundred eighty-five by requiring such drivers and applicants to submit to the mandated fingerprinting procedure as part of the school bus driver qualification procedure. Such fingerprinting procedure and the related fee as well as a procedure for the return of such fingerprints upon application of a person who has terminated employment as a school bus driver shall be established in accordance with regulations of the commissioner in consultation with the commissioner of the division of criminal justice services. The fee to be paid by or on behalf of the school bus driver or applicant shall be no more than five dollars over the cost to the commissioner for the criminal history check. No cause of action against the department, the division of criminal justice services, a motor carrier or political subdivision for damages related to the dissemination of criminal history records pursuant to this section shall exist when such department, division, motor carrier or political subdivision has reasonably and in good faith relied upon the accuracy and completeness of criminal history information furnished to it by qualified agencies. Fingerprints submitted to the division of criminal justice services pursuant to this subdivision may also be submitted to the federal bureau of investigation for a national criminal history record check. (b) After a motor carrier has completed the procedures set forth in paragraph (a) this of subdivision, it shall designate each new school bus driver as a conditional school bus driver as defined in section five hundred nine-h of this article, until the carrier is in receipt of information of the new school bus driver's qualification from the department and the required driving records from each appropriate state agency. If the information received indicates that there is a pending criminal offense or driving violation that would require disqualification of a school bus driver under this article, the motor carrier shall require the applicant to provide documentation evidencing the disposition of such offense or violation in accordance with regulations established by the commissioner. The department, upon notice of disqualification to an applicant, shall include in such notice information regarding the applicant's right to appeal and contest any claimed ground for disqualification. Such notice shall also advise the applicant of his or her right to obtain, examine, inspect and copy any information used by the department in support of its determination of disqualification. In the event the applicant contests the existence of a criminal conviction in his or her name, such applicant may provide documentation evidencing the disposition of such offense or violation in accordance with regulations established by the commissioner. (3) Each motor carrier shall retain the following records in each driver's file for a period of three years, in accordance with regulations established by the commissioner: (i) a driver abstract of operating record provided by the department and the written information provided by the appropriate agency of another state for each twelve month period; (ii) replies from the department regarding the driver's qualifications, as well as, any subsequent information concerning any pending criminal charges against such driver; (iii) the initial qualifying medical examination form and the biennial medical examination form completed by the carrier's physician; (iv) the annual defensive driving review forms completed pursuant to section five hundred nine-g of this article; and (v) the completed biennial behind-the-wheel examination forms as required under section five hundred nine-g of this article. (4) Each motor carrier shall notify the commissioner on the form and in the manner established by regulation of the commissioner, within ten days, of the date on which a bus driver commences employment, leaves the carrier's employ or is disqualified. Such notification shall be provided in accordance with regulations established by the commissioner and shall include any information the motor carrier has relative to the bus driver's disqualification, including any information regarding criminal charges pending against the driver for violations which would disqualify the driver if a conviction resulted. (5) Each motor carrier shall furnish the department, by October fifteenth, nineteen hundred eighty-five, a list of all bus drivers employed on September fourteenth, nineteen hundred eighty-five in accordance with regulations established by the commissioner. (5-a) Every motor carrier shall furnish the department, beginning no later than July first, two thousand twenty-one and annually thereafter, a list of each altered motor vehicle commonly referred to as a "stretch limousine", if any, designed to carry nine or more passengers including the driver that such motor carrier operates pursuant to operating authority issued by the commissioner of transportation, including the vehicle identification number and registration number of each such altered motor vehicle, and a list of all drivers such motor carrier employs who drive such altered motor vehicles and whether such driver is qualified or has been disqualified to operate such altered motor vehicle pursuant to this article. (6) Each motor carrier shall furnish the department within ten days of receipt, with a copy of each bus driver's out-of-state driving record it has obtained, if such driver resides in another state, or has been employed in such other state within the past three years. (7) Each motor carrier shall prepare a report setting forth: (a) the number of miles travelled by buses operated by such motor carrier in the preceding twelve months; (b) the number of convictions and accidents involving any driver employed by such motor carrier during the preceding twelve months, as reported to such carrier pursuant to section five hundred nine-f of this chapter; and (c) the number of convictions and accidents per ten thousand miles travelled. Such report shall be filed with the department as an attachment to the affidavit of compliance required by subdivision (c) of section five hundred nine-j of this chapter, and a copy of such report shall be made available by the carrier to any person upon request.

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§ 509-e. Annual review of driving record. Each motor carrier shall, at least once every twelve months, review the driving record of each bus driver it employs to determine whether that driver meets minimum requirements for safe driving and is qualified to drive a bus pursuant to section five hundred nine-b of this article. In reviewing a driving record, the motor carrier must consider any

evidence that the bus driver has violated applicable provisions of the vehicle and traffic law. The motor carrier must also consider the driver's accident record and any evidence that the driver has violated laws governing the operation of motor vehicles, such as speeding, reckless driving, and operating while under the influence of alcohol or drugs, that indicate that the driver has exhibited a disregard for the safety of the public. Such information shall be recorded in the employer's record.

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§ 509-f. Record of violations. Each motor carrier shall, at least once every twelve months, require each bus driver it employs to prepare and furnish it with a list of all violations of motor vehicle traffic laws and ordinances (other than violations involving only parking) of which the driver has been convicted or on account of which he has forfeited bond or collateral and all accidents of a nature or type set forth in section five hundred nine-a of this article in which the driver was involved during the preceding twelve months whether such violations or accidents occurred in this state or elsewhere. Such information shall be recorded in the employer's record.

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1. A biennial examination pursuant to regulations established by the commissioner, by a physician, a certified nurse practitioner to the extent authorized by law and consistent with subdivision three of section six thousand nine hundred two of the education law, or a registered physician assistant who is not the personal physician, nurse practitioner or physician assistant of the driver. Included shall be a requirement to conduct a vision test pursuant to regulations issued by the commissioner. 2. An annual check of the applicant's past driving record, and a personal interview. 3. Regular observation of the driver's defensive driving performance while operating his vehicle with passengers by competent supervisory employees of the carrier, or by competent outside supervisory personnel, with written reports of the observations performed to be maintained in the driver's file. 4. A biennial behind-the-wheel driving test conducted by competent supervisory personnel of the carrier, or competent outside supervisory personnel, to include defensive driving performance. Such driving test may be conducted during the driver's normal daily operations and shall also include:(1) Pretrip inspection.(2) Placing the vehicle in operation.(3) Use of the vehicle's controls and emergency equipment.(4) Operating the vehicle in traffic and while passing other vehicles.(5) Turning the vehicle.(6) Braking and slowing the vehicle by means other than braking.(7) Backing and parking the vehicle.5. In addition to the provisions outlined above, all motor carriers shall require each driver biennially to complete a written or oral examination testing his knowledge of the rules of the road, defensive driving practices and the laws regulating driving a bus in this state. Such examination may be conducted during the driver's normal daily operations.6. (a) All motor carriers shall be required to conduct pre-employment and random drug and alcohol testing in accordance with the provisions and requirements of Part 382 of Title 49 of the Code of Federal Regulations on all drivers of a school bus, as defined by section one hundred forty-two of this chapter, regardless of commercial driver's license endorsement. Every such school bus driver shall be included in the random testing pool from which drivers are randomly selected for testing, and every such driver shall submit to such testing when selected, as required in Part 382 of Title 49 of the Code of Federal Regulations. For the purposes of this section "motor carriers" shall mean a school or municipality that transports children to and from school or any person, corporation or entity in contract with a municipality or school district for the purposes of transporting children to and from school.(b) Drug testing administered pursuant to this section shall, at a minimum, be in conformance with drug testing procedures as set forth in Part 382 of Title 49 of the Code of Federal Regulations.* 7. In addition to the other provisions of this section, in the event the commissioner authorizes or requires the pre-trip safety briefings required pursuant to subdivision nine of section five hundred nine-m of this article to be live and in-person, all motor carriers shall conduct a regular observation of the proficiency of each driver who operates altered motor vehicles commonly referred to as "stretch limousines" directed or operated by such motor carrier, designed to carry nine or more passengers including the driver pursuant to operating authority issued by the commissioner of transportation, in providing such pre-trip safety briefings.* NB Effective April 20, 2025 (1) Pretrip inspection. (2) Placing the vehicle in operation. (3) Use of the vehicle's controls and emergency equipment. (4) Operating the vehicle in traffic and while passing other vehicles. (5) Turning the vehicle. (6) Braking and slowing the vehicle by means other than braking. (7) Backing and parking the vehicle. 5. In addition to the provisions outlined above, all motor carriers shall require each driver biennially to complete a written or oral examination testing his knowledge of the rules of the road, defensive driving practices and the laws regulating driving a bus in this state. Such examination may be conducted during the driver's normal daily operations. 6. (a) All motor carriers shall be required to conduct pre-employment and random drug and alcohol testing in accordance with the provisions and requirements of Part 382 of Title 49 of the Code of Federal Regulations on all drivers of a school bus, as defined by section one hundred forty-two of this chapter, regardless of commercial driver's license endorsement. Every such school bus driver shall be included in the random testing pool from which drivers are randomly selected for testing, and every such driver shall submit to such testing when selected, as required in Part 382 of Title 49 of the Code of Federal Regulations. For the purposes of this section "motor carriers" shall mean a school or municipality that transports children to and from school or any person, corporation or entity in contract with a municipality or school district for the purposes of transporting children to and from school. (b) Drug testing administered pursuant to this section shall, at a minimum, be in conformance with drug testing procedures as set forth in Part 382 of Title 49 of the Code of Federal Regulations. * 7. In addition to the other provisions of this section, in the event the commissioner authorizes or requires the pre-trip safety briefings required pursuant to subdivision nine of section five hundred nine-m of this article

to be live and in-person, all motor carriers shall conduct a regular observation of the proficiency of each driver who operates altered motor vehicles commonly referred to as "stretch limousines" directed or operated by such motor carrier, designed to carry nine or more passengers including the driver pursuant to operating authority issued by the commissioner of transportation, in providing such pre-trip safety briefings. * NB Effective April 20, 2025

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-A - Special Requirements for Bus Drivers509-H - Operation by Person Not Licensed to Drive a Bus.

§ 509-h. Operation by person not licensed to drive a bus. The motor carrier shall not knowingly permit any person to operate a bus carrying passengers unless the driver meets all of the requirements of this article; except that a motor carrier may permit a conditional school bus driver who is not otherwise disqualified under the provisions of this article to operate a bus for a period not to exceed ninety days or a longer period if granted a written extension of such ninety day period by the department pursuant to regulations established by the commissioner. Such regulation shall authorize extension for at least that period of time necessary to review information regarding the prior criminal history of the applicant.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-A - Special Requirements for Bus Drivers509-I - Notification of a Conviction Resulting From a Violation of This Chapter in This State or a Motor Vehicle Conviction in Another State and License Revoc

§ 509-i. Notification of a conviction resulting from a violation of this chapter in this state or a motor vehicle conviction in another state and license revocation. 1. A driver who receives a notice that his or her license, permit or privilege to operate a motor vehicle has been revoked, suspended or withdrawn or who is convicted of a violation of such provisions of this chapter as shall constitute a misdemeanor or a felony in any jurisdiction shall notify the motor carrier that employs such person of the contents of the notice before the end of the business day following the day he or she received it. A driver who fails to notify his or her employer of such suspension, revocation or conviction of a violation of such provisions of this chapter as shall constitute a misdemeanor or a felony shall be subject to a five (5) working day suspension, or a suspension equivalent to the number of working days such driver was not in compliance with this article, whichever is longer. 1-a. A driver who is convicted of a traffic infraction in any jurisdiction shall notify his or her employer within five (5) working days from the date of conviction. A driver who fails to notify his or her employer of such conviction within the five (5) working day period shall be subject to a five (5) working day suspension; provided, however, that a first such infraction occurring on or before September sixteenth, nineteen hundred eighty-six, shall not subject such violator to the said suspension. 1-b. A driver who is involved in an accident of a nature or type set forth in section five hundred nine-a of this article in any jurisdiction shall notify his or her employer within five working days from the date of the accident. A driver who fails to notify his or her employer of such accident within the five working day period shall be subject to a five working day suspension. 2. Any driver who is convicted of an offense listed in section five hundred nine-c of this article that would disqualify such driver from operating a bus shall provide notice of such conviction in writing by the following business day to the motor carrier that employs such person. The motor carrier shall not permit any driver who fails to provide such notice to operate a bus. 3. The commissioner upon receipt of information that a driver's license, permit or privilege to operate a motor vehicle has been revoked, suspended or withdrawn in this state or elsewhere shall notify all motor carriers who have notified the commissioner of the employment of such driver; and may, if requested by a political subdivision which contracts with a motor carrier for the transportation of school children, provide such notice to the political subdivision. 4. In addition to the requirements of subdivision three of this section, the commissioner shall notify the motor carrier of any conviction for any traffic violation or accident resulting from operation of a motor vehicle against a bus driver employed by the motor carrier, shall require payment of the fee necessary to defray the cost of the notification, and shall require all motor carriers to establish an escrow account with the department which shall be used to pay for the costs incurred by the department when it informs the motor carrier of a driver's conviction or accident; and may, if requested by a political subdivision which contracts with a motor carrier for the transportation of school children, provide such notice to the political subdivision.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-A - Special Requirements for Bus Drivers509-J - Compliance Required.

(b) Nothing contained herein shall prevent a motor carrier or political subdivision from imposing qualifications that are more stringent than those contained in this article or from disqualifying a person who has been issued a conditional or restricted use license pursuant to the provisions of article twenty-one or twenty-one-A of this chapter. (c) Every motor carrier shall submit an affidavit to the commissioner attesting to compliance with this article. Such affidavit shall be submitted annually, in a manner prescribed by regulations of the commissioner, and shall include as an attachment thereto a copy of the report required by subdivision seven of section five hundred nine-d of this chapter. (d) Notwithstanding any provision of any other article of this law, where an affidavit is not submitted pursuant to this section, the commissioner may, in his discretion, suspend the registration of the vehicle or the vehicles or deny registration or renewal to the vehicle or vehicles owned or operated by the motor carrier or suspend the motor carrier's privilege of operation in this state. Such suspension or denial shall only remain in effect as long as the motor carrier fails to submit such affidavit. (e) The commissioner or any person deputized by the commissioner, may require any motor carrier to pay to the people of this state a civil penalty, if after the motor carrier has had an opportunity to be heard, the commissioner finds that the motor carrier has violated any provision of this article or regulations promulgated therein, or has made

any false statement or misrepresentation on any affidavit of compliance filed with the commissioner or with respect to violations of paragraphs (i) and (ii) of subdivision one, paragraphs (a) and (b) of subdivision two, and subdivisions three, four and five of section five hundred nine-d, section five hundred nine-g, section five hundred nine-h and subdivision two of section five hundred nine-l of this article the commissioner may in lieu of or in addition to a civil penalty suspend all of a motor carrier's registrations. Any civil penalty assessed for a first violation shall not be less than five hundred dollars nor greater than two thousand five hundred dollars for each violation, false statement or representation found to have been made or committed, and for a second or subsequent violation, not arising out of the same incident, all of which were committed within a period of eighteen months, shall not be less than five hundred dollars nor greater than five thousand dollars for each violation, false statement or representation found to have been made or committed. If the registrant fails to pay such penalty within twenty days after the mailing of such order, postage prepaid, certified and addressed to the last known place of business of such registrant, unless such order is stayed by an order of a court of competent jurisdiction, the commissioner may revoke the vehicle registrations or out of state registration privilege of operation in the state of such motor carrier or may suspend the same for such periods as the commissioner may determine. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the state treasury, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. (f) As an alternative to civil action under subdivision (e) of this section and provided that no proceeding for judicial review shall then be pending and the time for initiation of such proceeding shall have expired, the commissioner may file with the county clerk of the county in which the registrant is located a final order of the commissioner containing the amount of the penalty assessed. The filing of such final order shall have the same force and effect as a judgment duly docketed in the office of a county clerk and may be enforced in the same manner and with the same effect as that provided by law. (g) Upon the suspension of a vehicle registration pursuant to subdivision (d) or (e) of this section, the commissioner shall have the authority to deny a registration or renewal application to any other person for the same vehicle and may deny a registration or renewal application for any other motor vehicle registered in the name of the applicant where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this article. Such suspension or denial shall remain in effect only as long as the suspension entered pursuant to subdivision (d) or (e) of this section remains in effect.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-A - Special Requirements for Bus Drivers509-K - Ill or Fatigued Operator.

§ 509-k. Ill or fatigued operator. No driver shall operate a bus and a motor carrier shall not permit a driver to operate a bus while the driver's ability or alertness is so impaired, or so likely to become impaired, through fatigue, illness or any other cause, as to make it unsafe for him to begin or continue to operate the bus. At the request of the driver or the motor carrier such illness, fatigue, or other cause shall be certified by a qualified physician. However, in a case of grave emergency where the hazard to occupants of the bus or other users of the highway would be increased by compliance with this section, the driver may continue to operate the bus to the nearest place at which that hazard is removed.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-A - Special Requirements for Bus Drivers509-L - Drugs, Controlled Substances and Intoxicating Liquor.

(a) consume a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content, or be under the influence of an intoxicating liquor or drug, within six hours before going on duty or operating, or having physical control of a bus, or (b) consume a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content while on duty, or operating, or in physical control of a bus, or (c) possess a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content while on duty, operating or in physical control of a bus. However, this paragraph does not apply to possession of a drug, controlled substance or an intoxicating liquor which is transported as part of a shipment or personal effects of a passenger or to alcoholic beverages which are in sealed containers. 2. No motor carrier shall require or permit a driver to: (a) violate any provision of subdivision one of this section; or (b) be on duty or operate a bus if, by such person's general appearance or by such person's conduct or by other substantiating evidence, such person appears to have consumed a drug, controlled substance or an intoxicating liquor within the preceding six hours, or eight hours when such driver operates a school bus as defined by section one hundred forty-two of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-A - Special Requirements for Bus Drivers509-M - Duties of the Department.

§ 509-m. Duties of the department. The department of motor vehicles shall: 1. At least once every three years, review the bus driver files of each motor carrier, provided, however, that the commissioner may review such bus driver files at his discretion at any other time during regular business hours. Provided, however, that the commissioner shall review at least annually the bus driver files of each driver employed by a motor carrier who operates an altered motor vehicle commonly referred to as a "stretch limousine" designed to carry nine or more passengers including the driver pursuant to operating authority issued by the commissioner of transportation, and annually verify whether each such driver holds a valid driver's license valid for the operation of such altered motor vehicle. 2. Establish regulations and forms for the orderly administration of and compliance with this article. Regulations shall also be established which are necessary for implementation of the process for appeal pursuant to subdivision two of section five hundred nine-d of this article. 3. Provide each motor carrier with notice whenever one of the drivers of such motor carrier has

received revocation or suspension of a driver's license, learner's permit or privilege to operate. 4. Provide a motor carrier who has complied with the requirements of subdivision four of section five hundred nine-i of this article with information on any employee of the motor carrier regarding a conviction for a violation of this chapter. 5. Upon receipt of the criminal history record report of a school bus driver, notify the motor carrier of disqualification of an applicant or school bus driver which would or could disqualify such driver under the provisions of section five hundred nine-cc of this article. Notification to the carrier shall be without specification of the grounds for disqualification, those grounds to be made available only to the school bus driver or his or her representative. 6. In order to effectuate the provisions of this article, establish procedures, by regulation, to conduct curbside verification of bus driver and motor carrier identity to determine whether or not such motor carrier has notified the commissioner of the bus driver's employment as required by subdivision four of section five hundred nine-d of this article and whether or not such motor carrier has compiled with the provisions of this article and with any regulations promulgated thereunder; provided, however, such verifications shall be conducted so as not to disrupt the flow of traffic or endanger public safety. 7. The commissioner shall prepare and distribute a form for the provision of objective data concerning the driving history of a bus driver who is subject to regulation under this article. Such form shall be completed by current or former employers of such bus drivers upon the request of a prospective or subsequent employer. 8. Maintain and annually update its website to provide information with regard to each motor carrier that operates altered motor vehicles commonly referred to as "stretch limousines" designed to carry nine or more passengers including the driver pursuant to operating authority issued by the commissioner of transportation that includes the motor carrier's name, location and region of operation including place of address, whether such motor carrier is in compliance with this article as required by section five hundred nine-j of this article in relation to the operation of such altered motor vehicles, the number and nature of violations of this article resulting in convictions of such motor carrier in relation to the operation of such altered motor vehicles, the number of miles traveled by such altered motor vehicles operated by such motor carrier in the preceding twelve months, and, with respect to drivers employed by such motor carrier operating such altered motor vehicles, the total number so employed, the number holding valid licenses which are valid for the operation of such altered motor vehicles, the number which lack licenses valid for such operation, the number disqualified from operating such altered motor vehicles, the number of convictions and accidents involving any such driver employed by such motor carrier during the preceding twelve months, and the number of convictions and accidents per ten thousand miles traveled. * 9. In coordination with the commissioner of transportation and the superintendent of state police, establish and regularly update the form and content of a pre-trip safety briefing for motor carriers that operate altered motor vehicles commonly referred to as "stretch limousines", designed to carry nine or more passengers including the driver pursuant to operating authority issued by the commissioner of transportation, which motor carriers shall provide to passengers prior to transporting such passengers for hire in such stretch limousines. * NB Effective April 20, 2025

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-A - Special Requirements for Bus Drivers509-N - Exempt Carriers; Reporting Requirements.

§ 509-n. Exempt carriers; reporting requirements. 1. A motor carrier subject to the motor carrier regulations of the United States department of transportation will be exempt from all of the annual and biennial requirements of this article, except the annual requirement which mandates that an affidavit of compliance be filed with the commissioner, provided that (i) such motor carrier does not operate in this state a school bus as defined in section one hundred forty-two of this chapter or a bus used for the transportation of persons under the age of twenty-one or persons of any age who are mentally disabled to a place of vocational, academic or religious instruction or religious service including nursery schools, day care centers and camps or (ii) such motor carrier did not operate in the state during the previous calendar year more than one hundred days or more than ten thousand bus vehicle miles. Provided, however, for the purpose of this subdivision a school bus shall not mean a bus operated by a motor carrier subject to the motor carrier regulations of the United States department of transportation, that occasionally transports pupils or persons of any age who are mentally disabled and who are not residents of this state on chaperoned chartered trips in New York state. 2. A motor carrier subject to the motor carrier regulations of the United States department of transportation who is not exempt pursuant to the provisions of subdivision one of this section may apply to the commissioner for a waiver for those bus drivers, other than those drivers who operate a school bus as defined in section one hundred forty-two of this chapter or a bus used for the transportation of persons under the age of twenty-one to a place of vocational, academic or religious instruction or service including schools and camps, who operate a bus in this state less than thirty days each year. Such application shall include a description of a training and qualifying program which has demonstrated the motor carrier's procedures for qualifying bus drivers. Such program shall include an appropriate health and driving record review and such other information as shall be required by the commissioner to satisfy the intent of this article in an effective manner. 3. The annual affidavit of compliance required under subdivision one shall certify to the commissioner that the motor carrier does not employ a bus driver who would operate a bus in New York state and who is disqualified under section five hundred nine-c of this article, and also shall certify the number of days and vehicle miles of bus service that the carrier provided in the state during the previous calendar year. A motor carrier exempted by this section shall furnish to the commissioner upon request any records concerning drivers required to be kept by the motor carrier regulations of the United States department of transportation within ten days of receipt of such request. Failure of a motor carrier to furnish such records requested within the ten day period shall be a violation of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-A - Special Requirements for Bus Drivers509-O - Penalties.

§ 509-o. Penalties. Upon conviction for the violation of any provision of this article the court shall impose a sentence consisting of a fine of not less than one hundred dollars nor more than two hundred fifty dollars.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-B - Special Requirements for Commercial Motor Carriers509-P - Definitions.

§ 509-p. Definitions. As used in this article, the term: 1. "Commercial motor vehicle" shall mean a motor vehicle or combination of vehicles having a gross combination weight rating of more than ten thousand pounds used in commerce to transport property and it shall include a tow truck with a gross vehicle weight rating of at least eighty-six hundred pounds. 2. "Gross vehicle weight rating" or "GVWR" shall mean the weight of a vehicle consisting of the unladen weight and the maximum carrying capacity recommended by the manufacturer of such vehicle. The GVWR of a combination of vehicles commonly referred to as the gross combination weight rating or GCWR is the GVWR of the power unit plus the GVWR of each vehicle in the combination. 3. "Commercial driver" shall mean every person who is self-employed or employed by a commercial motor carrier and who drives a commercial motor vehicle for hire or profit. 4. "Commercial motor carrier" shall mean any person, corporation, or entity, who directs one or more commercial motor vehicles and who operates a commercial motor vehicle wholly within or partly within and partly without this state in connection with the operation or administration of any business.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-B - Special Requirements for Commercial Motor Carriers509-Q - Application for Employment.

§ 509-q. Application for employment. A commercial driver not subject to the provisions of article nineteen-A of this chapter or to the provisions of section fourteen-f of the transportation law and hired on and after the effective date of this article shall not operate a commercial motor vehicle unless such driver has furnished the commercial motor carrier that employs the driver with a completed application for employment. Every commercial motor carrier shall prepare an application for employment which shall comply with rules and regulations of the commissioner of transportation.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-B - Special Requirements for Commercial Motor Carriers509-R - Investigations and Inquiries.

§ 509-r. Investigations and inquiries. Every commercial motor carrier shall make an investigation and inquiry of each commercial driver it hires on and after the effective date of this article in accordance with rules and regulations of the commissioner of transportation.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-B - Special Requirements for Commercial Motor Carriers509-S - Annual Review of Driving Record.

§ 509-s. Annual review of driving record. Each commercial motor carrier shall, at least once every twelve months, review the driving record of each commercial driver it employs to determine whether such driver meets minimum requirements for safe driving or is to be disqualified to drive a commercial motor vehicle in accordance with this chapter or with rules and regulations of the commissioner of transportation.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-B - Special Requirements for Commercial Motor Carriers509-T - Record of Violations.

§ 509-t. Record of violations. Each commercial motor carrier shall, at least every twelve months, require each commercial driver it employs to prepare and furnish it with a record of all violations of motor vehicle traffic laws and ordinances (other than violations involving only parking) of which such driver has been convicted or on account of which the commercial driver has forfeited bond or collateral during the preceding twelve months in accordance with rules and regulations of the commissioner of transportation.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-B - Special Requirements for Commercial Motor Carriers509-U - Commercial Driver Qualification Files.

§ 509-u. Commercial driver qualification files. Each commercial motor carrier shall maintain a commercial driver qualification file for each commercial driver it employs in accordance with rules and regulations of the commissioner of transportation; provided, however, that such a file need not include a medical examiner certificate of a commercial driver's physical qualification to drive a commercial motor vehicle.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-B - Special Requirements for Commercial Motor Carriers509-V - Investigation of Motor Carrier Files.

§ 509-v. Investigation of motor carrier files. The commissioner and the commissioner of transportation shall have the authority to examine or investigate the operation of commercial motor carriers and their compliance with rules and regulations promulgated pursuant to this article and article six of the transportation law.

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-B - Special Requirements for Commercial Motor Carriers509-W - Penalties.

§ 509-w. Penalties. Upon conviction for a violation of any provision of this article or the rules and regulations of the commissioner of transportation promulgated pursuant thereto, the court shall impose a sentence consisting of a fine of not less than two hundred fifty dollars nor more than one thousand dollars.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-B - Special Requirements for Commercial Motor Carriers509-X - Exemptions.

§ 509-x. Exemptions. The commissioner of transportation shall have the authority, pursuant to rules and regulations, to exempt certain commercial motor carriers or commercial drivers from the provisions of this article in accordance with federal rules and regulations.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-B - Special Requirements for Commercial Motor Carriers509-Y - Rules and Regulations.

§ 509-y. Rules and regulations. The commissioner of transportation, in consultation with the commissioner, is hereby authorized to adopt rules and regulations to implement the provisions of this article which shall be no less protective of public safety than the rules and regulations promulgated by the federal government with respect to the qualifications and disqualifications of drivers.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19-B - Special Requirements for Commercial Motor Carriers509-Z - Motor Carrier Information.

§ 509-z. Motor carrier information. The commissioner of transportation, in consultation with the commissioner, shall establish requirements for any person or entity that owns and operates one or more altered motor vehicles, commonly referred to as "stretch limousines", for purposes of establishing conspicuous display of valid operating authority, inspection information, and driver qualifications at locations where such persons or entities perform contract or common carrier services with altered motor vehicles and within any altered motor vehicle used to provide such services.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19 - Licensing of Drivers501-A - Definitions.

1. Commercial driver's license or CDL. A class A or B driver's license or a class C driver's license which bears an H, P or X endorsement, which licenses contain the legend commercial driving license or CDL thereon and which is issued in accordance with the commercial motor vehicle safety act of 1986, public law 99-570, title XII, and this article which authorizes a person to operate a commercial motor vehicle and an altered motor vehicle commonly referred to as a "stretch limousine" having a seating capacity of nine or more passengers including the driver. 2. Gross vehicle weight rating or GVWR. The weight of a vehicle consisting of the unladen weight and the maximum carrying capacity recommended by the manufacturer of such vehicle. The GVWR of a combination of vehicles (commonly referred to as the "Gross Combination Weight Rating" or GCWR) is the GVWR of the power unit plus the GVWR of each vehicle in the combination. 3. Hazardous materials. Any material that has been designated as hazardous under 49 U.S.C. 5103 and is required to be placarded under subpart F of 49 CFR part 172 or any quantity of a material listed as a select agent or toxin in 42 CFR part 73. 4. Commercial motor vehicle. (a) A motor vehicle or combination of vehicles designed or used to transport passengers or property:(i) which has a GVWR of more than twenty-six thousand pounds; or(ii) which has a GCWR of more than twenty-six thousand pounds, including any towed unit with a GVWR of more than ten thousand pounds; or(iii) designed or used to transport fifteen or more passengers, in addition to the driver; or(iv) defined as a bus in subdivision one of section five hundred nine-a of this chapter; or(v) of any size, other than a farm vehicle operated within one hundred fifty miles of the operator's farm, used in the transportation of materials found by the United States secretary of transportation to be hazardous under the hazardous materials transportation act and which requires the motor vehicle transporting such materials to be placarded under the hazardous materials regulation, 49 CFR part 172, subpart F or is transporting any quantity of a material listed as a select agent or toxin in 42 CFR part 73.(b) However, a commercial motor vehicle shall not include: (i) a personal use vehicle or a covered farm vehicle or a combination of such vehicles; (ii) any motor vehicle or combination of motor vehicles operated by a member of the armed forces for military purposes; (iii) a police vehicle or fire vehicle, or combination of such vehicles during its use in an emergency operation as defined in section one hundred fourteen-b of this chapter, or in the performance of official duties, or activities related to the execution of emergency governmental functions pursuant to section 383.3 (d)(2) of title 49 of the code of federal regulations; (iv) a vehicle or combination of vehicles owned and identified as being owned by the state or a political subdivision thereof or an ambulance service as defined in subdivision two of section three thousand one of the public health law or a voluntary ambulance service as defined in subdivision three of such section and used to provide emergency medical service as defined in section three thousand one of the public health law, or to perform official duties, or activities related to the execution of emergency governmental functions pursuant to section 383.3 (d)(2) of title 49 of the code of federal regulations; or (v) a vehicle or combination of vehicles which is designed and primarily used for purposes other than the transportation of persons or property and

which is operated on a public highway only occasionally for the purpose of being transported to a construction or off-highway site at which its primary purpose is to be performed except as may otherwise be specifically provided by regulation of the commissioner. For the purposes of this paragraph, the term "member of the armed forces" shall include active duty military personnel; members of the reserve components of the armed forces; members of the national guard on active duty, including personnel on full time active guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty United States coast guard personnel. The term shall not include United States reserve technicians. Notwithstanding the provisions of section one hundred fourteen-b of this chapter, for the purposes of this paragraph, the term "emergency operation" shall include returning from emergency service.5. Representative vehicle. The type of motor vehicle or combination of vehicles specified by regulation of the commissioner that an applicant for a driver's license must operate during a road test in order to receive a specific class of license or endorsement.6. Tank vehicle. Any commercial motor vehicle designed to transport any liquid or gaseous material within a tank or tanks having an individual rated capacity of more than one hundred nineteen gallons and an aggregate rated capacity of one thousand gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. Such term shall not include a commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of one thousand gallons or more that is temporarily attached to a flatbed trailer.7. Personal use vehicle. A vehicle constructed or altered to be used for recreational purposes which is exclusively used to transport family members and/or personal possessions of such family members for non-business recreational purposes by the operator, or a rental truck which is exclusively used to transport personal possessions of the person who has rented the truck for non-business purposes.8. Covered farm vehicle. (a) A vehicle or combination of vehicles registered in this state, which (i) displays a covered farm vehicle designation issued by the commissioner, (ii) is operated by the owner or operator of a farm or ranch, or an employee or family member of an owner or operator of a farm or ranch, (iii) is used to transport agricultural commodities, livestock, machinery or supplies to or from a farm or ranch, (iv) is not used in for-hire motor carrier operations, exclusive of operation by a tenant pursuant to a crop share farm lease agreement to transport the landlord's portion of the crops under that agreement; and (v) is not used for the transportation of hazardous materials.(b) A covered farm vehicle with a gross vehicle weight or gross vehicle weight rating, whichever is greater, of more than twenty-six thousand pounds may only be operated within one hundred fifty air miles of the farm or ranch.(c) The commissioner shall, by regulation, designate an endorsement or endorsements for the operation of covered farm vehicles with a gross vehicle weight or gross vehicle weight rating of more than twenty-six thousand pounds. Such endorsement or endorsements shall be required to operate such a covered farm vehicle or combination of covered farm vehicles. The identification and scope of such endorsement or endorsements shall, at a minimum, include a distinction between the operation of a covered farm vehicle having a gross vehicle weight or gross vehicle weight rating of more than twenty-six thousand pounds and the operation of a combination of covered farm vehicles having a gross vehicle weight or gross vehicle weight rating of more than twenty-six thousand pounds.(d) For the purposes of this subdivision, the gross vehicle weight of a vehicle shall mean the actual weight of the vehicle and the load. (i) which has a GVWR of more than twenty-six thousand pounds; or (ii) which has a GCWR of more than twenty-six thousand pounds, including any towed unit with a GVWR of more than ten thousand pounds; or (iii) designed or used to transport fifteen or more passengers, in addition to the driver; or (iv) defined as a bus in subdivision one of section five hundred nine-a of this chapter; or (v) of any size, other than a farm vehicle operated within one hundred fifty miles of the operator's farm, used in the transportation of materials found by the United States secretary of transportation to be hazardous under the hazardous materials transportation act and which requires the motor vehicle transporting such materials to be placarded under the hazardous materials regulation, 49 CFR part 172, subpart F or is transporting any quantity of a material listed as a select agent or toxin in 42 CFR part 73. (b) However, a commercial motor vehicle shall not include: (i) a personal use vehicle or a covered farm vehicle or a combination of such vehicles; (ii) any motor vehicle or combination of motor vehicles operated by a member of the armed forces for military purposes; (iii) a police vehicle or fire vehicle, or combination of such vehicles during its use in an emergency operation as defined in section one hundred fourteen-b of this chapter, or in the performance of official duties, or activities related to the execution of emergency governmental functions pursuant to section 383.3 (d)(2) of title 49 of the code of federal regulations; (iv) a vehicle or combination of vehicles owned and identified as being owned by the state or a political subdivision thereof or an ambulance service as defined in subdivision two of section three thousand one of the public health law or a voluntary ambulance service as defined in subdivision three of such section and used to provide emergency medical service as defined in section three thousand one of the public health law, or to perform official duties, or activities related to the execution of emergency governmental functions pursuant to section 383.3 (d)(2) of title 49 of the code of federal regulations; or (v) a vehicle or combination of vehicles which is designed and primarily used for purposes other than the transportation of persons or property and which is operated on a public highway only occasionally for the purpose of being transported to a construction or off-highway site at which its primary purpose is to be performed except as may otherwise be specifically provided by regulation of the commissioner. For the purposes of this paragraph, the term "member of the armed forces" shall include active duty military personnel; members of the reserve components of the armed forces; members of the national guard on active duty, including personnel on full time active guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty United States coast guard personnel. The term shall not include United States reserve technicians. Notwithstanding the provisions of section one hundred fourteen-b of this chapter, for the purposes of this paragraph, the term "emergency operation" shall include returning from emergency service. 5. Representative vehicle. The type of motor vehicle or combination of vehicles specified by regulation of the commissioner that an applicant for a driver's license must operate during a road test in order to receive a specific class of license or endorsement. 6. Tank vehicle. Any commercial motor vehicle designed to

transport any liquid or gaseous material within a tank or tanks having an individual rated capacity of more than one hundred nineteen gallons and an aggregate rated capacity of one thousand gallons or more that is either permanently or temporarily attached to the vehicle or the chassis. Such term shall not include a commercial motor vehicle transporting an empty storage container tank, not designed for transportation, with a rated capacity of one thousand gallons or more that is temporarily attached to a flatbed trailer. 7. Personal use vehicle. A vehicle constructed or altered to be used for recreational purposes which is exclusively used to transport family members and/or personal possessions of such family members for non-business recreational purposes by the operator, or a rental truck which is exclusively used to transport personal possessions of the person who has rented the truck for non-business purposes. 8. Covered farm vehicle. (a) A vehicle or combination of vehicles registered in this state, which (i) displays a covered farm vehicle designation issued by the commissioner, (ii) is operated by the owner or operator of a farm or ranch, or an employee or family member of an owner or operator of a farm or ranch, (iii) is used to transport agricultural commodities, livestock, machinery or supplies to or from a farm or ranch, (iv) is not used in for-hire motor carrier operations, exclusive of operation by a tenant pursuant to a crop share farm lease agreement to transport the landlord's portion of the crops under that agreement; and (v) is not used for the transportation of hazardous materials. (b) A covered farm vehicle with a gross vehicle weight or gross vehicle weight rating, whichever is greater, of more than twenty-six thousand pounds may only be operated within one hundred fifty air miles of the farm or ranch. (c) The commissioner shall, by regulation, designate an endorsement or endorsements for the operation of covered farm vehicles with a gross vehicle weight or gross vehicle weight rating of more than twenty-six thousand pounds. Such endorsement or endorsements shall be required to operate such a covered farm vehicle or combination of covered farm vehicles. The identification and scope of such endorsement or endorsements shall, at a minimum, include a distinction between the operation of a covered farm vehicle having a gross vehicle weight or gross vehicle weight rating of more than twenty-six thousand pounds and the operation of a combination of covered farm vehicles having a gross vehicle weight or gross vehicle weight rating of more than twenty-six thousand pounds. (d) For the purposes of this subdivision, the gross vehicle weight of a vehicle shall mean the actual weight of the vehicle and the load.

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(a) operate a motor vehicle with any front seat occupants other than the supervising driver; (b) operate a motor vehicle unless every occupant of such vehicle is properly restrained by a safety belt or child safety seat in accordance with the provisions of subdivision three-a of section twelve hundred twenty-nine-c of this chapter; (c) operate a motor vehicle with more than one passenger who is under the age of twenty-one and who is not a member of such holder's immediate family, provided, however, that the provisions of this paragraph shall not apply when such holder is accompanied by a duly licensed parent, guardian, person in a position of loco parentis, driver education teacher or driving school instructor; (d) be eligible for issuance of a class DJ, MJ, D or M license unless such permit has been valid for at least six months. Any time period in which such class DJ or MJ learner's permit has been suspended or revoked shall not be counted in determining the length of time that such learner's permit has been valid. 2. In addition to the restrictions contained in subdivision three of section five hundred one of this article, no holder of a class DJ or class MJ license shall operate a motor vehicle: (a) unless every occupant of such vehicle is properly restrained by a safety belt or child safety seat in accordance with the provisions of subdivision three-a of section twelve hundred twenty-nine-c of this chapter; and (b) with more than one passenger who is under the age of twenty-one and who is not a member of such holder's immediate family, provided, however, that the provisions of this paragraph shall not apply when such holder is accompanied by a duly licensed parent, guardian, person in a position of loco parentis, driver education teacher or driving school instructor.

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2. Driver license classifications, endorsements and restrictions and exceptions. (a) License classifications. (i) Class A. Such license shall be valid to operate any motor vehicle or any combination of vehicles except it shall not be valid to operate a motorcycle other than a class B or C limited use motorcycle.(ii) Class B. Such license shall be valid to operate any vehicle or combination of vehicles which may be operated with a class E license and shall be valid to operate any motor vehicle or any such vehicle, other than a tractor, towing a vehicle having a GVWR of not more than ten thousand pounds and shall be valid to operate any altered motor vehicle commonly referred to as a "stretch limousine" having a seating capacity of nine or more passengers including the driver except it shall not be valid to operate a motorcycle other than a class B or C limited use motorcycle.(iii) Class C. Such license shall be valid to operate any vehicle or combination of vehicles which may be operated with a class E license and shall be valid to operate any motor vehicle with a GVWR of not more than twenty-six thousand pounds and any such vehicle towing another vehicle with a GVWR of not more than ten thousand pounds except it shall not be valid to operate a tractor or a motorcycle other than a class B or C limited use motorcycle.(iv) Class D. Such license shall be valid to operate any passenger or limited use automobile or any truck with a GVWR of not more than twenty-six thousand pounds or any such vehicle towing a vehicle with a GVWR of not more than ten thousand pounds, or any such vehicle towing another vehicle with a GVWR of more than ten thousand pounds provided such combination of vehicles has a GCWR of not more than twenty-six thousand pounds, or any personal use vehicle with a GVWR of not more than twenty-six thousand pounds or any such vehicle towing a vehicle with a GVWR of not more than ten thousand pounds, except it shall not be valid to operate a tractor, a motorcycle other than a class B or C limited use motorcycle, a vehicle used to transport passengers for hire or for which a hazardous materials endorsement is required, or a vehicle defined as a bus in

subdivision one of section five hundred nine-a of this title. Such license also shall be valid to operate a three-wheeled motor vehicle that has two wheels situated in the front and one wheel in the rear, has a steering mechanism and seating which does not require the operator to straddle or sit astride, is equipped with safety belts for all occupants and is manufactured to comply with federal motor vehicle safety standards for motorcycles including, but not limited to, 49 C.F.R. part 571.(v) Class E. Such license shall be valid to operate only vehicles which may be operated with a class D license, except that in addition it shall be valid to operate any such motor vehicle, other than a vehicle defined as a bus in subdivision one of section five hundred nine-a of this chapter, used to transport up to fourteen passengers for hire and other than an altered motor vehicle commonly referred to as a "stretch limousine" having a seating capacity of nine or more passengers including the driver.(vi) Class DJ. Such license shall be valid to operate only vehicles which may be operated with a class D license by a person under eighteen years of age, except it shall not be valid to operate a motor vehicle with an unladen weight or a GVWR of more than ten thousand pounds or any motor vehicle towing another vehicle with an unladen weight or GVWR of more than three thousand pounds. Such license shall automatically become a class D license when the holder becomes eighteen years of age.(vii) Class M. Such license shall be valid to operate any motorcycle, or any motorcycle, other than a limited use motorcycle, towing a trailer. Such license also shall be valid to operate a three-wheeled motor vehicle that has two wheels situated in the front and one wheel in the rear, has a steering mechanism and seating which does not require the operator to straddle or sit astride, is equipped with safety belts for all occupants and is manufactured to comply with federal motor vehicle safety standards for motorcycles including, but not limited to, 49 C.F.R. part 571.(viii) Class MJ. Such license shall be valid to operate any motorcycle or limited use motorcycle by a person under eighteen years of age. Such license shall automatically become a class M license when the holder becomes eighteen years of age.(b) Endorsements. The following endorsements shall be required to operate vehicles as set forth herein. In addition the commissioner by regulation may provide for further endorsements.(i) T endorsement. Shall be required to operate double and triple trailers.(ii) H endorsement. Shall be required to transport hazardous materials as defined in section one hundred three of the hazardous materials transportation act, public law 93-633, title I, when the vehicle transporting such materials is required to be placarded under the hazardous materials regulation, 49 CFR part 172, subpart F or is transporting any quantity of material listed as a select agent or toxin in 42 CFR part 73. An applicant for a commercial driver's license in this state who wishes to transport hazardous materials must obtain a New York state hazardous materials endorsement even if such applicant holds a valid hazardous materials endorsement issued by another state. A farm vehicle shall be exempt from the requirement for such endorsement when transporting hazardous materials within one hundred fifty miles of the person's farm. However, a separate non-commercial endorsement shall be required for such exempted transportation. In order to obtain such endorsement, the license holder must submit fingerprints for purposes of a criminal history record check pursuant to subdivision six of this section.(iii) N endorsement. Shall be required to operate tank vehicles.(iv) P endorsement. Shall be required to operate a bus as defined in sections one hundred four and five hundred nine-a of this chapter, any altered motor vehicle commonly referred to as a "stretch limousine" having a seating capacity of nine or more passengers including the driver or any motor vehicle with a gross vehicle weight or gross vehicle weight rating of more than twenty-six thousand pounds which is designed to transport passengers in commerce. For the purposes of this subparagraph the gross vehicle weight of a vehicle shall mean the actual weight of the vehicle and the load.(v) X endorsement. Shall be an endorsement combining H and N endorsements.(vii) Personal use vehicle endorsement. Shall be required to operate a personal use vehicle or a combination of personal use vehicles which may not be operated with a class C, D or E license. The identification and scope of any such endorsement or endorsements shall be as prescribed by regulation of the commissioner, but no such endorsement shall permit the operation of a rental truck towing a vehicle with a GVWR of more than ten thousand pounds.(viii) W endorsement. Shall be required to operate a tow truck.(ix) Metal coil endorsement. Shall be required to operate any commercial motor vehicle, as defined in subdivision four of section five hundred one-a of this article, carrying metal coils. The identification and scope of such endorsement shall be as prescribed by regulation of the commissioner.(x) S endorsement. Shall be required to operate a school bus, as defined in section one hundred forty-two of this chapter, which is designed or used to transport fifteen or more passengers.(c) Restrictions. Notwithstanding the foregoing provisions of this subdivision, the operation of vehicles may be limited by a restriction or restrictions placed on a license. The following restrictions may be issued by the commissioner based upon the representative vehicle in which the road test was taken, or if the license is issued based on driving experience, the vehicle in which the experience was gained. In addition, the commissioner may by regulation provide for additional restrictions based upon other types of vehicles or other factors deemed appropriate by the commissioner.(i) A restriction prohibiting the operation of a vehicle with air brakes.(ii) A restriction limiting the operation of a combination of vehicles to truck-trailer combinations.(iii) A restriction limiting operation to vehicles of not more than a specified GVWR.(d) Exceptions. (i) Notwithstanding the foregoing provisions of this subdivision, a motor vehicle or combination of vehicles, other than a motorcycle, that is (A) a military vehicle operated by a member of the armed forces, or (B) a police vehicle or fire vehicle during its use in an emergency operation as defined in section one hundred fourteen-b of this chapter, or in the performance of official duties, or activities related to the execution of emergency governmental functions pursuant to section 383.3 (d)(2) of title 49 of the code of federal regulations, or (C) a vehicle owned and identified as being owned by the state or a political subdivision thereof or an ambulance service as defined in subdivision two of section three thousand one of the public health law or a voluntary ambulance service as defined in subdivision three of such section and used to provide emergency medical service as defined in section three thousand one of the public health law, or to perform official duties, or activities related to the execution of emergency governmental functions pursuant to section 383.3 (d)(2) of title 49 of the code of federal regulations, may be operated with any class license other than a class DJ, M or MJ license. For the purposes of this paragraph the term "member of the armed forces" shall include active duty military personnel; members of the reserve components of the armed forces; members of the national guard on

active duty, including personnel on full time active guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty United States coast guard personnel. The term shall not include United States reserve technicians. Notwithstanding the provisions of section one hundred fourteen-b of this chapter, for the purposes of this subparagraph, the term "emergency operation" shall include returning from emergency service.(ii) Notwithstanding the foregoing provisions of this subdivision, a motor vehicle or combination of vehicles which is designed and primarily used for purposes other than the transportation of persons or property which is excluded from the definition of commercial motor vehicle pursuant to the provisions of subparagraph (iv) of paragraph (a) of subdivision four of section five hundred one-a of this chapter may be operated with any class license other than a class DJ, M or MJ license.3. Restrictions on use of class DJ and class MJ licenses. A class DJ or class MJ license shall permit the holder to operate a vehicle in accordance with the following restrictions:(a) in the counties of Nassau and Suffolk:(i) for the purpose of driving to and from a state-approved cooperative work-study educational program, or to or from an approved program for credit in a post-secondary institution, or to or from a state-approved registered evening high school or while engaged in farm employment, or to or from an approved driver education course; or(ii) from five o'clock in the morning to nine o'clock in the evening, to and from a place of business where the holder is regularly employed, or when accompanied by a duly licensed parent, guardian, person in a position of loco parentis, driver education teacher, or driving school instructor.(b) in all other areas of the state, except for the city of New York:(i) from five o'clock in the morning to nine o'clock in the evening; or(ii) from nine o'clock in the evening to five o'clock in the morning when going to or from school, or to or from a place of business where the holder is employed on a regularly scheduled basis, or when accompanied by a duly licensed parent, guardian or one in a position of loco parentis to the licensee.(c) in the city of New York, driving shall be prohibited.(d) for the purpose of this subdivision, the term "school" shall mean instruction, education or training licensed or approved by a department or agency of the state or training conducted by the armed forces of the United States except it shall not include extra-curricular activities or social events for which scholastic credits are not given.(e) any person operating a motor vehicle to or from school or to or from a place of business as authorized by this subdivision must possess documentation signed by such person's instructor or employer. The commissioner shall, by regulation, prescribe the form and content of such documentation.4. Probationary licenses. Any driver's license, other than a class DJ and class MJ license, shall be considered probationary until the expiration of six months following the date of issuance thereof, and thereafter as provided in section five hundred ten-b of this title, but this subdivision shall not apply to renewals of a license, or, unless so provided by the commissioner, to a license for which a road test has been waived by the commissioner.5. Learners' permits. (a) The commissioner shall issue learner's permits as provided in this article. Such permit shall be valid only(i) for the operation of a motor vehicle of a type which could be operated by the holder of the class of license for which application is being made;(ii) when the holder is under the immediate supervision and control of a person at least twenty-one years of age who holds a license valid in this state for the operation of the type of vehicle being operated; and(iii) in accordance with any additional restrictions prescribed by the commissioner and noted on such permit.(b) In addition to the restrictions contained in paragraph (a) of this subdivision, a learner's permit issued to a person applying for a class DJ or class MJ license shall be subject to the restrictions contained in section five hundred one-b of this article and shall not be valid for the operation of any motor vehicle:(i) within the city of New York, except that the holder of such permit may operate a motor vehicle within the city of New York from five o'clock in the morning to nine o'clock in the evening when such person is under the immediate supervision and control of a person at least twenty-one years of age who is such holder's parent, guardian, person in a position of loco parentis, driver education teacher for the purpose of certification pursuant to section eight hundred six-a of the education law or driving school instructor for the purpose of certification pursuant to subdivision seven-a of section three hundred ninety-four of this chapter and such vehicle is equipped with dual controls as prescribed by the commissioner;(ii) in the counties of Nassau and Suffolk, except that the holder of such permit may operate a motor vehicle within the counties of Nassau and Suffolk from five o'clock in the morning to nine o'clock in the evening when such person is under the immediate supervision and control of a person at least twenty-one years of age who is such holder's licensed parent, guardian, person in a position of loco parentis, driver education teacher for the purpose of certification pursuant to section eight hundred six-a of the education law, or driving school instructor for the purpose of certification pursuant to subdivision seven-a of section three hundred ninety-four of this chapter, or a person at least twenty-one years of age who holds a license valid in this state for the operation of the type of vehicle being operated, for the purpose of certification pursuant to subdivision two of section five hundred two of this article, and who has been designated by such holder's parent, guardian or person in a position of loco parentis to accompany such holder, as evidenced by a written statement to that effect;(iii) from nine o'clock in the evening to five o'clock in the morning, unless the holder of such permit is under the immediate supervision and control of a person at least twenty-one years of age who is such holder's licensed parent, guardian, person in a position of loco parentis, driver education teacher for the purpose of certification pursuant to section eight hundred six-a of the education law, or driving school instructor for the purpose of certification pursuant to subdivision seven-a of section three hundred ninety-four of this chapter.(c) The restrictions contained in paragraphs (a) and (b) of this subdivision shall apply to a learner's permit which has been issued to a person who has made application for a class M or class MJ license, except that the required supervising driver need exercise only general supervision and control over the learner as prescribed by regulation of the commissioner when the learner is operating a motorcycle, provided, however, a person who possesses a learner's permit and who has made application for a class M or class MJ license, shall not operate a motorcycle while there is another person on such motorcycle unless such other person possesses a valid class M license.6. H endorsement criminal history record check. Upon receipt of an application and completion of all other requirements imposed by the commissioner for an H endorsement to permit the operator to transport hazardous materials as defined in section one hundred three of the hazardous materials transportation act,

public law 93-633, title I, when the vehicle transporting such materials is required to be placarded under the hazardous materials regulation, 49 CFR part 172, subpart F, or is transporting any quantity of material listed as a select agent or toxin in 42 CFR part 73, the commissioner, subject to the rules and regulations of the division of criminal justice services, shall initiate a criminal history record check of the person making the application. The commissioner shall obtain from each applicant two sets of fingerprints and the division of criminal justice services processing fee imposed pursuant to subdivision eight-a of section eight hundred thirty-seven of the executive law and any fee imposed by the federal bureau of investigation. The commissioner shall promptly transmit such fingerprints and fees to the division of criminal justice services for processing. The federal bureau of investigation and the division of criminal justice services shall forward such criminal history record, if any, to the commissioner. All such criminal history records processed and sent pursuant to this section shall be confidential pursuant to the applicable federal and state laws, rules and regulations, and shall not be published or in any way disclosed to persons other than authorized personnel, unless otherwise authorized by law. No cause of action against the commissioner, the department or the division of criminal justice services for damages related to the dissemination of criminal history records pursuant to this section shall exist when the commissioner, department or division of criminal justice services has reasonably and in good faith relied upon the accuracy and completeness of criminal history information furnished to it by qualified agencies. The provision of such information by the division of criminal justice services shall be subject to the provisions of subdivision sixteen of section two hundred ninety-six of the executive law. The consideration of such criminal history record by the commissioner shall be subject to article twenty-three-A of the correction law. The commissioner shall review such criminal history record for a conviction within the previous ten years for: (i) any violent felony offense, as defined in section 70.02 of the penal law; or (ii) any felony defined in article one hundred twenty, one hundred twenty-five, one hundred thirty, one hundred thirty-five, one hundred forty, one hundred forty-five, one hundred fifty, one hundred fifty-five, one hundred sixty, one hundred seventy, one hundred seventy-five, two hundred, two hundred ten, two hundred twenty, two hundred twenty-one, two hundred forty, two hundred sixty-five, four hundred sixty, four hundred seventy, four hundred eighty-five, or four hundred ninety of the penal law or section fifty-three-e of the railroad law; or (iii) any offense in another jurisdiction which includes all of the essential elements of such offenses described in paragraphs (i) and (ii) of this subdivision and for which a sentence of imprisonment for more than one year was authorized in the other jurisdiction and is authorized in this state, regardless of whether such sentence was imposed; or any of the following federal offenses: improper transportation of a hazardous material, as defined in 49 U.S.C. 46312, conveying false information or threats, as defined in 49 U.S.C. 46507, espionage, as defined in 18 U.S.C. 793, 794 or 3077, sedition, as defined in 18 U.S.C. 2384, 2385 or section 4 of the subversive activities control act of 1950, treason, as defined in 18 U.S.C. 2381 or conspiracy or solicitation, as defined in 18 U.S.C. 371 or 373; or (iv) an attempt or conspiracy to commit any of the offenses specified in paragraphs (i), (ii), or (iii) of this subdivision. In calculating such ten year period, any period of time during which the person was incarcerated for any reason between the time of commission of the previous felony and the time of commission of the present felony shall be excluded and such ten year period shall be extended by a period or periods equal to the time served under such incarceration. After receipt of a criminal history record from the division of criminal justice services, if any, and review of such record, the commissioner shall promptly notify the applicant whether he or she will be granted an H endorsement based upon the applicant's criminal history and promptly notify such applicant of the determination and the procedure for requesting a hearing pursuant to this subdivision. If the commissioner denies an applicant an H endorsement based either in whole or in part on such applicant's criminal record, the commissioner must notify such applicant of the basis for such denial, and afford such applicant notice and an opportunity to be heard and offer proof in opposition to such determination. If the applicant requests a hearing to contest the commissioner's determination, such hearing must be requested no later than thirty days after the applicant's receipt of the determination and must be scheduled by the commissioner within sixty days of such request. Upon request and pursuant to the rules and regulations of the division of criminal justice services, any applicant may obtain, review and seek correction of his or her criminal history record. (ii) Class B. Such license shall be valid to operate any vehicle or combination of vehicles which may be operated with a class E license and shall be valid to operate any motor vehicle or any such vehicle, other than a tractor, towing a vehicle having a GVWR of not more than ten thousand pounds and shall be valid to operate any altered motor vehicle commonly referred to as a "stretch limousine" having a seating capacity of nine or more passengers including the driver except it shall not be valid to operate a motorcycle other than a class B or C limited use motorcycle. (iii) Class C. Such license shall be valid to operate any vehicle or combination of vehicles which may be operated with a class E license and shall be valid to operate any motor vehicle with a GVWR of not more than twenty-six thousand pounds and any such vehicle towing another vehicle with a GVWR of not more than ten thousand pounds except it shall not be valid to operate a tractor or a motorcycle other than a class B or C limited use motorcycle. (iv) Class D. Such license shall be valid to operate any passenger or limited use automobile or any truck with a GVWR of not more than twenty-six thousand pounds or any such vehicle towing a vehicle with a GVWR of not more than ten thousand pounds, or any such vehicle towing another vehicle with a GVWR of more than ten thousand pounds provided such combination of vehicles has a GCWR of not more than twenty-six thousand pounds, or any personal use vehicle with a GVWR of not more than twenty-six thousand pounds or any such vehicle towing a vehicle with a GVWR of not more than ten thousand pounds, except it shall not be valid to operate a tractor, a motorcycle other than a class B or C limited use motorcycle, a vehicle used to transport passengers for hire or for which a hazardous materials endorsement is required, or a vehicle defined as a bus in subdivision one of section five hundred nine-a of this title. Such license also shall be valid to operate a three-wheeled motor vehicle that has two wheels situated in the front and one wheel in the rear, has a steering mechanism and seating which does not require the operator to straddle or sit astride, is equipped with safety belts for all occupants and is manufactured to comply with federal motor vehicle safety standards for motorcycles including, but not limited to, 49 C.F.R. part

571. (v) Class E. Such license shall be valid to operate only vehicles which may be operated with a class D license, except that in addition it shall be valid to operate any such motor vehicle, other than a vehicle defined as a bus in subdivision one of section five hundred nine-a of this chapter, used to transport up to fourteen passengers for hire and other than an altered motor vehicle commonly referred to as a "stretch limousine" having a seating capacity of nine or more passengers including the driver. (vi) Class DJ. Such license shall be valid to operate only vehicles which may be operated with a class D license by a person under eighteen years of age, except it shall not be valid to operate a motor vehicle with an unladen weight or a GVWR of more than ten thousand pounds or any motor vehicle towing another vehicle with an unladen weight or GVWR of more than three thousand pounds. Such license shall automatically become a class D license when the holder becomes eighteen years of age. (vii) Class M. Such license shall be valid to operate any motorcycle, or any motorcycle, other than a limited use motorcycle, towing a trailer. Such license also shall be valid to operate a three-wheeled motor vehicle that has two wheels situated in the front and one wheel in the rear, has a steering mechanism and seating which does not require the operator to straddle or sit astride, is equipped with safety belts for all occupants and is manufactured to comply with federal motor vehicle safety standards for motorcycles including, but not limited to, 49 C.F.R. part 571. (viii) Class MJ. Such license shall be valid to operate any motorcycle or limited use motorcycle by a person under eighteen years of age. Such license shall automatically become a class M license when the holder becomes eighteen years of age. (b) Endorsements. The following endorsements shall be required to operate vehicles as set forth herein. In addition the commissioner by regulation may provide for further endorsements. (i) T endorsement. Shall be required to operate double and triple trailers. (ii) H endorsement. Shall be required to transport hazardous materials as defined in section one hundred three of the hazardous materials transportation act, public law 93-633, title I, when the vehicle transporting such materials is required to be placarded under the hazardous materials regulation, 49 CFR part 172, subpart F or is transporting any quantity of material listed as a select agent or toxin in 42 CFR part 73. An applicant for a commercial driver's license in this state who wishes to transport hazardous materials must obtain a New York state hazardous materials endorsement even if such applicant holds a valid hazardous materials endorsement issued by another state. A farm vehicle shall be exempt from the requirement for such endorsement when transporting hazardous materials within one hundred fifty miles of the person's farm. However, a separate non-commercial endorsement shall be required for such exempted transportation. In order to obtain such endorsement, the license holder must submit fingerprints for purposes of a criminal history record check pursuant to subdivision six of this section. (iii) N endorsement. Shall be required to operate tank vehicles. (iv) P endorsement. Shall be required to operate a bus as defined in sections one hundred four and five hundred nine-a of this chapter, any altered motor vehicle commonly referred to as a "stretch limousine" having a seating capacity of nine or more passengers including the driver or any motor vehicle with a gross vehicle weight or gross vehicle weight rating of more than twenty-six thousand pounds which is designed to transport passengers in commerce. For the purposes of this subparagraph the gross vehicle weight of a vehicle shall mean the actual weight of the vehicle and the load. (v) X endorsement. Shall be an endorsement combining H and N endorsements. (vii) Personal use vehicle endorsement. Shall be required to operate a personal use vehicle or a combination of personal use vehicles which may not be operated with a class C, D or E license. The identification and scope of any such endorsement or endorsements shall be as prescribed by regulation of the commissioner, but no such endorsement shall permit the operation of a rental truck towing a vehicle with a GVWR of more than ten thousand pounds. (viii) W endorsement. Shall be required to operate a tow truck. (ix) Metal coil endorsement. Shall be required to operate any commercial motor vehicle, as defined in subdivision four of section five hundred one-a of this article, carrying metal coils. The identification and scope of such endorsement shall be as prescribed by regulation of the commissioner. (x) S endorsement. Shall be required to operate a school bus, as defined in section one hundred forty-two of this chapter, which is designed or used to transport fifteen or more passengers. (c) Restrictions. Notwithstanding the foregoing provisions of this subdivision, the operation of vehicles may be limited by a restriction or restrictions placed on a license. The following restrictions may be issued by the commissioner based upon the representative vehicle in which the road test was taken, or if the license is issued based on driving experience, the vehicle in which the experience was gained. In addition, the commissioner may by regulation provide for additional restrictions based upon other types of vehicles or other factors deemed appropriate by the commissioner. (i) A restriction prohibiting the operation of a vehicle with air brakes. (ii) A restriction limiting the operation of a combination of vehicles to truck-trailer combinations. (iii) A restriction limiting operation to vehicles of not more than a specified GVWR. (d) Exceptions. (i) Notwithstanding the foregoing provisions of this subdivision, a motor vehicle or combination of vehicles, other than a motorcycle, that is (A) a military vehicle operated by a member of the armed forces, or (B) a police vehicle or fire vehicle during its use in an emergency operation as defined in section one hundred fourteen-b of this chapter, or in the performance of official duties, or activities related to the execution of emergency governmental functions pursuant to section 383.3 (d)(2) of title 49 of the code of federal regulations, or (C) a vehicle owned and identified as being owned by the state or a political subdivision thereof or an ambulance service as defined in subdivision two of section three thousand one of the public health law or a voluntary ambulance service as defined in subdivision three of such section and used to provide emergency medical service as defined in section three thousand one of the public health law, or to perform official duties, or activities related to the execution of emergency governmental functions pursuant to section 383.3 (d)(2) of title 49 of the code of federal regulations, may be operated with any class license other than a class DJ, M or MJ license. For the purposes of this paragraph the term "member of the armed forces" shall include active duty military personnel; members of the reserve components of the armed forces; members of the national guard on active duty, including personnel on full time active guard duty, personnel on part-time national guard training, and national guard military technicians (civilians who are required to wear military uniforms); and active duty United States coast guard personnel. The term shall not include United States reserve technicians. Notwithstanding the provisions of section one hundred fourteen-b of this chapter,

for the purposes of this subparagraph, the term "emergency operation" shall include returning from emergency service. (ii) Notwithstanding the foregoing provisions of this subdivision, a motor vehicle or combination of vehicles which is designed and primarily used for purposes other than the transportation of persons or property which is excluded from the definition of commercial motor vehicle pursuant to the provisions of subparagraph (iv) of paragraph (a) of subdivision four of section five hundred one-a of this chapter may be operated with any class license other than a class DJ, M or MJ license. 3. Restrictions on use of class DJ and class MJ licenses. A class DJ or class MJ license shall permit the holder to operate a vehicle in accordance with the following restrictions: (a) in the counties of Nassau and Suffolk: (i) for the purpose of driving to and from a state-approved cooperative work-study educational program, or to or from an approved program for credit in a post-secondary institution, or to or from a state-approved registered evening high school or while engaged in farm employment, or to or from an approved driver education course; or (ii) from five o'clock in the morning to nine o'clock in the evening, to and from a place of business where the holder is regularly employed, or when accompanied by a duly licensed parent, guardian, person in a position of loco parentis, driver education teacher, or driving school instructor. (b) in all other areas of the state, except for the city of New York: (i) from five o'clock in the morning to nine o'clock in the evening; or (ii) from nine o'clock in the evening to five o'clock in the morning when going to or from school, or to or from a place of business where the holder is employed on a regularly scheduled basis, or when accompanied by a duly licensed parent, guardian or one in a position of loco parentis to the licensee. (c) in the city of New York, driving shall be prohibited. (d) for the purpose of this subdivision, the term "school" shall mean instruction, education or training licensed or approved by a department or agency of the state or training conducted by the armed forces of the United States except it shall not include extra-curricular activities or social events for which scholastic credits are not given. (e) any person operating a motor vehicle to or from school or to or from a place of business as authorized by this subdivision must possess documentation signed by such person's instructor or employer. The commissioner shall, by regulation, prescribe the form and content of such documentation. 4. Probationary licenses. Any driver's license, other than a class DJ and class MJ license, shall be considered probationary until the expiration of six months following the date of issuance thereof, and thereafter as provided in section five hundred ten-b of this title, but this subdivision shall not apply to renewals of a license, or, unless so provided by the commissioner, to a license for which a road test has been waived by the commissioner. 5. Learners' permits. (a) The commissioner shall issue learner's permits as provided in this article. Such permit shall be valid only (i) for the operation of a motor vehicle of a type which could be operated by the holder of the class of license for which application is being made; (ii) when the holder is under the immediate supervision and control of a person at least twenty-one years of age who holds a license valid in this state for the operation of the type of vehicle being operated; and (iii) in accordance with any additional restrictions prescribed by the commissioner and noted on such permit. (b) In addition to the restrictions contained in paragraph (a) of this subdivision, a learner's permit issued to a person applying for a class DJ or class MJ license shall be subject to the restrictions contained in section five hundred one-b of this article and shall not be valid for the operation of any motor vehicle: (i) within the city of New York, except that the holder of such permit may operate a motor vehicle within the city of New York from five o'clock in the morning to nine o'clock in the evening when such person is under the immediate supervision and control of a person at least twenty-one years of age who is such holder's parent, guardian, person in a position of loco parentis, driver education teacher for the purpose of certification pursuant to section eight hundred six-a of the education law or driving school instructor for the purpose of certification pursuant to subdivision seven-a of section three hundred ninety-four of this chapter and such vehicle is equipped with dual controls as prescribed by the commissioner; (ii) in the counties of Nassau and Suffolk, except that the holder of such permit may operate a motor vehicle within the counties of Nassau and Suffolk from five o'clock in the morning to nine o'clock in the evening when such person is under the immediate supervision and control of a person at least twenty-one years of age who is such holder's licensed parent, guardian, person in a position of loco parentis, driver education teacher for the purpose of certification pursuant to section eight hundred six-a of the education law, or driving school instructor for the purpose of certification pursuant to subdivision seven-a of section three hundred ninety-four of this chapter, or a person at least twenty-one years of age who holds a license valid in this state for the operation of the type of vehicle being operated, for the purpose of certification pursuant to subdivision two of section five hundred two of this article, and who has been designated by such holder's parent, guardian or person in a position of loco parentis to accompany such holder, as evidenced by a written statement to that effect; (iii) from nine o'clock in the evening to five o'clock in the morning, unless the holder of such permit is under the immediate supervision and control of a person at least twenty-one years of age who is such holder's licensed parent, guardian, person in a position of loco parentis, driver education teacher for the purpose of certification pursuant to section eight hundred six-a of the education law, or driving school instructor for the purpose of certification pursuant to subdivision seven-a of section three hundred ninety-four of this chapter. (c) The restrictions contained in paragraphs (a) and (b) of this subdivision shall apply to a learner's permit which has been issued to a person who has made application for a class M or class MJ license, except that the required supervising driver need exercise only general supervision and control over the learner as prescribed by regulation of the commissioner when the learner is operating a motorcycle, provided, however, a person who possesses a learner's permit and who has made application for a class M or class MJ license, shall not operate a motorcycle while there is another person on such motorcycle unless such other person possesses a valid class M license. 6. H endorsement criminal history record check. Upon receipt of an application and completion of all other requirements imposed by the commissioner for an H endorsement to permit the operator to transport hazardous materials as defined in section one hundred three of the hazardous materials transportation act, public law 93-633, title I, when the vehicle transporting such materials is required to be placarded under the hazardous materials regulation, 49 CFR part 172, subpart F, or is transporting any quantity of material listed as a select agent or toxin in 42 CFR part 73, the commissioner, subject to the rules and regulations of the division of criminal justice services, shall initiate a criminal history

record check of the person making the application. The commissioner shall obtain from each applicant two sets of fingerprints and the division of criminal justice services processing fee imposed pursuant to subdivision eight-a of section eight hundred thirty-seven of the executive law and any fee imposed by the federal bureau of investigation. The commissioner shall promptly transmit such fingerprints and fees to the division of criminal justice services for processing. The federal bureau of investigation and the division of criminal justice services shall forward such criminal history record, if any, to the commissioner. All such criminal history records processed and sent pursuant to this section shall be confidential pursuant to the applicable federal and state laws, rules and regulations, and shall not be published or in any way disclosed to persons other than authorized personnel, unless otherwise authorized by law. No cause of action against the commissioner, the department or the division of criminal justice services for damages related to the dissemination of criminal history records pursuant to this section shall exist when the commissioner, department or division of criminal justice services has reasonably and in good faith relied upon the accuracy and completeness of criminal history information furnished to it by qualified agencies. The provision of such information by the division of criminal justice services shall be subject to the provisions of subdivision sixteen of section two hundred ninety-six of the executive law. The consideration of such criminal history record by the commissioner shall be subject to article twenty-three-A of the correction law. The commissioner shall review such criminal history record for a conviction within the previous ten years for: (i) any violent felony offense, as defined in section 70.02 of the penal law; or (ii) any felony defined in article one hundred twenty, one hundred twenty-five, one hundred thirty, one hundred thirty-five, one hundred forty, one hundred forty-five, one hundred fifty, one hundred fifty-five, one hundred sixty, one hundred seventy, one hundred seventy-five, two hundred, two hundred ten, two hundred twenty, two hundred twenty-one, two hundred forty, two hundred sixty-five, four hundred sixty, four hundred seventy, four hundred eighty-five, or four hundred ninety of the penal law or section fifty-three-e of the railroad law; or (iii) any offense in another jurisdiction which includes all of the essential elements of such offenses described in paragraphs (i) and (ii) of this subdivision and for which a sentence of imprisonment for more than one year was authorized in the other jurisdiction and is authorized in this state, regardless of whether such sentence was imposed; or any of the following federal offenses: improper transportation of a hazardous material, as defined in 49 U.S.C. 46312, conveying false information or threats, as defined in 49 U.S.C. 46507, espionage, as defined in 18 U.S.C. 793, 794 or 3077, sedition, as defined in 18 U.S.C. 2384, 2385 or section 4 of the subversive activities control act of 1950, treason, as defined in 18 U.S.C. 2381 or conspiracy or solicitation, as defined in 18 U.S.C. 371 or 373; or (iv) an attempt or conspiracy to commit any of the offenses specified in paragraphs (i), (ii), or (iii) of this subdivision. In calculating such ten year period, any period of time during which the person was incarcerated for any reason between the time of commission of the previous felony and the time of commission of the present felony shall be excluded and such ten year period shall be extended by a period or periods equal to the time served under such incarceration. After receipt of a criminal history record from the division of criminal justice services, if any, and review of such record, the commissioner shall promptly notify the applicant whether he or she will be granted an H endorsement based upon the applicant's criminal history and promptly notify such applicant of the determination and the procedure for requesting a hearing pursuant to this subdivision. If the commissioner denies an applicant an H endorsement based either in whole or in part on such applicant's criminal record, the commissioner must notify such applicant of the basis for such denial, and afford such applicant notice and an opportunity to be heard and offer proof in opposition to such determination. If the applicant requests a hearing to contest the commissioner's determination, such hearing must be requested no later than thirty days after the applicant's receipt of the determination and must be scheduled by the commissioner within sixty days of such request. Upon request and pursuant to the rules and regulations of the division of criminal justice services, any applicant may obtain, review and seek correction of his or her criminal history record.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19 - Licensing of Drivers502-A - Determination of Weights Applicable to License Requirements.

§ 502-a. Determination of weights applicable to license requirements. The applicability of the requirements relative to licensing as defined in this article shall, except when a commercial driver's license is required solely because the vehicle is transporting hazardous materials or passengers, be based upon the vehicle manufacturer's GVWR, the registration weight of the vehicle or the actual weight of the vehicle and the load, whichever is greater, or with respect to passenger and limited use automobiles shall be based upon the registration weight of the automobile.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19 - Licensing of Drivers503 - Period of Validity of Drivers' Licenses, Learners' Permits and Applications; Required Fees.

(b) An application for a license shall be valid for a period of time specified by regulation of the commissioner not to exceed five years. A learner's permit shall be valid from its issuance until the expiration of the application for a driver's license for which it was issued. Provided, however, a commercial learner's permit shall be valid for no more than such time as permitted by section 31308 of title 49 of the United States code and part 383.25 of title 49 of the code of federal regulations. Provided, however, that a commercial learner's permit issued by the commissioner in connection with an application for a commercial driver's license shall be cancelled within sixty days of the holder's medical certification status becoming "not-certified" based upon: (i) the expiration of the holder's medical certification or medical variance documentation required by the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the code of federal regulations; (ii) the holder's failure to submit such medical certification or medical variance documentation at such intervals as required by the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the code of federal regulations and in a manner prescribed by the commissioner; or (iii) the receipt by the commissioner

of information from the issuing medical examiner or the federal motor carrier safety administration that a medical certification or medical variance was issued in error or rescinded. The commissioner shall, upon a holder's status becoming "not-certified", notify the holder of such commercial learner's permit issued in connection with a commercial driver's license application by first class mail to the address of such person on file with the department or at the current address provided by the United States postal service of his or her "not-certified" medical certification status and that the commercial motor vehicle privileges of such commercial learner's permit will be cancelled unless he or she submits a current medical certificate and/or medical variance in accordance with Part 383.71(h) of title 49 of the code of federal regulations or changes his or her self-certification to driving only in excepted or intrastate commerce in accordance with Part 383.71(b) (1) (ii), (iii) or (iv) of title 49 of the code of federal regulations. 2. Fees. (a) Initial application fee. The fee required for the initiation of the licensing process by a person who does not hold a valid or renewable license issued by the commissioner shall be ten dollars. (i) If application is made for any license other than a commercial driver's license, such fee shall enable the applicant to take the knowledge test required for issuance of a learner's permit and driver's license no more than twice. (ii) (A) If application is made for a commercial driver's license, such fee shall enable the applicant to take the knowledge test required for issuance of a learner's permit and driver's license once and also take any knowledge test or tests required for any endorsement or endorsements applied for which are taken at the same time. (B) The knowledge tests for such learner's permit, driver's license or endorsements shall be available in both the English and Spanish language versions. (iii) If an applicant fails to pass the knowledge test required for issuance of a learner's permit in the number of times specified in subparagraph (i) or (ii) of this paragraph, a new application fee shall be required. (b) Learner permit/license fee. (i) Upon passage of the knowledge test required to obtain a learner's permit, the applicant for a commercial driver's license shall be required to pay an additional fee of nine dollars and fifty cents for each six months or portion thereof of the period of validity of a learner's permit or license which is or may be issued as well as a fee of forty dollars for a road test which must be passed before a license will be issued. (ii) Upon passage of the knowledge test required to obtain a learner's permit, the applicant for a class C license which does not have an H, P or X endorsement or a class E license shall be required to pay six dollars and twenty-five cents for each six months or portion thereof of the period of validity of a learner's permit or license which is or may be issued, and an applicant for a class D, DJ, M or MJ license shall be required to pay three dollars and twenty-five cents for each six months or portion thereof of the period of validity of a learner's permit or license which is or may be issued. No additional fee shall be required of any such applicant to take up to two road tests. Such road test must be passed before a license will be issued. (iii) If an applicant fails to pass the road test required for issuance of a license in the number of times specified in subparagraph (i) or (ii) of this paragraph, an additional fee of forty dollars will be required for each additional test applied for in order to obtain a commercial driver's license and an additional fee of ten dollars will be required for up to two tests applied for in order to obtain any license other than a commercial driver's license. (iv) Notwithstanding any inconsistent provision of this section, the difference collected between the fees set forth in this paragraph in effect on and after September first, two thousand nine and the fees set forth in this paragraph in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. (b-1) Supplemental learner permit/license fee in the metropolitan commuter transportation district. (i) Upon passage of the knowledge test required to obtain a learner's permit, an applicant for a driver's license who resides in the metropolitan commuter transportation district established by section one thousand two hundred sixty-two of the public authorities law shall be required to pay a supplemental fee of one dollar for each six months or portion thereof of the period of validity of a learner's permit or license which is or may be issued pursuant to the provisions of subparagraph (i) or (ii) of paragraph (b) of this subdivision. (ii) The commissioner shall deposit daily all funds collected pursuant to subparagraph (i) of this paragraph with such responsible banks, banking houses or trust companies as may be designated by the state comptroller, in trust for the credit of the metropolitan transportation authority. An account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. On or before the twelfth day of each month, the commissioner shall certify to the comptroller the amount of all revenues received pursuant to subparagraph (i) of this paragraph during the prior month as a result of the supplemental fee imposed, including any interest and penalties thereon. The revenues so certified over the prior three months in total shall be paid over by the fifteenth day of the last month of each calendar quarter from such account, without appropriation, into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section. Any money collected pursuant to this section that is deposited by the comptroller in the corporate transportation account of the metropolitan transportation authority special assistance fund shall be held in such fund free and clear of any claim by any person or entity paying an additional fee pursuant to this section, including, without limiting the generality of the foregoing, any right or claim against the metropolitan transportation authority, any of its bondholders, or any subsidiary or affiliate of the metropolitan transportation authority. (c) Renewal fee. Fees for renewal of a license issued by the commissioner shall be as follows: (i) For a commercial driver's license, nine dollars and fifty cents for each six months or portion thereof. (ii) For a class C license which does not have an H, P or X endorsement or a class E license, six dollars and twenty-five cents for each six months or portion thereof. (iii) For a class D, DJ, M or MJ license, three dollars and twenty-five cents, for each six months or portion thereof. (iv) Notwithstanding any inconsistent provision of this section, the difference collected between the fees set forth in this paragraph in effect on and after September first, two thousand nine and the fees set forth in this paragraph in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. (c-1) In addition to the fees established in paragraphs (b) and (c) of this subdivision, a fee of fifty cents for each six months or portion thereof of the period of validity shall be paid upon the issuance of any permit, license or renewal of a license which is valid for the operation of a motorcycle, except a limited use motorcycle. (c-2) Refunds. The

commissioner shall refund any fees paid for a driver's license pursuant to paragraph (c) of this subdivision for the period commencing after completion of four years of the period of validity of such license, provided that such license is not suspended or revoked and is surrendered to the commissioner before the end of such four year period and application therefor is filed with the commissioner no later than three months from the expiration of such four year period. (c-3) (i) Supplemental renewal fee in the metropolitan commuter transportation district. In addition to the fees required to be paid pursuant to paragraph (c) of this subdivision, a supplemental fee of one dollar for each six months or portion thereof of the validity of the license shall be paid for renewal of a license of a person who resides in the metropolitan commuter transportation district established by section one thousand two hundred sixty-two of the public authorities law issued by the commissioner. (ii) The commissioner shall deposit daily all funds collected pursuant to this paragraph with such responsible banks, banking houses or trust companies as may be designated by the state comptroller, in trust for the credit of the metropolitan transportation authority. An account may be established in one or more of such depositories. Such deposits shall be kept separate and apart from all other money in the possession of the comptroller. On or before the twelfth day of each month, the commissioner shall certify to the comptroller the amount of all revenues received pursuant to this paragraph during the prior month as a result of the supplemental fees imposed, including any interest and penalties thereon. The revenues so certified over the prior three months in total shall be paid over by the fifteenth day of the last month of each calendar quarter from such account, without appropriation, into the corporate transportation account of the metropolitan transportation authority special assistance fund established by section twelve hundred seventy-a of the public authorities law, to be applied as provided in paragraph (e) of subdivision four of such section. Any money collected pursuant to this section that is deposited by the comptroller in the corporate transportation account of the metropolitan transportation authority special assistance fund shall be held in such fund free and clear of any claim by any person or entity paying an additional fee pursuant to this section, including, without limiting the generality of the foregoing, any right or claim against the metropolitan transportation authority, any of its bondholders, or any subsidiary or affiliate of the metropolitan transportation authority. (d) Duplicate and amendment fees. (i) The fee for a duplicate of any license or learner's permit shall be five dollars. (ii) If a knowledge test or test are required to be passed to secure an amended learner's permit or license, the fees for taking of such test or tests specified in paragraph (a) of this subdivision shall be paid. However, if an amendment is to add only an endorsement or endorsements which require only the passing of a knowledge test or tests, a fee of five dollars shall be paid. If a road test or tests are required to be passed to secure an amended license, the fees for taking such test or tests specified in paragraph (b) of this subdivision shall be paid. If no knowledge or road test is required to secure an amended license, the fee required for such amended license shall be five dollars. In addition, if the fee for the amended learner's permit or license is greater than the fee for the learner's permit or license being amended, the difference in fee shall be paid. If the amendment is only to correct or update a driver's record, no fee other than the photo image fee shall be required. (e) Alternative testing. If a knowledge test is required in any stage of the licensing process, the applicant may request that such test be given in a form other than written and if the applicant meets the eligibility standards established by the commissioner for an alternative test then the commissioner shall give such test in an alternative form. An additional fee of five dollars shall be required for such an alternative test. (f) Photo image fee. In addition to any other fee prescribed herein, a fee of twelve dollars and fifty cents shall be charged for the processing of each learner permit or license document requiring a photo image. Of each such fee collected, five dollars shall be deposited to the credit of the general fund and five dollars shall be deposited in the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law and the dedicated mass transportation fund established pursuant to section eighty-nine-c of the state finance law and distributed according to the provisions of subdivision (d) of section three hundred one-j of the tax law. Notwithstanding any inconsistent provision of this section, the difference collected between the fees set forth in this paragraph in effect on and after September first, two thousand nine and the fees set forth in this paragraph in effect prior to such date shall be deposited to the credit of the dedicated highway and bridge trust fund. (f-1) In addition to any other fee prescribed in this section, an additional fee of thirty dollars shall be charged for any license, issued to a New York state resident who is a citizen of the United States, that can be used for certain land and sea border crossings pursuant to section 7209 of the Intelligence Reform and Terrorism Prevention Act of Two Thousand Four, Public Law 108-458, or the regulations promulgated thereunder. (g) In no event shall the commissioner increase fees or impose surcharges or penalties for the issuance or renewal of licenses without the specific mandate of the legislature effected pursuant to an amendment to this chapter. (h) An applicant whose driver's license has been revoked pursuant to (i) section five hundred ten of this title, (ii) section eleven hundred ninety-three of this chapter, and (iii) section eleven hundred ninety-four of this chapter, shall, upon application for issuance of a driver's license, pay to the commissioner a fee of one hundred dollars. When the basis for the revocation is a finding of driving after having consumed alcohol pursuant to the provisions of section eleven hundred ninety-two-a of this chapter, the fee to be paid to the commissioner shall be one hundred dollars. Such fee is not refundable and shall not be returned to the applicant regardless of the action the commissioner may take on such person's application for reinstatement of such driving license. Such fee shall be in addition to any other fees presently levied but shall not apply to an applicant whose driver's license was revoked for failure to pass a reexamination or to an applicant who has been issued a conditional or restricted use license under the provisions of article twenty-one-A or thirty-one of this chapter. (i) A non-resident whose driving privileges have been revoked pursuant to sections five hundred ten, eleven hundred ninety-three and eleven hundred ninety-four of this chapter shall, upon application for reinstatement of such driving privileges, pay to the commissioner of motor vehicles a fee of one hundred dollars. When the basis for the revocation is a finding of driving after having consumed alcohol pursuant to the provisions of section eleven hundred ninety-two-a of this chapter, the fee to be paid to the commissioner shall be one hundred dollars. Such fee is not refundable and shall not be returned to the applicant regardless of the action the commissioner may take on such person's application for reinstatement of such driving

privileges. (j) Whenever a license issued pursuant to this article, or a privilege of operating a motor vehicle or of obtaining such a license, has been suspended, such suspension shall remain in effect until a termination of a suspension fee of fifty dollars is paid to the commissioner; provided, however, when the basis for the suspension is a finding of driving after having consumed alcohol pursuant to the provisions of section eleven hundred ninety-two-a of this chapter, the fee to be paid to the commissioner shall be one hundred dollars. The provisions of this paragraph shall not apply to a temporary suspension pending a hearing, prosecution or investigation, nor to an indefinite suspension which is issued because of the failure of the person suspended to perform an act, which suspension will be terminated by the performance of the act. (j-1) (i) When a license issued pursuant to this article, or a privilege of operating a motor vehicle or of obtaining such a license, has been suspended based upon a failure to answer an appearance ticket or a summons or failure to pay a fine, penalty or mandatory surcharge, pursuant to subdivision three of section two hundred twenty-six, subdivision four of section two hundred twenty-seven, subdivision four-a of section five hundred ten or subdivision five-a of section eighteen hundred nine of this chapter, such suspension shall remain in effect until a termination of a suspension fee of seventy dollars is paid to the court or tribunal that initiated the suspension of such license or privilege. In no event may the aggregate of the fees imposed by an individual court pursuant to this paragraph for the termination of all suspensions that may be terminated as a result of a person's answers, appearances or payments made in such cases pending before such individual court exceed four hundred dollars. For the purposes of this paragraph, the various locations of the administrative tribunal established under article two-A of this chapter shall be considered an individual court. (ii) Any such fee collected by any court, judge, magistrate or other officer specified in subdivision one of section thirty-nine of the judiciary law, establishing a unified court budget, shall be paid to the state commissioner of taxation and finance on a monthly basis no later than ten days after the last day of each month. All such monies collected under this subdivision shall be deposited to the indigent legal services fund established by section ninety-eight-b of the state finance law. (iii) Any such fee collected by any other court, judge, magistrate or other officer shall, except as provided in paragraph (k) of this subdivision, be paid to the state comptroller within the first ten days of the month following collection. Every such payment to the comptroller shall be accompanied by a statement in such form and detail as the comptroller shall provide. All such monies collected under this subdivision shall be deposited to the indigent legal services fund established by section ninety-eight-b of the state finance law. (iv) Notwithstanding any other provision of this paragraph, fifty percent of all fees collected pursuant to this paragraph shall be deposited to the credit of the general fund. (k) Fees assessed for reapplication for a driver's license or reinstatement of driving privileges after revocation or required to be paid for termination of suspension as provided in paragraphs (h), (i) and (j) of this subdivision shall be paid to the commissioner for deposit to the general fund. Fees assessed for termination of suspension as provided in paragraph (j-1) of this subdivision and collected by an administrative tribunal established under article two-A of this chapter shall be paid over to the state comptroller to the credit of the indigent legal services fund established by section ninety-eight-b of the state finance law. 3. Waiver of fee. The commissioner may waive the payment of fees required by subdivision two of this section if the applicant: (i) is an incarcerated individual in an institution under the jurisdiction of a state department or agency, or (ii) is a victim of crime and the driver's license or learner's permit applied for is a replacement for one that was lost or destroyed as a result of the crime. 4. Driver responsibility assessment. (a) Any person who accumulates six or more points on his or her driving record for acts committed within an eighteen month period shall become liable to the department for payment of a driver responsibility assessment as provided in this subdivision. (b) The amount of the driver responsibility assessment under this section shall be one hundred dollars per year for a three-year period for the first six points on a driver's record and an additional twenty-five dollars per year for each additional point on such driver's record. (c) Upon receipt of evidence that a person is liable for the driver responsibility assessment required by this subdivision, the commissioner shall notify such person by first class mail to the address of such person on file with the department or at the current address provided by the United States postal service of the amount of such assessment, the time and manner of making required payments, and that failure to make payment shall result in the suspension of his or her driver's license or privilege of obtaining a driver's license. (d) If a person shall fail to pay any driver responsibility assessment as provided in this subdivision, the commissioner shall suspend such person's driver's license or privilege of obtaining a license. Such suspension shall remain in effect until any and all outstanding driver responsibility assessments have been paid in full. (e) Any completion of a motor vehicle accident prevention course approved pursuant to article twelve-B of this chapter shall not serve to reduce the calculation of points on a person's driving record for the purposes of this section. (f) Notwithstanding any other provision of law to the contrary, commencing April first, two thousand six and ending March thirty-first, two thousand fourteen, in each year, the first forty million seven hundred thousand dollars of fees collected pursuant to this subdivision and section eleven hundred ninety-nine of this chapter, in the aggregate, shall be paid to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the general fund. Any such fees collected in excess of such amount shall be paid to the credit of the comptroller on account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law. Commencing April first, two thousand fourteen and for each such fiscal year thereafter, any such fees collected pursuant to this subdivision and section eleven hundred ninety-nine of this chapter shall be paid to the credit of the comptroller on account of the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law.

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(a-1) Every license or renewal thereof issued to an applicant who was a member of the armed forces of the United States and who (i) received an honorable discharge or was released therefrom under honorable conditions, or (ii) has a qualifying condition, as defined

in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, or (iii) is a discharged LGBT veteran, as defined in section one of the veterans' services law, and has received a discharge other than bad conduct or dishonorable from such service, shall, upon his or her request and submission of proof as set forth herein, contain a distinguishing mark, in such form as the commissioner shall determine, indicating that he or she is a veteran. Such proof shall consist of a certificate of release or discharge from active duty including but not limited to a DD Form 214 or other proof satisfactory to the commissioner. The commissioner shall not require fees for the issuance of such licenses or renewals thereof to persons requesting a veteran distinguishing mark which are different from fees otherwise required; provided, however, that notwithstanding the provisions of this section, the commissioner shall not require fees for a duplication or amendment of a license prior to its renewal if such duplication or amendment was solely for the purpose of adding a veteran distinguishing mark to such license. (b) The commissioner may by regulation provide that every driver's license contain the photo image of the licensee. The learner's permit may also contain the photo image of the permittee pursuant to regulations established by the commissioner. 2. Whenever an applicant for a license has successfully met the requirements for the issuance of a license, the license issued by the commissioner may be a temporary license which shall be valid until the license provided in subdivision one of this section is issued or until forty-five days from the date such temporary license is issued, whichever occurs first. The commissioner may in his discretion extend the period of validity of such temporary license. Such temporary license shall be in such form as the commissioner shall determine. 3. Notwithstanding any other provision of law, any photo image taken as part of the application procedure for a learner's permit or an original, duplicate, renewal or amended driver's license shall not be a public record.

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§ 505. Duplicate and amended licenses and permits; change of address. 1. Lost, mutilated or destroyed license or permit. In the event of the loss, mutilation or destruction of any driver's license, or any part thereof, or any learner's permit, or any document issued by the commissioner and required for the issuance of a license, the licensee or applicant may file with the commissioner proof of the facts with respect to such loss, mutilation or destruction together with the fee prescribed by law. If the commissioner is satisfied that the applicant is entitled to a duplicate of such item, he shall issue a duplicate of the lost, mutilated or destroyed item. Any mutilated item shall be surrendered before a duplicate is issued. If a duplicate license or permit is issued because of a lost license or permit, and such lost license or permit is later recovered by the licensee or permit holder, he shall surrender such recovered item to the commissioner for cancellation within ten days after recovery of such item. 2. Change of class of license or addition of class to license. Any licensee holding a license of one class who desires to obtain a license of another class or to add a different class or endorsement to a license may file an application with the commissioner together with the fee for an amended license for the purpose of having such license amended. The commissioner may require such applicant to take any tests required for the issuance of a license in the desired class. Upon successful completion of any required tests and the surrender of the prior license, the commissioner shall issue such amended license. 3. Removal of restriction. Any person holding a license containing restrictions as to use, other than one imposed solely by statute, may file an application with the commissioner together with the fee for an amended license for the purpose of having such restriction removed. The commissioner shall require such applicant to submit such information or to take such tests as he deems appropriate with respect to such restrictions. Upon approval of such information or the successful completion of such tests, and the surrender of the prior license, the commissioner shall issue an appropriate amended license. 4. Amendment of license. Any person holding a license which contains any error, other than a clerical error made by the issuing agency, with respect to the information contained thereon, except with respect to the address of such licensee, may file an application with the commissioner together with the fee, if any, for an amended license to have such error corrected. The commissioner shall require such person to submit proof acceptable to him with respect to the facts, and upon approval of such proof and the surrender of the prior license, the commissioner shall issue an appropriate amended license. 5. Change of address. It shall be the duty of every licensee to notify the commissioner in writing of any change of residence of such licensee within ten days after such change occurs. 6. It shall be the duty of the commissioner to deliver to the state board of elections, at least semi-annually, records, in a format as mutually determined by both agencies, of the names of all licensed drivers of voting age who have voluntarily surrendered their New York state drivers licenses in order to obtain a license in another state. Where feasible the department of motor vehicles shall also deliver records of the names of all licensed drivers of voting age who have notified the department of a change of residence address. Such records shall be arranged by county of old residence and shall include the name, birth date and old residence address of each such licensee and the new residence address of each such person who has moved within New York state.

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§ 506. Reexamination of licensees. 1. If the commissioner has reasonable grounds to believe that a person holding a license issued pursuant to this article is not qualified to drive a motor vehicle, the commissioner may require such person to submit to an examination to determine his qualifications. 2. The commissioner may require every person holding a license issued pursuant to this article to submit to such an examination as shall be determined by him to be appropriate if such person has been involved in three accidents while driving a motor vehicle or motorcycle within a period of eighteen months, if such accidents were required to be reported by section six hundred five of this chapter. 3. If the licensee satisfactorily passes any such examination, he shall be so

informed and his license shall continue to be valid. If he fails to pass, the commissioner shall take such reasonable action as may be required. Such action may consist of imposing restrictions on the use of the license of such person, in suspending such license for a definite or indefinite period, or in revoking such license. If any such person fails after reasonable notice or refuses to submit to an examination, the commissioner may revoke his license or suspend it for an indefinite period solely because of such failure or refusal. 4. Any person holding a license issued pursuant to this chapter who suffers permanent loss of use of one or both hands or arms or of one or both feet or legs, or one eye shall, before operating any motor vehicle or motorcycle make report thereof to the commissioner, who shall take such reasonable action as may be proper under the provisions of this section. 5. Upon the permanent loss of use of both eyes a license issued under this article shall be null and void.

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(b) Drug testing administered pursuant to this subdivision shall, at a minimum, be in conformance with drug testing procedures as set forth in Part 382 of Title 49 of the Code of Federal Regulations. 2. No person shall: (a) consume a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content, or be under the influence of an intoxicating liquor or drug, within eight hours before going on duty or operating, or having physical control of a for-hire vehicle having a seating capacity of nine or more passengers, including the driver; or (b) consume a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content while on duty, or operating, or in physical control of a for-hire vehicle having a seating capacity of nine or more passengers, including the driver; or (c) possess a drug, controlled substance or an intoxicating liquor, regardless of its alcoholic content, while on duty, operating or in physical control of a for-hire vehicle having a seating capacity of nine or more passengers, including the driver. However, this paragraph shall not apply to possession of a drug, controlled substance or an intoxicating liquor which is transported as part of a shipment or personal effects of a passenger or to alcoholic beverages which are in sealed containers. 3. No motor carrier shall require or permit a driver to: (a) violate any provision of subdivision two of this section; or (b) be on duty or operate a for-hire vehicle having a seating capacity of nine or more passengers, including the driver, if by such person's general appearance or by such person's conduct or by other substantiating evidence, such person appears to have consumed a drug, controlled substance or an intoxicating liquor within the preceding eight hours before such driver operates such for-hire vehicle. 4. (a) Every motor carrier shall submit an affidavit to the commissioner attesting to compliance with this section. Such affidavit shall be submitted annually beginning no later than six months after the effective date of this subdivision, in a manner prescribed by regulations established by the commissioner. (b) Where an affidavit is not submitted pursuant to this section, the commissioner may, in his or her discretion, suspend the registration of the for-hire vehicle or vehicles or deny registration or renewal to the for-hire vehicle or vehicles owned or operated by the motor carrier. Such suspension or denial shall only remain in effect as long as the motor carrier fails to submit such affidavit. (c) The commissioner may require any motor carrier to pay to the people of this state a civil penalty, if after the motor carrier has had an opportunity to be heard, the commissioner finds that the motor carrier has violated any provision of this section or regulations promulgated pursuant to this section, or has made any false statement or misrepresentation on any affidavit of compliance filed with the commissioner. Any civil penalty assessed for a first violation shall not be less than five hundred dollars nor greater than two thousand five hundred dollars for each violation, false statement or misrepresentation found to have been made or committed, and for a second or subsequent violation, not arising out of the same incident, all of which were committed within a period of eighteen months, shall not be less than five hundred dollars nor greater than five thousand dollars for each violation, false statement or misrepresentation found to have been made or committed. If the registrant fails to pay such penalty within twenty days after the mailing of such order, postage prepaid, certified and addressed to the last known place of business of such registrant, unless such order is stayed by an order of a court of competent jurisdiction, the commissioner may revoke the for-hire vehicle registrations or out of state registration privilege of operation in the state of such motor carrier or may suspend the same for such periods as the commissioner may determine. Civil penalties assessed under this subdivision shall be paid to the commissioner for deposit into the dedicated highway and bridge trust fund established pursuant to section eighty-nine-b of the state finance law after reimbursing the department for the actual costs of public education activities undertaken by the department to implement this section, and unpaid civil penalties may be recovered by the commissioner in a civil action in the name of the commissioner. (d) Upon the suspension of a vehicle registration pursuant to paragraph (b) or (c) of this subdivision, the commissioner shall have the authority to deny a registration or renewal application to any other person for the same for-hire vehicle and may deny a registration or renewal application for any other for-hire motor vehicle registered in the name of the applicant where the commissioner has reasonable grounds to believe that such registration or renewal will have the effect of defeating the purposes of this section. Such suspension or denial shall remain in effect only as long as the suspension entered pursuant to paragraph (b) or (c) of this subdivision remains in effect. 5. For purposes of this section, the term "motor carrier" shall mean any person, firm, corporation, association or entity which directs one or more drivers of a for-hire vehicle or vehicles, having a seating capacity of nine or more passengers, including the driver, and which operates such for-hire vehicle or vehicles in the business of transporting passengers for compensation, and the term "for-hire vehicle" shall mean a taxicab or livery having a seating capacity of nine or more passengers, including the driver, including an altered motor vehicle commonly referred to as a "stretch limousine" having a seating capacity of nine or more passengers, including the driver.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19 - Licensing of Drivers507 - Miscellaneous Provisions.

§ 507. Miscellaneous provisions. 1. Driver education. Notwithstanding any other provisions of this article, a class D or class M license, whichever is appropriate, may be issued to a minor seventeen years of age who has successfully completed a driver education course approved by the state education department and the commissioner in a high school or college and who has submitted proof of completion of the minimum hours of supervised driving as required in paragraph (d) of subdivision two of section five hundred two of this article; provided however, the Yeshiva of Staten Island, which operates as a high school, may provide driver education courses at the Arthur Kill Road Jewish Community Center of Staten Island and the Manor Road Jewish Community Center of Staten Island, located in the county of Richmond; provided however, the Hebrew Academy of Nassau County, a unified school that operates a high school, may provide a driver education course approved by the state education department in a middle school or elementary school location provided such course instruction occurs when elementary or middle school is not in session. No such driver education course may be approved unless classroom training is provided by a person approved by the state education department and the commissioner. However, a school district may contract with one or more licensed drivers' schools to provide behind the wheel training, pursuant to regulations promulgated by the commissioner. The commissioner shall prescribe the requirements for licensing of such minors. A student enrolled in such an approved driver education course may operate a motor vehicle without holding a driver's license or a learner's permit while under the immediate supervision of an instructor in such course or a driver's school instructor providing behind the wheel training in such a course, provided such operation is in accordance with the rules established by the commissioner. Every student who successfully completes such course in a day, evening or summer school program offered by a public or private school shall receive certification of such completion on a certificate prescribed by the commissioner. 2. Failure to exhibit license. Failure by a licensee to exhibit a license valid for operation under this chapter to any magistrate, motor vehicle license examiner, motor vehicle investigator, peace officer, acting pursuant to his special duties, or police officer shall be presumptive evidence that he is not duly licensed. 4. Entry into military service. If any person who enters military service shall fail to give timely notification in writing of such entry to the commissioner, the commissioner may, in his discretion, refuse to renew such person's driver's license, if such license is not otherwise renewable under the provisions of this article. 5. Road tests. A motor vehicle license examiner or other agent designated by the commissioner, while engaged in conducting a road test is not deemed to be a supervising or an accompanying driver in relation to the applicant being tested.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19 - Licensing of Drivers508 - Administrative Procedures.

§ 508. Administrative procedures. 1. The commissioner shall appoint agents to act in his behalf with respect to the acceptance of applications and the issuance of licenses and permits prescribed in this article, and he may prescribe the internal procedures to be followed by such agents with respect to such matters. 2. Any application required to be filed under this article shall be in a manner and on a form or forms prescribed by the commissioner. The applicant shall furnish all information required by statute and, except as otherwise provided in this title, such other information as the commissioner shall deem appropriate. 3. License record. The commissioner shall keep a record of every license issued which record shall be open to public inspection during reasonable business hours. Provided, however, that the following information whenever contained within the record of non-commercial drivers' licenses and learners' permits shall not be open to public inspection: the photo image, social security number, client identification number, name, address, telephone number, place of birth, country of origin, place of employment, school or educational institution attended, source of income, status as a recipient of public benefits, the customer identification number associated with a public utilities account, medical information or disability information of any holders of, or applicants for, such licenses and permits, and whether such licenses or permits meet federal standards for identification or do not meet federal standards for identification. Neither the commissioner nor his agent shall be required to allow the inspection of an application, or to furnish a copy thereof, or information therefrom, until a license has been issued thereon. 4. The commissioner may promulgate regulations with respect to the administration of the provisions of this article. 5. The commissioner is directed to develop license application and renewal forms which shall solicit a voluntary one dollar donation from persons applying for or renewing a driver's license at the time of such application or renewal. Of monies collected pursuant to this subdivision, the first one hundred fifty thousand dollars shall be retained by the department to offset its initial program costs. Subsequently, five percent of any monies collected pursuant to this subdivision shall be retained by the department for continuing administrative costs. The remainder of such monies collected pursuant to this subdivision shall be deposited in the life pass it on trust fund established pursuant to section ninety-five-d of the state finance law, as added by chapter four hundred fifteen of the laws of two thousand three. 6. The commissioner, in consultation with the commissioner of the department of veterans' services, is directed to establish a process by which the department shall refer driver's license and non-driver identification card applicants requesting and obtaining a notation upon such license or non-driver identification card that such applicant is a veteran of the United States armed forces pursuant to subdivision three of section four hundred ninety of this chapter or subdivision one of section five hundred two of this article, upon such applicant's request, to the department of veterans' services, consistent with the provisions of section seven of the veterans' services law.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 19 - Licensing of Drivers509 - Violations.

§ 509. Violations. 1. Except while operating a motor vehicle during the course of a road test conducted pursuant to the provisions of this article, no person shall operate or drive a motor vehicle upon a public highway of this state or upon any sidewalk or to or from any lot adjacent to a public garage, supermarket, shopping center or car washing establishment or to or from or into a public garage

or car washing establishment unless he is duly licensed pursuant to the provisions of this chapter. 1-a. Whenever a license is required to operate a commercial motor vehicle, no person shall operate a commercial motor vehicle without the proper endorsements for the specific vehicle being operated or for the passengers or type of cargo being transported. 2. Whenever a license is required to operate a motor vehicle, no person shall operate a motor vehicle unless he is the holder of a class of license which is valid for the operation of such vehicle. 3. Whenever a permit or license is required to operate a motor vehicle, no person shall operate any motor vehicle in violation of any restriction contained on, or applicable to, the permit or license. 4. No person shall knowingly authorize or permit a motor vehicle owned by him or in his charge to be operated in violation of subdivisions one, two or three of this section. 5. No person shall hold more than one unexpired license issued by the commissioner at any one time. The holding of a license of one class and a learner's permit for another class at the same time shall not be deemed a violation of this subdivision. 6. No licensee shall voluntarily permit any other person to use his license, nor shall any person at any time possess or use any forged, fictitious or illegally obtained license, or use any license belonging to another person. 7. No person shall operate a commercial motor vehicle without being in possession of the appropriate license for the motor vehicle being operated. 7-a. No person shall operate a commercial motor vehicle while knowing or having reason to know that he or she is not medically certified, as required, in accordance with the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the code of federal regulations. 8. No licensee shall fail to notify the commissioner in writing of a change of residence as required by this article. 9. Whenever notice of disability is required to be given to the commissioner as required by this article, no person shall operate any motor vehicle until such notice has been given. 10. No person shall hold an unexpired license issued by the commissioner while holding a driver's license issued by any other jurisdiction. This prohibition shall not apply to any license which by its terms is valid only within the jurisdiction of issuance. Nor shall it apply if such person has informed the commissioner of such multiple licenses and the commissioner has determined that it is necessary for such person to hold more than one license to comply with the laws of each of the jurisdictions in which such licenses were issued. The foregoing exceptions shall not be applicable to commercial driver's licenses after December thirty-first, nineteen hundred eighty-nine. 11. A violation of any provision of this section shall be punishable by a fine of not less than seventy-five nor more than three hundred dollars, or by imprisonment for not more than fifteen days, or by both such fine and imprisonment except, if the violation consists of failure to renew a license which was valid within sixty days, the fine shall be not more than forty dollars, and except that a violation of subdivision seven or eight of this section shall be punishable by a fine of not more than seventy-five dollars. 12. A violation of subdivision two of this section involving the operation for hire of any vehicle as a taxicab, livery as defined in section one hundred twenty-one-e of this chapter, coach, limousine, van or wheelchair accessible van or tow truck within the state without the appropriate license therefor, shall be punishable by a fine of not less than two hundred twenty-five dollars nor more than four hundred fifty dollars. A person who operates a vehicle for hire without the appropriate license therefor pursuant to subdivision two of this section after having been convicted of such a violation within the preceding five years shall be punished by a fine of not less than three hundred seventy-five dollars nor more than seven hundred fifty dollars. A person who operates a vehicle for hire without the appropriate license therefor pursuant to subdivision two of this section after having been convicted two or more times of such a violation within the preceding ten years shall be punished by a fine of not less than seven hundred fifty dollars nor more than one thousand five hundred dollars.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation510-A - Suspension and Revocation of Commercial Driver's Licenses.

2. Duration of revocation. (a) Except as otherwise provided in paragraph (b) of this subdivision, where revocation of a commercial driver's license is mandatory pursuant to paragraph (a), (c), (d), (e) or (f) of subdivision one of this section no new commercial driver's license shall be issued for at least one year nor thereafter except in the discretion of the commissioner, except that for revocations pursuant to paragraph (a), (c), (d) or (e) of subdivision one of this section, if such person has previously been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this chapter or has a prior conviction of any of the following offenses: any violation of section eleven hundred ninety-two of this chapter, any violation of subdivision one or two of section six hundred of this chapter, or any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of this section, or has been convicted of operating a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle, or has been convicted of causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular manslaughter or criminally negligent homicide, then such commercial driver's license revocation shall be permanent.(b) Where revocation is mandatory pursuant to paragraph (a), (c), (d) or (e) of subdivision one of this section and the commercial motor vehicle was transporting hazardous materials, no new commercial driver's license shall be issued for at least three years nor thereafter except in the discretion of the commissioner, except that if such person has previously been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this chapter or has a prior conviction of any of the following offenses: any violation of section eleven hundred ninety-two of this chapter, any violation of subdivision one or two of section six hundred of this chapter, or any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of this section, or been convicted of operating a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle, or has been convicted of causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular manslaughter or criminally negligent homicide, then such commercial driver's license revocation shall be permanent.(c) The

permanent commercial driver's license revocation required by paragraphs (a) and (b) of this subdivision may be waived by the commissioner after a period of ten years has expired from such sentence provided:(i) that during such ten year period such person has not been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this chapter and has not been convicted of any one of the following offenses: any violation of section eleven hundred ninety-two of this chapter, any violation of subdivision one or two of section six hundred of this chapter, or any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of this section, or has been convicted of operating a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle; or has been convicted of causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular manslaughter or criminally negligent homicide;(ii) if any of the grounds upon which the permanent commercial driver's license revocation is based involved a finding of refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of this chapter or a conviction of a violation of any subdivision of section eleven hundred ninety-two of this chapter, that such person provides acceptable documentation to the commissioner that such person has enrolled in and successfully completed an appropriate rehabilitation program; and(iii) after such documentation, if required, is accepted, that such person is granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law by the court in which such person was last penalized.(d) Upon a third finding of refusal and/or conviction of any of the offenses which require a permanent commercial driver's license revocation, such permanent revocation may not be waived by the commissioner under any circumstances.(e) Where revocation is mandatory pursuant to paragraph (b) of subdivision one of this section such revocation shall be permanent and may not be waived by the commissioner under any circumstances.3. Suspension. (a) A commercial driver's license shall be suspended by the commissioner for a period of sixty days where the holder is convicted of two serious traffic violations as defined in subdivision four of this section committed within a three year period, in separate incidents whether such convictions occurred within or outside of this state.(b) A commercial driver's license shall be suspended by the commissioner for a period of one hundred twenty days where the holder is convicted of three serious traffic violations as defined in subdivision four of this section committed within a three year period, in separate incidents whether such convictions occurred within or outside of this state.(c) A commercial drivers license shall be suspended by the commissioner for a period of sixty days where the holder is convicted of a violation of subdivision (g) of section eleven hundred eighty of this chapter, and (i) the recorded or entered speed upon which the conviction was based exceeded the applicable speed limit by more than twenty miles per hour or (ii) the recorded or entered speed upon which the conviction was based exceeded the applicable speed limit by more than ten miles per hour and the vehicle was either (A) in violation of any rules or regulations involving an out-of-service defect relating to brake systems, steering components and/or coupling devices, or (B) transporting flammable gas, radioactive materials or explosives.(d) A commercial driver's license shall be suspended by the commissioner:(i) for a period of one hundred eighty days where the holder was found to have operated a commercial motor vehicle designed or used to transport property as defined in subparagraphs (i) and (ii) of paragraph (a) of subdivision four of section five hundred one-a of this title, in violation of an out-of-service order as provided for in the rules and regulations of the department of transportation whether such violation was committed within this state or was the same or a similar violation involving an out-of-service order committed outside of this state;(ii) for a period of two years if, during any ten-year period, the holder is found to have committed two such violations not arising from the same incident whether such violations were committed within or outside of the state;(iii) for a period of three years if, during any ten-year period, the holder is convicted of three or more such violations not arising from the same incident whether such violations were committed within or outside of the state;(iv) for a period of one hundred eighty days if the holder is found to have operated a commercial motor vehicle designed or used to transport passengers or property as defined in subparagraphs (iii) and (v) of paragraph (a) of subdivision four of section five hundred one-a of this title, in violation of an out-of-service order, as provided for in the rules and regulations of the department of transportation, while transporting hazardous materials or passengers whether such violation was committed within this state or was the same or a similar violation committed outside of this state;(v) for a period of three years if, during any ten-year period, the holder is found to have committed two or more violations, not arising from the same incident, of operating a commercial motor vehicle designed or used to transport passengers or property as defined in subparagraphs (iii) and (v) of paragraph (a) of subdivision four of section five hundred one-a of this title, in violation of an out-of-service order, as provided for in the rules and regulations of the department of transportation, while transporting hazardous materials or passengers whether such violation was committed within this state or was the same or a similar violation involving an out-of-service order committed outside of this state.(e) A commercial driver's license shall be suspended by the commissioner:(i) for a period of sixty days where the holder is convicted of a violation of section eleven hundred seventy-one or section eleven hundred seventy-six of this chapter whether such violation was committed within this state or was the same or a similar violation involving railroad grade crossings committed outside of this state.(ii) for a period of one hundred twenty days where the holder is convicted of a second violation of section eleven hundred seventy-one or section eleven hundred seventy-six of this chapter whether such violations were committed within or outside of this state, both of which were committed within a three year period.(iii) for a period of one year where the holder is convicted of a third violation of section eleven hundred seventy-one or section eleven hundred seventy-six of this chapter whether such violations were committed within or outside of this state, all of which were committed within a three year period.4. Serious traffic violations. (a) A serious traffic violation shall mean operating a commercial motor vehicle in violation of any provision of this chapter or the laws or ordinances of any other state or locality outside of this state that restricts or prohibits the use of a hand-held mobile telephone or a portable electronic device while operating a commercial motor vehicle or in violation of any provision of this chapter

or the laws of any other state, the District of Columbia or any Canadian province which (i) limits the speed of motor vehicles, provided the violation involved fifteen or more miles per hour over the established speed limit; (ii) is defined as reckless driving by state or local law or regulation; (iii) prohibits improper or erratic lane change; (iv) prohibits following too closely; (v) relates to motor vehicle traffic (other than parking, standing or stopping) and which arises in connection with a fatal accident; (vi) operating a commercial motor vehicle without first obtaining a commercial driver's license as required by section five hundred one of this title; (vii) operating a commercial motor vehicle without a commercial driver's license in the driver's possession; or (viii) operating a commercial motor vehicle without the proper class of commercial driver's license and/or endorsement for the specific vehicle being operated or for the passengers or type of cargo being transported.(b) Whether any specific violation which occurs without this state is a serious violation shall be dependent upon whether the state or province in which the violation occurs, reports such violation to the commissioner as, or deems it to be, a serious traffic violation under the provisions of the federal commercial motor vehicle safety act of nineteen hundred eighty-six, public law 99-570, title XII or the motor carrier safety improvement act of 1999, public law 106-159 and regulations promulgated thereunder.4-a. Dismissal. The court shall dismiss any charge of operating a commercial motor vehicle without a commercial driver's license in the driver's possession if, between the date the driver is charged with such violation and the appearance date for such violation, the driver supplies the court with proof that he or she held a valid commercial driver's license on the date of such violation. Such driver must also supply such proof to the law enforcement authority that issued the citation, prior to such driver's appearance in court.5. Limitation of effect of revocation or suspension. Any revocation or suspension of a commercial driver's license issued pursuant to this section shall be applicable only to that portion of the holder's driver's license or privilege which permits the operation of commercial motor vehicles, and the commissioner shall immediately issue a license, other than a commercial driver's license, to such person, provided that such person is otherwise eligible to receive such license and further provided that issuing a license to such person does not create a substantial traffic safety hazard.6. Application of section to persons not holding a commercial driver's license. Whenever a person who is not the holder of a commercial driver's license issued by the commissioner is convicted of a violation arising out of the operation of a commercial motor vehicle which would require the mandatory revocation or suspension of a commercial driver's license pursuant to this section or clause (i) or (ii) of subparagraph five of paragraph (b) or clause b of subparagraph three of paragraph (e) of subdivision two of section eleven hundred ninety-three, or clause c of subparagraph one of paragraph (d) of subdivision two of section eleven hundred ninety-four of this chapter, the privilege of such person to operate a commercial motor vehicle and/or to obtain a commercial driver's license issued by the commissioner will be suspended or revoked for the same periods of time and subject to the same conditions provided in this section, or clause (i) or (ii) of subparagraph five of paragraph (b) or clause b of subparagraph three of paragraph (e) of subdivision two of section eleven hundred ninety-three, or clause c of subparagraph one of paragraph (d) of subdivision two of section eleven hundred ninety-four of this chapter, which would be applicable to the holder of a commercial driver's license.7. Other revocation or suspension action not prohibited. The provisions of this section shall not be construed to prevent any person who has the authority to suspend or revoke a license to drive or privilege of operating pursuant to section five hundred ten of this chapter from exercising any such authority based upon a conviction for which suspension or revocation of a commercial driver's license by the commissioner is mandated.8. Disqualifications based upon record review. (a) Where the commissioner conducts a state record review pursuant to section 384.206 of title 49 of the code of federal regulations and he or she determines that: (i) a person applying for a commercial driver's license was convicted outside of this state of an offense set forth in section 383.51 of title 49 of the code of federal regulations while holding a commercial driver's license issued by another state; and (ii) such other state failed to impose the commercial driver's license disqualification, suspension or revocation set forth in section 383.51 of title 49 of the code of federal regulations for such offense, then the commissioner shall immediately suspend such person's commercial driver's license or privilege of operating a commercial motor vehicle. Provided, however, that where such licenses would have been subject to revocation upon a conviction for such conduct had it occurred in this state, the commissioner shall revoke such license. Such suspension or revocation shall be for the applicable period of time set forth for a conviction for such offense in such section 383.51 as it existed on the date of the violation.(b) Any suspension or revocation of a commercial driver's license issued pursuant to paragraph (a) of this subdivision shall be applicable only to that portion of the holder's driver's license or privilege which permits the operation of commercial motor vehicles, and the commissioner shall immediately issue a license, other than a commercial driver's license, to such person provided that such person is otherwise eligible to receive such license and further provided that issuing a license to such person does not create a substantial traffic safety hazard.9. Application of disqualifications to holders of a commercial learner's permit. Notwithstanding any other provision of law, any provision of this chapter relating to the revocation, suspension, downgrading, disqualification or cancellation of a commercial driver's license shall apply in the same manner to a commercial learner's permit.10. Consecutive disqualification periods. Notwithstanding any other provision of law, whenever a suspension, revocation or disqualification applicable to a commercial driver's license or commercial learner's permit is required by Part 383.51 of title 49 of the code of federal regulations and thereby imposed pursuant to this section or paragraph b or c of subdivision six of section five hundred ten or section eleven hundred ninety-three or eleven hundred ninety-four of this chapter, such suspension, revocation or disqualification shall take effect upon the expiration of the minimum period of a suspension, revocation or disqualification required by Part 383.51 of title 49 of the code of federal regulations and thereby imposed pursuant to this section or paragraph b or c of subdivision six of section five hundred ten or section eleven hundred ninety-three or eleven hundred ninety-four of this chapter which is currently in effect for such license or permit and arose from a separate incident. Provided, however, that the term or terms of any other suspension, revocation or disqualification applicable to a commercial driver's license or commercial learner's permit shall run concurrently if: (a) such suspension, revocation or disqualification is not required by Part 383.51 of title 49

of the code of federal regulations; or (b) such suspension, revocation or disqualification arose from the same incident. (b) Where revocation is mandatory pursuant to paragraph (a), (c), (d) or (e) of subdivision one of this section and the commercial motor vehicle was transporting hazardous materials, no new commercial driver's license shall be issued for at least three years nor thereafter except in the discretion of the commissioner, except that if such person has previously been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this chapter or has a prior conviction of any of the following offenses: any violation of section eleven hundred ninety-two of this chapter, any violation of subdivision one or two of section six hundred of this chapter, or any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of this section, or been convicted of operating a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle, or has been convicted of causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular manslaughter or criminally negligent homicide, then such commercial driver's license revocation shall be permanent. (c) The permanent commercial driver's license revocation required by paragraphs (a) and (b) of this subdivision may be waived by the commissioner after a period of ten years has expired from such sentence provided: (i) that during such ten year period such person has not been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this chapter and has not been convicted of any one of the following offenses: any violation of section eleven hundred ninety-two of this chapter, any violation of subdivision one or two of section six hundred of this chapter, or any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of this section, or has been convicted of operating a commercial motor vehicle when, as a result of prior violations committed while operating a commercial motor vehicle, the driver's commercial driver's license is revoked, suspended, or canceled, or the driver is disqualified from operating a commercial motor vehicle; or has been convicted of causing a fatality through the negligent operation of a commercial motor vehicle, including but not limited to the crimes of vehicular manslaughter or criminally negligent homicide; (ii) if any of the grounds upon which the permanent commercial driver's license revocation is based involved a finding of refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of this chapter or a conviction of a violation of any subdivision of section eleven hundred ninety-two of this chapter, that such person provides acceptable documentation to the commissioner that such person has enrolled in and successfully completed an appropriate rehabilitation program; and (iii) after such documentation, if required, is accepted, that such person is granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law by the court in which such person was last penalized. (d) Upon a third finding of refusal and/or conviction of any of the offenses which require a permanent commercial driver's license revocation, such permanent revocation may not be waived by the commissioner under any circumstances. (e) Where revocation is mandatory pursuant to paragraph (b) of subdivision one of this section such revocation shall be permanent and may not be waived by the commissioner under any circumstances. 3. Suspension. (a) A commercial driver's license shall be suspended by the commissioner for a period of sixty days where the holder is convicted of two serious traffic violations as defined in subdivision four of this section committed within a three year period, in separate incidents whether such convictions occurred within or outside of this state. (b) A commercial driver's license shall be suspended by the commissioner for a period of one hundred twenty days where the holder is convicted of three serious traffic violations as defined in subdivision four of this section committed within a three year period, in separate incidents whether such convictions occurred within or outside of this state. (c) A commercial drivers license shall be suspended by the commissioner for a period of sixty days where the holder is convicted of a violation of subdivision (g) of section eleven hundred eighty of this chapter, and (i) the recorded or entered speed upon which the conviction was based exceeded the applicable speed limit by more than twenty miles per hour or (ii) the recorded or entered speed upon which the conviction was based exceeded the applicable speed limit by more than ten miles per hour and the vehicle was either (A) in violation of any rules or regulations involving an out-of-service defect relating to brake systems, steering components and/or coupling devices, or (B) transporting flammable gas, radioactive materials or explosives. (d) A commercial driver's license shall be suspended by the commissioner: (i) for a period of one hundred eighty days where the holder was found to have operated a commercial motor vehicle designed or used to transport property as defined in subparagraphs (i) and (ii) of paragraph (a) of subdivision four of section five hundred one-a of this title, in violation of an out-of-service order as provided for in the rules and regulations of the department of transportation whether such violation was committed within this state or was the same or a similar violation involving an out-of-service order committed outside of this state; (ii) for a period of two years if, during any ten-year period, the holder is found to have committed two such violations not arising from the same incident whether such violations were committed within or outside of the state; (iii) for a period of three years if, during any ten-year period, the holder is convicted of three or more such violations not arising from the same incident whether such violations were committed within or outside of the state; (iv) for a period of one hundred eighty days if the holder is found to have operated a commercial motor vehicle designed or used to transport passengers or property as defined in subparagraphs (iii) and (v) of paragraph (a) of subdivision four of section five hundred one-a of this title, in violation of an out-of-service order, as provided for in the rules and regulations of the department of transportation, while transporting hazardous materials or passengers whether such violation was committed within this state or was the same or a similar violation committed outside of this state; (v) for a period of three years if, during any ten-year period, the holder is found to have committed two or more violations, not arising from the same incident, of operating a commercial motor vehicle designed or used to transport passengers or property as defined in subparagraphs (iii) and (v) of paragraph (a) of subdivision four of section five hundred one-a of this title, in violation of an out-of-service order, as provided for in the rules and regulations of the department of transportation, while transporting hazardous materials or passengers whether such violation was committed within this state or was the same or a similar violation involving an out-of-service order committed outside of this state.

(e) A commercial driver's license shall be suspended by the commissioner: (i) for a period of sixty days where the holder is convicted of a violation of section eleven hundred seventy-one or section eleven hundred seventy-six of this chapter whether such violation was committed within this state or was the same or a similar violation involving railroad grade crossings committed outside of this state. (ii) for a period of one hundred twenty days where the holder is convicted of a second violation of section eleven hundred seventy-one or section eleven hundred seventy-six of this chapter whether such violations were committed within or outside of this state, both of which were committed within a three year period. (iii) for a period of one year where the holder is convicted of a third violation of section eleven hundred seventy-one or section eleven hundred seventy-six of this chapter whether such violations were committed within or outside of this state, all of which were committed within a three year period. 4. Serious traffic violations. (a) A serious traffic violation shall mean operating a commercial motor vehicle in violation of any provision of this chapter or the laws or ordinances of any other state or locality outside of this state that restricts or prohibits the use of a hand-held mobile telephone or a portable electronic device while operating a commercial motor vehicle or in violation of any provision of this chapter or the laws of any other state, the District of Columbia or any Canadian province which (i) limits the speed of motor vehicles, provided the violation involved fifteen or more miles per hour over the established speed limit; (ii) is defined as reckless driving by state or local law or regulation; (iii) prohibits improper or erratic lane change; (iv) prohibits following too closely; (v) relates to motor vehicle traffic (other than parking, standing or stopping) and which arises in connection with a fatal accident; (vi) operating a commercial motor vehicle without first obtaining a commercial driver's license as required by section five hundred one of this title; (vii) operating a commercial motor vehicle without a commercial driver's license in the driver's possession; or (viii) operating a commercial motor vehicle without the proper class of commercial driver's license and/or endorsement for the specific vehicle being operated or for the passengers or type of cargo being transported. (b) Whether any specific violation which occurs without this state is a serious violation shall be dependent upon whether the state or province in which the violation occurs, reports such violation to the commissioner as, or deems it to be, a serious traffic violation under the provisions of the federal commercial motor vehicle safety act of nineteen hundred eighty-six, public law 99-570, title XII or the motor carrier safety improvement act of 1999, public law 106-159 and regulations promulgated thereunder. 4-a. Dismissal. The court shall dismiss any charge of operating a commercial motor vehicle without a commercial driver's license in the driver's possession if, between the date the driver is charged with such violation and the appearance date for such violation, the driver supplies the court with proof that he or she held a valid commercial driver's license on the date of such violation. Such driver must also supply such proof to the law enforcement authority that issued the citation, prior to such driver's appearance in court. 5. Limitation of effect of revocation or suspension. Any revocation or suspension of a commercial driver's license issued pursuant to this section shall be applicable only to that portion of the holder's driver's license or privilege which permits the operation of commercial motor vehicles, and the commissioner shall immediately issue a license, other than a commercial driver's license, to such person, provided that such person is otherwise eligible to receive such license and further provided that issuing a license to such person does not create a substantial traffic safety hazard. 6. Application of section to persons not holding a commercial driver's license. Whenever a person who is not the holder of a commercial driver's license issued by the commissioner is convicted of a violation arising out of the operation of a commercial motor vehicle which would require the mandatory revocation or suspension of a commercial driver's license pursuant to this section or clause (i) or (ii) of subparagraph five of paragraph (b) or clause b of subparagraph three of paragraph (e) of subdivision two of section eleven hundred ninety-three, or clause c of subparagraph one of paragraph (d) of subdivision two of section eleven hundred ninety-four of this chapter, the privilege of such person to operate a commercial motor vehicle and/or to obtain a commercial driver's license issued by the commissioner will be suspended or revoked for the same periods of time and subject to the same conditions provided in this section, or clause (i) or (ii) of subparagraph five of paragraph (b) or clause b of subparagraph three of paragraph (e) of subdivision two of section eleven hundred ninety-three, or clause c of subparagraph one of paragraph (d) of subdivision two of section eleven hundred ninety-four of this chapter, which would be applicable to the holder of a commercial driver's license. 7. Other revocation or suspension action not prohibited. The provisions of this section shall not be construed to prevent any person who has the authority to suspend or revoke a license to drive or privilege of operating pursuant to section five hundred ten of this chapter from exercising any such authority based upon a conviction for which suspension or revocation of a commercial driver's license by the commissioner is mandated. 8. Disqualifications based upon record review. (a) Where the commissioner conducts a state record review pursuant to section 384.206 of title 49 of the code of federal regulations and he or she determines that: (i) a person applying for a commercial driver's license was convicted outside of this state of an offense set forth in section 383.51 of title 49 of the code of federal regulations while holding a commercial driver's license issued by another state; and (ii) such other state failed to impose the commercial driver's license disqualification, suspension or revocation set forth in section 383.51 of title 49 of the code of federal regulations for such offense, then the commissioner shall immediately suspend such person's commercial driver's license or privilege of operating a commercial motor vehicle. Provided, however, that where such licenses would have been subject to revocation upon a conviction for such conduct had it occurred in this state, the commissioner shall revoke such license. Such suspension or revocation shall be for the applicable period of time set forth for a conviction for such offense in such section 383.51 as it existed on the date of the violation. (b) Any suspension or revocation of a commercial driver's license issued pursuant to paragraph (a) of this subdivision shall be applicable only to that portion of the holder's driver's license or privilege which permits the operation of commercial motor vehicles, and the commissioner shall immediately issue a license, other than a commercial driver's license, to such person provided that such person is otherwise eligible to receive such license and further provided that issuing a license to such person does not create a substantial traffic safety hazard. 9. Application of disqualifications to holders of a commercial learner's permit. Notwithstanding any other provision of law, any provision of this chapter relating to the

revocation, suspension, downgrading, disqualification or cancellation of a commercial driver's license shall apply in the same manner to a commercial learner's permit. 10. Consecutive disqualification periods. Notwithstanding any other provision of law, whenever a suspension, revocation or disqualification applicable to a commercial driver's license or commercial learner's permit is required by Part 383.51 of title 49 of the code of federal regulations and thereby imposed pursuant to this section or paragraph b or c of subdivision six of section five hundred ten or section eleven hundred ninety-three or eleven hundred ninety-four of this chapter, such suspension, revocation or disqualification shall take effect upon the expiration of the minimum period of a suspension, revocation or disqualification required by Part 383.51 of title 49 of the code of federal regulations and thereby imposed pursuant to this section or paragraph b or c of subdivision six of section five hundred ten or section eleven hundred ninety-three or eleven hundred ninety-four of this chapter which is currently in effect for such license or permit and arose from a separate incident. Provided, however, that the term or terms of any other suspension, revocation or disqualification applicable to a commercial driver's license or commercial learner's permit shall run concurrently if: (a) such suspension, revocation or disqualification is not required by Part 383.51 of title 49 of the code of federal regulations; or (b) such suspension, revocation or disqualification arose from the same incident.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation510-AA - Downgrade of Commercial Driver's Licenses.

§ 510-aa. Downgrade of commercial driver's licenses. A commercial driver's license shall be downgraded to a non-commercial driver's license by the commissioner within sixty days of the holder's medical certification status becoming "not-certified" based upon the expiration of the holder's medical certification or medical variance documentation required by the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the code of federal regulations, or upon the holder's failure to submit such medical certification or medical variance documentation at such intervals as required by the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the code of federal regulations and in a manner prescribed by the commissioner. A commercial driver's license shall also be downgraded to a non-commercial driver's license by the commissioner within sixty days of the holder's medical certification status becoming "not-certified" based upon receipt of information from the issuing medical examiner or the federal motor carrier safety administration that a medical certification or medical variance was issued in error or rescinded. Such downgrade shall be terminated, and the commercial driver's license restored, upon: (1) the holder's submission of the required valid medical examiner's certificate or medical variance documentation; or (2) the holder's self-certification specifying the type of commercial motor vehicle operation he or she engages, or expects to engage in, and that the holder is therefore not subject to the physical qualification requirements of the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the code of federal regulations. The commissioner shall, upon a holder's status becoming "not-certified", notify the holder of such commercial driver's license by first class mail to the address of such person on file with the department or at the current address provided by the United States postal service of his or her "not-certified" medical certification status and that his or her commercial driver's license will be downgraded to a non-commercial driver's license unless he or she submits a current medical certificate and/or medical variance in accordance with Part 383.71(h) of title 49 of the code of federal regulations or changes his or her self-certification to driving only in excepted or intrastate commerce in accordance with Part 383.71(b)(ii)(B), (C) or (D) of title 49 of the code of federal regulations.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation510-B - Suspension and Revocation for Violations Committed During Probationary Periods.

§ 510-b. Suspension and revocation for violations committed during probationary periods. 1. A license, other than a class DJ or class MJ license, shall be suspended, for a period of sixty days, (i) upon the first conviction of the licensee of a violation, committed during the probationary period provided for in subdivision four of section five hundred one of this title, of any provision of section eleven hundred twenty-nine of this chapter, section eleven hundred eighty of this chapter or any ordinance or regulation limiting the speed of motor vehicles and motorcycles, section eleven hundred eighty-two of this chapter, subdivision one of section eleven hundred ninety-two of this chapter or section twelve hundred twelve of this chapter; or (ii) upon the second conviction of the licensee of a violation, committed during the aforesaid probationary period, of any other provision of this chapter or of any other law, ordinance, order, rule or regulation relating to traffic. 2. A license, other than a class DJ or class MJ license, considered probationary pursuant to subdivision three of this section shall be revoked upon the conviction of the licensee of a violation or violations committed within six months following the restoration or issuance of such license, which conviction or convictions would result in the suspension of a probationary license pursuant to subdivision one of this section or subparagraph (xvi) of paragraph b of subdivision two of section five hundred ten of this article. 3. Any license, other than a class DJ or class MJ license, which is restored or issued to a person who has had his last valid license suspended or revoked pursuant to the provisions of this section or the provisions of subparagraph (xii) of paragraph a or subparagraph (xvi) of paragraph b of subdivision two of section five hundred ten of this article shall be considered probationary until the expiration of six months following the date of restoration or issuance thereof. 4. The provisions of subdivisions one, five, six and seven of section five hundred ten of this chapter shall apply to any suspension or revocation under this section. However, the provisions of this section shall not operate to prevent a mandatory revocation or suspension for a greater period of time under subdivision two of section five hundred ten of this chapter or section eleven hundred ninety-three of this chapter; nor shall the provisions of this section prevent revocation or suspension under subdivisions two and three of section five hundred ten based upon two or more violations, including the same violation which was

the basis for suspension or revocation under this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation510-C - Suspension and Revocation of Learner's Permits and Driver's Licenses for Violations Committed by Holders of Class Dj or Class Mj Learner's Permits Or

(i) upon a conviction or finding of a serious traffic violation as defined in subdivision two of this section, when such violation was committed while the holder had a class DJ or class MJ learner's permit or a class DJ or MJ license; or (ii) upon the second conviction or finding of such permit or license holder of a violation of any other provision of this chapter or any other law, ordinance, order, rule or regulation relating to traffic, and when such violation was committed while such holder had a class DJ or class MJ learner's permit or a class DJ or MJ license. (b) A learner's permit or a driver's license shall be revoked for a period of sixty days upon the conviction or finding of the permit or license holder of a violation or violations, committed within six months after the restoration of such permit or license suspended pursuant to paragraph (a) of this subdivision, which convictions or findings would result in the suspension of such permit or license pursuant to paragraph (a) of this subdivision. 2. For purposes of this section, the term "serious traffic violation" shall mean operating a motor vehicle in violation of any of the following provisions of this chapter: articles twenty-five and twenty-six; subdivision one of section six hundred; section six hundred one; sections eleven hundred eleven, eleven hundred seventy, eleven hundred seventy-two and eleven hundred seventy-four; subdivisions (a), (b), (c), (d) and (f) of section eleven hundred eighty, provided that the violation involved ten or more miles per hour over the established limit; section eleven hundred eighty-two; subdivision three-a of section twelve hundred twenty-nine-c for violations involving use of safety belts or seats by a child under the age of sixteen; and section twelve hundred twelve of this chapter. 3. Any suspension or revocation required for a violation of section twelve hundred twenty-five-c or section twelve hundred twenty-five-d of this chapter shall be subject to the provisions of subdivisions two and six of section five hundred ten of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation510-D - Suspension and Revocation of Class E Driver's Licenses.

§ 510-d. Suspension and revocation of class E driver's licenses. 1. A class E driver's license shall be suspended by the commissioner for a period of one year where the holder is convicted of a violation of section 230.20, 230.25, 230.30, 230.32, 230.34, 230.34-a or 230.40 of the penal law and the holder used a for hire motor vehicle to commit such crime. 2. A class E driver's license may be revoked by the commissioner when the holder, who had his or her driver's license suspended under subdivision one of this section within the last ten years, is convicted of a second violation of section 230.20, 230.25, 230.30, 230.32, 230.34, 230.34-a or 230.40 of the penal law and the holder used a for hire motor vehicle to commit such crime. 3. Any revocation or suspension of a class E driver's license issued pursuant to this article shall be applicable only to that portion of the holder's driver's license or privilege which permits the operation of a motor vehicle transporting passengers for hire, and the commissioner shall immediately issue a license, other than a class E driver's license, to such person, provided that such person is otherwise eligible to receive such license and further provided that issuing a license to such person does not create a substantial traffic safety hazard. 4. The provisions of this section shall not be construed to prevent any person who has the authority to suspend or revoke a license to drive or privilege of operating pursuant to section five hundred ten of this article from exercising any such authority.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation511-A - Facilitating Aggravated Unlicensed Operation of a Motor Vehicle.

2. Facilitating aggravated unlicensed operation of a motor vehicle in the third degree is a traffic infraction. When a person is convicted thereof the sentence of the court must be: (i) a fine of not less than two hundred dollars nor more than five hundred dollars or (ii) a term of imprisonment of not more than fifteen days, or (iii) both. 3. A person is guilty of facilitating aggravated unlicensed operation of a motor vehicle in the second degree when such person:(a) commits the offense of facilitating aggravated unlicensed operation of a motor vehicle in the third degree as defined in subdivision one of this section after having been convicted of such offense within the preceding eighteen months; or(b) consents to the operation upon a public highway of a motor vehicle registered in such person's name knowing or having reason to know that the operator of such vehicle is a person who has in effect three or more suspensions, imposed on at least three separate dates, for failure to answer, appear or pay a fine, pursuant to subdivision three of section two hundred twenty-six or subdivision four-a of section five hundred ten of this chapter; or(c) commits the crime of facilitating aggravated unlicensed operation of a motor vehicle in the third degree after having been convicted of such an offense two or more times within the preceding five years.For purposes of this subdivision, "motor vehicle" shall mean any vehicle for hire, including a taxicab, livery, as defined in section one hundred twenty-one-e of this chapter, coach, limousine, van or wheelchair accessible van, tow truck, bus or commercial motor vehicle as defined section five hundred nine-a of this chapter.Facilitating aggravated unlicensed operation of a motor vehicle in the second degree is a misdemeanor. When a person is convicted of this crime pursuant to paragraphs (a) or (b) of this subdivision, the sentence of the court must be: (i) a fine of not less than five hundred dollars, nor more than seven hundred fifty dollars; or (ii) a term of imprisonment not to exceed sixty days; or (iii) both a fine and imprisonment; or (iv) where appropriate, a sentence of probation; or (v) a term of imprisonment as a condition of a sentence of probation as provided in the penal law. When a person is convicted of this crime pursuant to paragraph (c) of this subdivision, the sentence of the court must be: (i) a fine of not less than five hundred, nor more than one thousand dollars; or (ii) a term of imprisonment not to exceed one hundred eighty days; or (iii) both a fine and imprisonment; or (iv) where appropriate, a sentence of

probation; or (v) a term of imprisonment as a condition of probation as provided in the penal law.4. A person is guilty of facilitating aggravated unlicensed operation of a motor vehicle in the first degree when such person consents to the operation upon a public highway of a motor vehicle registered in such person's name knowing or having reason to know that the operator of such vehicle is a person who has in effect ten or more suspensions, imposed on at least ten separate dates, for failure to answer, appear or pay a fine, pursuant to subdivision three of section two hundred twenty-six or subdivision four-a of section five hundred ten of this chapter.For purposes of this subdivision, "motor vehicle" shall mean any vehicle for hire, including a taxicab, livery, as defined in section one hundred twenty-one-e of this chapter, coach, limousine, van or wheelchair accessible van, tow truck, bus or commercial motor vehicle as defined in section five hundred nine-a of this chapter.Facilitating aggravated unlicensed operation of a motor vehicle in the first degree is a class E felony. When a person is convicted of this crime, the sentence of the court must be: (i) a fine in an amount not less than one thousand dollars nor more than five thousand dollars; and (ii) a term of imprisonment as provided in the penal law; or (iii) where appropriate, a sentence of probation; or (iv) a term of imprisonment as a condition of a sentence of probation as provided in the penal law.5. Upon a conviction of a violation of subdivision three or four of this section the commissioner shall revoke the registration of the motor vehicle for which the defendant's consent is given and shall only be restored pursuant to the provisions of subdivision five of section five hundred ten of this article. If such defendant is a corporation, partnership, association or other group, none of its officers, principals, directors or stockholders owning more than ten percent of the outstanding stock of the corporation shall be eligible to register the motor vehicle. (a) commits the offense of facilitating aggravated unlicensed operation of a motor vehicle in the third degree as defined in subdivision one of this section after having been convicted of such offense within the preceding eighteen months; or (b) consents to the operation upon a public highway of a motor vehicle registered in such person's name knowing or having reason to know that the operator of such vehicle is a person who has in effect three or more suspensions, imposed on at least three separate dates, for failure to answer, appear or pay a fine, pursuant to subdivision three of section two hundred twenty-six or subdivision four-a of section five hundred ten of this chapter; or (c) commits the crime of facilitating aggravated unlicensed operation of a motor vehicle in the third degree after having been convicted of such an offense two or more times within the preceding five years. For purposes of this subdivision, "motor vehicle" shall mean any vehicle for hire, including a taxicab, livery, as defined in section one hundred twenty-one-e of this chapter, coach, limousine, van or wheelchair accessible van, tow truck, bus or commercial motor vehicle as defined section five hundred nine-a of this chapter. Facilitating aggravated unlicensed operation of a motor vehicle in the second degree is a misdemeanor. When a person is convicted of this crime pursuant to paragraphs (a) or (b) of this subdivision, the sentence of the court must be: (i) a fine of not less than five hundred dollars, nor more than seven hundred fifty dollars; or (ii) a term of imprisonment not to exceed sixty days; or (iii) both a fine and imprisonment; or (iv) where appropriate, a sentence of probation; or (v) a term of imprisonment as a condition of a sentence of probation as provided in the penal law. When a person is convicted of this crime pursuant to paragraph (c) of this subdivision, the sentence of the court must be: (i) a fine of not less than five hundred, nor more than one thousand dollars; or (ii) a term of imprisonment not to exceed one hundred eighty days; or (iii) both a fine and imprisonment; or (iv) where appropriate, a sentence of probation; or (v) a term of imprisonment as a condition of probation as provided in the penal law. 4. A person is guilty of facilitating aggravated unlicensed operation of a motor vehicle in the first degree when such person consents to the operation upon a public highway of a motor vehicle registered in such person's name knowing or having reason to know that the operator of such vehicle is a person who has in effect ten or more suspensions, imposed on at least ten separate dates, for failure to answer, appear or pay a fine, pursuant to subdivision three of section two hundred twenty-six or subdivision four-a of section five hundred ten of this chapter. For purposes of this subdivision, "motor vehicle" shall mean any vehicle for hire, including a taxicab, livery, as defined in section one hundred twenty-one-e of this chapter, coach, limousine, van or wheelchair accessible van, tow truck, bus or commercial motor vehicle as defined in section five hundred nine-a of this chapter. Facilitating aggravated unlicensed operation of a motor vehicle in the first degree is a class E felony. When a person is convicted of this crime, the sentence of the court must be: (i) a fine in an amount not less than one thousand dollars nor more than five thousand dollars; and (ii) a term of imprisonment as provided in the penal law; or (iii) where appropriate, a sentence of probation; or (iv) a term of imprisonment as a condition of a sentence of probation as provided in the penal law. 5. Upon a conviction of a violation of subdivision three or four of this section the commissioner shall revoke the registration of the motor vehicle for which the defendant's consent is given and shall only be restored pursuant to the provisions of subdivision five of section five hundred ten of this article. If such defendant is a corporation, partnership, association or other group, none of its officers, principals, directors or stockholders owning more than ten percent of the outstanding stock of the corporation shall be eligible to register the motor vehicle.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation511-B - Seizure and Redemption of Unlawfully Operated Vehicles.

2. A motor vehicle so impounded shall be in the custody of the local authority and shall not be released unless:(a) The person who redeems it has furnished satisfactory evidence of registration and financial security;(b) Payment has been made for the reasonable costs of removal and storage of the motor vehicle. The registered owner of the vehicle shall be responsible for such payment provided, however, that if he was not the operator at the time of the offense he shall have a cause of action against such operator to recover such costs. Payment prior to release of the vehicle shall not be required in cases where the impounded vehicle was stolen or was rented or leased pursuant to a written agreement for a period of thirty days or less, however the operator of such a vehicle shall be liable for the costs of removal and storage of the vehicle to any entity rendering such service.(c) Where the motor vehicle was operated by a person who at the time of the offense was the owner thereof, (i) satisfactory evidence that the registered owner or

other person seeking to redeem the vehicle has a license or privilege to operate a motor vehicle in this state, and (ii) (A) satisfactory evidence that the criminal action founded upon the charge of aggravated unlicensed operation of a motor vehicle has been terminated and that any fine imposed as a result of a conviction thereon has been paid, or (B) a certificate issued by the court in which the criminal action was commenced ordering release of the vehicle prior to the judgment or compliance therewith in the interest of justice, or (C) a certificate issued by the district attorney or other officer authorized to prosecute such charge waiving the requirement that the vehicle be held as security for appearance before and compliance with the judgment of the court.3. When a vehicle seized and impounded pursuant to this section has been in the custody of the local authority for thirty days, such authority shall make inquiry in the manner prescribed by the commissioner as to the name and address of the owner and any lienholder and upon receipt of such information shall notify the owner and the lienholder, if any, at his last known address by certified mail, return receipt requested, that if the vehicle is not retrieved pursuant to subdivision two of this section within thirty days from the date the notice is given, it will be forfeited. If the vehicle was registered in New York the last known address shall be that address on file with the commissioner. If the vehicle was registered out-of-state or never registered, notification shall be made in the manner prescribed by the commissioner.4. A motor vehicle that has been seized and not retrieved pursuant to the foregoing provisions of this section shall be forfeited to the local authority upon expiration of the period of the notice set forth in subdivision three of this section provided, however, in computing such period, the period of time during which a criminal prosecution is or was pending against the owner for a violation of this section shall be excluded. A proceeding to decree such forfeiture and to recover towing and storage costs, if any, to the extent such costs exceed the fair market value of the vehicle may be brought by the local authority in the court in which the criminal action for aggravated unlicensed operation of a motor vehicle was commenced by petition for an order decreeing forfeiture of the motor vehicle accompanied by an affidavit attesting to facts showing that forfeiture is warranted. If the identity and address of the owner and/or lienholder is known to the local authority, ten days notice shall be given to such party, who shall have an opportunity to appear and be heard prior to entry of an order decreeing forfeiture. Where the court is satisfied that forfeiture of a motor vehicle is warranted in accordance with this section, it shall enter an order decreeing forfeiture of such vehicle. Provided, however, that the court at any time prior to entry of such an order may authorize release of the vehicle in accordance with subdivision two of this section upon a showing of good cause for failure to retrieve same prior to commencement of the proceeding to decree forfeiture, but if the court orders release of the motor vehicle as herein provided and the vehicle is not redeemed within ten days from the date of such order, the vehicle shall be deemed to have been abandoned and the court upon application of the local authority must enter an order decreeing its forfeiture.5. A motor vehicle forfeited in accordance with the provisions of this section shall be and become the property of the local authority, subject however to any lien that was recorded prior to the seizure.6. For the purposes of this section, the term "local authority" means the municipality in which the motor vehicle was seized; except that if the motor vehicle was seized on property of the New York state thruway authority or property under the jurisdiction of the office of parks, recreation and historic preservation, the department of transportation, or a public authority or commission, the term "local authority" means such authority, office, department, or commission. A county may provide by local law that the county may act as the agent for a local authority under this section.7. When a vehicle has been seized and impounded pursuant to this section, the local authority or any person having custody of the vehicle shall make the vehicle available or grant access to it to any owner or any person designated or authorized by such owner for the purpose of (i) taking possession of any personal property found within the vehicle and (ii) obtaining proof of registration, financial security, title or documentation in support thereof. (a) The person who redeems it has furnished satisfactory evidence of registration and financial security; (b) Payment has been made for the reasonable costs of removal and storage of the motor vehicle. The registered owner of the vehicle shall be responsible for such payment provided, however, that if he was not the operator at the time of the offense he shall have a cause of action against such operator to recover such costs. Payment prior to release of the vehicle shall not be required in cases where the impounded vehicle was stolen or was rented or leased pursuant to a written agreement for a period of thirty days or less, however the operator of such a vehicle shall be liable for the costs of removal and storage of the vehicle to any entity rendering such service. (c) Where the motor vehicle was operated by a person who at the time of the offense was the owner thereof, (i) satisfactory evidence that the registered owner or other person seeking to redeem the vehicle has a license or privilege to operate a motor vehicle in this state, and (ii) (A) satisfactory evidence that the criminal action founded upon the charge of aggravated unlicensed operation of a motor vehicle has been terminated and that any fine imposed as a result of a conviction thereon has been paid, or (B) a certificate issued by the court in which the criminal action was commenced ordering release of the vehicle prior to the judgment or compliance therewith in the interest of justice, or (C) a certificate issued by the district attorney or other officer authorized to prosecute such charge waiving the requirement that the vehicle be held as security for appearance before and compliance with the judgment of the court. 3. When a vehicle seized and impounded pursuant to this section has been in the custody of the local authority for thirty days, such authority shall make inquiry in the manner prescribed by the commissioner as to the name and address of the owner and any lienholder and upon receipt of such information shall notify the owner and the lienholder, if any, at his last known address by certified mail, return receipt requested, that if the vehicle is not retrieved pursuant to subdivision two of this section within thirty days from the date the notice is given, it will be forfeited. If the vehicle was registered in New York the last known address shall be that address on file with the commissioner. If the vehicle was registered out-of-state or never registered, notification shall be made in the manner prescribed by the commissioner. 4. A motor vehicle that has been seized and not retrieved pursuant to the foregoing provisions of this section shall be forfeited to the local authority upon expiration of the period of the notice set forth in subdivision three of this section provided, however, in computing such period, the period of time during which a criminal prosecution is or was pending against the owner for a violation of this section shall be excluded. A proceeding to decree such forfeiture and to recover towing and

storage costs, if any, to the extent such costs exceed the fair market value of the vehicle may be brought by the local authority in the court in which the criminal action for aggravated unlicensed operation of a motor vehicle was commenced by petition for an order decreeing forfeiture of the motor vehicle accompanied by an affidavit attesting to facts showing that forfeiture is warranted. If the identity and address of the owner and/or lienholder is known to the local authority, ten days notice shall be given to such party, who shall have an opportunity to appear and be heard prior to entry of an order decreeing forfeiture. Where the court is satisfied that forfeiture of a motor vehicle is warranted in accordance with this section, it shall enter an order decreeing forfeiture of such vehicle. Provided, however, that the court at any time prior to entry of such an order may authorize release of the vehicle in accordance with subdivision two of this section upon a showing of good cause for failure to retrieve same prior to commencement of the proceeding to decree forfeiture, but if the court orders release of the motor vehicle as herein provided and the vehicle is not redeemed within ten days from the date of such order, the vehicle shall be deemed to have been abandoned and the court upon application of the local authority must enter an order decreeing its forfeiture. 5. A motor vehicle forfeited in accordance with the provisions of this section shall be and become the property of the local authority, subject however to any lien that was recorded prior to the seizure. 6. For the purposes of this section, the term "local authority" means the municipality in which the motor vehicle was seized; except that if the motor vehicle was seized on property of the New York state thruway authority or property under the jurisdiction of the office of parks, recreation and historic preservation, the department of transportation, or a public authority or commission, the term "local authority" means such authority, office, department, or commission. A county may provide by local law that the county may act as the agent for a local authority under this section. 7. When a vehicle has been seized and impounded pursuant to this section, the local authority or any person having custody of the vehicle shall make the vehicle available or grant access to it to any owner or any person designated or authorized by such owner for the purpose of (i) taking possession of any personal property found within the vehicle and (ii) obtaining proof of registration, financial security, title or documentation in support thereof.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation511-C - Seizure and Forfeiture of Vehicles Used in the Unlicensed Operation of a Motor Vehicle Under Certain Circumstances.

(a) The term "owner" shall mean an owner as defined in section one hundred twenty-eight and in subdivision three of section three hundred eighty-eight of this chapter. (b) The term "security interest" shall mean a security interest as defined in subdivision (k) of section two thousand one hundred one of this chapter. (c) The term "termination of the criminal proceeding" shall mean the earliest of (i) thirty-one days following the imposition of sentence; or (ii) the date of acquittal of a person arrested for an offense; or (iii) where leave to file new charges or to resubmit the case to a new grand jury is required and has not been granted, thirty-one days following the dismissal of the last accusatory instrument filed in the case, or, if applicable, upon expiration of the time granted by the court or permitted by statute for filing new charges or resubmitting the case to a new grand jury; or (iv) where leave to file new charges or to resubmit the case to a new grand jury is not required, thirty-one days following the dismissal of the last accusatory instrument filed in the case, or, if applicable, upon expiration of the time granted by the court or permitted by statute for filing new charges or resubmitting the case to a new grand jury; or (v) six months from the issuance of an "adjournment in contemplation of dismissal" order pursuant to section 170.55 of the criminal procedure law, where the case is not restored to the court's calendar within the applicable six-month period; or (vi) the date when, prior to the filing of an accusatory instrument against a person arrested for an offense, the prosecuting authority elects not to prosecute such person. 2. Any motor vehicle which has been or is being used in violation of paragraph (a) of subdivision three of section five hundred eleven of this article may be seized by any peace officer, acting pursuant to his or her special duties, or police officer, and forfeited as hereinafter provided in this section. 3. A vehicle may be seized upon service of a notice of violation upon the owner or operator of a vehicle. The seized motor vehicle shall be delivered by the officer having made the seizure to the custody of the district attorney of the county wherein the seizure was made, except that in the cities of New York, Yonkers, Rochester and Buffalo the seized motor vehicle shall be delivered to the custody of the police department of such cities and such motor vehicle seized by a member or members of the state police shall be delivered to the custody of the superintendent of state police, together with a report of all the facts and circumstances of the seizure. Within one business day after the seizure, notice of such violation and a copy of the notice of violation shall be mailed to the owner of such vehicle at the address for such owner set forth in the records maintained by the department of motor vehicles or, for vehicles not registered in New York state, such equivalent record in such state of registration. 4. (a) The attorney general in seizures by members of the state police, or the district attorney of the county wherein the seizure is made, if elsewhere than in the cities of New York, Yonkers, Rochester or Buffalo, or where the seizure is made in such cities, the corporation counsel of the city shall inquire into the facts of the seizure so reported to him or her. If it appears that there is a basis for the commencement and prosecution of a forfeiture proceeding pursuant to this section, any such forfeiture proceeding shall be commenced in supreme court not later than twenty days after the date of receipt of a written demand by a person claiming ownership of the motor vehicle accompanied by the documentation required to be presented upon release of the vehicle pursuant to subparagraphs (i), (ii), and (iv) of paragraph (a) of subdivision five of this section. (b) Where forfeiture proceedings are commenced and prosecuted pursuant to this section, the motor vehicle which is the subject of such proceedings shall remain in the custody of such district attorney, police department or superintendent of state police, as applicable, pending the final determination of such proceedings. (c) To the extent applicable, the procedures of article thirteen-A of the civil practice law and rules shall govern proceedings and actions under this section. 5. A motor vehicle seized pursuant to this section shall be released when: (a) (i) Such attorney general, district attorney or corporation counsel has made a determination not to institute forfeiture proceedings pursuant to this section or the time period within which a forfeiture proceeding could have been commenced pursuant to this section has elapsed and no such forfeiture proceeding was

commenced or the criminal proceeding has been terminated in favor of the accused, as defined in subdivision three of section 160.50 of the criminal procedure law; and (ii) The person seeking to claim the motor vehicle has furnished satisfactory evidence of registration and financial security and, if the person was the operator of the vehicle at the time of the violation of paragraph (a) of subdivision three of section five hundred eleven of this article, satisfactory evidence of payment of any fines or penalties imposed in connection therewith; and (iii) Payment has been made for the reasonable costs of removal and storage of the motor vehicle. The owner of the motor vehicle shall be responsible for such payment provided, however, that if he or she was not the operator at the time of the offense, such person shall have a cause of action against such operator to recover such costs. Payment prior to release of the motor vehicle shall not be required in cases where the seized motor vehicle was stolen or rented or leased pursuant to a written agreement for a period of thirty days or less, however the operator of such a motor vehicle shall be liable for the costs of removal and storage of the motor vehicle to any entity rendering such service; and (iv) If the motor vehicle is held as evidence, the person seeking to claim the motor vehicle has presented a release from the prosecuting authority providing that the motor vehicle is not needed as evidence. (b) (i) Pending completion of forfeiture proceedings which have been commenced, the person seeking to claim the motor vehicle has posted a bond in a form satisfactory to such attorney general, district attorney or corporation counsel in an amount that shall not exceed an amount sufficient to cover the maximum fines or civil penalties which may be imposed for the violation underlying the seizure and all reasonable costs for removal and storage of such vehicle; and (ii) The persons seeking to claim the motor vehicle has furnished satisfactory evidence of registration and financial security. 6. Where a demand for the return of a motor vehicle is not made within ninety days after the termination of the criminal proceeding founded upon the charge of aggravated unlicensed operation of a motor vehicle in the first degree, such motor vehicle shall be deemed to be abandoned. Such vehicle shall be disposed of by the county, cities of New York, Yonkers, Rochester or Buffalo or the state, as applicable, in accordance with section twelve hundred twenty-four of this chapter or as otherwise provided by law. 7. Notice of the institution of the forfeiture proceeding shall be served: (a) By personal service pursuant to the civil practice law and rules upon all owners of the seized motor vehicle listed in the records maintained by the department, or for vehicles not registered in New York state, in the records maintained by the state of registration; and (b) By first class mail upon all individuals who have notified such attorney general, district attorney or corporation counsel that they are an owner of the vehicle and upon all persons holding a security interest in such motor vehicle which security interest has been filed with the department pursuant to the provisions of title ten of this chapter, at the address set forth in the records of such department, or for motor vehicles not registered in New York state, all persons holding a security interest in such motor vehicle which security interest has been filed with such state of registration, at the address provided by such state of registration. 8. Any owner who receives notice of the institution of a forfeiture action who claims an interest in the motor vehicle subject to forfeiture shall assert a claim for the recovery of the motor vehicle or satisfaction of the owner's interest in such motor vehicle by intervening in the forfeiture action in accordance with subdivision (a) of section one thousand twelve of the civil practice law and rules. Any person with a security interest in such vehicle who receives notice of the institution of the forfeiture action shall assert a claim for the satisfaction of such person's security interest in such vehicle by intervening in the forfeiture action in accordance with subdivision (a) of section one thousand twelve of the civil practice law and rules. If the action relates to a vehicle in which a person holding a security interest has intervened pursuant to this subdivision, the burden shall be upon the designated official to prove by clear and convincing evidence that such intervenor knew that such vehicle was or would be used for the commission of a violation of subparagraph (ii) of paragraph (a) of subdivision three of section five hundred eleven of the vehicle and traffic law and either (a) knowingly and unlawfully benefitted from such conduct or (b) voluntarily agreed to the use of the vehicle for the commission of such violation by consent freely given. For purposes of this subdivision, such intervenor knowingly and unlawfully benefited from the commission of such violation when he or she derived in exchange for permitting the use of such vehicle by a person or persons committing such specified violation a substantial benefit that would otherwise not have accrued as a result of the lawful use of such vehicle. "Benefit" means benefit as defined in subdivision seventeen of section 10.00 of the penal law. 9. No motor vehicle shall be forfeited under this section to the extent of the interest of a person who claims an interest in the motor vehicle, where such person pleads and proves that: (a) The use of such motor vehicle for the conduct that was the basis for a seizure occurred without the knowledge of such person, or if such person had knowledge of such use, without the consent of such person, and that such person did not knowingly obtain such interest in the motor vehicle in order to avoid the forfeiture of such vehicle; or (b) The conduct that was the basis for such seizure was committed by any person other than such person claiming an interest in the motor vehicle, while such motor vehicle was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States or any state. 10. The court in which a forfeiture action is pending may dismiss said action in the interests of justice upon its own motion or upon an application as provided for herein. (a) At any time during the pendency of a forfeiture action, the designated official who instituted the action, or a defendant may apply for an order dismissing the complaint and terminating the forfeiture action in the interest of justice. (b) Such application for the relief provided in paragraph (a) of this subdivision must be made in writing and upon notice to all parties. The court may, in its discretion, direct that notice be given to any other person having an interest in the property. (c) An application for the relief provided for in paragraph (a) of this subdivision must be brought exclusively in the superior court in which the forfeiture action is pending. (d) The court may grant the relief provided in paragraph (a) of this subdivision if it finds that such relief is warranted by the existence of some compelling factor, consideration or circumstance demonstrating that forfeiture of the property or any part thereof, would not serve the ends of justice. Among the factors, considerations and circumstances the court may consider, among others, are: (i) the seriousness and circumstances of the crime to which the property is connected relative to the impact of forfeiture of property upon the person who committed the crime; or (ii) the adverse impact of a forfeiture of property upon innocent persons. (e) The court must issue a written

decision stating the basis for an order issued pursuant to this subdivision. 11. The district attorney, police department or superintendent of state police having custody of the seized motor vehicle, after such judicial determination of forfeiture, shall, by a public notice of at least twenty days, sell such forfeited motor vehicle at public sale. The net proceeds of any such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund of the county wherein the seizure was made, provided, however, that the net proceeds of the sale of a motor vehicle seized in the cities of New York, Yonkers, Rochester and Buffalo shall be paid into the respective general funds of such cities, and provided further that the net proceeds of the sale of a motor vehicle seized by the state police shall be paid into the state police seized assets account. 12. In any action commenced pursuant to this section, where the court awards a sum of money to one or more persons in satisfaction of such person's or persons' interest or interests in the forfeited motor vehicle, the total amount awarded to satisfy such interest or interests shall not exceed the amount of the net proceeds of the sale of the forfeited motor vehicle, after deduction of the lawful expenses incurred by the county, cities of New York, Yonkers, Rochester or Buffalo or the state, as applicable, and storage of the motor vehicle between the time of seizure and the date of sale. 13. At any time within two years after the seizure, any person claiming an interest in a motor vehicle which has been forfeited pursuant to this section who was not sent notice of the commencement of the forfeiture action pursuant to subdivision seven of this section, or who did not otherwise receive actual notice of the forfeiture action, may assert in an action commenced before the justice of the supreme court before whom the forfeiture action was held such claim as could have been asserted in the forfeiture action pursuant to this section. The court may grant the relief sought upon such terms and conditions as it deems reasonable and just if the person claiming an interest in the motor vehicle establishes that he or she was not sent notice of the commencement of the forfeiture action and was without actual knowledge of the forfeiture action, and establishes either of the affirmative defenses set forth in subdivision nine of this section. 14. No action under this section for wrongful seizure shall be instituted unless such action is commenced within two years after the time when the motor vehicle was seized.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation511-D - Aggravated Failure to Answer Appearance Tickets or Pay Fines Imposed.

§ 511-d. Aggravated failure to answer appearance tickets or pay fines imposed. 1. A person is guilty of the offense of aggravated failure to answer appearance tickets or pay fines imposed when such person has in effect twenty or more suspensions, imposed on at least twenty separate dates, for failure to answer, appear or pay a fine pursuant to subdivision three of section two hundred twenty-six or subdivision four-a of section five hundred ten of this chapter. 2. A person may be prosecuted for a violation of this section in any court of competent jurisdiction in any county: (a) in which more than ten tickets which resulted in suspension for failures to answer, appear or pay fines were issued, or (b) in which the twentieth or any subsequent ticket which resulted in a suspension for failure to answer, appear or pay a fine was issued. The provisions of this subdivision shall not apply to any suspension which has been terminated prior to the defendant's being charged with a violation of this section. 3. Aggravated failure to answer appearance tickets or pay fines imposed is a misdemeanor. When a person is convicted of this crime, the sentence of the court must be: (i) a fine of not less than five hundred dollars; or (ii) a term of imprisonment of not more than one hundred eighty days; or (iii) both such fine and imprisonment.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation511 - Operation While License or Privilege Is Suspended or Revoked; Aggravated Unlicensed Operation.

(b) Aggravated unlicensed operation of a motor vehicle in the third degree is a misdemeanor. When a person is convicted of this offense, the sentence of the court must be: (i) a fine of not less than two hundred dollars nor more than five hundred dollars; or (ii) a term of imprisonment of not more than thirty days; or (iii) both such fine and imprisonment. (c) When a person is convicted of this offense with respect to the operation of a motor vehicle with a gross vehicle weight rating of more than eighteen thousand pounds, the sentence of the court must be: (i) a fine of not less than five hundred dollars nor more than fifteen hundred dollars; or (ii) a term of imprisonment of not more than thirty days; or (iii) both such fine and imprisonment. 2. Aggravated unlicensed operation of a motor vehicle in the second degree. (a) A person is guilty of the offense of aggravated unlicensed operation of a motor vehicle in the second degree when such person commits the offense of aggravated unlicensed operation of a motor vehicle in the third degree as defined in subdivision one of this section; and (i) has previously been convicted of an offense that consists of or includes the elements comprising the offense committed within the immediately preceding eighteen months; or (ii) the suspension or revocation is based upon a refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of this chapter, a finding of driving after having consumed alcohol in violation of section eleven hundred ninety-two-a of this chapter or upon a conviction for a violation of any of the provisions of section eleven hundred ninety-two of this chapter; or (iii) the suspension was a mandatory suspension pending prosecution of a charge of a violation of section eleven hundred ninety-two of this chapter ordered pursuant to paragraph (e) of subdivision two of section eleven hundred ninety-three of this chapter or other similar statute; or (iv) such person has in effect three or more suspensions, imposed on at least three separate dates, for failure to answer, appear or pay a fine, pursuant to subdivision three of section two hundred twenty-six or subdivision four-a of section five hundred ten of this chapter. (b) Aggravated unlicensed operation of a motor vehicle in the second degree is a misdemeanor. When a person is convicted of this crime under subparagraph (i) of paragraph (a) of this subdivision, the sentence of the court must be: (i) a fine of not less than five hundred dollars; and (ii) a term of imprisonment not to exceed one hundred eighty days; or (iii) where appropriate a sentence of probation as provided in subdivision six of this section; or (iv) a term of imprisonment as a condition of a sentence of probation as provided in the penal law and consistent with this section. When a person is convicted of this crime under subparagraph (ii), (iii) or

(iv) of paragraph (a) of this subdivision, the sentence of the court must be: (i) a fine of not less than five hundred dollars nor more than one thousand dollars; and (ii) a term of imprisonment of not less than seven days nor more than one hundred eighty days, or (iii) where appropriate a sentence of probation as provided in subdivision six of this section; or (iv) a term of imprisonment as a condition of a sentence of probation as provided in the penal law and consistent with this section. 3. Aggravated unlicensed operation of a motor vehicle in the first degree. (a) A person is guilty of the offense of aggravated unlicensed operation of a motor vehicle in the first degree when such person: (i) commits the offense of aggravated unlicensed operation of a motor vehicle in the second degree as provided in subparagraph (ii), (iii) or (iv) of paragraph (a) of subdivision two of this section and is operating a motor vehicle while under the influence of alcohol or a drug in violation of subdivision one, two, two-a, three, four, four-a or five of section eleven hundred ninety-two of this chapter; or (ii) commits the offense of aggravated unlicensed operation of a motor vehicle in the third degree as defined in subdivision one of this section; and is operating a motor vehicle while such person has in effect ten or more suspensions, imposed on at least ten separate dates for failure to answer, appear or pay a fine, pursuant to subdivision three of section two hundred twenty-six of this chapter or subdivision four-a of section five hundred ten of this article; or (iii) commits the offense of aggravated unlicensed operation of a motor vehicle in the third degree as defined in subdivision one of this section; and is operating a motor vehicle while under permanent revocation as set forth in subparagraph twelve of paragraph (b) of subdivision two of section eleven hundred ninety-three of this chapter; or (iv) operates a motor vehicle upon a public highway while holding a conditional license issued pursuant to paragraph (a) of subdivision seven of section eleven hundred ninety-six of this chapter while under the influence of alcohol or a drug in violation of subdivision one, two, two-a, three, four, four-a or five of section eleven hundred ninety-two of this chapter; or (v) commits the offense of aggravated unlicensed operation of a motor vehicle in the third degree as defined in subdivision one of this section; and is operating a motor vehicle while such person has in effect five or more suspensions or revocations, imposed on at least five separate dates, pursuant to subparagraph (i), (iii), (iv), (v), (vi), (vii), (viii), (x), (xi), (xii), or (xiii) of paragraph a of subdivision two of section five hundred ten of this article, or subparagraph (i), (xiii), (xiv), (xv), (xvi), or (xvii) of paragraph b, or paragraph d of such subdivision, or paragraph a, b, d, e, or g relating to evading lawful arrest or prosecution while operating a motor vehicle or motorcycle, or paragraph i of subdivision three of section five hundred ten of this article, or paragraph (c), (d), or (e) of subdivision one or subdivision three of section five hundred ten-a of this article, or section five hundred ten-b of this article, or section five hundred ten-c of this article, or subdivision two of section eleven hundred ninety-three of this chapter. (b) Aggravated unlicensed operation of a motor vehicle in the first degree is a class E felony. When a person is convicted of this crime, the sentence of the court must be: (i) a fine in an amount not less than five hundred dollars nor more than five thousand dollars; and (ii) a term of imprisonment as provided in the penal law except that where a person is convicted of this crime under subparagraph (v) of paragraph (a) of this subdivision, any term of imprisonment imposed for a violation of this section shall be a definite sentence, which may not exceed two years, or (iii) where appropriate and a term of imprisonment is not required by the penal law, a sentence of probation as provided in subdivision six of this section, or (iv) a term of imprisonment as a condition of a sentence of probation as provided in the penal law. 4. Defense. In any prosecution under this section or section five hundred eleven-a of this chapter, it is a defense that the person operating the motor vehicle has at the time of the offense a license issued by a foreign country, state, territory or federal district, which license is valid for operation in this state in accordance with the provisions of section two hundred fifty of this chapter. 5. Limitation on pleas. Where an accusatory instrument charges a violation of this section, any plea of guilty entered in satisfaction of such charge must include at least a plea of guilty of one of the offenses defined by this section and no other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized; provided, however, that if the district attorney upon reviewing the available evidence determines that the charge of a violation of this section is not warranted, he may set forth upon the record the basis for such determination and consent to a disposition by plea of guilty to another charge in satisfaction of such charge, and the court may accept such plea. 6. Sentence of probation. In any case where a sentence of probation is authorized by this section, the court may in its discretion impose such sentence, provided however, if the court is of the opinion that a program of alcohol or drug treatment may be effective in assisting in prevention of future offenses of a similar nature upon imposing such sentence, the court shall require as a condition of the sentence that the defendant participate in such a program. 7. Exceptions. When a person is convicted of a violation of subdivision one or two of this section, and the suspension was issued pursuant to (a) subdivision four-e of section five hundred ten of this article due to a support arrears, or (b) subdivision four-f of section five hundred ten of the article due to past-due tax liabilities, the mandatory penalties set forth in subdivision one or two of this section shall not be applicable if, on or before the return date or subsequent adjourned date, such person presents proof that such support arrears or past-due tax liabilities have been satisfied as shown by certified check, notice issued by the court ordering the suspension, or notice from a support collection unit or department of taxation and finance as applicable. The sentencing court shall take the satisfaction of arrears or the payment of the past-due tax liabilities into account when imposing a sentence for any such conviction. For licenses suspended for non-payment of past-due tax liabilities, the court shall also take into consideration proof, in the form of a notice from the department of taxation and finance, that such person has made payment arrangements that are satisfactory to the commissioner of taxation and finance.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation512 - Operation While Registration or Privilege Is Suspended or Revoked.

§ 512. Operation while registration or privilege is suspended or revoked. Any person who operates any motor vehicle upon a public highway while the certificate of registration of such motor vehicle or privilege of operation of such motor vehicle in this state or privilege of obtaining a certificate of registration issued by the commissioner is suspended or revoked shall be guilty of a

misdemeanor, and upon conviction shall be subject to a fine of not less than fifty dollars nor more than one hundred dollars or by imprisonment for not exceeding thirty days or by both such fine and imprisonment for conviction of a first offense; by a fine of not less than one hundred dollars nor more than two hundred dollars or by imprisonment for not exceeding ninety days or by both such fine and imprisonment for a conviction of a second offense committed within a period of eighteen months; by a fine of not less than two hundred dollars nor more than five hundred dollars or by imprisonment for not exceeding one hundred eighty days or by both such fine and imprisonment for a conviction of a third or subsequent offense committed within a period of eighteen months.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation513 - Certificate of Magistrate.

(a) Upon the suspension or revocation of any license or certificate of registration for any reason specified in sections five hundred ten and eleven hundred ninety-three of this chapter as a ground for such suspension or revocation, the magistrate or other officer suspending or revoking the same shall, within ninety-six hours, transmit to the commissioner a certificate stating: (a) whether such license or certificate has been suspended or revoked and, if suspended, the period of such suspension; (b) the name and address of the person whose license or certificate has been suspended or revoked; (c) the nature of the offense committed, or other reason for the suspension or revocation; (d) the number and character of the violations of the provisions of this chapter, or of any lawful local ordinance, rule or regulation in relation to motor vehicle or motorcycle speed or traffic, of which such licensee has been convicted, so far as practicable. Such certificate shall be presumptive evidence of the facts recited therein. At such time, said magistrate or officer shall transmit such license, if surrendered at sentencing, to the commissioner. (b) Where a person has been granted youthful offender status, the certificate required by subdivision (a) of this section shall specify (i) whether such license or certificate has been suspended or revoked, and if suspended, the period of such suspension; if revoked, the time period within which no new license may be issued; (ii) the name and address of the person whose license or certificate has been revoked; and (iii) such other information as the commissioner may require by regulation.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation514-A - Notification of Convictions, Suspensions, Revocations, Cancellations and Disqualifications by Commercial Motor Vehicle Operators.

§ 514-a. Notification of convictions, suspensions, revocations, cancellations and disqualifications by commercial motor vehicle operators. 1. Each person who operates a commercial motor vehicle for a New York state employer who is convicted of violating within or outside of this state, in any type of motor vehicle, a state or local law relating to motor vehicle traffic control (other than a parking violation), shall notify his/her current employer of such conviction. Any person who holds a commercial driver's license issued by the commissioner who does not operate a commercial motor vehicle for a New York state employer or who operates a commercial motor vehicle while self-employed who is convicted in any other state which has been decertified in accordance with Part 384.405 of title 49 of the code of federal regulations and notice of such decertification has been published in the federal register pursuant to Part 384.409 of title 49 of the code of federal regulations, the District of Columbia or a Canadian province of violating any law relating to motor vehicle traffic control (other than a parking violation) while operating a commercial motor vehicle shall notify the commissioner of such conviction. Such notification must be made within thirty days after the date that the person has been convicted except that if a person is a bus driver as defined in section five hundred nine-a of this chapter, such notification must be made within five days after the date the person has been convicted as required by section five hundred nine-i of this chapter. The above notification must be made in writing and contain the following information: (a) driver's full name; (b) driver's license number; (c) date of conviction; (d) the specific criminal or other offense(s), serious traffic violation(s) of state or local law relating to motor vehicle traffic control, for which the person was convicted and any suspension, revocation, cancellation of any driving privileges or disqualification from operating a commercial motor vehicle which resulted from such conviction(s); (e) indication whether the violation was in a commercial motor vehicle; (f) location of offense; (g) court or tribunal in which the conviction occurred; and (h) driver's signature. 2. Each person who operates a commercial motor vehicle for a New York state employer who has a commercial learner's permit or a commercial driver's license suspended, revoked, or canceled by the commissioner or by the appropriate authorities of any other state, District of Columbia or Canadian province, or who loses the right to operate a commercial motor vehicle in any state or jurisdiction for any period, or who is disqualified from operating a commercial motor vehicle for any period, shall notify his/her current employer of such suspension, revocation, cancellation, lost privilege, or disqualification.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation514-B - Certification of Convictions, Suspensions, Revocations and Disqualifications.

§ 514-b. Certification of convictions, suspensions, revocations and disqualifications. Whenever the commissioner receives information relating to a conviction or notice of a suspension, revocation, cancellations and disqualifications of a license or disqualification from operating a commercial motor vehicle through direct notification by the appropriate officials of another state, District of Columbia or Canadian province or through an information system established pursuant to the commercial motor vehicle safety act of nineteen hundred eighty-six, public law 99-570, title XII and regulations promulgated thereunder or through an admission made by an applicant for a driver's license, such information shall be presumptive evidence of the facts contained therein, and the commissioner shall take action as may be required and may take action as may be permitted by this chapter based upon such conviction or notice.

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation514-C - Notification of Non-Resident Commercial Operator Convictions.

(b) any holder of a driver's license issued by another state for any violation of state or local law regulating traffic, other than a parking, stopping or standing violation, committed while operating a commercial motor vehicle in this state, the commissioner shall provide notice of such conviction to the state which issued such holder's commercial learner's permit, commercial driver's license or driver's license.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation514 - Certifying Convictions, Forfeitures and Nonappearances to the Commissioner and Recording Convictions.

(b) Notwithstanding the provisions of paragraph (a), upon a judgment of conviction for any offense for which a mandatory suspension or revocation is required to be imposed, or a permissive suspension or revocation is imposed by the court, the court or the clerk thereof shall within ninety-six hours of the imposition of sentence file the certificate required by paragraph (a) along with the license, when surrendered at sentencing. (c) Notwithstanding the provisions of paragraphs (a) and (b), the commissioner may prescribe time limitations for the reporting of judgments of conviction and transmission of such license that are longer than those prescribed by this section for any courts to which this section is applicable. (d) Notwithstanding the provisions of paragraphs (a), (b) and (c) of this subdivision, upon a judgment of conviction for a violation of any provisions of this chapter or of any local law, rule, ordinance or regulation relating to traffic (except one related to parking, stopping or standing), the court or the clerk thereof shall, within ninety-six hours of the imposition of the sentence, file the certificate required by paragraph (a) of this subdivision, if the person convicted: (i) is the holder of a commercial learner's permit or a commercial driver's license issued by another state; or (ii) does not hold a commercial learner's permit or a commercial driver's license, but has been issued a license by another state and is convicted of a violation that was committed in a commercial motor vehicle, as defined in subdivision four of section five hundred one-a of this title. 3. (a) Upon the failure of a person to appear or answer, within sixty days of the return date or any subsequent adjourned date, or the failure to pay a fine imposed by a court, pursuant to a summons charging him or her with a violation of any of the provisions of this chapter (except one for parking, stopping or standing), section five hundred two or five hundred twelve of the tax law, section fourteen-f, two hundred eleven or two hundred twelve of the transportation law or of any law, ordinance, rule or regulation made by a local authority, relating to traffic (except for parking, stopping or standing), the trial court or the clerk thereof shall within ten days certify that fact to the commissioner, in the manner and form prescribed by the commissioner, who shall record the same in his or her office. Thereafter and upon the appearance of any such person in response to such summons or the receipt of the fine by the court or such person's entry into an installment payment plan, the trial court or the clerk thereof shall forthwith certify that fact to the commissioner, in the manner and form prescribed by the commissioner. (b) Upon the failure of a person to appear or answer, within sixty days of the return date or any subsequent adjourned date, or the failure to pay a fine imposed by a traffic and parking violations agency or a traffic violations agency pursuant to a summons charging him or her with a violation of: (1) any of the provisions of this chapter except one for parking, stopping or standing and except those violations described in paragraphs (a), (b), (d), (e) and (f) of subdivision two and in paragraphs (a), (b), (d), (e), (f) and (g) of subdivision two-a and in paragraphs (a), (b), (d), (e), (f) and (g) of subdivision two-b of section three hundred seventy-one of the general municipal law; (2) section five hundred two or subdivision (a) of section eighteen hundred fifteen of the tax law; (3) section fourteen-f (except paragraph (b) of subdivision four of section fourteen-f), two hundred eleven or two hundred twelve of the transportation law; or (4) any lawful ordinance or regulation made by a local or public authority relating to traffic (except one for parking, stopping or standing); the clerk thereof shall within ten days certify that fact to the commissioner, in the manner and form prescribed by the commissioner, who shall record the same in his or her office. Thereafter and upon the appearance of any such person in response to such summons or the receipt of the fine by the agency or such person's entry into an installment payment plan, the traffic and parking violations agency, the traffic violations agency or the clerk thereof shall forthwith certify that fact to the commissioner, in the manner and form prescribed by the commissioner. 4. (a) Upon the failure of the owner of a motor vehicle registered in this state or his representative to appear or answer, on the return date or any subsequent adjourned date, or in the case of an administrative tribunal fails to comply with the rules and regulations of said tribunal following entry of a final decision in response to three or more summonses or other process issued within an eighteen month period, charging that said motor vehicle was parked, stopped or standing in violation of the provisions of this chapter or any law, ordinance, rule or regulation made by a local authority, the trial court or administrative tribunal of appropriate jurisdiction may certify that fact to the commissioner in the manner and form prescribed by the commissioner, who may record the same in his office. (b) Upon such certification, the trial court, the clerk thereof, or the administrative tribunal shall notify the registrant by certified or registered mail, return receipt requested, that the commissioner shall deny the registration or renewal application until proof from the court wherein the charges were pending is provided to the commissioner by such court, administrative tribunal, or registrant that such registrant has answered or appeared, or in the case of an administrative tribunal provides proof that such registrant has complied with the rules and regulations of said tribunal following entry of a final decision. Thereafter and upon the appearance or answer of any such person in response to such summonses the trial court or clerk thereof shall forthwith certify that fact to the registrant, and to the commissioner in a manner and form prescribed by the commissioner. In the case of an administrative tribunal such certification shall be made to the registrant and to the commissioner upon compliance with the rules and regulations of such tribunal. Provided, however, that proof provided to the commissioner by a

registrant in the form of a certification provided to such registrant pursuant to this paragraph shall have the same effect as proof provided to the commissioner by such court or administrative tribunal. (c) At least sixty days prior to renewal date the commissioner shall notify the registrant that unless he complies with the provisions of this section as set forth above, his registration or renewal thereof, will be denied. 4-a. (a) Upon the failure of the owner of a motor vehicle registered in this state or his representative to appear or answer, on the return date or dates or any subsequent adjourned date or dates, or in the case of an administrative tribunal, fails to comply with the rules and regulations of said tribunal following entry of a final decision or decisions, in response to twenty or more summonses or other process issued within an eighteen month period, charging that said motor vehicle was parked, stopped or standing in violation of the provisions of this chapter or any law, ordinance, rule or regulation made by a local authority, the trial court or administrative tribunal of appropriate jurisdiction may certify that fact to the commissioner in the manner and form prescribed by the commissioner. (b) Thereafter and upon the appearance or answer of any such person in response to such summonses the trial court or clerk thereof shall forthwith certify that fact to the registrant, and to the commissioner in a manner and form prescribed by the commissioner. In the case of an administrative tribunal, such certification shall be made to the registrant and to the commissioner upon compliance with the rules and regulations of such tribunal. Provided, however, that proof provided to the commissioner by a registrant in the form of a certification provided to such registrant pursuant to this paragraph shall have the same effect as proof provided to the commissioner by such court or administrative tribunal. § 5. Upon the conviction of any person under eighteen years of age who resides within the household of his parent or guardian, the trial court or clerk shall forthwith transmit written notice of such conviction to the parent or guardian of such minor person; provided, however, that transmittal of such notice of conviction shall not be required in any case in which notice of arraignment of such person upon the charge or charges of which convicted is required by, and shall have been previously transmitted as provided in, subdivision two of section eighteen hundred seven of this chapter. 6. Notwithstanding any inconsistent provision of this section, the commissioner may exempt by regulation additional provisions of this chapter or of other laws, ordinances, rules or regulations from the requirements of subdivisions one and two. 7. Any person chargeable with the duty of reporting to the commissioner a conviction, bail forfeiture, the fact that a person failed to appear or answer pursuant to a summons, or the fact that a person has answered or appeared, or in the case of an administrative tribunal that a person has complied with the rules and regulations of said tribunal following entry of a final decision, who wilfully fails or neglects to do so, shall be punishable by a fine of not more than twenty-five dollars for each separate offense.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation515 - Alteration of Convictions Endorsed on Licenses.

§ 515. Alteration of convictions endorsed on licenses. No person shall wilfully erase or otherwise make illegible, the record of a conviction which has been endorsed on a license pursuant to the provisions of section five hundred fourteen.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation516-A - Reciprocal Driver License Agreements With Provinces of Canada.

§ 516-a. Reciprocal driver license agreements with provinces of Canada. The commissioner may execute a reciprocal compact or agreement not inconsistent with the provisions of this chapter with the motor vehicle administrator or other authorized official of any province of Canada to effectuate the purposes set forth in subdivision (b) of article one of section five hundred sixteen of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation516-B - Reciprocal Agreements Concerning Reporting of Traffic Offenses and Administrative Action Thereon.

(b) The word "state" when used in this section shall mean any state, territory, a possession of the United States, District of Columbia or any province of Canada. (c) Traffic offenses which may be subject to a reciprocal compact or agreement entered into pursuant to this section shall be limited to the follwing types of offenses in this state and equivalent offenses in each party state: (1) Manslaughter, criminally negligent homicide and assault arising from the operation of a motor vehicle; (2) Operating a motor vehicle while under the influence of alcohol or a drug; (3) Any felony in the commission of which a motor vehicle is used; (4) Leaving the scene of a personal injury or fatal incident without reporting; (5) Any speeding offense; (6) Any offense consisting of disobeying any traffic control device; (7) Any offense involving failure to yield the right-of-way; (8) Any offense involving direction of traffic, overtaking or passing; 9. Any offense involving failure to use a safety belt or child re- straint device; (10) Reckless driving; and (11) Passing a stopped school bus. (d) Nothing in this section shall be construed to prohibit the reporting or recording of convictions or youthful offender or other juvenile adjudications other than those included in a reciprocal compact or agreement executed pursuant to this section when the laws of either state require or permit action to be taken or sanctions to be imposed on the basis of such convictions or youthful offender or other juvenile adjudications.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation516 - Driver License Compact.

DRIVER LICENSE COMPACT ARTICLE I FINDINGS AND DECLARATION OF POLICY(a) The party states find that:(1) The safety of their streets and highways is materially affected by the degree of compliance with state and local laws and ordinances relating to the operation of motor vehicles.(2) Violation of such a law or ordinance is evidence that the violator engages in conduct

which is likely to endanger the safety of persons and property.(3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated.(b) It is the policy of each of the party states to:(1) Promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles.(2) Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states.ARTICLE IIDEFINITIONSAs used in this compact:(a) "State" means a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of Canada.(b) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle.(c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance or administrative rule or regulation, or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority.ARTICLE IIIREPORTS OF CONVICTIONThe licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security; and shall include any special findings made in connection therewith.ARTICLE IVEFFECT OF CONVICTION(a) The licensing authority in the home state, for the purposes of suspension, revocation or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to article III of this compact, as it would if such conduct had occurred in the home state, in the case of convictions for:(1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle;(2) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle;(3) Any felony in the commission of which a motor vehicle is used;(4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another.(b) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in subdivision (a) of this article, such party state shall construe the denominations and descriptions appearing in subdivision (a) hereof as being applicable to and identifying those offenses or violations of a substantially similar nature and the laws of such party state shall contain such provisions as may be necessary to ensure that full force and effect is given to this article.ARTICLE VAPPLICATIONS FOR NEW LICENSESUpon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if:(1) The applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated.(2) The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of one year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways.(3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders such license.ARTICLE VIAPPLICABILITY OF OTHER LAWSExcept as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a non-party state.ARTICLE VIICOMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION(a) The head of the licensing authority of each party state shall be the administrator of this compact for his state. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact.(b) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact.ARTICLE VIIIENTRY INTO FORCE AND WITHDRAWAL(a) This compact shall enter into force and become effective as to any state when it has enacted the same into law.(b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal.ARTICLE IXCONSTRUCTION AND SEVERABILITYThis compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof of any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.(1) As used in the compact, the term "licensing authority" with reference to this state shall mean the department of motor vehicles. Said department shall furnish to the appropriate authorities of any other party state any information or documents reasonably necessary to

facilitate the administration of the compact.(2) The compact administrator provided for in article seven of the compact shall not be entitled to any additional compensation on account of his service as such administrator, but shall be entitled to expenses incurred in connection with his duties and responsibilities as such administrator, in the same manner as for expenses incurred in connection with any other duties or responsibilities of his office or employment.(3) As used in the compact, with reference to this state, the term "executive head" shall mean the governor.(4) The conduct to which effect shall be given pursuant to article four-a of the compact shall be conduct which, if it had occurred in this state, would have constituted an offense or violation within the meaning of subparagraphs (i) and (iii) of paragraph (a) of subdivision two, paragraph (f) of subdivision three of section five hundred ten and subparagraph seven of paragraph (b) of subdivision two of section eleven hundred ninety-three of the vehicle and traffic law.(5) In any case where the application of subdivision five of section five hundred ten of the vehicle and traffic law would require or authorize a result different from that required by article five of the compact, said article five shall govern. (a) The party states find that: (1) The safety of their streets and highways is materially affected by the degree of compliance with state and local laws and ordinances relating to the operation of motor vehicles. (2) Violation of such a law or ordinance is evidence that the violator engages in conduct which is likely to endanger the safety of persons and property. (3) The continuance in force of a license to drive is predicated upon compliance with laws and ordinances relating to the operation of motor vehicles, in whichever jurisdiction the vehicle is operated. (b) It is the policy of each of the party states to: (1) Promote compliance with the laws, ordinances, and administrative rules and regulations relating to the operation of motor vehicles by their operators in each of the jurisdictions where such operators drive motor vehicles. (2) Make the reciprocal recognition of licenses to drive and eligibility therefor more just and equitable by considering the overall compliance with motor vehicle laws, ordinances and administrative rules and regulations as a condition precedent to the continuance or issuance of any license by reason of which the licensee is authorized or permitted to operate a motor vehicle in any of the party states. ARTICLE II DEFINITIONS As used in this compact: (a) "State" means a state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a province of Canada. (b) "Home state" means the state which has issued and has the power to suspend or revoke the use of the license or permit to operate a motor vehicle. (c) "Conviction" means a conviction of any offense related to the use or operation of a motor vehicle which is prohibited by state law, municipal ordinance or administrative rule or regulation, or a forfeiture of bail, bond or other security deposited to secure appearance by a person charged with having committed any such offense, and which conviction or forfeiture is required to be reported to the licensing authority. ARTICLE III REPORTS OF CONVICTION The licensing authority of a party state shall report each conviction of a person from another party state occurring within its jurisdiction to the licensing authority of the home state of the licensee. Such report shall clearly identify the person convicted; describe the violation specifying the section of the statute, code or ordinance violated; identify the court in which action was taken; indicate whether a plea of guilty or not guilty was entered, or the conviction was a result of the forfeiture of bail, bond or other security; and shall include any special findings made in connection therewith. ARTICLE IV EFFECT OF CONVICTION (a) The licensing authority in the home state, for the purposes of suspension, revocation or limitation of the license to operate a motor vehicle, shall give the same effect to the conduct reported, pursuant to article III of this compact, as it would if such conduct had occurred in the home state, in the case of convictions for: (1) Manslaughter or negligent homicide resulting from the operation of a motor vehicle; (2) Driving a motor vehicle while under the influence of intoxicating liquor or a narcotic drug, or under the influence of any other drug to a degree which renders the driver incapable of safely driving a motor vehicle; (3) Any felony in the commission of which a motor vehicle is used; (4) Failure to stop and render aid in the event of a motor vehicle accident resulting in the death or personal injury of another. (b) If the laws of a party state do not provide for offenses or violations denominated or described in precisely the words employed in subdivision (a) of this article, such party state shall construe the denominations and descriptions appearing in subdivision (a) hereof as being applicable to and identifying those offenses or violations of a substantially similar nature and the laws of such party state shall contain such provisions as may be necessary to ensure that full force and effect is given to this article. ARTICLE V APPLICATIONS FOR NEW LICENSES Upon application for a license to drive, the licensing authority in a party state shall ascertain whether the applicant has ever held, or is the holder of a license to drive issued by any other party state. The licensing authority in the state where application is made shall not issue a license to drive to the applicant if: (1) The applicant has held such a license, but the same has been suspended by reason, in whole or in part, of a violation and if such suspension period has not terminated. (2) The applicant has held such a license, but the same has been revoked by reason, in whole or in part, of a violation and if such revocation has not terminated, except that after the expiration of one year from the date the license was revoked, such person may make application for a new license if permitted by law. The licensing authority may refuse to issue a license to any such applicant if, after investigation, the licensing authority determines that it will not be safe to grant to such person the privilege of driving a motor vehicle on the public highways. (3) The applicant is the holder of a license to drive issued by another party state and currently in force unless the applicant surrenders such license. ARTICLE VI APPLICABILITY OF OTHER LAWS Except as expressly required by provisions of this compact, nothing contained herein shall be construed to affect the right of any party state to apply any of its other laws relating to licenses to drive to any person or circumstance, nor to invalidate or prevent any driver license agreement or other cooperative arrangement between a party state and a non-party state. ARTICLE VII COMPACT ADMINISTRATOR AND INTERCHANGE OF INFORMATION (a) The head of the licensing authority of each party state shall be the administrator of this compact for his state. The administrators, acting jointly, shall have the power to formulate all necessary and proper procedures for the exchange of information under this compact. (b) The administrator of each party state shall furnish to the administrator of each other party state any information or documents reasonably necessary to facilitate the administration of this compact. ARTICLE VIII ENTRY INTO FORCE AND WITHDRAWAL (a) This compact shall enter into force and become effective as to any state when it

has enacted the same into law. (b) Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the executive head of the withdrawing state has given notice of the withdrawal to the executive heads of all other party states. No withdrawal shall affect the validity or applicability by the licensing authorities of states remaining party to the compact of any report of conviction occurring prior to the withdrawal. ARTICLE IX CONSTRUCTION AND SEVERABILITY This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof of any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. (1) As used in the compact, the term "licensing authority" with reference to this state shall mean the department of motor vehicles. Said department shall furnish to the appropriate authorities of any other party state any information or documents reasonably necessary to facilitate the administration of the compact. (2) The compact administrator provided for in article seven of the compact shall not be entitled to any additional compensation on account of his service as such administrator, but shall be entitled to expenses incurred in connection with his duties and responsibilities as such administrator, in the same manner as for expenses incurred in connection with any other duties or responsibilities of his office or employment. (3) As used in the compact, with reference to this state, the term "executive head" shall mean the governor. (4) The conduct to which effect shall be given pursuant to article four-a of the compact shall be conduct which, if it had occurred in this state, would have constituted an offense or violation within the meaning of subparagraphs (i) and (iii) of paragraph (a) of subdivision two, paragraph (f) of subdivision three of section five hundred ten and subparagraph seven of paragraph (b) of subdivision two of section eleven hundred ninety-three of the vehicle and traffic law. (5) In any case where the application of subdivision five of section five hundred ten of the vehicle and traffic law would require or authorize a result different from that required by article five of the compact, said article five shall govern.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation517 - Interstate Compact Guaranteeing Appearance.

§ 517. Interstate compact guaranteeing appearance. a. The commissioner may execute a reciprocal compact or agreement not inconsistent with the provisions of this chapter with the motor vehicle administrator or other authorized official of another state concerning the appearance of a person licensed in one state to answer a summons or an appearance ticket for a moving traffic violation issued by the other state. Such compact shall provide that if a person licensed by either state is issued a summons or an appearance ticket by the other state for a moving traffic violation covered by the compact or agreement, he shall not be detained or required to furnish bail or collateral, and that if he fails to appear in response to such summons or appearance ticket, his license may be suspended by the state that issued the license until he submits to the jurisdiction of the court or administrative tribunal in which such summons or appearance ticket is returnable. Such compact shall also provide such terms and procedures as are necessary and proper to facilitate its administration. b. Such interstate compacts may also provide that if a registration or renewal of a motor vehicle would be denied pursuant to either subdivision five-a of section four hundred one of this chapter, for failing to answer summonses or other processes issued for parking infractions, or subdivision four of section one hundred forty-five of the transportation law, with respect to the transportation of household goods, returnable in any court or an administrative tribunal of the department of transportation or for failing to comply with the rules and regulations of any administrative tribunal of appropriate jurisdiction following entry of a final determination with respect to such summons or process, the state issuing the registration or renewal shall likewise deny the registration or renewal, until such applicant submits to the jurisdiction of the court or administrative tribunal in which such summonses or other processes are returnable. c. The word "state" when used in this section shall mean any state, territory or possession of the United States, the District of Columbia or any province of the Dominion of Canada.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 20 - Suspension and Revocation518 - Reciprocal Agreements Concerning Suspension or Revocation of Registration of a Motor Vehicle for Violations of Toll Collection Regulations.

§ 518. Reciprocal agreements concerning suspension or revocation of registration of a motor vehicle for violations of toll collection regulations. a. The commissioner may execute a reciprocal compact or agreement regarding toll collection violations with the motor vehicle administrator or other authorized official of another state not inconsistent with the provisions of this chapter. Such compact or agreement shall provide that if a registration of a motor vehicle would be suspended or revoked pursuant to paragraph d of subdivision three of section five hundred ten of this chapter, or pursuant to a comparable law or regulation of another state, because a registrant of such motor vehicle failed to pay tolls and related fees, or have such tolls or fees dismissed or transferred, then the state issuing the registration shall likewise suspend or revoke the registration or bar renewal of such registration, until such registrant has paid such tolls and fees or complied with the rules and regulations of the tolling authority that imposed such tolls and fees. Such compact or agreement shall also provide that no such action by a state against a motor vehicle registration shall be taken pursuant to such compact or agreement unless the tolling authority in the other state provides notice, due process, an opportunity to be heard and appeal protections for registrants of motor vehicles, and allows motor vehicle registrants in this state to present evidence by mail, telephone, electronic means or other means to invoke rights of due process without having to appear personally in the jurisdiction

where the violations occurred. b. Such compact or agreement shall also provide such terms and procedures as are necessary and proper to facilitate its administration. Any such compact or agreement shall specify the violations subject to the compact or agreement, and shall include a determination of comparable violations in each state if any such violations are of a substantially similar nature but are not denominated or described in precisely the same words in each party state. c. The word "state" when used in this section shall mean any state, territory, a possession of the United States, the District of Columbia or any province of Canada.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 21-B - Medical Advisory Board540 - Creation.

§ 540. Creation. There is hereby established within the department a medical advisory board.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 21-B - Medical Advisory Board541 - Purpose.

§ 541. Purpose. The medical advisory board shall advise the commissioner on medical criteria and vision standards for the licensing of drivers.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 21-B - Medical Advisory Board542 - Composition of the Board.

§ 542. Composition of the board. The board shall consist of not less than fourteen members, ten of whom shall be physicians representing the specialties of neurology, cardiovascular medicine, internal medicine, family practice, opthalmology, psychiatry, orthopedics, emergency medicine, rehabilitative medicine and gerontology. At least two members of the board shall be lay persons. One member shall be an optometrist and one member shall be a psychologist who respectively are licensed to practice optometry or psychology in the state.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 21-B - Medical Advisory Board543 - Appointment; Compensation; Meetings.

§ 543. Appointment; compensation; meetings. 1. The members of the board shall be appointed by the commissioner. Before such appointments are made, the commissioner shall consult with the medical society of the state of New York in order to obtain their advice regarding the physician appointments. The commissioner shall consult with the optometric council of New York state and the New York state optometric association regarding the appointment of an optometrist, and the New York state psychological association regarding the appointment of a psychologist. The board members shall be appointed to serve three year terms except that four such members initially appointed shall serve one year terms, five shall serve two year terms and five shall serve three year terms. The commissioner shall designate the chairman of the board. Members representing other specialties and interests may be appointed by the commissioner upon recommendation of the board. 2. Board members shall serve without compensation but shall be allowed their actual and necessary expenses incurred in the performance of their duties. 3. The board shall meet at such times as the commissioner shall direct.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 21-B - Medical Advisory Board544 - Responsibilities.

§ 544. Responsibilities. As requested by the commissioner, the board shall recommend medical criteria and vision standards relating to driver licensing and the safe operation of a motor vehicle, and report to the commissioner on such other aspects of medical fitness, driver licensing, and driver health, and safety as the commissioner may request, including collection and analysis of data and research relating to medical aspects of driving and driver licensing.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 21-B - Medical Advisory Board545 - Immunity.

§ 545. Immunity. The medical advisory board and its members shall not be held liable in any action or proceeding on account of any recommendation or report submitted to the commissioner pursuant to this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 21-C - Certificates for Escort Vehicles546 - Escort Certificates.

§ 546. Escort certificates. Application for an escort certificate shall be made in the manner and form prescribed by the commissioner. The fee prescribed by law shall be submitted with such application. The applicant shall be a minimum of twenty-one years of age, possess a valid driver's license, furnish such proof of fitness and identity as required by the commissioner and submit to and pass a test administered by the commissioner.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 21-C - Certificates for Escort Vehicles547 - Period of Validity of Escort Certificates.

§ 547. Period of validity of escort certificates. An escort certificate shall be valid: (a) for a New York state licensee from its date of

issuance until the expiration of such person's driver's license, and (b) for non-residents, a four year period from its date of issuance.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 21-C - Certificates for Escort Vehicles548 - Fees.

§ 548. Fees. The fee for an application of an escort certificate shall be forty dollars which shall be deposited in the general fund.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 21-C - Certificates for Escort Vehicles549 - Cancellation of an Escort Certificate.

§ 549. Cancellation of an escort certificate. An escort certificate shall be cancelled by the commissioner if such person's underlying driver's license has expired, is revoked or suspended or upon notification by the commissioner of transportation or the New York state thruway authority that the person has violated any rule or regulation of the commissioner of transportation or the New York state thruway authority governing the operation, use and equipment of escort vehicles and the duties and responsibilities of the operator of an escort vehicle.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 21-C - Certificates for Escort Vehicles550 - Recertification.

§ 550. Recertification. A person who has had his or her escort certificate cancelled shall not be eligible to reapply for an escort certificate for a minimum period of six months from the date of such cancellation.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 21-C - Certificates for Escort Vehicles551 - Violations.

§ 551. Violations. 1. No person shall operate an escort vehicle, as defined in section one hundred fourteen-c of this chapter, unless he or she is the holder of a valid driver's license and possesses a valid escort certificate issued pursuant to the provisions of this chapter. A violation of this subdivision shall be a traffic infraction and shall be punishable by a fine of not less than two hundred dollars nor more than five hundred dollars. 2. No person shall operate an escort vehicle, as defined in section one hundred fourteen-c of this chapter, with an escort certificate which has been cancelled pursuant to the provisions of this chapter. A violation of this subdivision shall be a traffic infraction and shall be punishable by a fine of not less than five hundred dollars nor more than one thousand dollars. 3. No person shall operate an escort vehicle, as defined in section one hundred fourteen-c of this chapter, in violation of any rule or regulation of the commissioner of transportation regarding the operation, use or equipping of such vehicles. A violation of this subdivision shall be a traffic infraction and shall be punishable by a fine of not less than one hundred dollars nor more than three hundred dollars.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 21 - Alcohol and Drug Rehabilitation Program520 - Statement of Findings and Declaration of Purpose.

§ 520. Statement of findings and declaration of purpose. The ever-increasing number of accidents, personal injuries and deaths resulting from alcohol or drug-related traffic offenses is a matter of great concern to the legislature. The diminished perception of intoxicated and impaired operators of motor vehicles presents a constant and intolerable threat to the lives and well-being of the citizens of the state. Efforts aimed at alleviating this threat have proven inadequate. The public interest in the cause of highway safety will be well served by the implementation of a permanent program of rehabilitation for those operators convicted of alcohol or drug-related traffic offenses and certain operators who have been adjudicated youthful offenders for alcohol or drug-related traffic offenses. The commissioner of motor vehicles should have the authority to offer to such operators an opportunity for rehabilitation, thereby reducing the threat aimed at themselves and the people of the state.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 21 - Alcohol and Drug Rehabilitation Program523-A - Driver Improvement Clinic Programs.

§ 523-a. Driver improvement clinic programs. In addition to the driver rehabilitation program authorized by section eleven hundred ninety-six of this chapter, the commissioner may establish, by regulation, guidelines for alcohol and highway safety programs. The purpose of such programs should be to inform participants of the effects of alcohol on driving, to discuss problem drinking and its effects, to provide assistance to individuals with referral to alcoholism treatment agencies and to provide instruction with respect to proper driving techniques and driver attitude. The commissioner shall establish criteria for requiring attendance at such clinics, and may, pending attendance at such clinic, suspend the driver's license or privilege of any person who fails to attend such clinic as required by such regulations. Such criteria may provide for the required attendance at such clinic of any person who, as a result of the conviction for a moving traffic violation, is referred by the trial court for such attendance. The commissioner shall establish a fee to be paid by any person who attends any such program. Such fee shall be used to defray the ongoing expenses of the program. Where the commissioner has approved any driver improvement program conducted by local authorities, any such fee shall be paid to the agency conducting such program.

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2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 21 - Alcohol and Drug Rehabilitation Program523-B - Experimental Driver Safety Programs.

§ 523-b. Experimental driver safety programs. The commissioner may study the feasibility of programs to improve driver behavior, attitude, performance or skills in order to reduce motor vehicle accidents and traffic violations, and to promote highway safety. He shall have the authority to establish such programs on a limited, experimental basis in order to assist in such feasibility study provided any such program is funded by any source other than state funds, or if any such program is to be funded with state funds, then he may establish such program only with the approval of the director of the division of the budget.

2024 New York LawsVAT - Vehicle and TrafficTitle 5 - Drivers' LicensesArticle 21 - Alcohol and Drug Rehabilitation Program523 - Reports.

§ 523. Reports. The commissioner shall report to the governor and to the legislature annually with respect to the status of the alcohol and drug rehabilitation program, including therein, among other things, the scope and results of procedures for screening and referral of program participants exhibiting an early stage, of alcoholism or chronic life problem with alcohol, providing that such report shall not contain the name of or otherwise identify participants in such program.

2024 New York LawsVAT - Vehicle and TrafficTitle 6 - Accidents and Accident ReportsArticle 22 - Accidents and Accident Reports600 - Leaving Scene of an Incident Without Reporting.

§ 600. Leaving scene of an incident without reporting. 1. Property damage. a. Any person operating a motor vehicle who, knowing or having cause to know that damage has been caused to the real property or to the personal property, not including animals, of another, due to an incident involving the motor vehicle operated by such person shall, before leaving the place where the damage occurred, stop, exhibit his or her license and insurance identification card for such vehicle, when such card is required pursuant to articles six and eight of this chapter, and give his or her name, residence, including street and number, insurance carrier and insurance identification information including but not limited to the number and effective dates of said individual's insurance policy, and license number to the party sustaining the damage, or in case the person sustaining the damage is not present at the place where the damage occurred then he or she shall report the same as soon as physically able to the nearest police station, or judicial officer. In addition to the foregoing, any such person shall also: (i) (A) produce the proof of insurance coverage required pursuant to article forty-four-B of this chapter if such person is a TNC driver operating a TNC vehicle while the incident occurred who was (1) logged on to the TNC's digital network but not engaged in a TNC prearranged trip or (2) was engaged in a TNC prearranged trip; and (B) disclose whether he or she, at the time such incident occurred, was (1) logged on to the TNC's digital network but not engaged in a TNC prearranged trip or (2) was engaged in a TNC prearranged trip, or (ii) (A) produce the proof of insurance coverage required pursuant to article forty of the general business law if such person is a shared vehicle owner or shared vehicle driver operating a shared vehicle during a peer-to-peer car sharing period while the incident occurred; and (B) disclose whether he or she, at the time such incident occurred, was operating a shared vehicle during a peer-to-peer car sharing period. b. It shall be the duty of any member of a law enforcement agency who is at the scene of the accident to request the said operator or operators of the motor vehicles, when physically capable of doing so, to exchange the information required hereinabove and such member of a law enforcement agency shall assist such operator or operators in making such exchange of information in a reasonable and harmonious manner. A violation of the provisions of paragraph a of this subdivision shall constitute a traffic infraction punishable by a fine of up to two hundred fifty dollars or a sentence of imprisonment for up to fifteen days or both such fine and imprisonment. 2. Personal injury. a. Any person operating a motor vehicle who, knowing or having cause to know that personal injury has been caused to another person, due to an incident involving the motor vehicle operated by such person shall, before leaving the place where the said personal injury occurred, stop, exhibit his or her license and insurance identification card for such vehicle, when such card is required pursuant to articles six and eight of this chapter, and give his or her name, residence, including street and street number, insurance carrier and insurance identification information including but not limited to the number and effective dates of said individual's insurance policy and license number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then, he or she shall report said incident as soon as physically able to the nearest police station or judicial officer. In addition to the foregoing, any such person shall also: (i) (A) produce the proof of insurance coverage required pursuant to article forty-four-B of this chapter if such person is a TNC driver operating a TNC vehicle at the time of the incident who was (1) logged on to the TNC's digital network but not engaged in a TNC prearranged trip or (2) was engaged in a TNC prearranged trip; and (B) disclose whether he or she, at the time such incident occurred, was (1) logged on to the TNC's digital network but not engaged in a TNC prearranged trip or (2) was engaged in a TNC prearranged trip, or (ii) (A) produce the proof of insurance coverage required pursuant to article forty of the general business law if such person is a shared vehicle owner or shared vehicle driver operating a shared vehicle during a peer-to-peer car sharing period while the incident occurred; and (B) disclose whether he or she, at the time such incident occurred, was operating a shared vehicle during a peer-to-peer car sharing period. b. It shall be the duty of any member of a law enforcement agency who is at the scene of the accident to request the said operator or operators of the motor vehicles, when physically capable of doing so, to exchange the information required hereinabove and such member of a law enforcement agency shall assist such operator or operators in making such exchange of information in a reasonable and harmonious manner. c. A violation of the provisions of paragraph a of this subdivision resulting solely from the

failure of an operator to exhibit his or her license and insurance identification card for the vehicle or exchange the information required in such paragraph shall constitute a class B misdemeanor punishable by a fine of not less than two hundred fifty nor more than five hundred dollars in addition to any other penalties provided by law. Any subsequent such violation shall constitute a class A misdemeanor punishable by a fine of not less than five hundred nor more than one thousand dollars in addition to any other penalties provided by law. Any violation of the provisions of paragraph a of this subdivision, other than for the mere failure of an operator to exhibit his or her license and insurance identification card for such vehicle or exchange the information required in such paragraph, shall constitute a class A misdemeanor, punishable by a fine of not less than seven hundred fifty dollars nor more than one thousand dollars in addition to any other penalties provided by law. Any such violation committed by a person after such person has previously been convicted of such a violation shall constitute a class E felony, punishable by a fine of not less than one thousand nor more than three thousand dollars in addition to any other penalties provided by law. Any violation of the provisions of paragraph a of this subdivision, other than for the mere failure of an operator to exhibit his or her license and insurance identification card for such vehicle or exchange the information required in such paragraph, where the personal injury involved (i) results in serious physical injury, as defined in section 10.00 of the penal law, shall constitute a class E felony, punishable by a fine of not less than one thousand nor more than five thousand dollars in addition to any other penalties provided by law, or (ii) results in death shall constitute a class D felony punishable by a fine of not less than two thousand nor more than five thousand dollars in addition to any other penalties provided by law. 3. For the purposes of this article, the terms "TNC", "TNC driver", "TNC vehicle", "TNC prearranged trip" and "digital network" shall have the same meanings as such terms are defined in article forty-four-B of this chapter and the terms "shared vehicle owner", "shared vehicle driver", "shared vehicle" and "peer-to-peer car sharing period" shall have the same meanings as such terms are defined in article forty of the general business law.

2024 New York LawsVAT - Vehicle and TrafficTitle 6 - Accidents and Accident ReportsArticle 22 - Accidents and Accident Reports601 - Leaving Scene of Injury to Certain Animals Without Reporting.

§ 601. Leaving scene of injury to certain animals without reporting. Any person operating a motor vehicle which shall strike and injure any horse, dog, cat or animal classified as cattle shall stop and endeavor to locate the owner or custodian of such animal or a police, peace or judicial officer of the vicinity, and take any other reasonable and appropriate action so that the animal may have necessary attention, and shall also promptly report the matter to such owner, custodian or officer (or if no one of such has been located, then to a police officer of some other nearby community), exhibiting his or her license and insurance identification card for such vehicle, when such card is required pursuant to articles six and eight of this chapter, giving his or her name and residence, including street and street number, insurance carrier and insurance identification information and license number. In addition to the foregoing, any such person shall also: (i) (A) produce the proof of insurance coverage required pursuant to article forty-four-B of this chapter if such person is a TNC driver operating a TNC vehicle at the time of the incident who was (1) logged on to the TNC's digital network but not engaged in a TNC prearranged trip or (2) was engaged in a TNC prearranged trip; and (B) disclose whether he or she, at the time such incident occurred, was (1) logged on to the TNC's digital network but not engaged in a TNC prearranged trip or (2) was engaged in a TNC prearranged trip, or (ii) (A) produce the proof of insurance coverage required pursuant to article forty of the general business law if such person is a shared vehicle owner or shared vehicle driver operating a shared vehicle during a peer-to-peer car sharing period while the incident occurred; and (B) disclose whether he or she, at the time such incident occurred, was operating a shared vehicle during a peer-to-peer car sharing period. Violation of this section shall be punishable by a fine of not more than one hundred dollars for a first offense and by a fine of not less than fifty nor more than one hundred fifty dollars for a second offense and each subsequent offense; provided, however where the animal that has been struck and injured is a guide dog, hearing dog or service dog, as such terms are defined in section forty-seven-b of the civil rights law which is actually engaged in aiding or guiding a person with a disability, a violation of this section shall be punishable by a fine of not less than fifty nor more than one hundred fifty dollars for a first offense and by a fine of not less than one hundred fifty dollars nor more than three hundred dollars for a second offense and each subsequent offense.

2024 New York LawsVAT - Vehicle and TrafficTitle 6 - Accidents and Accident ReportsArticle 22 - Accidents and Accident Reports602 - Arrest for Violations of Sections Six Hundred and Six Hundred One.

§ 602. Arrest for violations of sections six hundred and six hundred one. A peace officer, acting pursuant to his special duties, or a police officer may, without a warrant, arrest a person, in case of violation of section six hundred and section six hundred one, which in fact have been committed, though not in his presence, when he has reasonable cause to believe that the violation was committed by such person.

2024 New York LawsVAT - Vehicle and TrafficTitle 6 - Accidents and Accident ReportsArticle 22 - Accidents and Accident Reports603-A - Accidents; Police Authorities to Investigate.

* NB Effective until July 11, 2025 * In addition to the requirements of section six hundred three of this article, whenever a motor vehicle, bicycle with electric assist, or electric scooter accident results in serious physical injury or death to a person, and such accident either is discovered by a police officer, or reported to a police officer within five days after such accident occurred, the police shall conduct an investigation of such accident. * NB Effective July 11, 2025 * (a) Such investigation shall be conducted for the purposes of making a determination of the following: the facts and circumstances of the accident; the type or types of vehicles involved, including passenger motor vehicles, commercial motor vehicles, motorcycles, limited use motorcycles, off-highway

motorcycles, and/or bicycles; whether pedestrians were involved; the contributing factor or factors; whether it can be determined if a violation or violations of this chapter occurred, and if so, the specific provisions of this chapter which were violated and by whom; and, the cause of such accident, where such cause can be determined. * NB Effective until July 11, 2025 * (a) Such investigation shall be conducted for the purposes of making a determination of the following: the facts and circumstances of the accident; the type or types of vehicles involved, including passenger motor vehicles, commercial motor vehicles, motorcycles, limited use motorcycles, off-highway motorcycles, electric scooters, bicycles with electric assist, and/or bicycles; whether pedestrians were involved; the contributing factor or factors; whether it can be determined if a violation or violations of this chapter occurred, and if so, the specific provisions of this chapter which were violated and by whom; and, the cause of such accident, where such cause can be determined. * NB Effective July 11, 2025(b) When present at the scene of such accident, the investigating officer shall also request that all operators of motor vehicles involved in such accident submit to field testing as defined in section eleven hundred ninety-four of this chapter provided there are reasonable grounds to believe such motor vehicle operator committed a serious traffic violation in the same accident. The results of such field testing or refusal of such testing shall be included in the police investigation report. For the purposes of this section, "serious traffic violation" shall mean operating a motor vehicle in violation of any of the following provisions of this chapter: articles twenty-three, twenty-four, twenty-five, twenty-six, twenty-eight, twenty-nine and thirty and sections five hundred eleven, six hundred and twelve hundred twelve.(c) The police shall forward a copy of the investigation report to the commissioner within five business days of the completion of such report.2. For purposes of this section, the following terms shall have the following meanings:(a) "commercial motor vehicle" shall have the same meaning as such term is defined in either subdivision four of section five hundred one-a or subdivision one of section five hundred nine-p of this chapter; and(b) "serious physical injury" shall have the same meaning as such term is defined in section 10.00 of the penal law. (b) When present at the scene of such accident, the investigating officer shall also request that all operators of motor vehicles involved in such accident submit to field testing as defined in section eleven hundred ninety-four of this chapter provided there are reasonable grounds to believe such motor vehicle operator committed a serious traffic violation in the same accident. The results of such field testing or refusal of such testing shall be included in the police investigation report. For the purposes of this section, "serious traffic violation" shall mean operating a motor vehicle in violation of any of the following provisions of this chapter: articles twenty-three, twenty-four, twenty-five, twenty-six, twenty-eight, twenty-nine and thirty and sections five hundred eleven, six hundred and twelve hundred twelve. (c) The police shall forward a copy of the investigation report to the commissioner within five business days of the completion of such report. 2. For purposes of this section, the following terms shall have the following meanings: (a) "commercial motor vehicle" shall have the same meaning as such term is defined in either subdivision four of section five hundred one-a or subdivision one of section five hundred nine-p of this chapter; and (b) "serious physical injury" shall have the same meaning as such term is defined in section 10.00 of the penal law.

2024 New York LawsVAT - Vehicle and TrafficTitle 6 - Accidents and Accident ReportsArticle 22 - Accidents and Accident Reports603-B - Accidents; Police to Indicate Serious Physical Injury and Death on Simplified Traffic Information or Summons and Compliant.

§ 603-b. Accidents; police to indicate serious physical injury and death on simplified traffic information or summons and compliant. In addition to the requirements of section six hundred three of this article and subdivision twelve of section eleven hundred ninety-two of this chapter, in every case where a law enforcement officer is required to report pursuant to section six hundred three of this article and a person is charged with a violation of this chapter arising out of such accident, the law enforcement officer alleging such charge shall make a clear notation in the "Description of Violation" section of a simplified traffic information, or in an area provided on a summons and complaint pursuant to subdivision one of section two hundred twenty-six of this chapter, if, arising out of the same accident, someone other than the person charged was killed or suffered serious physical injury as defined in section 10.00 of the penal law; such notation shall be in the form of a "D" if someone other than the person charged was killed and such notation shall be in the form of a "S.P.I." if someone other than the person charged suffered serious physical injury; provided however, that the failure to make such notation shall in no way affect a charge for a violation of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 6 - Accidents and Accident ReportsArticle 22 - Accidents and Accident Reports603 - Accidents; Police Authorities and Coroners to Report.

§ 603. Accidents; police authorities and coroners to report. * 1. Every police or judicial officer to whom an accident resulting in injury to a person shall have been reported, pursuant to the foregoing provisions of this chapter, shall immediately investigate the facts, or cause the same to be investigated, and report the matter to the commissioner forthwith; provided, however, that the report of the accident is made to the police officer or judicial officer within five days after such accident. Every coroner, or other official performing like functions, shall likewise make a report to the commissioner with respect to all deaths found to have been the result of motor vehicle or motorcycle accidents. Such report shall include information on the width and length of trucks, tractors, trailers and semitrailers, which are in excess of ninety-five inches in width or thirty-four feet in length and which are involved in such accidents, whether such accident took place in a work area and whether it was being operated with an overweight or overdimension permit. Such report shall distinctly indicate and include information as to whether the inflatable restraint system inflated and deployed. Nothing contained in this subdivision shall be deemed to preclude a police officer from reporting any other accident which, in the judgment of such police officer, would be required to be reported to the commissioner by the operator of a vehicle pursuant to section six hundred five of this article. * NB Effective until July 11, 2025 * 1. Every police or judicial officer to whom

an accident resulting in injury to a person shall have been reported, pursuant to the foregoing provisions of this chapter or pursuant to the provisions of sections twelve hundred forty or twelve hundred forty-one of this chapter involving a bicycle with electric assist or pursuant to the provisions of sections twelve hundred eighty-seven or twelve hundred eighty-eight of this chapter, shall immediately investigate the facts, or cause the same to be investigated, and report the matter to the commissioner forthwith; provided, however, that the report of the accident is made to the police officer or judicial officer within five days after such accident. Every coroner, or other official performing like functions, shall likewise make a report to the commissioner with respect to all deaths found to have been the result of motor vehicle, motorcycle, electric scooter, or bicycle with electric assist accidents. Such report shall include information regarding the type or types of vehicles involved, including passenger motor vehicles, commercial motor vehicles, motorcycles, limited use motorcycles, off-highway motorcycles, electric scooters, bicycles with electric assist and/or bicycles. Such report shall include information on the width and length of trucks, tractors, trailers and semitrailers, which are in excess of ninety-five inches in width or thirty-four feet in length and which are involved in such accidents, whether such accident took place in a work area and whether it was being operated with an overweight or overdimension permit. Such report shall distinctly indicate and include information as to whether the inflatable restraint system inflated and deployed. Nothing contained in this subdivision shall be deemed to preclude a police officer from reporting any other accident which, in the judgment of such police officer, would be required to be reported to the commissioner by the operator of a vehicle pursuant to section six hundred five of this article. * NB Effective July 11, 2025 2. In addition to the requirements of subdivision one of this section, every police officer or judicial officer to whom an accident shall have been reported involving a commercial vehicle as defined in either subdivision four of section five hundred one-a or subdivision one of section five hundred nine-p of this chapter shall immediately investigate the facts, or cause the same to be investigated and report the matter to the commissioner forthwith, provided that the report of the accident is made to the police officer or judicial officer within five days after such accident, whenever such accident has resulted in (i) a vehicle being towed from the accident scene as the result of incurring disabling damage, (ii) a fatality, or (iii) any individual being transported to a medical facility to receive treatment as the result of physical injury sustained in the accident.

2024 New York LawsVAT - Vehicle and TrafficTitle 6 - Accidents and Accident ReportsArticle 22 - Accidents and Accident Reports604 - Reports; Contents; Preparation; Distribution; Filing.

* § 604. Reports; contents; preparation; distribution; filing. Reports of accidents required under the preceding section, or under the rules and regulations of the commissioner, shall be upon forms prepared by him and contain such information as he shall prescribe. Blank forms for such reports shall be printed by the commissioner and a supply sent to all city, town and village clerks and to the chief officer of every city police department for general distribution and use as herein provided. Reports of accidents, required under the preceding section, shall be sent to and filed with the commissioner at the main office of the bureau of motor vehicles in the city of Albany, except as otherwise provided by the rules and regulations of the commissioner. * NB Effective until July 11, 2025 * § 604. Reports; contents; preparation; distribution; filing. Reports of accidents required under sections six hundred three and six hundred three-a of this article, or under the rules and regulations of the commissioner, shall be upon forms prepared by the commissioner and contain such information as the commissioner shall prescribe; provided, however, that the commissioner shall provide space on such forms to indicate the type or types of vehicles involved, including passenger motor vehicles, commercial motor vehicles, motorcycles, limited use motorcycles, off-highway motorcycles, electric scooters, bicycles with electric assist, and/or bicycles. Blank forms for such reports shall be printed by the commissioner and a supply sent to all city, town and village clerks and to the chief officer of every city police department for general distribution and use as herein provided. Reports of accidents, required under the preceding section, shall be sent to and filed with the commissioner at the main office of the bureau of motor vehicles in the city of Albany, except as otherwise provided by the rules and regulations of the commissioner. * NB Effective July 11, 2025

2024 New York LawsVAT - Vehicle and TrafficTitle 6 - Accidents and Accident ReportsArticle 22 - Accidents and Accident Reports605 - Report Required Upon Accident.

§ 605. Report required upon accident. (a) 1. Every person operating a motor vehicle, except a police officer (as defined in subdivision thirty-four of section 1.20 of the criminal procedure law), a correction officer, or a firefighter, operating a police department, a correction department, or fire department vehicle respectively while on duty, if a report has been filed by the owner of such vehicle, which is in any manner involved in an accident, anywhere within the boundaries of this state, in which any person is killed or injured, or in which damage to the property of any one person, including himself, in excess of one thousand dollars is sustained, shall within ten days after such accident, report the matter in writing to the commissioner. If such operator or chauffeur be physically incapable of making such report and there be another participant in the accident not incapacitated, such participant shall make such report within ten days after such accident. If the operator or chauffeur involved in such accident be unable to make such report, the owner of the motor vehicle involved in such accident, if such owner be not involved in such accident or incapacitated, shall within ten days after he learns of the fact of such accident report the matter to the commissioner together with such information as may have come to his knowledge relating to such accident. Every such operator or chauffeur of a motor vehicle, or participant in any such accident, or owner of the motor vehicle involved in any such accident, shall make such other and additional reports as the commissioner shall require. 2. Failure to report an accident as herein provided or failure to give correctly the information required of him by the commissioner in connection with such report shall be a misdemeanor and shall constitute a ground for suspension or revocation of the operator's (or chauffeur's) license or all certificates of registration for any motor vehicle, or of both, of the person

failing to make such report as herein required. In addition, the commissioner may temporarily suspend the driver's license or permit or certificate of registration of the motor vehicle involved in the accident, or of both, of the person failing to report an accident within the period prescribed in paragraph one of this subdivision, until such report has been filed. However, no suspension or a revocation shall be made of a license or certificate of registration of any police officer, correction officer, or firefighter involved in an accident while on duty for failure to report such accident within ten days thereof if a report has been filed by the owner of such vehicle. 3. In the case of a non-resident the failure to report an accident as herein provided shall constitute ground for suspension or revocation of his privileges of operating a motor vehicle in this state and of the operation within this state of any motor vehicle owned by him. 4. When a report required by this section is made by an owner or an operator of a fire vehicle, as defined by section one hundred fifteen-a of this chapter, or a police vehicle, as defined by section one hundred thirty-two-a of this chapter, when such accident occurred during the operation of such vehicle in response to an emergency where the operator was responding to a call to duty as a paid or volunteer member of any fire department, or in the case of a police vehicle, when such accident occurred during emergency operation, as defined by section one hundred fourteen-b of this chapter, the commissioner shall omit the event described in such report from the operator's external license abstract. Provided, however, the commissioner shall not omit the event described in such report from the operator's external license abstract if as a result of such event such operator has either (i) been charged with a violation of this chapter or of the penal law, unless the commissioner receives evidence that such charge has been dismissed, or that the action has otherwise been terminated in favor of the accused pursuant to section 160.50 of the criminal procedure law, or that the charge has otherwise been adjudicated in an administrative or other proceeding in favor of the defendant operator or (ii) been found to have been grossly negligent by a final order of a court of competent jurisdiction. * (b) Every person operating a bicycle which is in any manner involved in an accident on a public highway in this state in which any person is killed, other than the operator, or suffers serious physical injury as defined pursuant to subdivision ten of section 10.00 of the penal law, shall within ten days after such operator learns of the fact of such death or serious physical injury, report the matter in writing to the commissioner. If such operator is physically incapable of making such report within ten days, he or she shall make the report immediately upon recovery from the physical incapacity. If such operator is an unemancipated minor who is incapable of making such report for any reason, the parent or guardian of such operator shall make such report within ten days after learning of the fact of such accident. Every such operator of a bicycle, or parent or guardian of such unemancipated minor operator, shall make such other and additional reports as the commissioner shall require. * NB Effective until July 11, 2025 * (b) Every person operating an electric scooter or a bicycle which is in any manner involved in an accident on a public highway in this state in which any person is killed, other than the operator, or suffers serious physical injury as defined pursuant to subdivision ten of section 10.00 of the penal law, shall within ten days after such operator learns of the fact of such death or serious physical injury, report the matter in writing to the commissioner. If such operator is physically incapable of making such report within ten days, he or she shall make the report immediately upon recovery from the physical incapacity. If such operator is an unemancipated minor who is incapable of making such report for any reason, the parent or guardian of such operator shall make such report within ten days after learning of the fact of such accident. Every such operator of an electric scooter or a bicycle, or parent or guardian of such unemancipated minor operator, shall make such other and additional reports as the commissioner shall require. * NB Effective July 11, 2025 * (c) The report required by this section shall be made in such form and number as the commissioner may prescribe. Such report shall include information on the width and length of trucks, tractors, trailers and semitrailers, which are in excess of ninety-five inches in width or thirty-four feet in length and which are involved in such accidents, whether such accident took place in a work area and whether it was being operated with an overweight or over dimension permit. Such report shall distinctly indicate and include information as to whether the inflatable restraint system inflated and deployed. * NB Effective until July 11, 2025 * (c) The report required by this section shall be made in such form and number as the commissioner may prescribe. Such report shall include information on the width and length of trucks, tractors, trailers and semitrailers, which are in excess of ninety-five inches in width or thirty-four feet in length and which are involved in such accidents, whether such accident took place in a work area and whether it was being operated with an overweight or over dimension permit. Such report shall distinctly indicate and include information as to whether the inflatable restraint system inflated and deployed. Such report shall include information on the type or types of vehicles involved, including passenger motor vehicles, commercial motor vehicles, motorcycles, limited use motorcycles, off-highway motorcycles, electric scooters, bicycles with electric assist, and/or bicycles. * NB Effective July 11, 2025

2024 New York LawsVAT - Vehicle and TrafficTitle 6 - Accidents and Accident ReportsArticle 22 - Accidents and Accident Reports606 - Processing of Required Reports.

§ 606. Processing of required reports. The commissioner, when processing reports of accidents filed pursuant to this article, shall give priority to reports involving serious physical injury (as defined in subdivision ten of section 10.00 of the penal law) or death.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 23 - Obedience to and Effect of Traffic Laws1100 - Provisions of Title Refer to Vehicles Upon Highways; Exceptions.

(b) The provisions of this title relating to obedience to stop signs, flashing signals, yield signs, traffic-control signals and other traffic-control devices, and to one-way, stopping, standing, parking and turning regulations shall apply to a parking lot only when the legislative body of any city, village or town has adopted a local law, ordinance, rule or regulation ordering such signs, signals, devices, or regulations. (c) Notwithstanding the provisions of subdivision (b) of this section, the provisions of subparagraph e of paragraph two of subdivision (a) of section twelve hundred two and section twelve hundred three-c of this chapter shall also apply to

any area which has been designated as a place for parking for handicapped persons pursuant to such section. (d) The provisions of this title shall apply upon roadways, streets, and highways located within the boundaries of any federal military installations over which the federal government has proprietary jurisdiction if written request therefor is made by the commanding officer of such installation of the chief executive officer or officers of the political subdivision or subdivisions in which such installation is located and if the commanding officer of such installation shall post at the gates of such installation a notice informing all motorists entering such installation of such enforcement.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 23 - Obedience to and Effect of Traffic Laws1101 - Required Obedience to Traffic Laws.

§ 1101. Required obedience to traffic laws. It is unlawful and, unless otherwise declared in this title with respect to particular offenses, it is a traffic infraction for any person to do any act forbidden or fail to perform any act required in this title.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 23 - Obedience to and Effect of Traffic Laws1102 - Obedience to Police Officers and Flagpersons.

§ 1102. Obedience to police officers and flagpersons. No person shall fail or refuse to comply with any lawful order or direction of any police officer or flagperson or other person duly empowered to regulate traffic.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 23 - Obedience to and Effect of Traffic Laws1103 - Public Officers and Employees to Obey Title; Exceptions.

(b) Unless specifically made applicable, the provisions of this title, except the provisions of sections eleven hundred ninety-two through eleven hundred ninety-six of this chapter, shall not apply to persons, teams, motor vehicles, and other equipment while actually engaged in work on a highway nor shall the provisions of subsection (a) of section twelve hundred two apply to hazard vehicles while actually engaged in hazardous operation on or adjacent to a highway but shall apply to such persons and vehicles when traveling to or from such hazardous operation. The foregoing provisions of this subdivision shall not relieve any person, or team or any operator of a motor vehicle or other equipment while actually engaged in work on a highway from the duty to proceed at all times during all phases of such work with due regard for the safety of all persons nor shall the foregoing provisions protect such persons or teams or such operators of motor vehicles or other equipment from the consequences of their reckless disregard for the safety of others.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 23 - Obedience to and Effect of Traffic Laws1104 - Authorized Emergency Vehicles.

(b) The driver of an authorized emergency vehicle may: 1. Stop, stand or park irrespective of the provisions of this title; 2. Proceed past a steady red signal, a flashing red signal or a stop sign, but only after slowing down as may be necessary for safe operation; 3. Exceed the maximum speed limits so long as he does not endanger life or property; 4. Disregard regulations governing directions of movement or turning in specified directions. (c) Except for an authorized emergency vehicle operated as a police vehicle or bicycle, the exemptions herein granted to an authorized emergency vehicle shall apply only when audible signals are sounded from any said vehicle while in motion by bell, horn, siren, electronic device or exhaust whistle as may be reasonably necessary, and when the vehicle is equipped with at least one lighted lamp so that from any direction, under normal atmospheric conditions from a distance of five hundred feet from such vehicle, at least one red light will be displayed and visible. (d) An authorized emergency vehicle operated as a police, sheriff or deputy sheriff vehicle may exceed the maximum speed limits for the purpose of calibrating such vehicles' speedometer. Notwithstanding any other law, rule or regulation to the contrary, a police, sheriff or deputy sheriff bicycle operated as an authorized emergency vehicle shall not be prohibited from using any sidewalk, highway, street or roadway during an emergency operation. (e) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of his reckless disregard for the safety of others. (f) Notwithstanding any other law, rule or regulation to the contrary, an ambulance operated in the course of an emergency shall not be prohibited from using any highway, street or roadway; provided, however, that an authority having jurisdiction over any such highway, street or roadway may specifically prohibit travel thereon by ambulances if such authority shall deem such travel to be extremely hazardous and would endanger patients being transported thereby.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 23 - Obedience to and Effect of Traffic Laws1105 - Traffic Laws Apply to Persons Riding Animals or Driving Animal-Drawn Vehicles.

§ 1105. Traffic laws apply to persons riding animals or driving animal-drawn vehicles. Every person riding an animal or driving an animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except those provisions of this title which by their very nature can have no application.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 24 - Traffic Signs, Signals and Markings1110 - Obedience to and Required Traffic-Control Devices.

(b) No provision of this title for which signs are required shall be enforced against an alleged violator if at the time and place of the

alleged violation an official sign is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that signs are required, such section shall be effective even though no signs are erected or in place. (c) Whenever official traffic-control devices are placed in position approximately conforming to the requirements of this chapter, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence. (d) Any official traffic-control device placed pursuant to the provisions of this chapter and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this chapter, unless the contrary shall be established by competent evidence. (e) For purposes of this article, "intersection" shall include the area embracing the juncture of a highway with a private road or driveway and "intersecting roadway" shall include an intersecting private road or driveway.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 24 - Traffic Signs, Signals and Markings1111 - Traffic-Control Signal Indications.

(a) Green indications: 1. Traffic, except pedestrians, facing a steady circular green signal may proceed straight through or turn right or left unless a sign at such place prohibits either such turn. Such traffic, including when turning right or left, shall yield the right of way to other traffic lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited. 2. Traffic, except pedestrians, facing a steady green arrow signal may cautiously enter the intersection only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time, except that a U-Turn may be made by traffic facing a left green arrow signal unless a sign prohibits such U-Turn or such U-Turn is in violation of any other provision of law. Such traffic shall yield the right of way to other traffic lawfully within the intersection or an adjacent cross walk at the time such signal is exhibited. 3. Unless otherwise directed by a pedestrian-control signal as provided in section eleven hundred twelve, pedestrians facing any steady green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk. (b) Yellow indications: 1. Traffic, except pedestrians, facing a steady circular yellow signal may enter the intersection; however, said traffic is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter. 2. Traffic, except pedestrians, facing a steady yellow arrow signal may cautiously enter the intersection only to complete the movement indicated by such arrow or make such other movement as is permitted by other indications shown at the same time; however, said traffic is thereby warned that the related green arrow movement is being terminated or that a red indication will be exhibited immediately thereafter. 3. Unless otherwise directed by a pedestrian-control signal as provided in section eleven hundred twelve, pedestrians facing any steady yellow signal are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway. (d) Red indications: 1. Traffic, except pedestrians, facing a steady circular red signal, unless to make such other movement as is permitted by other indications shown at the same time, shall stop at a clearly marked stop line, but if none, then shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of the approaching traffic on the intersecting roadway before entering the intersection and shall remain standing until an indication to proceed is shown except as provided in paragraph two of this subdivision. 2. Except in a city having a population of one million or more, unless a sign is in place prohibiting such turn: a. Traffic facing a steady circular red signal may cautiously enter the intersection to make a right turn after stopping as required by paragraph one of this subdivision, except that right turning traffic is not required to stop when a steady right green arrow signal is shown at the same time. Such traffic shall yield the right-of-way to pedestrians within a marked or unmarked crosswalk at the intersection and to other traffic lawfully using the intersection; b. Traffic, while on a one-way roadway, facing a steady red signal may cautiously enter the intersection to make a left turn onto a one-way roadway after stopping as required by paragraph one of this subdivision. Such traffic shall yield the right-of-way to pedestrians within a marked or unmarked crosswalk at the intersection and to other traffic lawfully using the intersection. c. On or after the effective date of this subparagraph, the sign which prohibits such turn shall be prominently displayed from all newly installed traffic signals where possible. Notwithstanding any other provision of law, any city having a population of one million or more, is hereby authorized and empowered to adopt a local law authorizing subparagraph a or b of this paragraph to be applicable within such city. Upon the adoption of such local law the exception provided herein for a city having a population of one million or more shall no longer be applicable within such city. 3. Traffic, except pedestrians, facing a steady red arrow signal may not enter the intersection to make the movement indicated by such arrow and, unless entering the intersection to make such other movement as is permitted by other indications shown at the same time, shall stop at a clearly marked stop line, but if none, then shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk at the point nearest the intersecting roadway where the driver has a view of the approaching traffic on the intersecting roadway before entering the intersection and shall remain standing until an indication to proceed is shown. 4. Unless otherwise directed by a pedestrian-control signal as provided in section eleven hundred twelve, pedestrians facing any steady red signal shall not enter the roadway. 5. Notwithstanding the provision of paragraph two of this subdivision, no school bus, while transporting pupils for any purpose, shall be permitted to proceed when facing a steady red signal. (e) Traffic shall obey signs requiring obedience to traffic-control signals at intersections other than those at which such signals are located. No intersection not controlled by such signs prior to the effective date of this section shall hereafter be made subject to such method of control and no ordinance, order, rule or regulation requiring such obedience shall hereafter be adopted. (f) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement

indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 24 - Traffic Signs, Signals and Markings1112 - Pedestrian-Control Signal Indications.

(a) Steady WALK or walking person. Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right of way by other traffic. (b) Flashing DON'T WALK or upraised hand. No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrians who have partially completed their crossing on the WALK or walking person signal shall proceed to a sidewalk or safety island while the flashing DON'T WALK or upraised hand signal is showing. (c) Steady DON'T WALK or upraised hand. No pedestrians shall start to cross the roadway in the direction of such signal, but any pedestrians who have partially completed their crossing on the WALK or flashing DON'T WALK signal shall proceed to a sidewalk or safety island while the steady DON'T WALK signal is showing.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 24 - Traffic Signs, Signals and Markings1113 - Flashing Signal Indications.

(a) Flashing red indications. Unless to make another movement permitted by other indications shown at the same time, vehicular traffic facing a circular red signal or red arrow with rapid intermittent flashes shall stop at a clearly marked stop line, but if none, then shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign. (b) Flashing yellow indications. Vehicular traffic facing a circular yellow signal or yellow arrow with rapid intermittent flashes may proceed through the intersection or past such signal only with caution. (c) Flashing red arrows and flashing yellow arrow indications have the same meaning as the corresponding flashing circular indications, except that they apply only to drivers of vehicles intending to make the movement indicated by the arrow. (d) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossings shall be governed by the rules as set forth in section eleven hundred seventy of this title.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 24 - Traffic Signs, Signals and Markings1114 - Display of Unauthorized Signs, Signals, or Markings.

(b) No person shall place or maintain nor shall any public authority permit upon any highway any traffic sign or signal bearing thereon any commercial advertising. (c) Every such prohibited sign, signal, or marking is hereby declared to be a public nuisance and any police officer or public authority is hereby empowered to remove the same or cause it to be removed without notice.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 24 - Traffic Signs, Signals and Markings1115 - Interference With Official Traffic-Control Devices, Railroad Signs or Signals and Other Highway Appurtenances.

(b) For the purposes of this section the following terms shall have the following meanings: 1. to "deface" shall include, but not be limited to, to damage, destroy, disfigure, erase, ruin, distort, spoil or otherwise change the external appearance of an object by the use of chalk, crayon, paint, stain, ink or other similar material. 2. to "alter" a traffic-control signal shall include, but not be limited to, changing or attempting to change the signal indications of a traffic-control signal by use of a traffic-control signal preemption device. 3. "traffic-control signal preemption device" shall mean any device designed or used to change or attempt to change the signal indications of a traffic-control signal. (c) The presence in a vehicle of a traffic-control signal preemption device connected to a power source and in an operable condition is presumptive evidence of its use by any person operating such vehicle. Such presumption shall be rebutted by any credible and reliable evidence which tends to show that such device was not in use.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 24 - Traffic Signs, Signals and Markings1116 - Lane-Use Control Signal Indications.

(a) Traffic facing a steady downward green arrow signal indication is permitted to drive in the lane over which the arrow signal indication is located. (b) Traffic facing a steady yellow X signal indication shall prepare to vacate the lane over which the signal indication is located because a lane control change is being made to a steady red X signal indication. (c) Traffic facing a steady white two-way left-turn arrow signal indication is permitted to use a lane over which the signal indication is located for a left turn, but not for through travel, with the understanding that common use of the lane by oncoming road users for left turns is also permitted. (d) Traffic facing a steady white one way left-turn arrow signal indication is permitted to use a lane over which the signal indication is located for a left turn (without opposing turns in the same lane), but not for through travel. (e) Traffic facing a steady red X signal shall not use the lane over which the signal indication is located and this signal indication shall modify accordingly the meaning of other traffic controls present.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 24 - Traffic Signs, Signals and Markings1117 - Traffic-Control Signals; Malfunction.

§ 1117. Traffic-control signals; malfunction. Except when directed to proceed by a police officer, every operator of a motor vehicle

approaching an intersection governed by a traffic-control signal which is out of service or otherwise malfunctioning shall stop in the manner required for stop signs set forth in section eleven hundred seventy-two of this title, and proceed according to the rules of right of way for vehicles set forth in article twenty-six of this title.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 25 - Driving on Right Side of Roadway, Overtaking and Passing, Etc.1120 - Drive on Right Side of Roadway; Exceptions.

1. When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movement; 2. When overtaking or passing bicyclists, pedestrians, animals or obstructions on the right half of the roadway; 3. When an obstruction exists making it necessary to drive to the left of the center of the highway; provided, any person so doing shall yield the right of way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard; 4. Where travel on the shoulder or slope is permitted by section eleven hundred thirty-one of this article; 5. Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or 6. Upon a roadway restricted to one-way traffic.(b) In addition, upon all roadways, any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway.(c) Upon any roadway having four or more lanes for moving traffic and providing for two way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by signs or markings designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection (a) (2) hereof. (b) In addition, upon all roadways, any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction or when preparing for a left turn at an intersection or into a private road or driveway. (c) Upon any roadway having four or more lanes for moving traffic and providing for two way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by signs or markings designating certain lanes to the left side of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection (a) (2) hereof.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 25 - Driving on Right Side of Roadway, Overtaking and Passing, Etc.1121 - Passing Vehicles Proceeding in Opposite Directions.

§ 1121. Passing vehicles proceeding in opposite directions. Drivers of vehicles proceeding in opposite direction shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction each driver shall give to the other at least one-half of the main-traveled portion of the roadway as nearly as possible.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 25 - Driving on Right Side of Roadway, Overtaking and Passing, Etc.1122-A - Overtaking a Bicycle.

§ 1122-a. Overtaking a bicycle. The operator of a vehicle overtaking, from behind, a bicycle proceeding on the same side of a roadway shall pass to the left of such bicycle at a safe distance until safely clear thereof.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 25 - Driving on Right Side of Roadway, Overtaking and Passing, Etc.1122 - Overtaking a Vehicle on the Left.

(a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle. (b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his vehicle until completely passed by the overtaking vehicle.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 25 - Driving on Right Side of Roadway, Overtaking and Passing, Etc.1123 - When Overtaking on the Right Is Permitted.

1. When the vehicle overtaken is making or about to make a left turn; 2. Upon a street or highway with unobstructed pavement not occupied by parked vehicles of sufficient width for two or more lines of moving vehicles in each direction; 3. Upon a one-way street, or upon any roadway on which traffic is restricted to one direction of movement, where the roadway is free from obstructions and of sufficient width for two or more lines of moving vehicles.(b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement shall not be made by driving off the pavement or main-traveled portion of the roadway, except as permitted by section eleven hundred thirty-one of this article. (b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement shall not be made by driving off the pavement or main-traveled portion of the roadway, except as permitted by section eleven hundred thirty-one of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 25 - Driving on Right Side of Roadway, Overtaking and Passing, Etc.1124 - Limitations on Overtaking on the Left.

§ 1124. Limitations on overtaking on the left. No vehicle shall be driven to the left side of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless authorized by the provisions of this chapter and unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within two hundred feet of any approaching vehicle.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 25 - Driving on Right Side of Roadway, Overtaking and Passing, Etc.1125 - Further Limitations on Driving to Left of Center of Roadway.

1. When approaching the crest of a grade or upon a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction; 2. When approaching within one hundred feet of or traversing any railroad grade crossing; 3. When the view is obstructed upon approaching within one hundred feet of any bridge, viaduct, or tunnel.(b) The foregoing limitations shall not apply upon a one-way roadway nor to a vehicle in any lane which is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is marked to give notice of such allocation. (b) The foregoing limitations shall not apply upon a one-way roadway nor to a vehicle in any lane which is at the time allocated exclusively to traffic moving in the direction the vehicle is proceeding and is marked to give notice of such allocation.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 25 - Driving on Right Side of Roadway, Overtaking and Passing, Etc.1126 - No-Passing Zones.

(b) The foregoing limitations shall not apply to the driver of a vehicle turning left while entering or leaving such highway. (c) Where a two-way left turn lane or a paved and clearly traversible dividing section separates the travel lanes for traffic proceeding in opposite directions, the foregoing limitation shall not apply to the driver of a vehicle traveling within such lane or section for such distance as is required for safety in preparing to turn left leaving such highway or in completing a left turn entering such highway.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 25 - Driving on Right Side of Roadway, Overtaking and Passing, Etc.1127 - One-Way Roadways and and Circular Intersections.

(b) A vehicle passing around a circular intersection shall be driven only to the right of the island unless otherwise indicated by traffic control devices.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 25 - Driving on Right Side of Roadway, Overtaking and Passing, Etc.1128 - Driving on Roadways Laned for Traffic.

(a) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety. (b) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, or in preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices. (c) When official traffic-control devices direct slow-moving traffic, trucks, buses or specified types of vehicles to use a designated lane or designate those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway, drivers of vehicles shall obey the directions of every such sign, signal or marking. (d) When official markings are in place indicating those portions of any roadway where crossing such markings would be especially hazardous, no driver of a vehicle proceeding along such highway shall at any time drive across such markings.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 25 - Driving on Right Side of Roadway, Overtaking and Passing, Etc.1129 - Following Too Closely.

(b) The driver of any motor truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another motor truck or motor vehicle drawing another vehicle shall, whenever conditions permit, leave sufficient space so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a motor truck or motor vehicle drawing another vehicle from overtaking and passing any like vehicle or other vehicle. (c) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade whether or not towing other vehicles shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 25 - Driving on Right Side of Roadway, Overtaking and Passing, Etc.1130 - Divided and Controlled-Access Highways.

§ 1130. Divided and controlled-access highways. 1. Whenever any highway has been divided into two or more roadways by leaving an intervening space or by a physical barrier or clearly indicated dividing section so constructed as to impede vehicular traffic, every

vehicle shall be driven only upon the right-hand roadway unless directed or permitted to use another roadway by official traffic-control devices or police officers. No vehicle shall be driven over, across, or within any such dividing space, barrier, or section, except through an opening in such physical barrier or dividing section or space or at a crossover or intersection, as established, unless specifically authorized by public authority. 2. No person shall drive a motor vehicle or motorcycle onto or from any controlled-access highway except at the established entrances and exits thereof unless directed or permitted to use another entrance or exit by official traffic-control devices or police officers.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 25 - Driving on Right Side of Roadway, Overtaking and Passing, Etc.1131 - Driving on Shoulders and Slopes.

§ 1131. Driving on shoulders and slopes. Except for bicycles and those classes of vehicles required to travel on shoulders or slopes, no motor vehicle shall be driven over, across, along, or within any shoulder or slope of any state controlled-access highway except at a location specifically authorized and posted by the department of transportation. The foregoing limitation shall not prevent tow trucks from using shoulders or slopes in as limited and incidental a manner as practicable when dispatched to the scene of an accident by a law enforcement agency or an authority, department or agency having jurisdiction over such controlled-access highway and all lanes are obstructed by traffic, provided, however, that the foregoing shall not relieve the driver of a tow truck from the duty to drive with due regard for the safety of all persons nor shall such provision protect the tow truck driver from the consequences of his or her reckless disregard for the safety of others and shall at all times operate such tow truck in compliance with all standards of care imposed to prevent those injuries or damages to persons or property of another which may result from the operator's negligence, recklessness or intentional misconduct, nor shall it prevent motor vehicles from using shoulders or slopes when directed by police officers or flagpersons, nor does it prevent motor vehicles from stopping, standing, or parking on shoulders or slopes where such stopping, standing, or parking is lawful.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 26 - Right of Way1140 - Vehicle Approaching or Entering Intersection.

(b) When two vehicles enter an intersection from different highways at approximately the same time the driver of the vehicle on the left shall yield the right of way to the vehicle on the right. (c) The right of way rules declared in subsections (a) and (b) are modified at through highways and otherwise as stated in this title.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 26 - Right of Way1141 - Vehicle Turning Left.

§ 1141. Vehicle turning left. The driver of a vehicle intending to turn to the left within an intersection or into an alley, private road, or driveway shall yield the right of way to any vehicle approaching from the opposite direction which is within the intersection or so close as to constitute an immediate hazard.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 26 - Right of Way1142 - Vehicle Entering Stop or Yield Intersection.

(b) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for existing conditions, or shall stop if necessary as provided in section eleven hundred seventy-two, and shall yield the right of way to any pedestrian legally crossing the roadway on which he is driving, and to any vehicle in the intersection or approaching on another highway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection. Provided, however, that if such driver is involved in a collision with a pedestrian in a crosswalk or a vehicle in the intersection after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of his failure to yield the right of way.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 26 - Right of Way1143 - Vehicle Entering Roadway.

§ 1143. Vehicle entering roadway. The driver of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right of way to all vehicles approaching on the roadway to be entered or crossed.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 26 - Right of Way1144-A - Operation of Vehicles When Approaching a Parked, Stopped or Standing Authorized Emergency Vehicle, Hazard Vehicle, Vehicle Displaying a Blue or Green Light or Certain Other Motor Vehicles.

(b) Every operator of a motor vehicle shall exercise due care to avoid colliding with a hazard vehicle which is parked, stopped or standing on the shoulder or on any portion of such highway and such hazard vehicle is displaying one or more amber lights pursuant to the provisions of paragraph three of subdivision forty-one of section three hundred seventy-five of this chapter or, if such hazard vehicle is designed for the towing or pushing of disabled vehicles such hazard vehicle is displaying one or more amber lights or one or more blue or combination blue and amber lights pursuant to the provisions of paragraph three or subparagraph b-1 of paragraph four, as applicable, of subdivision forty-one of section three hundred seventy-five of this chapter or, if such hazard vehicle owned

and operated by the state or by a county, city, town or village is designed for the removal of ice and snow such hazard vehicle is displaying one or more amber lights or one or more green or combination green and amber lights pursuant to the provisions of paragraph three or subparagraph (c) of paragraph five, as applicable, of subdivision forty-one of section three hundred seventy-five of this chapter. For operators of motor vehicles on parkways or controlled access highways, such due care shall include, but not be limited to, moving from a lane which contains or is immediately adjacent to the shoulder where (i) such hazard vehicle displaying one or more amber lights pursuant to the provisions of paragraph three of subdivision forty-one of section three hundred seventy-five of this chapter or (ii) such hazard vehicle designed for the towing or pushing of disabled vehicles displaying one or more amber lights or one or more blue or combination blue and amber lights pursuant to the provisions of paragraph three or subparagraph b-1 of paragraph four, as applicable, of subdivision forty-one of section three hundred seventy-five of this chapter or (iii) such hazard vehicle owned and operated by the state or by a county, city, town or village is displaying one or more amber lights or one or more green or combination green and amber lights pursuant to the provisions of paragraph three or subparagraph (c) of paragraph five, as applicable, of subdivision forty-one of section three hundred seventy-five of this chapter, is parked, stopped or standing to another lane, provided that such movement otherwise complies with the requirements of this chapter including, but not limited to, the provisions of sections eleven hundred ten and eleven hundred twenty-eight of this title. (c) Every operator of a motor vehicle shall exercise due care to avoid colliding with a vehicle displaying a blue light pursuant to the provisions of paragraph four or a green light pursuant to the provisions of paragraph five of subdivision forty-one of section three hundred seventy-five of this chapter which is parked, stopped or standing on the shoulder or any portion of such highway. For operators of motor vehicles on parkways or controlled access highways, such due care shall include, but not be limited to, moving from a lane which contains or is immediately adjacent to the shoulder where such vehicle displaying a blue light pursuant to the provisions of paragraph four or a green light pursuant to the provisions of paragraph five of subdivision forty-one of section three hundred seventy-five of this chapter is parked, stopped or standing to another lane, provided that such movement otherwise complies with the requirements of this chapter including, but not limited to, the provisions of sections eleven hundred ten and eleven hundred twenty-eight of this title. (d) Every operator of a motor vehicle on a parkway and on a controlled-access highway shall exercise due care to avoid colliding with a motor vehicle which is parked, stopped or standing on the shoulder or any portion of such parkway or controlled-access highway. For the purposes of this subdivision, such due care shall include, but not be limited to, moving from a lane which contains or is immediately adjacent to the shoulder where such motor vehicle is parked, stopped or standing to another lane, provided that such movement otherwise complies with the requirements of this chapter including, but not limited to, the provisions of sections eleven hundred ten and eleven hundred twenty-eight of this title.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 26 - Right of Way1144 - Operation of Vehicles on Approach of Authorized Emergency Vehicles.

(b) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with reasonable care for all persons using the highway.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 26 - Right of Way1145 - Vehicle Approaching Rotary Traffic Circle or Island.

§ 1145. Vehicle approaching rotary traffic circle or island. Except where a traffic control device directs otherwise, the driver of a vehicle approaching or about to enter a rotary traffic circle or island shall yield the right of way to any vehicle already traveling on such circle or around such island.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 26 - Right of Way1146-A - Approaching Horses.

§ 1146-a. Approaching horses. 1. Notwithstanding the provisions of any other law to the contrary, every driver of a vehicle shall exercise due care to avoid colliding with any horse being ridden or led along a public highway. 2. Every driver of a vehicle shall approach a horse being ridden or led along a public highway at a reasonable and prudent speed so as to avoid frightening such horse and shall pass the horse at a reasonable distance. 3. No driver of a vehicle shall sound the horn when approaching or passing a horse on a public highway.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 26 - Right of Way1146 - Drivers to Exercise Due Care.

(b) 1. A driver of a motor vehicle who causes physical injury as defined in article ten of the penal law to a pedestrian or bicyclist while failing to exercise due care in violation of subdivision (a) of this section, shall be guilty of a traffic infraction punishable by a fine of not more than five hundred dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment. 2. If such driver of a motor vehicle causes physical injury while failing to exercise due care in violation of subdivision (a) of this section, then there shall be a rebuttable presumption that, as a result of such failure to exercise due care, such person operated the motor vehicle in a manner that caused such physical injury. (c) 1. A driver of a motor vehicle who causes serious physical injury as defined in article ten of the penal law to a pedestrian or bicyclist while failing to exercise due care in violation of subdivision (a) of this section, shall be guilty of a traffic infraction punishable by a fine of not more than seven hundred fifty dollars or by

imprisonment for not more than fifteen days or by required participation in a motor vehicle accident prevention course pursuant to paragraph (e-1) of subdivision two of section 65.10 of the penal law or by any combination of such fine, imprisonment or course, and by suspension of a license or registration pursuant to subparagraph (xiv) or (xv) of paragraph b of subdivision two of section five hundred ten of this chapter. 2. If such driver of a motor vehicle causes serious physical injury while failing to exercise due care in violation of subdivision (a) of this section, then there shall be a rebuttable presumption that, as a result of such failure to exercise due care, such person operated the motor vehicle in a manner that caused such serious physical injury. (d) A violation of subdivision (b) or (c) of this section committed by a person who has previously been convicted of any violation of such subdivisions within the preceding five years, shall constitute a class B misdemeanor punishable by a fine of not more than one thousand dollars in addition to any other penalties provided by law. (e) Nothing contained in this section shall prevent the court from imposing any other authorized disposition, including a period of community service.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 27 - Pedestrians' Rights and Duties1150 - Pedestrians Subject to Traffic Regulations.

§ 1150. Pedestrians subject to traffic regulations. Pedestrians shall be subject to traffic-control signals as provided in section eleven hundred eleven of this title, but at all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 27 - Pedestrians' Rights and Duties1151-A - Pedestrians' Right of Way on Sidewalks.

§ 1151-a. Pedestrians' right of way on sidewalks. The driver of a vehicle emerging from or entering an alleyway, building, private road or driveway shall yield the right of way to any pedestrian approaching on any sidewalk extending across such alleyway, building entrance, road or driveway.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 27 - Pedestrians' Rights and Duties1151 - Pedestrians' Right of Way in Crosswalks.

(a) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right of way, slowing down or stopping if need be to so yield, to a pedestrian crossing the roadway within a crosswalk on the roadway upon which the vehicle is traveling, except that any pedestrian crossing a roadway at a point where a pedestrian tunnel or overpass has been provided shall yield the right of way to all vehicles. (b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close that it is impractical for the driver to yield. (c) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 27 - Pedestrians' Rights and Duties1152 - Crossing at Other Than Crosswalks.

(a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right of way to all vehicles upon the roadway. (b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right of way to all vehicles upon the roadway. (c) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 27 - Pedestrians' Rights and Duties1153 - Provisions Relating to Blind or Visually Impaired Persons.

(b) No person, unless blind or visually impaired, shall use on any street or highway a cane which is metallic or white in color or white with a red tip. (c) This section shall not be construed as making obligatory the employment of the use of a guide dog or of a cane or walking stick of any kind by a person blind or visually impaired.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 27 - Pedestrians' Rights and Duties1155 - Pedestrians to Use Right Half of Crosswalks.

§ 1155. Pedestrians to use right half of crosswalks. Pedestrians shall move, whenever practicable, upon the right half of crosswalks.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 27 - Pedestrians' Rights and Duties1156 - Pedestrians on Roadways.

(b) Where sidewalks are not provided any pedestrian walking along and upon a highway shall when practicable walk only on the left side of the roadway or its shoulder facing traffic which may approach from the opposite direction. Upon the approach of any vehicle from the opposite direction, such pedestrian shall move as far to the left as is practicable.

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2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 27 - Pedestrians' Rights and Duties1157 - Pedestrians Soliciting Rides, or Business.

(b) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway. (c) No person shall occupy any part of a state highway, except in a city or village, in any manner for the purpose of selling or soliciting.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 28 - Turning and Starting and Signals on Stopping and Turning1160 - Required Position and Method of Turning at Intersections.

(a) Right turns. Both the approach for a right turn and a right turn shall be made as close as practicable to the right hand curb or edge of the roadway or, where travel on the shoulder or slope has been authorized, from the shoulder or slope. (b) Left turns on two-way roadways. At any intersection where traffic is permitted to move in both directions on each roadway entering the intersection, an approach for a left turn shall be made in that portion of the right half of the roadway nearest the center line thereof and by passing to the right of such center line where it enters the intersection and after entering the intersection the left turn shall be made so as to leave the intersection to the right of the center line of the roadway being entered. Whenever practicable the left turn shall be made in that portion of the intersection to the left of the center of the intersection. (c) Left turns on other than two-way roadways. At any intersection where traffic is restricted to one direction on one or more of the roadways, the driver of a vehicle intending to turn left at any such intersection shall approach the intersection in the extreme left-hand lane of the roadway lawfully available to traffic moving in the direction of travel of such vehicle or, where travel on the shoulder or slope has been authorized, from the shoulder or slope, and after entering the intersection the left turn shall be made so as to leave the intersection, as nearly as practicable, in the left-hand lane lawfully available to traffic moving in such direction upon the roadway being entered. (d) When markers, buttons, signs, or other markings are placed within or adjacent to intersections and thereby require and direct that a different course from that specified in this section be traveled by vehicles turning at an intersection, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such markers, buttons, signs, or other markings. (e) U-turns. U-turns shall be made from and to that portion of the highway nearest the marked center line. Where more than one lane of a highway has been designated for left turns, U-turns shall be made only from the lane so designated that is adjacent to the marked center line.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 28 - Turning and Starting and Signals on Stopping and Turning1161 - U Turns in Certain Areas Prohibited.

§ 1161. U turns in certain areas prohibited. a. No motor vehicle shall make a U turn upon any curve, or upon the approach to, or near the crest of a grade, where such motor vehicle cannot be seen by the driver of any other motor vehicle approaching from either direction within five hundred feet. b. No motor vehicle shall make a U turn within a school zone. For the purposes of this subdivision, the term "school zone" shall mean the distance along a highway passing a school building, entrance or exit of a school abutting on the highway for which a school sign (S1-1) has been posted pursuant to this chapter and in compliance with the manual on uniform traffic control devices maintained pursuant to section sixteen hundred eighty of this chapter. c. No altered motor vehicle commonly referred to as a "stretch limousine" having a seating capacity of nine or more passengers including the driver shall make a U-turn upon any public highway or private road open to public motor vehicle traffic. Every person convicted of a violation of this subdivision shall: for a first conviction thereof, be punished by a fine of not less than two hundred fifty dollars nor more than four hundred dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; for a conviction of a second or subsequent violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not less than six hundred dollars nor more than seven hundred fifty dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment. A violation of this subdivision wherein the violator is operating such altered motor vehicle and such altered motor vehicle is carrying at least one passenger other than the driver shall be punishable by a fine of not less than seven hundred fifty dollars nor more than one thousand dollars or by imprisonment for not more than one hundred eighty days or by both such fine and imprisonment.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 28 - Turning and Starting and Signals on Stopping and Turning1162 - Starting Parked Vehicle.

§ 1162. Starting parked vehicle. No person shall move a vehicle which is stopped, standing, or parked unless and until such movement can be made with reasonable safety.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 28 - Turning and Starting and Signals on Stopping and Turning1163 - Turning Movements and Required Signals.

(b) A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred feet traveled by the vehicle before turning. (c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal in the manner provided herein to the driver of any vehicle immediately to the rear when there is opportunity to give such signal. (d) The signals provided for in section eleven hundred sixty-four shall be used to indicate an intention to turn,

change lanes, or start from a parked position and not be flashed on one side only on a parked or disabled vehicle, or flashed as a courtesy or "do pass" signal to operators of other vehicles approaching from the rear. (e) The driver of a vehicle equipped with simultaneously flashing signals as provided for in subdivision eighteen-a of section three hundred seventy-five shall use such signals when the vehicle is stopped or disabled on a public highway, except when such vehicle is stopped in compliance with a traffic-control device or when legally parked. The driver of a vehicle so equipped may use such signals whenever necessary to warn the operators of following vehicles of the presence of a traffic hazard ahead of the signaling vehicle, or to warn the operators of other vehicles that the signaling vehicle may itself constitute a traffic hazard, taking into account traffic and highway conditions. No person shall use such signals for any other purpose.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 28 - Turning and Starting and Signals on Stopping and Turning1164 - Signals by Hand and Arm or Signal Lamps.

(b) Any motor vehicle in use on a highway shall be equipped with, and required signal shall be given by, signal lamps when the distance from the center of the top of the steering post to the left outside limit of the body, cab, or load of such motor vehicle exceeds twenty-four inches, or when the distance from the center of the top of the steering post to the rear limit of the body or load thereof exceeds fourteen feet. The latter measurement shall apply to any single vehicle, also to any combination of vehicles. On a combination of vehicles, the rear signal lamps shall be at the rear of the last vehicle in the combination. The provisions of this subdivision shall not apply to a vehicle, alone or in combination with other vehicles or implements, if such vehicle is used solely for agricultural purposes, and is not designed and intended primarily for use on the highway, or to fire vehicles, or to special purpose commercial motor vehicles registered under schedule F of subdivision seven of section four hundred one of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 28 - Turning and Starting and Signals on Stopping and Turning1165 - Method of Giving Hand-and-Arm Signals.

§ 1165. Method of giving hand-and-arm signals. All signals herein required given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows: 1. Left turn. Hand and arm extended horizontally. 2. Right turn. Hand and arm extended upward. 3. Stop or decrease speed. Hand and arm extended downward.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 28 - Turning and Starting and Signals on Stopping and Turning1166 - Required Position for Turning at Alley, Driveway, Private Road or Onto Property Off the Roadway.

(a) Right turns. The approach for a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway. (b) Left turns from two-way roadways. The approach for a left turn from a two-way roadway shall be made in that portion of the right half of the roadway nearest the center thereof. (c) Left turns from other than two-way roadways. The approach for a left turn from a roadway on which traffic is restricted to one direction shall be made in the extreme left-hand lane lawfully available to traffic.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 29 - Special Stops Required1170 - Obedience to Signal Indicating Approach of Train.

1. An audible or clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train; 2. A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train; 3. A railroad train approaching within approximately one thousand five hundred feet of the highway crossing emits a signal audible from such distance and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard; or 4. An approaching railroad train is plainly visible and is in hazardous proximity to such crossing. 5. Every person convicted of a violation of this subdivision shall for a first conviction thereof be punished by a fine of not more than one hundred fifty dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than seven hundred fifty dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment.(b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. Every person convicted of a violation of this subdivision shall for a first conviction thereof be punished by a fine of not less than two hundred fifty dollars nor more than four hundred dollars or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of thirty months, such person shall be punished by a fine of not less than three hundred fifty dollars nor more than seven hundred fifty dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of thirty months, such person shall be punished by a fine of not less than six hundred dollars nor more than one thousand dollars or by imprisonment for not more than one hundred eighty days or by both such fine and imprisonment.(c) 1. Any person convicted of a violation of this section while driving any vehicle carrying passengers under eighteen years of age, any bus carrying passengers, any school bus or any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, shall, upon conviction of a first offense,

be guilty of a class A misdemeanor, and shall, upon conviction of a second or subsequent offense committed within five years of the prior offense, be guilty of a class E felony.2. Any person convicted of a violation of this section resulting in an accident which causes physical injury, as that term is defined pursuant to subdivision nine of section 10.00 of the penal law, serious physical injury, as that term is defined pursuant to subdivision ten of section 10.00 of the penal law, or death to another person, shall be guilty of a class E felony.(d) Nothing contained in this section shall be construed to prohibit or limit the prosecution of any violation, crime or other offense otherwise required or permitted by law. (b) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. Every person convicted of a violation of this subdivision shall for a first conviction thereof be punished by a fine of not less than two hundred fifty dollars nor more than four hundred dollars or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of thirty months, such person shall be punished by a fine of not less than three hundred fifty dollars nor more than seven hundred fifty dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of thirty months, such person shall be punished by a fine of not less than six hundred dollars nor more than one thousand dollars or by imprisonment for not more than one hundred eighty days or by both such fine and imprisonment. (c) 1. Any person convicted of a violation of this section while driving any vehicle carrying passengers under eighteen years of age, any bus carrying passengers, any school bus or any vehicle carrying explosive substances or flammable liquids as a cargo or part of a cargo, shall, upon conviction of a first offense, be guilty of a class A misdemeanor, and shall, upon conviction of a second or subsequent offense committed within five years of the prior offense, be guilty of a class E felony. 2. Any person convicted of a violation of this section resulting in an accident which causes physical injury, as that term is defined pursuant to subdivision nine of section 10.00 of the penal law, serious physical injury, as that term is defined pursuant to subdivision ten of section 10.00 of the penal law, or death to another person, shall be guilty of a class E felony. (d) Nothing contained in this section shall be construed to prohibit or limit the prosecution of any violation, crime or other offense otherwise required or permitted by law.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 29 - Special Stops Required1171 - Certain Vehicles Must Stop at All Railroad Grade Crossings.

(b) No stop need be made at any such crossing where a police officer or a traffic-control signal or sign directs traffic to proceed. (c) Every motor vehicle used in commerce with a gross vehicle weight rating of greater than ten thousand pounds not subject to the requirements of subdivision (a) of this section: (i) shall upon approaching a railroad grade crossing, be driven at a rate of speed which will permit said motor vehicle to be stopped before reaching the nearest rail of such crossing, and shall not be driven upon or over such crossing until due caution has been taken to ascertain that the course is clear; and (ii) shall stop at such crossing if the course is not clear. (d) In addition to the requirements of subdivisions (a) and (c) of this section, the driver of a commercial vehicle must check street-railway grade crossings within a business or residence district. (e) Notwithstanding any other provision of law, every operator of a commercial motor vehicle shall obey a traffic control device or the directions of a police officer at a railroad grade crossing. (f) Every person convicted of a violation of this section shall for a first conviction thereof be punished by a fine of not more than one hundred fifty dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of thirty months, such person shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of thirty months, such person shall be punished by a fine of not more than seven hundred fifty dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 29 - Special Stops Required1172 - Stop Signs and Yield Signs.

(b) The driver of a vehicle approaching a yield sign if required for safety to stop shall stop at a clearly marked yield line, but if none, then shall stop before entering the crosswalk on the near side of the intersection, or in the event there is no crosswalk, at the point nearest the intersecting roadway where the driver has a view of the approaching traffic on the intersecting roadway before entering the intersection and the right to proceed shall be subject to the provisions of section eleven hundred forty-two of this title.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 29 - Special Stops Required1173 - Emerging From Alley, Driveway, Private Road or Building.

§ 1173. Emerging from alley, driveway, private road or building. The driver of a vehicle emerging from an alley, driveway, private road or building shall stop such vehicle immediately prior to driving onto a sidewalk extending across any alleyway, building entrance, road or driveway, or in the event there is no sidewalk, shall stop at the point nearest the roadway to be entered where the driver has a view of approaching traffic thereon.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 29 - Special Stops Required1174 - Overtaking and Passing School Bus.

(b) The driver of such school bus, when receiving or discharging passengers who must cross a public highway, street or private road,

shall instruct such passengers to cross in front of the bus and the driver thereof shall keep such school bus halted with red signal lights flashing until such passengers have reached the opposite side of such highway, street or private road. Whether such passengers are crossing such highway street or private road or discharging to the same side of such highway, street or private road, the driver of such bus shall keep such school bus halted with red signal lights flashing until such passengers are at least fifteen feet from the bus and either off the highway, street or private road or on a sidewalk. (c) Every person convicted of a violation of subdivision (a) of this section shall: for a first conviction thereof, be punished by a fine of not less than two hundred fifty dollars nor more than four hundred dollars or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of three years, such person shall be punished by a fine of not less than six hundred dollars nor more than seven hundred fifty dollars or by imprisonment for not more than one hundred eighty days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of three years, such person shall be punished by a fine of not less than seven hundred fifty dollars nor more than one thousand five hundred dollars or by imprisonment for not more than one hundred eighty days or by both such fine and imprisonment. (d) For the purposes of this section, the term "passengers" shall mean those persons designated in paragraph (d) of subdivision twenty of section three hundred seventy-five of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 29 - Special Stops Required1175 - Obstructing Traffic at Intersection.

§ 1175. Obstructing traffic at intersection. When vehicular traffic is stopped on the opposite side of an intersection, no person shall drive a vehicle into such intersection, except when making a turn unless there is adequate space on the opposite side of the intersection to accommodate the vehicle he is driving notwithstanding the indication of a traffic control signal which would permit him to proceed.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 29 - Special Stops Required1176 - Obstructing Highway-Railroad Grade Crossings.

§ 1176. Obstructing highway-railroad grade crossings. No person shall drive a vehicle onto the railroad tracks at a highway-railroad grade crossing unless there is sufficient undercarriage clearance to traverse the crossing and adequate space on the opposite side of the crossing to accommodate the vehicle he and/or she is driving, notwithstanding the indication of any traffic control device which would permit him and/or her to proceed.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 30 - Speed Restrictions1180-A - Maximum Speed Limits.

§ 1180-a. Maximum speed limits. 1. Notwithstanding any other provision of law, no city, village, town, county, public authority, division, office or department of the state shall maintain or create (a) any speed limit in excess of fifty-five miles per hour on any road, highway, parkway or bridge or (b) any speed limit on any other portion of a public highway, which is not uniformly applicable to all types of motor vehicles using such portion of highway, if on November first, nineteen hundred seventy-three, such portion of highway had a speed limit which was uniformly applicable to all types of motor vehicles using it; provided however, a lower speed limit may be established for any vehicle operating under a special permit because of any weight or dimension of such vehicle, including any load thereon, and (c) provided further, paragraph (b) of this subdivision shall not apply to any portion of a highway during such time that the condition of the highway, weather, an accident, or other condition creates a temporary hazard to the safety of traffic on such portion of a highway. However, the commissioner of the department of transportation may establish a maximum speed limit of not more than sixty-five miles per hour on any state roadway which meets department criteria for such maximum speed. 2. Notwithstanding the provisions of paragraphs (a) and (b) of subdivision one of this section, upon The Governor Thomas E. Dewey Thruway as such term is defined in section three hundred fifty-six of the public authorities law, the New York state thruway authority may establish a maximum speed limit of not more than sixty-five miles per hour provided that such maximum allowable speed limit is established in accordance with all applicable rules and regulations. 3. Notwithstanding the provisions of paragraphs (a) and (b) of subdivision one of this section, upon (a) the southern tier expressway from a point east of the town of Lowman, in the county of Chemung, thence generally westerly to the Pennsylvania border and from the Chemung interchange to New York touring route twenty-six, (b) interstate route eighty-one from the Pennsylvania border in Broome county to the interchange with New York state touring route twelve in Jefferson county, (c) the Adirondack northway portion of interstate route eighty-seven from the interchange with Crescent Road in Saratoga county to the province of Quebec, (d) interstate route eighty-eight from the interchange with New York state touring route three hundred sixty-nine in Broome county to the interchange with interstate route ninety in Schenectady county, (e) interstate route three hundred ninety, known as the Genesee Expressway, from the interchange with the southern tier expressway in Steuben county to the interchange with interstate route four hundred ninety in Monroe county, (f) interstate route four hundred ninety from interstate ninety exit forty-five in Ontario county to the city of Rochester in Monroe county and from interstate ninety exit forty-seven in Genesee county to the city of Rochester in Monroe county, (g) interstate route five hundred ninety from the interchange with interstate route three hundred ninety in Monroe county to the interchange with interstate route four hundred ninety in Monroe county, (h) route seventeen from the interchange with New York touring route three hundred ninety-four to the Pennsylvania border, (i) interstate route four hundred eighty-one from the southerly interchange with interstate route eighty-one in Onondaga county to the northerly interchange with interstate route eighty-one in Onondaga county, (j) New

York state touring route four hundred eighty-one from the northerly interchange with interstate route eighty-one in Onondaga county to the city of Fulton in Oswego county, (k) interstate ninety from exit eight, in the county of Rensselaer, thence generally easterly to the interchange with the Berkshire section of The Governor Thomas E. Dewey Thruway, (l) interstate route six hundred ninety, from the city of Syracuse and town of Geddes border, thence generally westerly to the interchange with the New York state thruway, (m) New York state touring route six hundred ninety, from the interchange with the New York state thruway, thence generally westerly to its intersection with New York state touring route forty-eight in the town of Lysander, (n) New York state touring route six hundred ninety-five, from the interchange with interstate route six hundred ninety approximately 2.3 miles to the interchange with New York state touring route five, (o) New York state touring route five from the interchange with New York state touring route six hundred ninety-five approximately 5.0 miles to the interchange with New York state touring route one hundred seventy-four in the town of Camillus, and (p) route five hundred thirty-one from the interchange with interstate route four hundred ninety in Monroe county to the interchange with route thirty-six in Monroe county, and (q) United States route two hundred nineteen, from the interchange with Armor Duelles Road in the town of Orchard Park, thence generally southerly to the interchange with New York state route thirty-nine in the town of Concord, the commissioner of the department of transportation may establish a maximum speed limit of not more than sixty-five miles per hour provided that such maximum allowable speed limit is established in accordance with all applicable rules and regulations.

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(b) Except as provided in subdivision (g) of this section and except when a special hazard exists that requires lower speed for compliance with subdivision (a) of this section or when maximum speed limits have been established as hereinafter authorized, no person shall drive a vehicle at a speed in excess of fifty-five miles per hour. (c) Except as provided in subdivision (g) of this section, whenever maximum school speed limits have been established on a highway adjacent to a school as authorized in section sixteen hundred twenty, sixteen hundred twenty-two, sixteen hundred thirty, sixteen hundred forty-three or sixteen hundred sixty-two-a, no person shall drive in excess of such maximum school speed limits during: (1) school days at times indicated on the school zone speed limit sign, provided, however, that such times shall be between the hours of seven o'clock A.M. and six o'clock P.M. or alternative times within such hours; or (2) a period when the beacons attached to the school zone speed limit sign are flashing and such sign is equipped with a notice that indicates that the school zone speed limit is in effect when such beacons are flashing, provided, however, that such beacons shall only flash during student activities at the school and up to thirty minutes immediately before and up to thirty minutes immediately after such student activities. (d) 1. Except as provided in subdivision (g) of this section, whenever maximum speed limits, other than school speed limits, have been established as authorized in sections sixteen hundred twenty, sixteen hundred twenty-two, sixteen hundred twenty-three, sixteen hundred twenty-seven, sixteen hundred thirty, sixteen hundred forty-three, sixteen hundred forty-four, sixteen hundred fifty-two, sixteen hundred sixty-two-a, sixteen hundred sixty-three, and sixteen hundred seventy, no person shall drive in excess of such maximum speed limits at any time. 2. Except as provided in subdivision (g) of this section, whenever maximum speed limits, other than school speed limits, have been established with respect to any restricted highway as authorized in section sixteen hundred twenty-five, no person shall drive in excess of such maximum speed limits at any time. (e) The driver of every vehicle shall, consistent with the requirements of subdivision (a) of this section, drive at an appropriate reduced speed when approaching and crossing an intersection or railway grade crossing, when approaching and going around a curve, when approaching a hill crest, when approaching and passing by an emergency situation involving any authorized emergency vehicle which is parked, stopped or standing on a highway and which is displaying one or more red or combination red, white, and/or blue lights pursuant to the provisions of paragraph two and subparagraph b of paragraph four of subdivision forty-one of section three hundred seventy-five of this chapter, when traveling upon any narrow or winding roadway, and when any special hazard exists with respect to pedestrians, or other traffic by reason of weather or highway conditions, including, but not limited to a highway construction or maintenance work area, or when approaching a hazard vehicle which is parked, stopped or standing on the shoulder or on any portion of such highway and such hazard vehicle is displaying one or more amber lights pursuant to the provisions of paragraph three of subdivision forty-one of section three hundred seventy-five of this chapter. (f) Except as provided in subdivision (g) of this section and except when a special hazard exists that requires lower speed for compliance with subdivision (a) or (e) of this section or when a lower maximum speed limit has been established, no person shall drive a vehicle through a highway construction or maintenance work area at a speed in excess of the posted work area speed limit. The agency having jurisdiction over the affected street or highway may establish work area speed limits which are less than the normally posted speed limits; provided, however, that such normally posted speed limit may exceed the work area speed limit by no more than twenty miles per hour; and provided further that no such work area speed limit may be established at less than twenty-five miles per hour. (g) (i) No person who uses a radar or laser detector in a vehicle with a gross vehicle weight rating of more than eighteen thousand pounds, or a commercial motor vehicle with a gross vehicle weight rating of more than ten thousand pounds, shall drive at a speed in excess of fifty-five miles per hour or, if a maximum speed limit other than fifty-five miles per hour as hereinbefore authorized has been established, at a speed in excess of such speed limit. The presence in any such vehicle of either: (1) a radar or laser detector connected to a power source and in an operable condition; or (2) a concealed radar or laser detector where a part of such detector is securely affixed to some part of the vehicle outside of the cab, in a manner which renders the detector not readily observable, is presumptive evidence of its use by any person operating such vehicle. Either such presumption shall be rebutted by any credible and reliable evidence which tends to show that such radar or laser detector was not in use. (ii) The

provisions of this section shall not be construed as authorizing the seizure or forfeiture of a radar or laser detector, unless otherwise provided by law. (h) Upon a conviction for a violation of subdivision (b), (c), (d), (f) or (g) of this section, the court shall record the speed upon which the conviction was based on the certificate required to be filed with the commissioner pursuant to section five hundred fourteen of this chapter, or if the conviction occurs in an administrative tribunal established pursuant to article two-A of this chapter, the speed upon which the conviction was based shall be entered in the department's records. 1. Every person convicted of a violation of subdivision (b) or paragraph one of subdivision (d) of this section shall be punished as follows: (i) Where the court or tribunal records or enters that the speed upon which the conviction was based exceeded the applicable speed limit by not more than ten miles per hour, by a fine of not less than forty-five nor more than one hundred fifty dollars; (ii) Where the court or tribunal records or enters that the speed upon which the conviction was based exceeded the applicable speed limit by more than ten miles per hour but not more than thirty miles per hour, by a fine of not less than ninety nor more than three hundred dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; (iii) Where the court or tribunal records or enters that the speed upon which the conviction was based exceeded the applicable speed limit by more than thirty miles per hour, by a fine of not less than one hundred eighty nor more than six hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment. 2. Every person convicted of a violation of subdivision (a) or (e) of this section shall be punished by a fine of not less than forty-five nor more than one hundred fifty dollars, or by imprisonment for not more than fifteen days, or by both such fine and imprisonment. 3. Every person convicted of a violation of paragraph two of subdivision (d), subdivision (f) or (g) of this section shall be punished as follows: (i) Where the court or tribunal records or enters that the speed upon which the conviction was based exceeded the applicable speed limit by not more than ten miles per hour, by a fine of not less than ninety nor more than one hundred fifty dollars; (ii) Where the court or tribunal records or enters that the speed upon which the conviction was based exceeded the applicable speed limit by more than ten miles per hour, but not more than thirty miles per hour, by a fine of not less than one hundred eighty nor more than three hundred dollars or by imprisonment for not more than thirty days, or by both such fine and imprisonment, provided, however, that where the vehicle is either (A) in violation of any rules or regulations involving an out-of-service defect relating to brake systems, steering components and/or coupling devices, or (B) transporting flammable gas, radioactive materials or explosives, the fine shall be three hundred dollars or imprisonment for not more than thirty days, or both such fine and imprisonment; (iii) Where the court or tribunal records or enters that the speed upon which the conviction was based exceeded the applicable speed limit by more than thirty miles per hour, by a fine of not less than three hundred sixty nor more than six hundred dollars or by imprisonment for not more than thirty days or by both such fine and imprisonment, provided, however, that where the vehicle is either (A) in violation of any rules or regulations involving an out-of-service defect relating to brake systems, steering components and/or coupling devices, or (B) transporting flammable gas, radioactive materials or explosives, the fine shall be six hundred dollars or imprisonment for not more than thirty days, or both such fine and imprisonment. 4. Every person convicted of a violation of subdivision (c) of this section when such violation occurs in a school speed zone during a school day between the hours of seven o'clock A.M. and six o'clock P.M., shall be punished as follows: (i) Where the court or tribunal records or enters that the speed upon which the conviction was based exceeded the applicable speed limit by not more than ten miles per hour, by a fine of not less than ninety nor more than three hundred dollars; (ii) Where the court or tribunal records or enters that the speed upon which the conviction was based exceeded the applicable speed limit by more than ten miles per hour but not more than thirty miles per hour, by a fine of not less than one hundred eighty nor more than six hundred dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; (iii) Where the court or tribunal records or enters that the speed upon which the conviction was based exceeded the applicable speed limit by more than thirty miles per hour, by a fine of not less than three hundred sixty nor more than one thousand two hundred dollars, or by imprisonment for not more than thirty days, or by both such fine and imprisonment. 5. Notwithstanding the foregoing provisions of this subdivision, the maximum fine provided herein for the violation for which the person is sentenced may be increased by an additional one hundred fifty dollars if the conviction is for a second violation of any subdivision of this section where both violations were committed within an eighteen month period, and the maximum fine provided herein for the violation for which the person is sentenced may be increased by an additional three hundred seventy-five dollars if the conviction is for a third or subsequent violation of any subdivision of this section where all such violations were committed within an eighteen month period. Where an additional fine is provided by this paragraph, a sentence of imprisonment for not more than thirty days may be imposed in place of or in addition to any fine imposed.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 30 - Speed Restrictions1181 - Minimum Speed Regulations.

(b) Whenever a minimum speed limit has been established as authorized in sections sixteen hundred twenty or sixteen hundred forty-two, no person shall drive at a speed less than such minimum speed limit except when entering upon or preparing to exit from the highway upon which such a minimum speed limit has been established, when preparing to stop, or when necessary for safe operation or in compliance with law.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 30 - Speed Restrictions1182-A - Multi-Jurisdictional Speed Contests, Races and Similar Special Events.

§ 1182-a. Multi-jurisdictional speed contests, races and similar special events. 1. Notwithstanding any other provision of law to the contrary, the department of transportation may, by order, rule or regulation, prohibit or regulate races, speed contests, exhibitions of

speed or other similar special events which are held on public highways in more than one county. Participants in an approved race, contest, or exhibition are exempted from compliance with any traffic laws otherwise applicable thereto, but shall exercise reasonable care. Such rules and regulations shall include, among other things, provision for adequate insurance coverage; provision for approval by the municipalities involved; provision for payment or reimbursement of all the costs and expenses of the state which are incurred in connection with such an event; provision for assumption of risk for damages or claims by the organizer, sponsor, driver, rider or participant in such event; provision for the closure of or restriction on public use and travel upon highways or parts thereof for a certain period of time whenever the state or local police determine such is necessary to protect the public safety, security, or convenience. Prior to the scheduled date of a proposed multi-jurisdictional race, speed contest, exhibition of speed or other similar special event, the sponsor or organizer shall apply, in writing, to the department of transportation for consideration of and authorization to conduct such an event. Such application shall be reviewed by the commissioner of transportation, the commissioner of economic development and the superintendent of state police, or their designees. Only if such persons unanimously agree that the proposed event should take place, the department of transportation shall continue the review process and shall establish such reasonable requirements as are necessary to protect the public safety. 2. Notwithstanding any other provision of law to the contrary, no person or entity shall have the right to bring an action against the state or municipality or any person employed by the state or municipality who was acting within the scope of his authority for damages resulting from or in connection with any such race, contest or exhibition. In the event of any such claim being brought against any such individual employed by the state, the provisions of section seventeen of the public officers law shall apply. 3. The division of state police and the department of commerce are hereby authorized to provide necessary support and assistance to the department of transportation in connection with its power to prohibit or regulate races, speed contests, exhibitions of speed or other similar special events pursuant to this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 30 - Speed Restrictions1182-B - Filming of Movies, Commercials and Similar Events.

§ 1182-b. Filming of movies, commercials and similar events. 1. Notwithstanding any other provision of law to the contrary, the department of transportation may, by order, rule or regulation, prohibit or regulate the filming of movies, commercials and similar events on state highways. Such rules and regulations shall include, among other things, provision for adequate insurance coverage; provision for consultation by the production company of any movie, commercial or similar events with the municipality involved; provision for payment or reimbursement of all of the costs and expenses of the state which are incurred in connection with such an event; provision for assumption of risk for damages or claims by the production company, its employees and participants in such event; provision for the closure of or restriction on public use and travel upon highways or parts thereof for a certain period of time whenever the state police determine such is necessary to protect the public safety, security, or convenience. Prior to the scheduled date of the filming of a movie, commercial or other similar events, the production company shall apply, in writing, to the department of transportation for consideration of and authorization to film such an event. Such application shall be reviewed by the commissioner of transportation, or his designee, the commissioner of commerce, or his designee, and the superintendent of state police, or his designee. Only if such persons unanimously agree that the proposed filming should take place, the department of transportation shall continue the review process and shall establish such reasonable requirements as are necessary to protect the public safety. 2. Notwithstanding any other provision of law to the contrary, no person or entity shall have the right to bring an action against the state or municipality or any person employed by the state or municipality who was acting within the scope of his authority for damages resulting from or in connection with the filming of a movie, commercial or similar events. In the event of any such claim being brought against any such individual employed by the state, the provisions of section seventeen of the public officers law shall apply. 3. The division of state police and department of commerce are hereby authorized to provide necessary support and assistance to the department of transportation in connection with its power to prohibit or regulate the filming of movies, commercials or other similar events pursuant to this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 30 - Speed Restrictions1182 - Speed Contests and Races.

§ 1182. Speed contests and races. 1. Except as provided in section eleven hundred eighty-two-a of this article or section sixteen hundred thirty, sixteen hundred forty, sixteen hundred forty-two or sixteen hundred sixty of this chapter, no races, exhibitions or contests of speed shall be held and no person shall engage in or aid or abet in any motor vehicle or other speed contest or exhibition of speed on a highway. Such event, if held, shall be fully and efficiently patrolled for the entire distance over which such race, exhibition or contest for speed is to be held. Participants in a race, exhibition or contest of speed are exempted from compliance with any traffic laws otherwise applicable thereto, but shall exercise reasonable care. A violation of any of the provisions of this section shall constitute a misdemeanor and be punishable by imprisonment of not more than thirty days or a fine of not less than three hundred dollars nor more than five hundred twenty-five dollars, or both such fine and imprisonment. 2. A second conviction within twelve months of a violation of this section shall be punishable by imprisonment of not more than six months or a fine of not less than five hundred twenty-five dollars nor more than seven hundred fifty dollars, or both such fine and imprisonment.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 31 - Alcohol and Drug-Related Offenses and Procedures Applicable Thereto1192-A - Operating a Motor Vehicle After Having Consumed Alcohol; Under the Age of Twenty-One; per Se.

§ 1192-a. Operating a motor vehicle after having consumed alcohol; under the age of twenty-one; per se. No person under the age of twenty-one shall operate a motor vehicle after having consumed alcohol as defined in this section. For purposes of this section, a person under the age of twenty-one is deemed to have consumed alcohol only if such person has .02 of one per centum or more but not more than .07 of one per centum by weight of alcohol in the person's blood, as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article. Any person who operates a motor vehicle in violation of this section, and who is not charged with a violation of any subdivision of section eleven hundred ninety-two of this article arising out of the same incident shall be referred to the department for action in accordance with the provisions of section eleven hundred ninety-four-a of this article. Except as otherwise provided in subdivision five of section eleven hundred ninety-two of this article, this section shall not apply to a person who operates a commercial motor vehicle. Notwithstanding any provision of law to the contrary, a finding that a person under the age of twenty-one operated a motor vehicle after having consumed alcohol in violation of this section is not a judgment of conviction for a crime or any other offense.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 31 - Alcohol and Drug-Related Offenses and Procedures Applicable Thereto1192 - Operating a Motor Vehicle While Under the Influence of Alcohol or Drugs.

2. Driving while intoxicated; per se. No person shall operate a motor vehicle while such person has .08 of one per centum or more by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article. 2-a. Aggravated driving while intoxicated. (a) Per se. No person shall operate a motor vehicle while such person has .18 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of this article.(b) With a child. No person shall operate a motor vehicle in violation of subdivision two, three, four or four-a of this section while a child who is fifteen years of age or less is a passenger in such motor vehicle.3. Driving while intoxicated. No person shall operate a motor vehicle while in an intoxicated condition.4. Driving while ability impaired by drugs. No person shall operate a motor vehicle while the person's ability to operate such a motor vehicle is impaired by the use of a drug as defined in this chapter.4-a. Driving while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs. No person shall operate a motor vehicle while the person's ability to operate such motor vehicle is impaired by the combined influence of drugs or of alcohol and any drug or drugs.5. Commercial motor vehicles: per se - level I. Notwithstanding the provisions of section eleven hundred ninety-five of this article, no person shall operate a commercial motor vehicle while such person has .04 of one per centum or more but not more than .06 of one per centum by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article; provided, however, nothing contained in this subdivision shall prohibit the imposition of a charge of a violation of subdivision one of this section, or of section eleven hundred ninety-two-a of this article where a person under the age of twenty-one operates a commercial motor vehicle where a chemical analysis of such person's blood, breath, urine, or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article, indicates that such operator has .02 of one per centum or more but less than .04 of one per centum by weight of alcohol in such operator's blood.6. Commercial motor vehicles; per se - level II. Notwithstanding the provisions of section eleven hundred ninety-five of this article, no person shall operate a commercial motor vehicle while such person has more than .06 of one per centum but less than .08 of one per centum by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article; provided, however, nothing contained in this subdivision shall prohibit the imposition of a charge of a violation of subdivision one of this section.7. Where applicable. The provisions of this section shall apply upon public highways, private roads open to motor vehicle traffic and any other parking lot. For the purposes of this section "parking lot" shall mean any area or areas of private property, including a driveway, near or contiguous to and provided in connection with premises and used as a means of access to and egress from a public highway to such premises and having a capacity for the parking of four or more motor vehicles. The provisions of this section shall not apply to any area or areas of private property comprising all or part of property on which is situated a one or two family residence.8. Effect of prior out-of-state conviction. A prior out-of-state conviction for operating a motor vehicle while under the influence of alcohol or drugs shall be deemed to be a prior conviction of a violation of this section for purposes of determining penalties imposed under this section or for purposes of any administrative action required to be taken pursuant to subdivision two of section eleven hundred ninety-three of this article; provided, however, that such conduct, had it occurred in this state, would have constituted a misdemeanor or felony violation of any of the provisions of this section. Provided, however, that if such conduct, had it occurred in this state, would have constituted a violation of any provisions of this section which are not misdemeanor or felony offenses, then such conduct shall be deemed to be a prior conviction of a violation of subdivision one of this section for purposes of determining penalties imposed under this section or for purposes of any administrative action required to be taken pursuant to subdivision two of section eleven hundred ninety-three of this article.8-a. Effect of prior finding of having consumed alcohol. A prior finding that a person under the age of twenty-one has operated a motor vehicle after having consumed alcohol pursuant to section eleven hundred ninety-four-a of this article shall have the same effect as a prior conviction of a violation of subdivision one of this section solely for the purpose of determining the length of any license suspension or revocation required to be imposed under any provision of this article, provided that the subsequent offense is committed prior to the expiration of the retention period for such prior offense or offenses set forth in paragraph (k) of subdivision one of section two hundred one of this chapter.9. Conviction of a different charge. A driver may be convicted of a violation of subdivision one, two or three of this section, notwithstanding that the charge laid before the court alleged a violation of

subdivision two or three of this section, and regardless of whether or not such conviction is based on a plea of guilty.10. Plea bargain limitations. (a) (i) In any case wherein the charge laid before the court alleges a violation of subdivision two, three, four or four-a of this section, any plea of guilty thereafter entered in satisfaction of such charge must include at least a plea of guilty to the violation of the provisions of one of the subdivisions of this section, other than subdivision five or six, and no other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized; provided, however, if the district attorney, upon reviewing the available evidence, determines that the charge of a violation of this section is not warranted, such district attorney may consent, and the court may allow a disposition by plea of guilty to another charge in satisfaction of such charge; provided, however, in all such cases, the court shall set forth upon the record the basis for such disposition.(ii) In any case wherein the charge laid before the court alleges a violation of subdivision two, three, four or four-a of this section, no plea of guilty to subdivision one of this section shall be accepted by the court unless such plea includes as a condition thereof the requirement that the defendant attend and complete the alcohol and drug rehabilitation program established pursuant to section eleven hundred ninety-six of this article, including any assessment and treatment required thereby; provided, however, that such requirement may be waived by the court upon application of the district attorney or the defendant demonstrating that the defendant, as a condition of the plea, has been required to enter into and complete an alcohol or drug treatment program prescribed pursuant to an alcohol or substance abuse screening or assessment conducted pursuant to section eleven hundred ninety-eight-a of this article or for other good cause shown. The provisions of this subparagraph shall apply, notwithstanding any bars to participation in the alcohol and drug rehabilitation program set forth in section eleven hundred ninety-six of this article; provided, however, that nothing in this paragraph shall authorize the issuance of a conditional license unless otherwise authorized by law.(iii) In any case wherein the charge laid before the court alleges a violation of subdivision one of this section and the operator was under the age of twenty-one at the time of such violation, any plea of guilty thereafter entered in satisfaction of such charge must include at least a plea of guilty to the violation of such subdivision; provided, however, such charge may instead be satisfied as provided in paragraph (c) of this subdivision, and, provided further that, if the district attorney, upon reviewing the available evidence, determines that the charge of a violation of subdivision one of this section is not warranted, such district attorney may consent, and the court may allow a disposition by plea of guilty to another charge in satisfaction of such charge; provided, however, in all such cases, the court shall set forth upon the record the basis for such disposition.(b) In any case wherein the charge laid before the court alleges a violation of subdivision one or six of this section while operating a commercial motor vehicle, any plea of guilty thereafter entered in satisfaction of such charge must include at least a plea of guilty to the violation of the provisions of one of the subdivisions of this section and no other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized; provided, however, if the district attorney upon reviewing the available evidence determines that the charge of a violation of this section is not warranted, he may consent, and the court may allow, a disposition by plea of guilty to another charge is satisfaction of such charge.(c) Except as provided in paragraph (b) of this subdivision, in any case wherein the charge laid before the court alleges a violation of subdivision one of this section by a person who was under the age of twenty-one at the time of commission of the offense, the court, with the consent of both parties, may allow the satisfaction of such charge by the defendant's agreement to be subject to action by the commissioner pursuant to section eleven hundred ninety-four-a of this article. In any such case, the defendant shall waive the right to a hearing under section eleven hundred ninety-four-a of this article and such waiver shall have the same force and effect as a finding of a violation of section eleven hundred ninety-two-a of this article entered after a hearing conducted pursuant to such section eleven hundred ninety-four-a. The defendant shall execute such waiver in open court, and, if represented by counsel, in the presence of his attorney, on a form to be provided by the commissioner, which shall be forwarded by the court to the commissioner within ninety-six hours. To be valid, such form shall, at a minimum, contain clear and conspicuous language advising the defendant that a duly executed waiver: (i) has the same force and effect as a guilty finding following a hearing pursuant to section eleven hundred ninety-four-a of this article; (ii) shall subject the defendant to the imposition of sanctions pursuant to such section eleven hundred ninety-four-a; and (iii) may subject the defendant to increased sanctions upon a subsequent violation of this section or section eleven hundred ninety-two-a of this article. Upon receipt of a duly executed waiver pursuant to this paragraph, the commissioner shall take such administrative action and impose such sanctions as may be required by section eleven hundred ninety-four-a of this article.(d) In any case wherein the charge laid before the court alleges a violation of subdivision two-a of this section, any plea of guilty thereafter entered in satisfaction of such charge must include at least a plea of guilty to the violation of the provisions of subdivision two, two-a or three of this section, and no other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized; provided, however, if the district attorney, upon reviewing the available evidence, determines that the charge of a violation of this section is not warranted, such district attorney may consent and the court may allow a disposition by plea of guilty to another charge in satisfaction of such charge, provided, however, in all such cases, the court shall set forth upon the record the basis for such disposition. Provided, further, however, that no such plea shall be accepted by the court unless such plea includes as a condition thereof the requirement that the defendant attend and complete the alcohol and drug rehabilitation program established pursuant to section eleven hundred ninety-six of this article, including any assessment and treatment required thereby; provided, however, that such requirement may be waived by the court upon application of the district attorney or the defendant demonstrating that the defendant, as a condition of the plea, has been required to enter into and complete an alcohol or drug treatment program prescribed pursuant to an alcohol or substance abuse screening or assessment conducted pursuant to section eleven hundred ninety-eight-a of this article or for other good cause shown. The provisions of this paragraph shall apply, notwithstanding any bars to participation in the alcohol and drug rehabilitation program set forth in section eleven hundred ninety-six of this article; provided, however, that nothing in this paragraph shall authorize the issuance of a conditional license unless otherwise authorized by law.11. No person

other than an operator of a commercial motor vehicle may be charged with or convicted of a violation of subdivision five or six of this section.12. Driving while intoxicated or while ability impaired by drugs--serious physical injury or death or child in the vehicle. (a) In every case where a person is charged with a violation of subdivision two, two-a, three, four or four-a of this section, the law enforcement officer alleging such charge shall make a clear notation in the "Description of Violation" section of a simplified traffic information (i) if, arising out of the same incident, someone other than the person charged was killed or suffered serious physical injury as defined in section 10.00 of the penal law; such notation shall be in the form of a "D" if someone other than the person charged was killed and such notation shall be in the form of a "S.P.I." if someone other than the person charged suffered serious physical injury; and (ii) if a child aged fifteen years or less was present in the vehicle of the person charged with a violation of subdivision two, two-a, three, four or four-a of this section; such notation shall be in the form of "C.I.V.". Provided, however, that the failure to make such notations shall in no way affect a charge for a violation of subdivision two, two-a, three, four or four-a of this section.(b) Where a law enforcement officer alleges a violation of paragraph (b) of subdivision two-a of this section and the operator of the vehicle is a parent, guardian, or custodian of, or other person legally responsible for, a child aged fifteen years or less who is a passenger in such vehicle, then the officer shall report or cause a report to be made, if applicable, in accordance with title six of article six of the social services law. (b) With a child. No person shall operate a motor vehicle in violation of subdivision two, three, four or four-a of this section while a child who is fifteen years of age or less is a passenger in such motor vehicle. 3. Driving while intoxicated. No person shall operate a motor vehicle while in an intoxicated condition. 4. Driving while ability impaired by drugs. No person shall operate a motor vehicle while the person's ability to operate such a motor vehicle is impaired by the use of a drug as defined in this chapter. 4-a. Driving while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs. No person shall operate a motor vehicle while the person's ability to operate such motor vehicle is impaired by the combined influence of drugs or of alcohol and any drug or drugs. 5. Commercial motor vehicles: per se - level I. Notwithstanding the provisions of section eleven hundred ninety-five of this article, no person shall operate a commercial motor vehicle while such person has .04 of one per centum or more but not more than .06 of one per centum by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article; provided, however, nothing contained in this subdivision shall prohibit the imposition of a charge of a violation of subdivision one of this section, or of section eleven hundred ninety-two-a of this article where a person under the age of twenty-one operates a commercial motor vehicle where a chemical analysis of such person's blood, breath, urine, or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article, indicates that such operator has .02 of one per centum or more but less than .04 of one per centum by weight of alcohol in such operator's blood. 6. Commercial motor vehicles; per se - level II. Notwithstanding the provisions of section eleven hundred ninety-five of this article, no person shall operate a commercial motor vehicle while such person has more than .06 of one per centum but less than .08 of one per centum by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article; provided, however, nothing contained in this subdivision shall prohibit the imposition of a charge of a violation of subdivision one of this section. 7. Where applicable. The provisions of this section shall apply upon public highways, private roads open to motor vehicle traffic and any other parking lot. For the purposes of this section "parking lot" shall mean any area or areas of private property, including a driveway, near or contiguous to and provided in connection with premises and used as a means of access to and egress from a public highway to such premises and having a capacity for the parking of four or more motor vehicles. The provisions of this section shall not apply to any area or areas of private property comprising all or part of property on which is situated a one or two family residence. 8. Effect of prior out-of-state conviction. A prior out-of-state conviction for operating a motor vehicle while under the influence of alcohol or drugs shall be deemed to be a prior conviction of a violation of this section for purposes of determining penalties imposed under this section or for purposes of any administrative action required to be taken pursuant to subdivision two of section eleven hundred ninety-three of this article; provided, however, that such conduct, had it occurred in this state, would have constituted a misdemeanor or felony violation of any of the provisions of this section. Provided, however, that if such conduct, had it occurred in this state, would have constituted a violation of any provisions of this section which are not misdemeanor or felony offenses, then such conduct shall be deemed to be a prior conviction of a violation of subdivision one of this section for purposes of determining penalties imposed under this section or for purposes of any administrative action required to be taken pursuant to subdivision two of section eleven hundred ninety-three of this article. 8-a. Effect of prior finding of having consumed alcohol. A prior finding that a person under the age of twenty-one has operated a motor vehicle after having consumed alcohol pursuant to section eleven hundred ninety-four-a of this article shall have the same effect as a prior conviction of a violation of subdivision one of this section solely for the purpose of determining the length of any license suspension or revocation required to be imposed under any provision of this article, provided that the subsequent offense is committed prior to the expiration of the retention period for such prior offense or offenses set forth in paragraph (k) of subdivision one of section two hundred one of this chapter. 9. Conviction of a different charge. A driver may be convicted of a violation of subdivision one, two or three of this section, notwithstanding that the charge laid before the court alleged a violation of subdivision two or three of this section, and regardless of whether or not such conviction is based on a plea of guilty. 10. Plea bargain limitations. (a) (i) In any case wherein the charge laid before the court alleges a violation of subdivision two, three, four or four-a of this section, any plea of guilty thereafter entered in satisfaction of such charge must include at least a plea of guilty to the violation of the provisions of one of the subdivisions of this section, other than subdivision five or six, and no other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized; provided, however, if the district attorney, upon reviewing the available evidence, determines that the charge of a violation of this section is not warranted, such district attorney may

consent, and the court may allow a disposition by plea of guilty to another charge in satisfaction of such charge; provided, however, in all such cases, the court shall set forth upon the record the basis for such disposition. (ii) In any case wherein the charge laid before the court alleges a violation of subdivision two, three, four or four-a of this section, no plea of guilty to subdivision one of this section shall be accepted by the court unless such plea includes as a condition thereof the requirement that the defendant attend and complete the alcohol and drug rehabilitation program established pursuant to section eleven hundred ninety-six of this article, including any assessment and treatment required thereby; provided, however, that such requirement may be waived by the court upon application of the district attorney or the defendant demonstrating that the defendant, as a condition of the plea, has been required to enter into and complete an alcohol or drug treatment program prescribed pursuant to an alcohol or substance abuse screening or assessment conducted pursuant to section eleven hundred ninety-eight-a of this article or for other good cause shown. The provisions of this subparagraph shall apply, notwithstanding any bars to participation in the alcohol and drug rehabilitation program set forth in section eleven hundred ninety-six of this article; provided, however, that nothing in this paragraph shall authorize the issuance of a conditional license unless otherwise authorized by law. (iii) In any case wherein the charge laid before the court alleges a violation of subdivision one of this section and the operator was under the age of twenty-one at the time of such violation, any plea of guilty thereafter entered in satisfaction of such charge must include at least a plea of guilty to the violation of such subdivision; provided, however, such charge may instead be satisfied as provided in paragraph (c) of this subdivision, and, provided further that, if the district attorney, upon reviewing the available evidence, determines that the charge of a violation of subdivision one of this section is not warranted, such district attorney may consent, and the court may allow a disposition by plea of guilty to another charge in satisfaction of such charge; provided, however, in all such cases, the court shall set forth upon the record the basis for such disposition. (b) In any case wherein the charge laid before the court alleges a violation of subdivision one or six of this section while operating a commercial motor vehicle, any plea of guilty thereafter entered in satisfaction of such charge must include at least a plea of guilty to the violation of the provisions of one of the subdivisions of this section and no other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized; provided, however, if the district attorney upon reviewing the available evidence determines that the charge of a violation of this section is not warranted, he may consent, and the court may allow, a disposition by plea of guilty to another charge is satisfaction of such charge. (c) Except as provided in paragraph (b) of this subdivision, in any case wherein the charge laid before the court alleges a violation of subdivision one of this section by a person who was under the age of twenty-one at the time of commission of the offense, the court, with the consent of both parties, may allow the satisfaction of such charge by the defendant's agreement to be subject to action by the commissioner pursuant to section eleven hundred ninety-four-a of this article. In any such case, the defendant shall waive the right to a hearing under section eleven hundred ninety-four-a of this article and such waiver shall have the same force and effect as a finding of a violation of section eleven hundred ninety-two-a of this article entered after a hearing conducted pursuant to such section eleven hundred ninety-four-a. The defendant shall execute such waiver in open court, and, if represented by counsel, in the presence of his attorney, on a form to be provided by the commissioner, which shall be forwarded by the court to the commissioner within ninety-six hours. To be valid, such form shall, at a minimum, contain clear and conspicuous language advising the defendant that a duly executed waiver: (i) has the same force and effect as a guilty finding following a hearing pursuant to section eleven hundred ninety-four-a of this article; (ii) shall subject the defendant to the imposition of sanctions pursuant to such section eleven hundred ninety-four-a; and (iii) may subject the defendant to increased sanctions upon a subsequent violation of this section or section eleven hundred ninety-two-a of this article. Upon receipt of a duly executed waiver pursuant to this paragraph, the commissioner shall take such administrative action and impose such sanctions as may be required by section eleven hundred ninety-four-a of this article. (d) In any case wherein the charge laid before the court alleges a violation of subdivision two-a of this section, any plea of guilty thereafter entered in satisfaction of such charge must include at least a plea of guilty to the violation of the provisions of subdivision two, two-a or three of this section, and no other disposition by plea of guilty to any other charge in satisfaction of such charge shall be authorized; provided, however, if the district attorney, upon reviewing the available evidence, determines that the charge of a violation of this section is not warranted, such district attorney may consent and the court may allow a disposition by plea of guilty to another charge in satisfaction of such charge, provided, however, in all such cases, the court shall set forth upon the record the basis for such disposition. Provided, further, however, that no such plea shall be accepted by the court unless such plea includes as a condition thereof the requirement that the defendant attend and complete the alcohol and drug rehabilitation program established pursuant to section eleven hundred ninety-six of this article, including any assessment and treatment required thereby; provided, however, that such requirement may be waived by the court upon application of the district attorney or the defendant demonstrating that the defendant, as a condition of the plea, has been required to enter into and complete an alcohol or drug treatment program prescribed pursuant to an alcohol or substance abuse screening or assessment conducted pursuant to section eleven hundred ninety-eight-a of this article or for other good cause shown. The provisions of this paragraph shall apply, notwithstanding any bars to participation in the alcohol and drug rehabilitation program set forth in section eleven hundred ninety-six of this article; provided, however, that nothing in this paragraph shall authorize the issuance of a conditional license unless otherwise authorized by law. 11. No person other than an operator of a commercial motor vehicle may be charged with or convicted of a violation of subdivision five or six of this section. 12. Driving while intoxicated or while ability impaired by drugs--serious physical injury or death or child in the vehicle. (a) In every case where a person is charged with a violation of subdivision two, two-a, three, four or four-a of this section, the law enforcement officer alleging such charge shall make a clear notation in the "Description of Violation" section of a simplified traffic information (i) if, arising out of the same incident, someone other than the person charged was killed or suffered serious physical injury as defined in section 10.00 of the penal law; such notation shall be in the form of a "D" if someone other than the person

charged was killed and such notation shall be in the form of a "S.P.I." if someone other than the person charged suffered serious physical injury; and (ii) if a child aged fifteen years or less was present in the vehicle of the person charged with a violation of subdivision two, two-a, three, four or four-a of this section; such notation shall be in the form of "C.I.V.". Provided, however, that the failure to make such notations shall in no way affect a charge for a violation of subdivision two, two-a, three, four or four-a of this section. (b) Where a law enforcement officer alleges a violation of paragraph (b) of subdivision two-a of this section and the operator of the vehicle is a parent, guardian, or custodian of, or other person legally responsible for, a child aged fifteen years or less who is a passenger in such vehicle, then the officer shall report or cause a report to be made, if applicable, in accordance with title six of article six of the social services law.

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(b) Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated; misdemeanor offenses. (i) A violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article shall be a misdemeanor and shall be punishable by a fine of not less than five hundred dollars nor more than one thousand dollars, or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment. A violation of paragraph (a) of subdivision two-a of section eleven hundred ninety-two of this article shall be a misdemeanor and shall be punishable by a fine of not less than one thousand dollars nor more than two thousand five hundred dollars or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment. (ii) In addition to the imposition of any fine or period of imprisonment set forth in this paragraph, the court shall also sentence such person convicted of, or adjudicated a youthful offender for, a violation of subdivision two, two-a or three of section eleven hundred ninety-two of this article to a term of probation or conditional discharge, as a condition of which it shall order such person to install and maintain, in accordance with the provisions of section eleven hundred ninety-eight of this article, an ignition interlock device in any motor vehicle owned or operated by such person during the term of such probation or conditional discharge imposed for such violation of section eleven hundred ninety-two of this article and in no event for a period of less than twelve months; provided, however, that such period of interlock restriction shall terminate upon submission of proof that such person installed and maintained an ignition interlock device for at least six months, unless the court ordered such person to install and maintain an ignition interlock device for a longer period as authorized by this subparagraph and specified in such order. The period of interlock restriction shall commence from the earlier of the date of sentencing, or the date that an ignition interlock device was installed in advance of sentencing. Provided, however, the court may not authorize the operation of a motor vehicle by any person whose license or privilege to operate a motor vehicle has been revoked pursuant to the provisions of this section. (c) Felony offenses. (i) A person who operates a vehicle (A) in violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two, two-a, three, four or four-a of such section or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 and aggravated vehicular assault as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 and aggravated vehicular homicide as defined in section 125.14 of such law, within the preceding ten years, or (B) in violation of paragraph (b) of subdivision two-a of section eleven hundred ninety-two of this article shall be guilty of a class E felony, and shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. (ii) A person who operates a vehicle in violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two, two-a, three, four or four-a of such section or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 and aggravated vehicular assault as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 and aggravated vehicular homicide as defined in section 125.14 of such law, twice within the preceding ten years, shall be guilty of a class D felony, and shall be punished by a fine of not less than two thousand dollars nor more than ten thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. (ii-a) A person who operates a vehicle in violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two, two-a, three, four or four-a of such section or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 and aggravated vehicular assault as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 and aggravated vehicular homicide as defined in section 125.14 of such law, three or more times within the preceding fifteen years, shall be guilty of a class D felony, and shall be punished by a fine of not less than two thousand dollars nor more than ten thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. (iii) In addition to the imposition of any fine or period of imprisonment set forth in this paragraph, the court shall also sentence such person convicted of, or adjudicated a youthful offender for, a violation of subdivision two, two-a or three of section eleven hundred ninety-two of this article to a period of probation or conditional discharge, as a condition of which it shall order such person to install and maintain, in accordance with the provisions of section eleven hundred ninety-eight of this article, an ignition interlock device in any motor vehicle owned or operated by such person during the term of such probation or conditional discharge imposed for such violation of section eleven hundred ninety-two of this article and in no event for a period of less than twelve months; provided, however, that such period of interlock restriction shall terminate upon submission of proof that

such person installed and maintained an ignition interlock device for at least six months, unless the court ordered such person to install and maintain a ignition interlock device for a longer period as authorized by this subparagraph and specified in such order. The period of interlock restriction shall commence from the earlier of the date of sentencing, or the date that an ignition interlock device was installed in advance of sentencing. Provided, however, the court may not authorize the operation of a motor vehicle by any person whose license or privilege to operate a motor vehicle has been revoked pursuant to the provisions of this section. (d) Alcohol or drug related offenses; special vehicles. (1) Except as provided in subparagraph four of this paragraph, a violation of subdivision one, two, three, four or four-a of section eleven hundred ninety-two of this article wherein the violator is operating a taxicab as defined in section one hundred forty-eight-a of this chapter, or livery as defined in section one hundred twenty-one-e of this chapter, and such taxicab or livery is carrying a passenger for compensation, or a truck with a GVWR of more than eighteen thousand pounds but not more than twenty-six thousand pounds and which is not a commercial motor vehicle shall be a misdemeanor punishable by a fine of not less than five hundred dollars nor more than fifteen hundred dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. A violation of subdivision two-a of section eleven hundred ninety-two of this article wherein the violator is operating a taxicab as defined in section one hundred forty-eight-a of this chapter, or livery as defined in section one hundred twenty-one-e of this chapter, and such taxicab or livery is carrying a passenger for compensation, or a truck with a GVWR of more than eighteen thousand pounds but not more than twenty-six thousand pounds and which is not a commercial motor vehicle shall be a class E felony punishable by a fine of not less than one thousand dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. (1-a) A violation of subdivision one of section eleven hundred ninety-two of this article wherein the violator is operating a school bus as defined in section one hundred forty-two of this chapter and such school bus is carrying at least one student passenger shall be a misdemeanor punishable by a fine of not less than five hundred dollars nor more than fifteen hundred dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. (2) A violation of subdivision five of section eleven hundred ninety-two of this article shall be a traffic infraction punishable as provided in paragraph (a) of this subdivision. Except as provided in subparagraph three or five of this paragraph, a violation of subdivision one, two, three, four, four-a or six of section eleven hundred ninety-two of this article wherein the violator is operating a commercial motor vehicle, or any motor vehicle registered or registerable under schedule F of subdivision seven of section four hundred one of this chapter shall be a misdemeanor. A violation of subdivision one, two, three, four or four-a of section eleven hundred ninety-two of this article shall be punishable by a fine of not less than five hundred dollars nor more than fifteen hundred dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. A violation of subdivision six of section eleven hundred ninety-two of this article shall be punishable by a fine of not less than five hundred dollars nor more than fifteen hundred dollars or by a period of imprisonment not to exceed one hundred eighty days, or by both such fine and imprisonment. A person who operates any such vehicle in violation of such subdivision six after having been convicted of a violation of subdivision one, two, two-a, three, four, four-a or six of section eleven hundred ninety-two of this article within the preceding five years shall be punishable by a fine of not less than five hundred dollars nor more than fifteen hundred dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. A violation of subdivision two-a of section eleven hundred ninety-two of this article wherein the violator is operating a commercial motor vehicle, or any motor vehicle registered or registerable under schedule F of subdivision seven of section four hundred one of this chapter shall be a class E felony punishable by a fine of not less than one thousand dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. (3) A violation of subdivision one of section eleven hundred ninety-two of this article wherein the violator is operating a motor vehicle with a gross vehicle weight rating of more than eighteen thousand pounds which contains flammable gas, radioactive materials or explosives shall be a misdemeanor punishable by a fine of not less than five hundred dollars nor more than fifteen hundred dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. (4) (i) A person who operates a vehicle in violation of subdivision one, two, two-a, three, four or four-a of section eleven hundred ninety-two of this article and which is punishable as provided in subparagraph one, one-a, two or three of this paragraph after having been convicted of a violation of any such subdivision of section eleven hundred ninety-two of this article and penalized under subparagraph one, one-a, two or three of this paragraph within the preceding ten years, shall be guilty of a class E felony, which shall be punishable by a fine of not less than one thousand dollars nor more than five thousand dollars, or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. A person who operates a vehicle in violation of subdivision six of section eleven hundred ninety-two of this article after having been convicted of two or more violations of subdivisions one, two, two-a, three, four, four-a or six of section eleven hundred ninety-two of this article within the preceding five years, any one of which was a misdemeanor, shall be guilty of a class E felony, which shall be punishable by a fine of not less than one thousand dollars nor more than five thousand dollars, or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. In addition, any person sentenced pursuant to this subparagraph shall be subject to the disqualification provided in subparagraph three of paragraph (e) of subdivision two of this section. (ii) A person who operates a vehicle in violation of subdivision one, two, two-a, three, four or four-a of section eleven hundred ninety-two of this article and which is punishable as provided in subparagraph one, one-a, two or three of this paragraph after having been convicted of a violation of any such subdivision of section eleven hundred ninety-two of this article and penalized under subparagraph one, one-a, two or three of this paragraph twice within the preceding ten years, shall be guilty of a class D felony, which shall be punishable by a fine of not less than two thousand dollars nor more than ten thousand dollars, or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. A person who operates a vehicle in violation of subdivision six of section eleven

hundred ninety-two of this article after having been convicted of three or more violations of subdivisions one, two, two-a, three, four, four-a or six of section eleven hundred ninety-two of this article within the preceding five years, any one of which was a misdemeanor, shall be guilty of a class D felony, which shall be punishable by a fine of not less than two thousand dollars nor more than ten thousand dollars, or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. In addition, any person sentenced pursuant to this subparagraph shall be subject to the disqualification provided in subparagraph three of paragraph (e) of subdivision two of this section. (4-a) A violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article wherein the violator is operating a school bus as defined in section one hundred forty-two of this chapter and such school bus is carrying at least one student passenger shall be a class E felony punishable by a fine of not less than one thousand dollars nor more than five thousand dollars, or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. A violation of subdivision two-a of section eleven hundred ninety-two of this article wherein the violator is operating a school bus as defined in section one hundred forty-two of this chapter and such school bus is carrying at least one student passenger shall be a class D felony punishable by a fine of not less than two thousand dollars nor more than ten thousand dollars, or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. (5) A violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article wherein the violator is operating a motor vehicle with a gross vehicle weight rating of more than eighteen thousand pounds which contains flammable gas, radioactive materials or explosives, shall be a class E felony punishable by a fine of not less than one thousand dollars and such other penalties as provided for in the penal law; provided, however, that a conviction for such violation shall not be considered a predicate felony pursuant to section 70.06 of such law, or a previous felony conviction pursuant to section 70.10 of such law. A violation of subdivision two-a of section eleven hundred ninety-two of this article wherein the violator is operating a motor vehicle with a gross vehicle weight rating of more than eighteen thousand pounds which contains flammable gas, radioactive materials or explosives, shall be a class D felony punishable by a fine of not less than two thousand nor more than ten thousand dollars and such other penalties as provided for in the penal law; provided, however, that a conviction for such violation shall not be considered a predicate felony pursuant to section 70.06 of such law, or a previous felony conviction pursuant to section 70.10 of such law. (6) The sentences required to be imposed by subparagraph one, one-a, two, three, four, four-a or five of this paragraph shall be imposed notwithstanding any contrary provision of this chapter or the penal law. (7) Nothing contained in this paragraph shall prohibit the imposition of a charge of any other felony set forth in this or any other provision of law for any acts arising out of the same incident. (e) Certain sentences prohibited. Notwithstanding any provisions of the penal law, no judge or magistrate shall impose a sentence of unconditional discharge for a violation of any subdivision of section eleven hundred ninety-two of this article nor shall a judge or magistrate impose a sentence of conditional discharge or probation unless such conditional discharge or probation is accompanied by a sentence of a fine as provided in this subdivision. (f) Where the court imposes a sentence for a violation of section eleven hundred ninety-two of this article, the court may require the defendant, as a part of or as a condition of such sentence, to attend a single session conducted by a victims impact program. For purposes of this section, "victims impact program" means a program operated by a county, a city with a population of one million or more, by a not-for-profit organization authorized by any such county or city, or a combination thereof, in which presentations are made concerning the impact of operating a motor vehicle while under the influence of alcohol or drugs to one or more persons who have been convicted of such offenses. A description of any such program shall be filed with the commissioner and with the coordinator of the special traffic options program for driving while intoxicated established pursuant to section eleven hundred ninety-seven of this article, and shall be made available to the court upon request. Nothing contained herein shall be construed to require any governmental entity to create such a victim impact program. (g) The office of probation and correctional alternatives shall recommend to the commissioner of the division of criminal justice services regulations governing the monitoring of compliance by persons ordered to install and maintain ignition interlock devices to provide standards for monitoring by departments of probation, and options for monitoring of compliance by such persons, that counties may adopt as an alternative to monitoring by a department of probation. 1-a. Additional penalties. (a) Except as provided for in paragraph (b) of this subdivision, a person who operates a vehicle in violation of subdivision two or three of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two or three of such section within the preceding five years shall, in addition to any other penalties which may be imposed pursuant to subdivision one of this section, be sentenced to a term of imprisonment of five days or, as an alternative to such imprisonment, be required to perform thirty days of service for a public or not-for-profit corporation, association, institution or agency as set forth in paragraph (h) of subdivision two of section 65.10 of the penal law as a condition of sentencing for such violation. Notwithstanding the provisions of this paragraph, a sentence of a term of imprisonment of five days or more pursuant to the provisions of subdivision one of this section shall be deemed to be in compliance with this subdivision. (b) A person who operates a vehicle in violation of subdivision two or three of section eleven hundred ninety-two of this article after having been convicted on two or more occasions of a violation of any of such subdivisions within the preceding five years shall, in addition to any other penalties which may be imposed pursuant to subdivision one of this section, be sentenced to a term of imprisonment of ten days or, as an alternative to such imprisonment, be required to perform sixty days of service for a public or not-for-profit corporation, association, institution or agency as set forth in paragraph (h) of subdivision two of section 65.10 of the penal law as a condition of sentencing for such violation. Notwithstanding the provisions of this paragraph, a sentence of a term of imprisonment of ten days or more pursuant to the provisions of subdivision one of this section shall be deemed to be in compliance with this subdivision. (c) A court sentencing a person pursuant to paragraph (a) or (b) of this subdivision shall: (i) order the installation of an ignition interlock device approved pursuant to section eleven hundred ninety-eight of this article in any motor vehicle owned or operated by the person so sentenced. Such devices shall remain installed

during any period of license revocation required to be imposed pursuant to paragraph (b) of subdivision two of this section, and, upon the termination of such revocation period, for an additional period as determined by the court; and (ii) order that such person receive an assessment of the degree of their alcohol or substance abuse and dependency pursuant to the provisions of section eleven hundred ninety-eight-a of this article. Where such assessment indicates the need for treatment, such court is authorized to impose treatment as a condition of such sentence except that such court shall impose treatment as a condition of a sentence of probation or conditional discharge pursuant to the provisions of subdivision three of section eleven hundred ninety-eight-a of this article. Any person ordered to install an ignition interlock device pursuant to this paragraph shall be subject to the provisions of subdivisions four, five, seven, eight and nine of section eleven hundred ninety-eight of this article. (d) Confidentiality of records. The provisions of subdivision six of section eleven hundred ninety-eight-a of this article shall apply to the records and content of all assessments and treatment conducted pursuant to this subdivision. 2. License sanctions. (a) Suspensions. Except as otherwise provided in this subdivision, a license shall be suspended and a registration may be suspended for the following periods: (1) Driving while ability impaired. Ninety days, where the holder is convicted of a violation of subdivision one of section eleven hundred ninety-two of this article; (2) Persons under the age of twenty-one; driving after having consumed alcohol. Six months, where the holder has been found to have operated a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article where such person was under the age of twenty-one at the time of commission of such violation. (b) Revocations. A license shall be revoked and a registration may be revoked for the following minimum periods: (1) Driving while ability impaired; prior offense. Six months, where the holder is convicted of a violation of subdivision one of section eleven hundred ninety-two of this article committed within five years of a conviction for a violation of any subdivision of section eleven hundred ninety-two of this article. (1-a) Driving while ability impaired; misdemeanor offense. Six months, where the holder is convicted of a violation of subdivision one of section eleven hundred ninety-two of this article committed within ten years of two previous convictions for a violation of any subdivision of section eleven hundred ninety-two of this article. (2) Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated. Six months, where the holder is convicted of a violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article. One year where the holder is convicted of a violation of subdivision two-a of section eleven hundred ninety-two of this article. (3) Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated; prior offense. One year, where the holder is convicted of a violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article committed within ten years of a conviction for a violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article. Eighteen months, where the holder is convicted of a violation of subdivision two-a of section eleven hundred ninety-two of this article committed within ten years of a conviction for a violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article; or where the holder is convicted of a violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of this article committed within ten years of a conviction for a violation of subdivision two-a of section eleven hundred ninety-two of this article. (4) Special vehicles other than school buses. One year, where the holder is convicted of a violation of any subdivision of section eleven hundred ninety-two of this article and is sentenced pursuant to subparagraph one of paragraph (d) of subdivision one of this section. (4-a) School buses. (A) One year, where the holder is convicted of a violation of any subdivision of section eleven hundred ninety-two of this article, such violation was committed while the holder was driving a school bus, and the holder is sentenced pursuant to subparagraph one, one-a or four-a of paragraph (d) of subdivision one of this section. (B) Three years where the holder is convicted of a violation of any subdivision of section eleven hundred ninety-two of this article, such violation was committed while the holder was driving a school bus, and the holder is sentenced pursuant to subparagraph four of paragraph (d) of subdivision one of this section. (C) Notwithstanding the provisions of the opening paragraph of this paragraph (b), the commissioner shall not revoke the registration of a school bus driven in violation of section eleven hundred ninety-two of this article. (5) Holder of a commercial driver's license. (i) Except as otherwise provided in this subparagraph, one year where the holder of a commercial driver's license is convicted of a violation of any subdivision of section eleven hundred ninety-two of this article or if such holder is convicted of an offense consisting of operating a motor vehicle under the influence of alcohol or drugs where such conviction was had outside of this state. (ii) Three years, where the holder is convicted of a violation of any subdivision of section eleven hundred ninety-two of this article, such violation was committed while the holder was operating a commercial motor vehicle transporting hazardous materials or if such holder is convicted of an offense consisting of operating a motor vehicle under the influence of alcohol or drugs where such conviction was had outside of this state. (6) Persons under the age of twenty-one. One year, where the holder is convicted of or adjudicated a youthful offender for a violation of any subdivision of section eleven hundred ninety-two of this article, or is convicted of or receives a youthful offender or other juvenile adjudication for an offense consisting of operating a motor vehicle under the influence of intoxicating liquor where the conviction, or youthful offender or other juvenile adjudication was had outside this state, where such person was under the age of twenty-one at the time of commission of such violation. (7) Persons under the age of twenty-one; prior offense or finding. One year or until the holder reaches the age of twenty-one, whichever is the greater period of time, where the holder has been found to have operated a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article, or is convicted of, or adjudicated a youthful offender for, a violation of any subdivision of section eleven hundred ninety-two of this article, or is convicted of or receives a youthful offender or juvenile adjudication for an offense consisting of operating a motor vehicle under the influence of intoxicating liquor where the conviction, or youthful offender or other juvenile adjudication was had outside this state, where such person was under the age of twenty-one at the time of commission of

such violation and has previously been found to have operated a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article, or has previously been convicted of, or adjudicated a youthful offender for, any violation of section eleven hundred ninety-two of this article not arising out of the same incident, or has previously been convicted of or received a youthful offender or juvenile adjudication for an offense consisting of operating a motor vehicle under the influence of intoxicating liquor when the conviction, or youthful offender or other juvenile adjudication was had outside this state and not arising out of the same. (8) Out-of-state offenses. Except as provided in subparagraph six or seven of this paragraph: (i) ninety days, where the holder is convicted of an offense consisting of operating a motor vehicle under the influence of intoxicating liquor where the conviction was had outside this state and (ii) six months, where the holder is convicted of, or receives a youthful offender or other juvenile adjudication, which would have been a misdemeanor or felony if committed by an adult, in connection with, an offense consisting of operating a motor vehicle under the influence of or while impaired by the use of drugs where the conviction or youthful offender or other juvenile adjudication was had outside this state. (9) Effect of rehabilitation program. No period of revocation arising out of subparagraph four, five, six or seven of this paragraph may be set aside by the commissioner for the reason that such person was a participant in the alcohol and drug rehabilitation program set forth in section eleven hundred ninety-six of this chapter. (10) Action required by commissioner. Where a court fails to impose, or incorrectly imposes, a suspension or revocation required by this subdivision, the commissioner shall, upon receipt of a certificate of conviction filed pursuant to section five hundred fourteen of this chapter, impose such mandated suspension or revocation, which shall supersede any such order which the court may have imposed. (11) Limitation of certain mandatory revocations. Where revocation is mandatory pursuant to subparagraph five of this paragraph for a conviction of a violation of subdivision five of section eleven hundred ninety-two of this article, such revocation shall be issued only by the commissioner and shall be applicable only to that portion of the holder's driver's license or privilege which permits the operation of commercial motor vehicles, and the commissioner shall immediately issue a license, other than a commercial driver's license, to such person provided that such person is otherwise eligible to receive such license and further provided that issuing a license to such person does not create a substantial traffic safety hazard. (12) Permanent revocation. (a) Notwithstanding any other provision of this chapter to the contrary, whenever a revocation is imposed upon a person for the refusal to submit to a chemical test pursuant to the provisions of section eleven hundred ninety-four of this article or conviction for any violation of section eleven hundred ninety-two of this article for which a sentence of imprisonment may be imposed, and such person has: (i) within the previous four years been twice convicted of any provisions of section eleven hundred ninety-two of this article or a violation of the penal law for which a violation of such section eleven hundred ninety-two is an essential element and at least one such conviction was for a crime, or has twice been found to have refused to submit to a chemical test pursuant to section eleven hundred ninety-four of this article, or has any combination of two such convictions and findings of refusal not arising out of the same incident; or (ii) within the previous eight years been convicted three times of any provision of section eleven hundred ninety-two of this article for which a sentence of imprisonment may be imposed or a violation of the penal law for which a violation of such section eleven hundred ninety-two is an essential element and at least two such convictions were for crimes, or has been found, on three separate occasions, to have refused to submit to a chemical test pursuant to section eleven hundred ninety-four of this article, or has any combination of such convictions and findings of refusal not arising out of the same incident, such revocation shall be permanent. (b) The permanent driver's license revocation required by clause (a) of this subparagraph shall be waived by the commissioner after a period of five years has expired since the imposition of such permanent revocation, provided that during such five-year period such person has not been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this article while operating a motor vehicle and has not been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article or section five hundred eleven of this chapter or a violation of the penal law for which a violation of any subdivision of such section eleven hundred ninety-two is an essential element and either: (i) that such person provides acceptable documentation to the commissioner that such person has voluntarily enrolled in and successfully completed an appropriate rehabilitation program; or (ii) that such person is granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. Provided, however, that the commissioner may, on a case by case basis, refuse to restore a license which otherwise would be restored pursuant to this item, in the interest of the public safety and welfare. (c) For revocations imposed pursuant to clause (a) of this subparagraph, the commissioner may adopt rules to permit conditional or restricted operation of a motor vehicle by any such person after a mandatory revocation period of not less than three years subject to such criteria, terms and conditions as established by the commissioner. (d) Upon (i) a finding of refusal after having been convicted three times within four years of a violation of any subdivision of section eleven hundred ninety-two of this article or of the penal law for which a violation of any subdivision of such section eleven hundred ninety-two is an essential element or any combination of three such convictions not arising out of the same incident within four years or (ii) a fourth conviction of any subdivision of section eleven hundred ninety-two of this article after having been convicted of any such subdivision of such section eleven hundred ninety-two or of the penal law for which a violation of any of such subdivisions of such section eleven hundred ninety-two is an essential element or any combination of three such convictions not arising out of the same incident within four years or (iii) a finding of refusal after having been convicted four times within eight years of a violation of any subdivision of section eleven hundred ninety-two of this article or of the penal law for which a violation of any of such subdivisions of such section eleven hundred ninety-two is an essential element or any combination of four such convictions not arising out of the same incident within eight years or (iv) a fifth conviction of any subdivision of section eleven hundred ninety-two of this article after having been convicted of such subdivision or of the penal law for which a violation of any of such subdivisions of such section eleven hundred ninety-two is an essential element or any combination of four such convictions not

arising out of the same incident within eight years, such revocation shall be permanent. (e) The permanent driver's license revocation required by clause (d) of this subparagraph may be waived by the commissioner after a period of eight years has expired since the imposition of such permanent revocation provided: (i) that during such eight-year period such person has not been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this article while operating a motor vehicle and has not been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article or section five hundred eleven of this chapter or a violation of the penal law for which a violation of any such subdivisions of such section eleven hundred ninety-two is an essential element; and (ii) that such person provides acceptable documentation to the commissioner that such person has voluntarily enrolled in and successfully completed an appropriate rehabilitation program; and (iii) after such documentation is accepted, that such person is granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. Notwithstanding the provisions of this clause, nothing contained in this clause shall be deemed to require the commissioner to restore a license to an applicant who otherwise has complied with the requirements of this item, in the interest of the public safety and welfare. (f) Nothing contained in this subparagraph shall be deemed to reduce a license revocation period imposed pursuant to any other provision of law. (c) Reissuance of licenses; restrictions. (1) Except as otherwise provided in this paragraph, where a license is revoked pursuant to paragraph (b) of this subdivision, no new license shall be issued after the expiration of the minimum period specified in such paragraph, except in the discretion of the commissioner. (2) Where a license is revoked pursuant to subparagraph two, three or eight of paragraph (b) of this subdivision for a violation of subdivision four of section eleven hundred ninety-two of this article, and where the individual does not have a driver's license or the individual's license was suspended at the time of conviction or youthful offender or other juvenile adjudication, the commissioner shall not issue a new license nor restore the former license for a period of six months after such individual would otherwise have become eligible to obtain a new license or to have the former license restored; provided, however, that during such delay period the commissioner may issue a restricted use license pursuant to section five hundred thirty of this chapter. (3) In no event shall a new license be issued where a person has been twice convicted of a violation of subdivision three, four or four-a of section eleven hundred ninety-two of this article or of driving while intoxicated or of driving while ability is impaired by the use of a drug or of driving while ability is impaired by the combined influence of drugs or of alcohol and any drug or drugs where physical injury, as defined in section 10.00 of the penal law, has resulted from such offense in each instance. (d) Suspension or revocation; sentencing. (1) Notwithstanding anything to the contrary contained in a certificate of relief from disabilities or a certificate of good conduct issued pursuant to article twenty-three of the correction law, where a suspension or revocation, other than a revocation required to be issued by the commissioner, is mandatory pursuant to paragraph (a) or (b) of this subdivision, the magistrate, justice or judge shall issue an order suspending or revoking such license upon sentencing, and the license holder shall surrender such license to the court. Except as hereinafter provided, such suspension or revocation shall take effect immediately. (2) Except where the license holder has been charged with a violation of article one hundred twenty or one hundred twenty-five of the penal law arising out of the same incident or convicted of such violation or a violation of any subdivision of section eleven hundred ninety-two of this article within the preceding five years, the judge, justice or magistrate may issue an order making said license suspension or revocation take effect twenty days after the date of sentencing. The license holder shall be given a copy of said order permitting the continuation of driving privileges for twenty days after sentencing, if granted by the court. The court shall forward to the commissioner the certificates required in sections five hundred thirteen and five hundred fourteen of this chapter, along with a copy of any order issued pursuant to this paragraph and the license, within ninety-six hours of sentencing. (e) Special provisions. (1) Suspension pending prosecution; procedure. a. Without notice, pending any prosecution, the court shall suspend such license, where the holder has been charged with a violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article and either (i) a violation of a felony under article one hundred twenty or one hundred twenty-five of the penal law arising out of the same incident, or (ii) has been convicted of any violation under section eleven hundred ninety-two of this article within the preceding five years. b. The suspension under the preceding clause shall occur no later than twenty days after the holder's first appearance before the court on the charges or at the conclusion of all proceedings required for the arraignment. In order for the court to impose such suspension it must find that the accusatory instrument conforms to the requirements of section 100.40 of the criminal procedure law and there exists reasonable cause to believe that the holder operated a motor vehicle in violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article and either (i) the person had been convicted of any violation under such section eleven hundred ninety-two of this article within the preceding five years; or (ii) that the holder committed a violation of a felony under article one hundred twenty or one hundred twenty-five of the penal law. At such time the holder shall be entitled to an opportunity to make a statement regarding the enumerated issues and to present evidence tending to rebut the court's findings. Where such suspension is imposed upon a pending charge of a violation of a felony under article one hundred twenty or one hundred twenty-five of the penal law and the holder has requested a hearing pursuant to article one hundred eighty of the criminal procedure law, the court shall conduct such hearing. If upon completion of the hearing, the court fails to find that there is reasonable cause to believe that the holder committed a felony under article one hundred twenty or one hundred twenty-five of the penal law and the holder has not been previously convicted of any violation of section eleven hundred ninety-two of this article within the preceding five years the court shall promptly notify the commissioner and direct restoration of such license to the license holder unless such license is suspended or revoked pursuant to any other provision of this chapter. (2) Bail forfeiture. A license shall be suspended where the holder forfeits bail upon a charge of a violation of any subdivision of section eleven hundred ninety-two of this article. Such suspension shall not be terminated until the holder submits to the jurisdiction of the court in which the bail was forfeited. (3) Permanent disqualification from operating certain motor vehicles. a. Except as otherwise provided herein, in addition

to any revocation set forth in subparagraph four or five of paragraph (b) of this subdivision, any person sentenced pursuant to subparagraph three of paragraph (d) of subdivision one of this section shall be permanently disqualified from operating any vehicle set forth in such paragraph. In addition, the commissioner shall not issue such person a license valid for the operation of any vehicle set forth therein by such person. The commissioner may waive such disqualification and prohibition hereinbefore provided after a period of five years has expired from such sentencing provided: (i) that during such five year period such person has not violated any of the provisions of section eleven hundred ninety-two of this article or any alcohol or drug related traffic offense in this state or in any jurisdiction outside this state; (ii) that such person provides acceptable documentation to the commissioner that such person is not in need of alcohol or drug treatment or has satisfactorily completed a prescribed course of such treatment; and (iii) after such documentation is accepted, that such person is granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. b. Any person who holds a commercial driver's license and is convicted of a violation of any subdivision of section eleven hundred ninety-two of this article who has had a prior finding of refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of this article or has had a prior conviction of any of the following offenses: any violation of section eleven hundred ninety-two of this article; any violation of subdivision one or two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of section five hundred ten-a of this chapter, shall be permanently disqualified from operating a commercial motor vehicle. The commissioner may waive such disqualification and prohibition hereinbefore provided after a period of ten years has expired from such sentence provided: (i) that during such ten year period such person has not been found to have refused a chemical test pursuant to section eleven hundred ninety-four of this article while operating a motor vehicle and has not been convicted of any one of the following offenses while operating a motor vehicle: any violation of section eleven hundred ninety-two of this article; any violation of subdivision one or two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of section five hundred ten-a of this chapter; (ii) that such person provides acceptable documentation to the commissioner that such person is not in need of alcohol or drug treatment or has satisfactorily completed a prescribed course of such treatment; and (iii) after such documentation is accepted, that such person is granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law. c. Upon a third finding of refusal and/or conviction of any of the offenses which require a permanent commercial driver's license revocation, such permanent revocation may not be waived by the commissioner under any circumstances. (4) Youthful offenders. Where a youth is determined to be a youthful offender, following a conviction of a violation of section eleven hundred ninety-two of this article for which a license suspension or revocation is mandatory, the court shall impose such suspension or revocation as is otherwise required upon conviction and, further, shall notify the commissioner of said suspension or revocation and its finding that said violator is granted youthful offender status as is required pursuant to section five hundred thirteen of this chapter. (5) Probation. When a license to operate a motor vehicle has been revoked pursuant to this chapter, and the holder has been sentenced to a period of probation pursuant to section 65.00 of the penal law for a violation of any provision of this chapter, or any other provision of the laws of this state, and a condition of such probation is that the holder thereof not operate a motor vehicle or not apply for a license to operate a motor vehicle during the period of such condition of probation, the commissioner may not restore such license until the period of the condition of probation has expired. (6) Application for new license. Where a license has been revoked pursuant to paragraph (b) of this subdivision, or where the holder is subject to a condition of probation as provided in subparagraph five of this paragraph, application for a new license may be made within forty-five days prior to the expiration of such minimum period of revocation or condition of probation, whichever expires last. (7) Suspension pending prosecution; excessive blood alcohol content. a. Except as provided in clause a-1 of this subparagraph, a court shall suspend a driver's license, pending prosecution, of any person charged with a violation of subdivision two, two-a, three or four-a of section eleven hundred ninety-two of this article who, at the time of arrest, is alleged to have had .08 of one percent or more by weight of alcohol in such driver's blood as shown by chemical analysis of blood, breath, urine or saliva, made pursuant to subdivision two or three of section eleven hundred ninety-four of this article. a-1. A court shall suspend a class DJ or MJ learner's permit or a class DJ or MJ driver's license, pending prosecution, of any person who has been charged with a violation of subdivision one, two, two-a and/or three of section eleven hundred ninety-two of this article. b. The suspension occurring under clause a of this subparagraph shall occur no later than at the conclusion of all proceedings required for the arraignment and the suspension occurring under clause a-1 of this subparagraph shall occur immediately after the holder's first appearance before the court on the charge which shall, whenever possible, be the next regularly scheduled session of the court after the arrest or at the conclusion of all proceedings required for the arraignment; provided, however, that if the results of any test administered pursuant to section eleven hundred ninety-four of this article are not available within such time period, the complainant police officer or other public servant shall transmit such results to the court at the time they become available, and the court shall, as soon as practicable following the receipt of such results and in compliance with the requirements of this subparagraph, suspend such license. In order for the court to impose such suspension it must find that the accusatory instrument conforms to the requirements of section 100.40 of the criminal procedure law and there exists reasonable cause to believe either that (a) the holder operated a motor vehicle while such holder had .08 of one percent or more by weight of alcohol in his or her blood as was shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of section eleven hundred ninety-four of this article or (b) the person was the holder of a class DJ or MJ learner's permit or a class DJ or MJ driver's license and operated a motor vehicle while such holder was in violation of subdivision one, two and/or three of section eleven hundred ninety-two of this article. At the time of such license suspension the holder shall be entitled to an opportunity to make a statement regarding these two issues and to present evidence tending to rebut the court's findings. c. Nothing

contained in this subparagraph shall be construed to prohibit or limit a court from imposing any other suspension pending prosecution required or permitted by law. d. Notwithstanding any contrary provision of this chapter, if any suspension occurring under this subparagraph has been in effect for a period of thirty days, the holder may be issued a conditional license, in accordance with section eleven hundred ninety-six of this article, provided the holder of such license is otherwise eligible to receive such conditional license. A conditional license issued pursuant to this subparagraph shall not be valid for the operation of a commercial motor vehicle. The commissioner shall prescribe by regulation the procedures for the issuance of such conditional license. e. If the court finds that the suspension imposed pursuant to this subparagraph will result in extreme hardship, the court must issue such suspension, but may grant a hardship privilege, which shall be issued on a form prescribed by the commissioner. For the purposes of this clause, "extreme hardship" shall mean the inability to obtain alternative means of travel to or from the licensee's employment, or to or from necessary medical treatment for the licensee or a member of the licensee's household, or if the licensee is a matriculating student enrolled in an accredited school, college or university travel to or from such licensee's school, college or university if such travel is necessary for the completion of the educational degree or certificate. The burden of proving extreme hardship shall be on the licensee who may present material and relevant evidence. A finding of extreme hardship may not be based solely upon the testimony of the licensee. In no event shall arraignment be adjourned or otherwise delayed more than three business days solely for the purpose of allowing the licensee to present evidence of extreme hardship. The court shall set forth upon the record, or otherwise set forth in writing, the factual basis for such finding. The hardship privilege shall permit the operation of a vehicle only for travel to or from the licensee's employment, or to or from necessary medical treatment for the licensee or a member of the licensee's household, or if the licensee is a matriculating student enrolled in an accredited school, college or university travel to or from such licensee's school, college or university if such travel is necessary for the completion of the educational degree or certificate. A hardship privilege shall not be valid for the operation of a commercial motor vehicle. (f) Notice of charges to parent or guardian. Notwithstanding the provisions of subdivision two of section eighteen hundred seven of this chapter, upon the first scheduled appearance of any person under eighteen years of age who resides within the household of his or her parent or guardian upon a charge of a violation of subdivision one, two and/or three of section eleven hundred ninety-two of this article, the local criminal court before which such first appearance is scheduled shall forthwith transmit written notice of such appearance or failure to make such appearance to the parent or guardian of such minor person; provided, however, that if an arraignment and conviction of such person follows such appearance upon the same day, or in case such person waives arraignment and enters a plea of guilty to the offense as charged in accordance with the provisions of section eighteen hundred five of this chapter, transmittal of notice of his or her conviction as provided in section five hundred fourteen of this chapter shall be sufficient and the notice required by this paragraph need not be given; provided further that the failure of a local criminal court to transmit the notice required by this paragraph shall in no manner affect the validity of a conviction subsequently obtained.

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(b) Every person under the age of twenty-one who is alleged to have operated a motor vehicle after having consumed alcohol as set forth in section eleven hundred ninety-two-a of this article, and who is not charged with violating any subdivision of section eleven hundred ninety-two of this article arising out of the same incident, is entitled to a hearing before a hearing officer in accordance with the provisions of this section. Unless otherwise provided by law, the license or permit to drive or any non-resident operating privilege of such person shall not be suspended or revoked prior to the scheduled date for such hearing. (i) The hearing shall be limited to the following issues: (1) did such person operate the motor vehicle; (2) was a valid request to submit to a chemical test made by the police officer in accordance with the provisions of section eleven hundred ninety-four of this article; (3) was such person less than twenty-one years of age at the time of operation of the motor vehicle; (4) was the chemical test properly administered in accordance with the provisions of section eleven hundred ninety-four of this article; (5) did the test find that such person had driven after having consumed alcohol as defined in section eleven hundred ninety-two-a of this article; and (6) did the police officer make a lawful stop of such person. The burden of proof shall be on the police officer to prove each of these issues by clear and convincing evidence. (ii) Every person who is entitled to a hearing pursuant to this subdivision has the right to be present at the hearing; the right to be represented by attorney, or in the hearing officer's discretion, by any other person the operator chooses; the right to receive and review discovery materials as provided in this subdivision; the right not to testify; the right to present evidence and witnesses in his own behalf, the right to cross examine adverse witnesses, and the right to appeal from an adverse determination in accordance with article three-A of this chapter. Any person representing the operator must conform to the standards of conduct required of attorneys appearing before state courts, and failure to conform to these standards will be grounds for declining to permit his continued appearance in the hearing. (iii) Hearings conducted pursuant to this subdivision shall be in accordance with this subdivision and with the provisions applicable to the adjudication of traffic infractions pursuant to the following provisions of part 124 of title fifteen of the codes, rules and regulations of the state of New York: paragraph (b) of section 124.1 regarding the opening statement; paragraph (b) of section 124.2 regarding the right to representation and to remain silent and paragraphs (a) through (e) of section 124.4 regarding the conduct of the hearing, procedure and recusal; provided, however, that nothing contained in this subparagraph shall be deemed to preclude a hearing officer from changing the order of a hearing conducted pursuant to this subdivision as justice may require and for good cause shown. (iv) The rules governing receipt of evidence in a court of law shall not apply in a hearing conducted pursuant to this subdivision except as follows: (1) on the merits of the charge, and whether or not a party objects, the hearing officer shall exclude from consideration the following: a privileged communication;

evidence which, for constitutional reasons, would not be admissible in a court of law; evidence of prior misconduct, incompetency or illness, except where such evidence would be admissible in a court of law; evidence which is irrelevant or immaterial; (2) no negative inference shall be drawn from the operator's exercising the right not to testify. (v) If, after such hearing, the hearing officer, acting on behalf of the commissioner, finds all of the issues set forth in this subdivision in the affirmative, the hearing officer shall suspend or revoke the license or permit to drive or non-resident operating privilege of such person in accordance with the time periods set forth in subdivision two of section eleven hundred ninety-three of this article. If, after such hearing, the hearing officer, acting on behalf of the commissioner, finds any of said issues in the negative, the hearing officer must find that the operator did not drive after having consumed alcohol. (vi) A person who has had a license or permit to drive or non-resident operating privilege suspended or revoked pursuant to the provisions of this section may appeal the finding of the hearing officer in accordance with the provisions of article three-A of this chapter. (c) Unless an adjournment of the hearing date has been granted, upon the operator's failure to appear for a scheduled hearing, the commissioner shall suspend the license or permit to drive or non-resident operating privilege until the operator petitions the commissioner and a rescheduled hearing is conducted, provided, however, the commissioner shall restore such person's license or permit to drive or non-resident operating privilege if such rescheduled hearing is adjourned at the request of a person other than the operator. Requests for adjournments shall be made and determined in accordance with regulations promulgated by the commissioner. If such a request by the operator for an adjournment is granted, the commissioner shall notify the operator of the rescheduled hearing, which shall be scheduled for the next hearing date. If a second or subsequent request by the operator for an adjournment is granted, the operator's license or permit to drive or non-resident operating privilege may be suspended pending the hearing at the time such adjournment is granted; provided, however, that the records of the department or the evidence already admitted furnishes reasonable grounds to believe such suspension is necessary to prevent continuing violations or a substantial traffic safety hazard; and provided further, that such hearing shall be scheduled for the next hearing date. If a police officer does not appear for a hearing, the hearing officer shall have the authority to dismiss the charge. Any person may waive the right to a hearing under this subdivision, in a form and manner prescribed by the commissioner, and may enter an admission of guilt, in person or by mail, to the charge of operating a motor vehicle in violation of section eleven hundred ninety-two-a of this article. Such admission of guilt shall have the same force and effect as a finding of guilt entered following a hearing conducted pursuant to this subdivision. 1-a. Hearing notice. The hearing notice issued to an operator pursuant to subdivision one of this section shall be in a form as prescribed by the commissioner. In addition to containing information concerning the time, date and location of the hearing, and such other information as the commissioner deems appropriate, such hearing notice shall also contain the following information: the date, time and place of the offense charged; the procedures for requesting an adjournment of a scheduled hearing as provided in this section, the operator's right to a hearing conducted pursuant to this section and the right to waive such hearing and plead guilty, either in person or by mail, to the offense charged. 2. Civil penalty. Unless otherwise provided, any person whose license, permit to drive, or any non-resident operating privilege is suspended or revoked pursuant to the provisions of this section shall also be liable for a civil penalty in the amount of one hundred twenty-five dollars, which shall be distributed in accordance with the provisions of subdivision nine of section eighteen hundred three of this chapter. 3. Refusal report and hearing. (a) Any person under the age of twenty-one who is suspected of operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this chapter, and who is not charged with violating any subdivision of section eleven hundred ninety-two of this article arising out of the same incident, and who has been requested to submit to a chemical test pursuant to paragraph (a) of subdivision two of section eleven hundred ninety-four of this article and after having been informed that his license or permit to drive and any non-resident operating privilege shall be revoked for refusal to submit to such chemical test or any portion thereof, whether or not there is a finding of driving after having consumed alcohol, and such person refuses to submit to such chemical test or any portion thereof, shall be entitled to a hearing in accordance with a schedule promulgated by the commissioner, and such hearing shall occur within thirty days of, but not less than forty-eight hours from, the date of such refusal, provided, however, where the commissioner determines, based upon the availability of hearing officers and the anticipated volume of hearings at a particular location, that the scheduling of such hearing within thirty days would impair the timely scheduling or conducting of other hearings pursuant to this chapter, such hearing shall be scheduled at the next hearing date for such particular location. (b) Unless an adjournment of the hearing date has been granted, upon the operator's failure to appear for a scheduled hearing, the commissioner shall suspend the license or permit to drive or non-resident operating privilege until the operator petitions the commissioner and a rescheduled hearing is conducted, provided, however, the commissioner shall restore such person's license or permit to drive or non-resident operating privilege if such rescheduled hearing is adjourned at the request of a person other than the operator. Requests for adjournments shall be made and determined in accordance with regulations promulgated by the commissioner. If such a request by the operator for an adjournment is granted, the commissioner shall notify the operator of the rescheduled hearing, which shall be scheduled for the next hearing date. If a second or subsequent request by the operator for an adjournment is granted, the operator's license or permit to drive or non-resident operating privilege may be suspended pending the hearing at the time such adjournment is granted; provided, however, that the records of the department or the evidence already admitted furnishes reasonable grounds to believe such suspension is necessary to prevent continuing violations or a substantial traffic safety hazard; and provided further, that such hearing shall be scheduled for the next hearing date. If a police officer does not appear for a hearing, the hearing officer shall have the authority to dismiss the charge. Any person may waive the right to a hearing under this subdivision. (c) The hearing on the refusal to submit to a chemical test pursuant to this subdivision shall be limited to the following issues: (1) was a valid request to submit to a chemical test made by the police officer in accordance with the provisions of section eleven hundred ninety-four of this article; (2) was such person given sufficient warning, in clear or

unequivocal language, prior to such refusal that such refusal to submit to such chemical test or any portion thereof, would result in the revocation of such person's license or permit to drive or nonresident operating privilege, whether or not such person is found to have operated a motor vehicle after having consumed alcohol; (3) did such person refuse to submit to such chemical test or any portion thereof; (4) did such person operate the motor vehicle; (5) was such person less than twenty-one years of age at the time of operation of the motor vehicle; (6) did the police officer make a lawful stop of such person. If, after such hearing, the hearing officer, acting on behalf of the commissioner, finds on any one said issue in the negative, the hearing officer shall not revoke the operator's license or permit to drive or non-resident operating privilege and shall immediately terminate any outstanding suspension of the operator's license, permit to drive or non-resident operating privilege arising from such refusal. If, after such hearing, the hearing officer, acting on behalf of the commissioner, finds all of the issues in the affirmative, such hearing officer shall immediately revoke the license or permit to drive or any non-resident operating privilege in accordance with the provisions of paragraph (d) of subdivision two of section eleven hundred ninety-four of this article. A person who has had a license or permit to drive or non-resident operating privilege suspended or revoked pursuant to the provisions of this section may appeal the findings of the hearing officer in accordance with the provisions of article three-A of this chapter.

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(b) Field testing. Every person operating a motor vehicle which has been involved in an accident or which is operated in violation of any of the provisions of this chapter shall, at the request of a police officer, submit to a breath test to be administered by the police officer. If such test indicates that such operator has consumed alcohol, the police officer may request such operator to submit to a chemical test in the manner set forth in subdivision two of this section. 2. Chemical tests. (a) When authorized. Any person who operates a motor vehicle in this state shall be deemed to have given consent to a chemical test of one or more of the following: breath, blood, urine, or saliva, for the purpose of determining the alcoholic and/or drug content of the blood provided that such test is administered by or at the direction of a police officer with respect to a chemical test of breath, urine or saliva or, with respect to a chemical test of blood, at the direction of a police officer: (1) having reasonable grounds to believe such person to have been operating in violation of any subdivision of section eleven hundred ninety-two of this article and within two hours after such person has been placed under arrest for any such violation; or having reasonable grounds to believe such person to have been operating in violation of section eleven hundred ninety-two-a of this article and within two hours after the stop of such person for any such violation, (2) within two hours after a breath test, as provided in paragraph (b) of subdivision one of this section, indicates that alcohol has been consumed by such person and in accordance with the rules and regulations established by the police force of which the officer is a member; (3) for the purposes of this paragraph, "reasonable grounds" to believe that a person has been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article shall be determined by viewing the totality of circumstances surrounding the incident which, when taken together, indicate that the operator was driving in violation of such subdivision. Such circumstances may include any visible or behavioral indication of alcohol consumption by the operator, the existence of an open container containing or having contained an alcoholic beverage in or around the vehicle driven by the operator, or any other evidence surrounding the circumstances of the incident which indicates that the operator has been operating a motor vehicle after having consumed alcohol at the time of the incident; or (4) notwithstanding any other provision of law to the contrary, no person under the age of twenty-one shall be arrested for an alleged violation of section eleven hundred ninety-two-a of this article. However, a person under the age of twenty-one for whom a chemical test is authorized pursuant to this paragraph may be temporarily detained by the police solely for the purpose of requesting or administering such chemical test whenever arrest without a warrant for a petty offense would be authorized in accordance with the provisions of section 140.10 of the criminal procedure law or paragraph (a) of subdivision one of this section. (b) Report of refusal. (1) If: (A) such person having been placed under arrest; or (B) after a breath test indicates the presence of alcohol in the person's system; or (C) with regard to a person under the age of twenty-one, there are reasonable grounds to believe that such person has been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article; and having thereafter been requested to submit to such chemical test and having been informed that the person's license or permit to drive and any non-resident operating privilege shall be immediately suspended and subsequently revoked, or, for operators under the age of twenty-one for whom there are reasonable grounds to believe that such operator has been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article, shall be revoked for refusal to submit to such chemical test or any portion thereof, whether or not the person is found guilty of the charge for which such person is arrested or detained, refuses to submit to such chemical test or any portion thereof, unless a court order has been granted pursuant to subdivision three of this section, the test shall not be given and a written report of such refusal shall be immediately made by the police officer before whom such refusal was made. Such report may be verified by having the report sworn to, or by affixing to such report a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law and such form notice together with the subscription of the deponent shall constitute a verification of the report. (2) The report of the police officer shall set forth reasonable grounds to believe such arrested person or such detained person under the age of twenty-one had been driving in violation of any subdivision of section eleven hundred ninety-two or eleven hundred ninety-two-a of this article, that said person had refused to submit to such chemical test, and that no chemical test was administered pursuant to the requirements of subdivision three of this section. The report shall be presented to the court upon arraignment of an arrested person, provided, however, in the case of a person under the age of twenty-one, for whom a test was authorized pursuant to the provisions of subparagraph two or three of

paragraph (a) of this subdivision, and who has not been placed under arrest for a violation of any of the provisions of section eleven hundred ninety-two of this article, such report shall be forwarded to the commissioner within forty-eight hours in a manner to be prescribed by the commissioner, and all subsequent proceedings with regard to refusal to submit to such chemical test by such person shall be as set forth in subdivision three of section eleven hundred ninety-four-a of this article. (3) For persons placed under arrest for a violation of any subdivision of section eleven hundred ninety-two of this article, the license or permit to drive and any non-resident operating privilege shall, upon the basis of such written report, be temporarily suspended by the court without notice pending the determination of a hearing as provided in paragraph (c) of this subdivision. Copies of such report must be transmitted by the court to the commissioner and such transmittal may not be waived even with the consent of all the parties. Such report shall be forwarded to the commissioner within forty-eight hours of such arraignment. (4) The court or the police officer, in the case of a person under the age of twenty-one alleged to be driving after having consumed alcohol, shall provide such person with a scheduled hearing date, a waiver form, and such other information as may be required by the commissioner. If a hearing, as provided for in paragraph (c) of this subdivision, or subdivision three of section eleven hundred ninety-four-a of this article, is waived by such person, the commissioner shall immediately revoke the license, permit, or non-resident operating privilege, as of the date of receipt of such waiver in accordance with the provisions of paragraph (d) of this subdivision. (c) Hearings. Any person whose license or permit to drive or any non-resident driving privilege has been suspended pursuant to paragraph (b) of this subdivision is entitled to a hearing in accordance with a hearing schedule to be promulgated by the commissioner. If the department fails to provide for such hearing fifteen days after the date of the arraignment of the arrested person, the license, permit to drive or non-resident operating privilege of such person shall be reinstated pending a hearing pursuant to this section. The hearing shall be limited to the following issues: (1) did the police officer have reasonable grounds to believe that such person had been driving in violation of any subdivision of section eleven hundred ninety-two of this article; (2) did the police officer make a lawful arrest of such person; (3) was such person given sufficient warning, in clear or unequivocal language, prior to such refusal that such refusal to submit to such chemical test or any portion thereof, would result in the immediate suspension and subsequent revocation of such person's license or operating privilege whether or not such person is found guilty of the charge for which the arrest was made; and (4) did such person refuse to submit to such chemical test or any portion thereof. If, after such hearing, the hearing officer, acting on behalf of the commissioner, finds on any one of said issues in the negative, the hearing officer shall immediately terminate any suspension arising from such refusal. If, after such hearing, the hearing officer, acting on behalf of the commissioner finds all of the issues in the affirmative, such officer shall immediately revoke the license or permit to drive or any non-resident operating privilege in accordance with the provisions of paragraph (d) of this subdivision. A person who has had a license or permit to drive or non-resident operating privilege suspended or revoked pursuant to this subdivision may appeal the findings of the hearing officer in accordance with the provisions of article three-A of this chapter. Any person may waive the right to a hearing under this section. Failure by such person to appear for the scheduled hearing shall constitute a waiver of such hearing, provided, however, that such person may petition the commissioner for a new hearing which shall be held as soon as practicable. (d) Sanctions. (1) Revocations. a. Any license which has been revoked pursuant to paragraph (c) of this subdivision shall not be restored for at least one year after such revocation, nor thereafter, except in the discretion of the commissioner. However, no such license shall be restored for at least eighteen months after such revocation, nor thereafter except in the discretion of the commissioner, in any case where the person has had a prior revocation resulting from refusal to submit to a chemical test, or has been convicted of or found to be in violation of any subdivision of section eleven hundred ninety-two or section eleven hundred ninety-two-a of this article not arising out of the same incident, within the five years immediately preceding the date of such revocation; provided, however, a prior finding that a person under the age of twenty-one has refused to submit to a chemical test pursuant to subdivision three of section eleven hundred ninety-four-a of this article shall have the same effect as a prior finding of a refusal pursuant to this subdivision solely for the purpose of determining the length of any license suspension or revocation required to be imposed under any provision of this article, provided that the subsequent offense or refusal is committed or occurred prior to the expiration of the retention period for such prior refusal as set forth in paragraph (k) of subdivision one of section two hundred one of this chapter. b. Any license which has been revoked pursuant to paragraph (c) of this subdivision or pursuant to subdivision three of section eleven hundred ninety-four-a of this article, where the holder was under the age of twenty-one years at the time of such refusal, shall not be restored for at least one year, nor thereafter, except in the discretion of the commissioner. Where such person under the age of twenty-one years has a prior finding, conviction or youthful offender adjudication resulting from a violation of section eleven hundred ninety-two or section eleven hundred ninety-two-a of this article, not arising from the same incident, such license shall not be restored for at least one year or until such person reaches the age of twenty-one years, whichever is the greater period of time, nor thereafter, except in the discretion of the commissioner. c. Any commercial driver's license which has been revoked pursuant to paragraph (c) of this subdivision based upon a finding of refusal to submit to a chemical test, where such finding occurs within or outside of this state, shall not be restored for at least eighteen months after such revocation, nor thereafter, except in the discretion of the commissioner, but shall not be restored for at least three years after such revocation, nor thereafter, except in the discretion of the commissioner, if the holder of such license was operating a commercial motor vehicle transporting hazardous materials at the time of such refusal. However, such person shall be permanently disqualified from operating a commercial motor vehicle in any case where the holder has a prior finding of refusal to submit to a chemical test pursuant to this section or has a prior conviction of any of the following offenses: any violation of section eleven hundred ninety-two of this article; any violation of subdivision one or two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of section five hundred ten-a of this chapter. Provided that the commissioner may waive such permanent revocation after a period of

ten years has expired from such revocation provided: (i) that during such ten year period such person has not been found to have refused a chemical test pursuant to this section and has not been convicted of any one of the following offenses: any violation of section eleven hundred ninety-two of this article; refusal to submit to a chemical test pursuant to this section; any violation of subdivision one or two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a motor vehicle pursuant to paragraph (a) of subdivision one of section five hundred ten-a of this chapter; (ii) that such person provides acceptable documentation to the commissioner that such person is not in need of alcohol or drug treatment or has satisfactorily completed a prescribed course of such treatment; and (iii) after such documentation is accepted, that such person is granted a certificate of relief from disabilities or a certificate of good conduct pursuant to article twenty-three of the correction law by the court in which such person was last penalized. d. Upon a third finding of refusal and/or conviction of any of the offenses which require a permanent commercial driver's license revocation, such permanent revocation may not be waived by the commissioner under any circumstances. (2) Civil penalties. Except as otherwise provided, any person whose license, permit to drive, or any non-resident operating privilege is revoked pursuant to the provisions of this section shall also be liable for a civil penalty in the amount of five hundred dollars except that if such revocation is a second or subsequent revocation pursuant to this section issued within a five year period, or such person has been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article within the past five years not arising out of the same incident, the civil penalty shall be in the amount of seven hundred fifty dollars. Any person whose license is revoked pursuant to the provisions of this section based upon a finding of refusal to submit to a chemical test while operating a commercial motor vehicle shall also be liable for a civil penalty of five hundred fifty dollars except that if such person has previously been found to have refused a chemical test pursuant to this section while operating a commercial motor vehicle or has a prior conviction of any of the following offenses while operating a commercial motor vehicle: any violation of section eleven hundred ninety-two of this article; any violation of subdivision two of section six hundred of this chapter; or has a prior conviction of any felony involving the use of a commercial motor vehicle pursuant to paragraph (a) of subdivision one of section five hundred ten-a of this chapter, then the civil penalty shall be seven hundred fifty dollars. No new driver's license or permit shall be issued, or non-resident operating privilege restored to such person unless such penalty has been paid. All penalties collected by the department pursuant to the provisions of this section shall be the property of the state and shall be paid into the general fund of the state treasury. (3) Effect of rehabilitation program. No period of revocation arising out of this section may be set aside by the commissioner for the reason that such person was a participant in the alcohol and drug rehabilitation program set forth in section eleven hundred ninety-six of this article. (e) Regulations. The commissioner shall promulgate such rules and regulations as may be necessary to effectuate the provisions of subdivisions one and two of this section. (f) Evidence. Evidence of a refusal to submit to such chemical test or any portion thereof shall be admissible in any trial, proceeding or hearing based upon a violation of the provisions of section eleven hundred ninety-two of this article but only upon a showing that the person was given sufficient warning, in clear and unequivocal language, of the effect of such refusal and that the person persisted in the refusal. (g) Results. Upon the request of the person who was tested, the results of such test shall be made available to such person. 3. Compulsory chemical tests. (a) Court ordered chemical tests. Notwithstanding the provisions of subdivision two of this section, no person who operates a motor vehicle in this state may refuse to submit to a chemical test of one or more of the following: breath, blood, urine or saliva, for the purpose of determining the alcoholic and/or drug content of the blood when a court order for such chemical test has been issued in accordance with the provisions of this subdivision. (b) When authorized. Upon refusal by any person to submit to a chemical test or any portion thereof as described above, the test shall not be given unless a police officer or a district attorney, as defined in subdivision thirty-two of section 1.20 of the criminal procedure law, requests and obtains a court order to compel a person to submit to a chemical test to determine the alcoholic or drug content of the person's blood upon a finding of reasonable cause to believe that: (1) such person was the operator of a motor vehicle and in the course of such operation a person other than the operator was killed or suffered serious physical injury as defined in section 10.00 of the penal law; and (2) a. either such person operated the vehicle in violation of any subdivision of section eleven hundred ninety-two of this article, or b. a breath test administered by a police officer in accordance with paragraph (b) of subdivision one of this section indicates that alcohol has been consumed by such person; and (3) such person has been placed under lawful arrest; and (4) such person has refused to submit to a chemical test or any portion thereof, requested in accordance with the provisions of paragraph (a) of subdivision two of this section or is unable to give consent to such a test. (c) Reasonable cause; definition. For the purpose of this subdivision "reasonable cause" shall be determined by viewing the totality of circumstances surrounding the incident which, when taken together, indicate that the operator was driving in violation of section eleven hundred ninety-two of this article. Such circumstances may include, but are not limited to: evidence that the operator was operating a motor vehicle in violation of any provision of this article or any other moving violation at the time of the incident; any visible indication of alcohol or drug consumption or impairment by the operator; the existence of an open container containing an alcoholic beverage in or around the vehicle driven by the operator; any other evidence surrounding the circumstances of the incident which indicates that the operator has been operating a motor vehicle while impaired by the consumption of alcohol or drugs or intoxicated at the time of the incident. (d) Court order; procedure. (1) An application for a court order to compel submission to a chemical test or any portion thereof, may be made to any supreme court justice, county court judge or district court judge in the judicial district in which the incident occurred, or if the incident occurred in the city of New York before any supreme court justice or judge of the criminal court of the city of New York. Such application may be communicated by telephone, radio or other means of electronic communication, or in person. (2) The applicant must provide identification by name and title and must state the purpose of the communication. Upon being advised that an application for a court order to compel submission to a chemical test is being made, the court shall place under oath the applicant and any other person

providing information in support of the application as provided in subparagraph three of this paragraph. After being sworn the applicant must state that the person from whom the chemical test was requested was the operator of a motor vehicle and in the course of such operation a person, other than the operator, has been killed or seriously injured and, based upon the totality of circumstances, there is reasonable cause to believe that such person was operating a motor vehicle in violation of any subdivision of section eleven hundred ninety-two of this article and, after being placed under lawful arrest such person refused to submit to a chemical test or any portion thereof, in accordance with the provisions of this section or is unable to give consent to such a test or any portion thereof. The applicant must make specific allegations of fact to support such statement. Any other person properly identified, may present sworn allegations of fact in support of the applicant's statement. (3) Upon being advised that an oral application for a court order to compel a person to submit to a chemical test is being made, a judge or justice shall place under oath the applicant and any other person providing information in support of the application. Such oath or oaths and all of the remaining communication must be recorded, either by means of a voice recording device or verbatim stenographic or verbatim longhand notes. If a voice recording device is used or a stenographic record made, the judge must have the record transcribed, certify to the accuracy of the transcription and file the original record and transcription with the court within seventy-two hours of the issuance of the court order. If the longhand notes are taken, the judge shall subscribe a copy and file it with the court within twenty-four hours of the issuance of the order. (4) If the court is satisfied that the requirements for the issuance of a court order pursuant to the provisions of paragraph (b) of this subdivision have been met, it may grant the application and issue an order requiring the accused to submit to a chemical test to determine the alcoholic and/or drug content of his blood and ordering the withdrawal of a blood sample in accordance with the provisions of paragraph (a) of subdivision four of this section. When a judge or justice determines to issue an order to compel submission to a chemical test based on an oral application, the applicant therefor shall prepare the order in accordance with the instructions of the judge or justice. In all cases the order shall include the name of the issuing judge or justice, the name of the applicant, and the date and time it was issued. It must be signed by the judge or justice if issued in person, or by the applicant if issued orally. (5) Any false statement by an applicant or any other person in support of an application for a court order shall subject such person to the offenses for perjury set forth in article two hundred ten of the penal law. (6) The chief administrator of the courts shall establish a schedule to provide that a sufficient number of judges or justices will be available in each judicial district to hear oral applications for court orders as permitted by this section. (e) Administration of compulsory chemical test. An order issued pursuant to the provisions of this subdivision shall require that a chemical test to determine the alcoholic and/or drug content of the operator's blood must be administered. The provisions of paragraphs (a), (b) and (c) of subdivision four of this section shall be applicable to any chemical test administered pursuant to this section. 4. Testing procedures. (a) Persons authorized to withdraw blood; immunity; testimony. (1) At the request of a police officer, the following persons may withdraw blood for the purpose of determining the alcoholic or drug content therein: (i) a physician, a registered professional nurse, a registered physician assistant, a certified nurse practitioner, or an advanced emergency medical technician as certified by the department of health; or (ii) under the supervision and at the direction of a physician, registered physician assistant or certified nurse practitioner acting within his or her lawful scope of practice, or upon the express consent of the person eighteen years of age or older from whom such blood is to be withdrawn: a clinical laboratory technician or clinical laboratory technologist licensed pursuant to article one hundred sixty-five of the education law; a phlebotomist; or a medical laboratory technician or medical technologist employed by a clinical laboratory approved under title five of article five of the public health law. This limitation shall not apply to the taking of a urine, saliva or breath specimen. (2) No person entitled to withdraw blood pursuant to subparagraph one of this paragraph or hospital employing such person, and no other employer of such person shall be sued or held liable for any act done or omitted in the course of withdrawing blood at the request of a police officer pursuant to this section. (3) Any person who may have a cause of action arising from the withdrawal of blood as aforesaid, for which no personal liability exists under subparagraph two of this paragraph, may maintain such action against the state if any person entitled to withdraw blood pursuant to paragraph (a) hereof acted at the request of a police officer employed by the state, or against the appropriate political subdivision of the state if such person acted at the request of a police officer employed by a political subdivision of the state. No action shall be maintained pursuant to this subparagraph unless notice of claim is duly filed or served in compliance with law. (4) Notwithstanding the foregoing provisions of this paragraph an action may be maintained by the state or a political subdivision thereof against a person entitled to withdraw blood pursuant to subparagraph one of this paragraph or hospital employing such person for whose act or omission the state or the political subdivision has been held liable under this paragraph to recover damages, not exceeding the amount awarded to the claimant, that may have been sustained by the state or the political subdivision by reason of gross negligence or bad faith on the part of such person. (5) The testimony of any person other than a physician, entitled to withdraw blood pursuant to subparagraph one of this paragraph, in respect to any such withdrawal of blood made by such person may be received in evidence with the same weight, force and effect as if such withdrawal of blood were made by a physician. (6) The provisions of subparagraphs two, three and four of this paragraph shall also apply with regard to any person employed by a hospital as security personnel for any act done or omitted in the course of withdrawing blood at the request of a police officer pursuant to a court order in accordance with subdivision three of this section. (b) Right to additional test. The person tested shall be permitted to choose a physician to administer a chemical test in addition to the one administered at the direction of the police officer. (c) Rules and regulations. The department of health shall issue and file rules and regulations approving satisfactory techniques or methods of conducting chemical analyses of a person's blood, urine, breath or saliva and to ascertain the qualifications and competence of individuals to conduct and supervise chemical analyses of a person's blood, urine, breath or saliva. If the analyses were made by an individual possessing a permit issued by the department of health, this shall be presumptive evidence that the examination was properly given. The provisions of this paragraph do not

prohibit the introduction as evidence of an analysis made by an individual other than a person possessing a permit issued by the department of health.

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2. Probative value. The following effect shall be given to evidence of blood-alcohol content, as determined by such tests, of a person arrested for violation of section eleven hundred ninety-two of this article:(a) Evidence that there was .05 of one per centum or less by weight of alcohol in such person's blood shall be prima facie evidence that the ability of such person to operate a motor vehicle was not impaired by the consumption of alcohol, and that such person was not in an intoxicated condition;(b) Evidence that there was more than .05 of one per centum but less than .07 of one per centum by weight of alcohol in such person's blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be relevant evidence, but shall not be given prima facie effect, in determining whether the ability of such person to operate a motor vehicle was impaired by the consumption of alcohol; and(c) Evidence that there was .07 of one per centum or more but less than .08 of one per centum by weight of alcohol in such person's blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be given prima facie effect in determining whether the ability of such person to operate a motor vehicle was impaired by the consumption of alcohol.3. Suppression. A defendant who has been compelled to submit to a chemical test pursuant to the provisions of subdivision three of section eleven hundred ninety-four of this article may move for the suppression of such evidence in accordance with article seven hundred ten of the criminal procedure law on the grounds that the order was obtained and the test administered in violation of the provisions of such subdivision or any other applicable law. (a) Evidence that there was .05 of one per centum or less by weight of alcohol in such person's blood shall be prima facie evidence that the ability of such person to operate a motor vehicle was not impaired by the consumption of alcohol, and that such person was not in an intoxicated condition; (b) Evidence that there was more than .05 of one per centum but less than .07 of one per centum by weight of alcohol in such person's blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be relevant evidence, but shall not be given prima facie effect, in determining whether the ability of such person to operate a motor vehicle was impaired by the consumption of alcohol; and (c) Evidence that there was .07 of one per centum or more but less than .08 of one per centum by weight of alcohol in such person's blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be given prima facie effect in determining whether the ability of such person to operate a motor vehicle was impaired by the consumption of alcohol. 3. Suppression. A defendant who has been compelled to submit to a chemical test pursuant to the provisions of subdivision three of section eleven hundred ninety-four of this article may move for the suppression of such evidence in accordance with article seven hundred ten of the criminal procedure law on the grounds that the order was obtained and the test administered in violation of the provisions of such subdivision or any other applicable law.

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2. Curriculum. The form, content and method of presentation of the various aspects of such program shall be established by the commissioner. In the development of the form, curriculum and content of such program, the commissioner may consult with the commissioner of mental health, the director of the division of alcoholism and alcohol abuse, the director of the division of substance abuse services and any other state department or agency and request and receive assistance from them. The commissioner is also authorized to develop more than one curriculum and course content for such program in order to meet the varying rehabilitative needs of the participants. 3. Where available. A course in such program shall be available in at least every county in the state, except where the commissioner determines that there is not a sufficient number of alcohol or drug-related traffic offenses in a county to mandate the establishment of said course, and that provisions be made for the residents of said county to attend a course in another county where a course exists. 4. Eligibility. Participation in the program shall be limited to those persons convicted of alcohol or drug-related traffic offenses or persons who have been adjudicated youthful offenders for alcohol or drug-related traffic offenses, or persons found to have been operating a motor vehicle after having consumed alcohol in violation of section eleven hundred ninety-two-a of this article, who choose to participate and who satisfy the criteria and meet the requirements for participation as established by this section and the regulations promulgated thereunder; provided, however, in the exercise of discretion, the judge imposing sentence may prohibit the defendant from enrolling in such program. The commissioner or deputy may exercise discretion, to reject any person from participation referred to such program and nothing herein contained shall be construed as creating a right to be included in any course or program established under this section. In addition, no person shall be permitted to take part in such program if, during the five years immediately preceding commission of an alcohol or drug-related traffic offense or a finding of a violation of section eleven hundred ninety-two-a of this article, such person has participated in a program established pursuant to this article or been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article other than a violation committed prior to November first, nineteen hundred eighty-eight, for which such person did not participate in such program. In the exercise of discretion, the commissioner or a deputy shall have the right to expel any participant from the program who fails to satisfy the requirements for participation in such program or who fails to satisfactorily participate in or attend any aspect of such program. Notwithstanding any contrary provisions of this chapter, satisfactory participation in and completion of a course in such program shall result in the termination of any sentence of imprisonment that may have been imposed by reason of a conviction therefor; provided, however, that nothing contained in this section shall delay the commencement of such sentence. 5. Effect of

completion. Except as provided in subparagraph nine of paragraph (b) of subdivision two of section eleven hundred ninety-three or in subparagraph three of paragraph (d) of subdivision two of section eleven hundred ninety-four of this article, upon successful completion of a course in such program as certified by its administrator, a participant may apply to the commissioner on a form provided for that purpose, for the termination of the suspension or revocation order issued as a result of the participant's conviction which caused the participation in such course. In the exercise of discretion, upon receipt of such application, and upon payment of any civil penalties for which the applicant may be liable, the commissioner is authorized to terminate such order or orders and return the participant's license or reinstate the privilege of operating a motor vehicle in this state. However, the commissioner shall not issue any new license nor restore any license where said issuance of restoral is prohibited by subdivision two of section eleven hundred ninety-three of this article. 6. Fees. The commissioner shall establish a schedule of fees to be paid by or on behalf of each participant in the program, and may, from time to time, modify same. Such fees shall defray the ongoing expenses of the program. Provided, however, that pursuant to an agreement with the department a municipality, department thereof, or other agency may conduct a course in such program with all or part of the expense of such course and program being borne by such municipality, department or agency. In no event shall such fee be refundable, either for reasons of the participant's withdrawal or expulsion from such program or otherwise. 7. Conditional license. (a) Notwithstanding any inconsistent provision of this chapter, participants in the program, except those penalized under paragraph (d) of subdivision one of section eleven hundred ninety-three of this article for any violation of subdivision two, three, or four of section eleven hundred ninety-two of this article, may, in the commissioner's discretion, be issued a conditional driver's license, or if the holder of a license issued by another jurisdiction valid for operation in this state, a conditional privilege of operating a motor vehicle in this state. Such a conditional license or privilege shall be valid only for use, by the holder thereof, (1) enroute to and from the holder's place of employment, (2) if the holder's employment requires the operation of a motor vehicle then during the hours thereof, (3) enroute to and from a class or an activity which is an authorized part of the alcohol and drug rehabilitation program and at which his attendance is required, (4) enroute to and from a class or course at an accredited school, college or university or at a state approved institution of vocational or technical training, (5) to or from court ordered probation activities, (6) to and from a motor vehicle office for the transaction of business relating to such license or program, (7) for a three hour consecutive daytime period, chosen by the administrators of the program, on a day during which the participant is not engaged in usual employment or vocation, (8) enroute to and from a medical examination or treatment as part of a necessary medical treatment for such participant or member of the participant's household, as evidenced by a written statement to that effect from a licensed medical practitioner, and (9) enroute to and from a place, including a school, at which a child or children of the holder are cared for on a regular basis and which is necessary for the holder to maintain such holder's employment or enrollment at an accredited school, college or university or at a state approved institution of vocational or technical training. Such license or privilege shall remain in effect during the term of the suspension or revocation of the participant's license or privilege unless earlier revoked by the commissioner.(b) The conditional license or privilege described in paragraph (a) of this subdivision shall be in a form prescribed by the commissioner, and shall have indicated thereon the conditions imposed by such paragraph.(c) Upon receipt of a conditional license issued pursuant to this section, any order issued by a judge, justice or magistrate pursuant to paragraph (c) of subdivision two of section eleven hundred ninety-three of this article shall be surrendered to the department.(d) The commissioner shall require applicants for a conditional license to pay a fee of seventy-five dollars for processing costs. Such fees assessed under this subdivision shall be paid to the commissioner for deposit to the general fund and shall be in addition to any fees established by the commissioner pursuant to subdivision six of this section to defray the costs of the alcohol and drug rehabilitation program.(e) The conditional license or privileges described in this subdivision may be revoked by the commissioner, for sufficient cause including, but not limited to, failure to register in the program, failure to attend or satisfactorily participate in the sessions, conviction of any traffic infraction other than one involving parking, stopping or standing or conviction of any alcohol or drug-related traffic offense, misdemeanor or felony. In addition, the commissioner shall have the right, after a hearing, to revoke the conditional license or privilege upon receiving notification or evidence that the offender is not attempting in good faith to accept rehabilitation. In the event of such revocation, the fee described in subdivision six of this section shall not be refunded.(f) It shall be a traffic infraction for the holder of a conditional license or privilege to operate a motor vehicle upon a public highway for any use other than those authorized pursuant to paragraph (a) of this subdivision. When a person is convicted of this offense, the sentence of the court must be a fine of not less than two hundred dollars nor more than five hundred dollars or a term of imprisonment of not more than fifteen days or both such fine and imprisonment. Additionally, the conditional license or privileges described in this subdivision shall be revoked by the commissioner upon receiving notification from the court that the holder thereof has been convicted of this offense.(g) Notwithstanding anything to the contrary contained in a certificate of relief from disabilities or a certificate of good conduct issued pursuant to article twenty-three of the correction law, any conditional license or privilege issued to a person convicted of a violation of any subdivision of section eleven hundred ninety-two of this article shall not be valid for the operation of any commercial motor vehicle. In addition, no such conditional license or privilege shall be valid for the operation of a taxicab as defined in this chapter.(h) Notwithstanding any inconsistent provision of this chapter, the conditional license described in this subdivision may, pursuant to regulations established by the commissioner, be issued to a person whose license has been suspended pending prosecution pursuant to subparagraph seven of paragraph (e) of subdivision two of section eleven hundred ninety-three of this article. (b) The conditional license or privilege described in paragraph (a) of this subdivision shall be in a form prescribed by the commissioner, and shall have indicated thereon the conditions imposed by such paragraph. (c) Upon receipt of a conditional license issued pursuant to this section, any order issued by a judge, justice or magistrate pursuant to paragraph (c) of subdivision two of section eleven hundred ninety-three of this article shall be surrendered to the department. (d) The commissioner

shall require applicants for a conditional license to pay a fee of seventy-five dollars for processing costs. Such fees assessed under this subdivision shall be paid to the commissioner for deposit to the general fund and shall be in addition to any fees established by the commissioner pursuant to subdivision six of this section to defray the costs of the alcohol and drug rehabilitation program. (e) The conditional license or privileges described in this subdivision may be revoked by the commissioner, for sufficient cause including, but not limited to, failure to register in the program, failure to attend or satisfactorily participate in the sessions, conviction of any traffic infraction other than one involving parking, stopping or standing or conviction of any alcohol or drug-related traffic offense, misdemeanor or felony. In addition, the commissioner shall have the right, after a hearing, to revoke the conditional license or privilege upon receiving notification or evidence that the offender is not attempting in good faith to accept rehabilitation. In the event of such revocation, the fee described in subdivision six of this section shall not be refunded. (f) It shall be a traffic infraction for the holder of a conditional license or privilege to operate a motor vehicle upon a public highway for any use other than those authorized pursuant to paragraph (a) of this subdivision. When a person is convicted of this offense, the sentence of the court must be a fine of not less than two hundred dollars nor more than five hundred dollars or a term of imprisonment of not more than fifteen days or both such fine and imprisonment. Additionally, the conditional license or privileges described in this subdivision shall be revoked by the commissioner upon receiving notification from the court that the holder thereof has been convicted of this offense. (g) Notwithstanding anything to the contrary contained in a certificate of relief from disabilities or a certificate of good conduct issued pursuant to article twenty-three of the correction law, any conditional license or privilege issued to a person convicted of a violation of any subdivision of section eleven hundred ninety-two of this article shall not be valid for the operation of any commercial motor vehicle. In addition, no such conditional license or privilege shall be valid for the operation of a taxicab as defined in this chapter. (h) Notwithstanding any inconsistent provision of this chapter, the conditional license described in this subdivision may, pursuant to regulations established by the commissioner, be issued to a person whose license has been suspended pending prosecution pursuant to subparagraph seven of paragraph (e) of subdivision two of section eleven hundred ninety-three of this article.

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(b) Expenditures from such account shall only be made pursuant to the approval of a county program by the commissioner of motor vehicles. The chief fiscal officer of each participating county shall, on a quarterly basis, forward to the commissioner a written certificate of moneys expended from such account. 2. Program organization. (a) Where a program is established by a county, it shall be organized by a coordinator for the special traffic options program for driving while intoxicated, who shall be designated by the chief executive officer of the county, if there be one, otherwise the chairman of the governing board of the county, or in the city of New York, a person designated by the mayor thereof. Where a coordinator is designated, the coordinator shall receive such salary and expenses as the board of legislators or other governing body of such county may fix and properly account for such expenses and shall serve at the pleasure of such appointing body or officer. (b) In counties having a county traffic safety board, the chief executive officer, if there be one, otherwise the chairman of the governing board of the county or the mayor of the city of New York, may designate the chairman of the board or a member thereof as coordinator of the program. 3. Purposes. (a) The program shall provide a plan for coordination of county, town, city and village efforts to reduce alcohol-related traffic injuries and fatalities. (b) The program shall, where approved by the county board or other governing body, provide funding for such activities as the board or other body may approve, for the above-described purposes. 4. Duties of the coordinator; reports. (a) It shall be the duty of the coordinator to: (1) Render annually or at the request of the county legislature or other governing body of the county, a verified account of all moneys received and expended by the coordinator or under the coordinator's direction and an account of other pertinent matters. (2) Submit annually or upon request of the chief fiscal officer of each county participating in the program, in such manner as may be required by law, an estimate of the funds required to carry out the purposes of this section. (3) Make an annual report to the commissioner, which shall be due on or before the first day of April of each year following the implementation of said program, and shall include the following: a. the progress, problems and other matters related to the administration of said program; and b. an assessment of the effectiveness of the program within the geographic area of the county participating therein and any and all recommendations for expanding and improving said program. (b) Any annual report shall also contain the following, in a form prescribed by the commissioner: (1) Number of arrests for violations of section eleven hundred ninety-two of this article and subdivision two of section five hundred eleven of this chapter; (2) Number and description of dispositions resulting therefrom; (3) Number of suspensions issued in the county for alleged refusals to submit to chemical tests; (4) Total fine moneys returned to the participating county in connection with the program; (5) Contemplated programs; (6) Distribution of moneys in connection with program adminstration; (7) Any other information required by the commissioner. 5. Functions of the coordinator. In addition to the duties of the coordinator as provided in subdivision four of this section, the coordinator shall perform the following functions: (a) Formulate a special traffic options program for driving while intoxicated and coordinate efforts of interested parties and agencies engaged in alcohol traffic safety, law enforcement, adjudication, rehabilitation and preventive education. (b) Receive proposals from county, town, city or village agencies or non-governmental groups for activities related to alcohol traffic safety and to submit them to the county board of legislators or other such governing body, together with a recommendation for funding of the activity if deemed appropriate. (c) Cooperate with and assist local officials within the county in the formulation and execution of alcohol traffic safety programs including enforcement, adjudication, rehabilitation and education. (d) Study alcohol traffic safety problems with the county and recommend to the appropriate legislative bodies, departments or commissions, such changes in rules, orders,

regulations and existing law as the coordinator may deem advisable. (e) Promote alcohol and drug-related traffic safety education for drivers. (f) Obtain and assemble data on alcohol-related accident arrests, convictions and accidents and to analyze, study, and consolidate such data for educational, research and informational purposes. 6. County purpose and charge. The provisions of this section and expenditures made hereunder shall be deemed a county purpose and charge. 7. Program approval. The program, including a proposed operational budget, shall be submitted by each county coordinator to the commissioner for approval. The commissioner shall consider the following before approving said program: (a) The interrelationship of such program with existing drunk driving related programs in areas including, but not limited to, law enforcement, prosecution, adjudication and education. (b) Avoidance of duplication of existing programs funded or operated by either the state or any municipality including, but not limited to, the alcohol and drug rehabilitation program, established under section eleven hundred ninety-six of this article. (c) All other factors which the commissioner shall deem necessary. 8. Duties of the commissioner. (a) The commissioner shall compile the reports submitted by the county coordinators and shall issue a comprehensive report on such programs to the governor and to the legislature. (b) The commissioner shall monitor all programs to ensure satisfactory implementation in conjunction with the established program application goals. 9. Program cessation. When a participating county wishes to cease its program, the coordinator shall notify the commissioner in writing of the date of termination and all money remaining in the fund established by that county pursuant to subdivision one of this section on such date shall be transferred to the general fund of the state treasury. All fines and forfeitures collected pursuant to the provisions of this section on and after the termination date shall be disposed of in accordance with subdivision one of section eighteen hundred three of this chapter. 10. Program audit. The comptroller is authorized to conduct audits of any program established pursuant to this section for the purposes of determining compliance with the provisions of this section and with generally accepted accounting principles.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 31 - Alcohol and Drug-Related Offenses and Procedures Applicable Thereto1198-A - Special Procedures and Disposition Involving Alcohol and Substance Abuse Assessment and Treatment.

(a) "Alcohol and substance abuse professional" shall mean persons credentialed by the office of alcoholism and substance abuse services to provide alcohol and substance abuse services pursuant to the mental hygiene law and persons licensed by the state education department in an appropriate health field, including licensed clinical social worker, licensed master social worker, licensed mental health counselor, nurse practitioner, physician, physician's assistant, psychiatrist, psychologist, and registered nurse. (b) "Licensed agency" shall mean an agency licensed by the office of alcoholism and substance abuse services to provide alcohol and substance abuse services pursuant to the mental hygiene law. 2. Procedure. (a) Mandatory screening; when authorized. Upon the arraignment of, or at the discretion of the court, prior to the sentencing of any person who (i) at arraignment is charged with or prior to sentencing convicted of a first violation of operating a motor vehicle in violation of subdivision one, two or three or paragraph (b) of subdivision two-a of section eleven hundred ninety-two of this article while such person has less than .15 of one per centum by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of this article, or in violation of subdivision four of such section eleven hundred ninety-two, or (ii) has refused to submit to a chemical test pursuant to section eleven hundred ninety-four of this article, the court shall order such person to submit to screening for alcohol or substance abuse and dependency using a standardized written screening instrument developed by the office of alcoholism and substance abuse services, to be administered by an alcohol or substance abuse professional. (b) Mandatory assessment; when authorized. The court shall order a defendant to undergo a formal alcohol or substance abuse and dependency assessment by an alcohol or substance abuse professional or a licensed agency: (i) when the screening required by paragraph (a) of this subdivision indicates that a defendant is abusing or dependent upon alcohol or drugs; (ii) following the arraignment of any person charged with or, at the discretion of the court, prior to the sentencing of any person convicted of a violation of subdivision one, two, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of any subdivision of section eleven hundred ninety-two of this article or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 of the penal law or of aggravated vehicular assault, as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 of the penal law or of aggravated vehicular homicide, as defined in section 125.14 of such law within the preceding five years or after having been convicted of a violation of any subdivision of such section or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 of the penal law or of aggravated vehicular assault, as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 of the penal law or of aggravated vehicular homicide, as defined in section 125.14 of such law, two or more times within the preceding ten years; or (iii) following the arraignment of any person charged with or, at the discretion of the court, prior to the sentencing of any person convicted of operating a motor vehicle in violation of subdivision two or three or paragraph (b) of subdivision two-a of section eleven hundred ninety-two of this article while such person has .15 of one per centum or more by weight of alcohol in the person's blood as shown by a chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of this article or in violation of paragraph (a) of subdivision two-a of section eleven hundred ninety-two of this article. (c) Mandatory assessment; procedure. The assessment ordered by a court pursuant to this section shall be performed by an alcohol or substance abuse professional or a licensed agency which shall forward the results, in writing, to the court and to the defendant or his or her counsel within thirty days of the date of such order. 3. Authorized disposition. When a sentence of probation or a conditional discharge is imposed upon a person who has been required to

undergo an alcohol or substance abuse and dependency assessment pursuant to subdivision two of this section and where such assessment indicates that such person is in need of treatment for alcohol or substance abuse or dependency, the court shall require, as a condition of such sentence, that such person participate in and successfully complete such treatment. Such treatment shall be provided by an alcohol or substance abuse professional or a licensed agency. 4. Any case wherein a court has accepted a plea pursuant to the provisions of subparagraph (ii) of paragraph (a) of subdivision ten of section eleven hundred ninety-two of this article and such plea includes as a condition thereof that the defendant attend and complete the alcohol and drug rehabilitation program established pursuant to section eleven hundred ninety-six of this article, including any assessment and treatment required thereby, shall be deemed to be in compliance with the provisions of this section. 5. The chief administrator of the office of court administration shall make available to all courts in this state with jurisdiction in criminal cases a list of alcohol and substance abuse professionals and licensed agencies as provided by the office of alcoholism and substance abuse services pursuant to subdivision (g) of section 19.07 of the mental hygiene law. 6. Confidentiality of records. (a) The records and content of all screenings, assessments and treatment conducted pursuant to this section, including the identity, diagnosis and prognosis of each individual who is the subject of such records, and including any statements or admissions of such individual made during the course of such screenings, assessments and treatment, shall be confidential, shall not be disclosed except as authorized by this subdivision, and shall not be entered or received as evidence at any civil, criminal or administrative trial, hearing or proceeding. No person, other than a defendant to whom such records are disclosed, may redisclose such records. (b) Consistent with Section 290 dd-2 of Title 42 of the United States Code, as such law may, from time to time, be amended, such records and content may only be disclosed as follows: (i) to a court for the sole purpose of requiring a defendant charged with or convicted of a violation of subdivision one, two, two-a, three, four or four-a of section eleven hundred ninety-two of this article to undergo alcohol or substance abuse or dependency assessment or treatment; (ii) to the defendant or his or her authorized representative; and (iii) to medical personnel to the extent necessary to meet a bona fide medical emergency. 7. Effect of completion of treatment. Except as provided in subparagraph nine of paragraph (b) of subdivision two of section eleven hundred ninety-three or in subparagraph three of paragraph (d) of subdivision two of section eleven hundred ninety-four of this article, upon successful completion of treatment ordered pursuant to this section as certified by the alcohol or substance abuse professional or licensed agency which provided such treatment, the defendant may apply to the commissioner on a form provided for that purpose, for the termination of the suspension or revocation order issued as a result of the defendant's conviction. In the exercise of discretion, upon receipt of such application, and upon payment of any civil penalties for which the defendant may be liable, the commissioner is authorized to terminate such order or orders and return the defendant's license or reinstate the privilege of operating a motor vehicle in this state. However, the commissioner shall not issue any new license nor restore any license where said issuance or restoration is prohibited by subdivision two of section eleven hundred ninety-three of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 31 - Alcohol and Drug-Related Offenses and Procedures Applicable Thereto1199 - Driver Responsibility Assessment.

§ 1199. Driver responsibility assessment. 1. In addition to any fines, fees, penalties and surcharges authorized by law, any person convicted of a violation of any subdivision of section eleven hundred ninety-two of this article, or any person found to have refused a chemical test in accordance with section eleven hundred ninety-four of this article not arising out of the same incident as a conviction for a violation of any of the provisions of section eleven hundred ninety-two of this article, shall become liable to the department for payment of a driver responsibility assessment as provided in this section. 2. The amount of the driver responsibility assessment under this section shall be two hundred fifty dollars per year for a three-year period. 3. Upon receipt of evidence that a person is liable for the driver responsibility assessment required by this section, the commissioner shall notify such person by first class mail to the address of such person on file with the department or at the current address provided by the United States postal service of the amount of such assessment, the time and manner of making required payments, and that failure to make payment shall result in the suspension of his or her driver's license or privilege of obtaining a driver's license. 4. If a person shall fail to pay any driver responsibility assessment as provided in this section, the commissioner shall suspend such person's driver's license or privilege of obtaining a license. Such suspension shall remain in effect until any and all outstanding driver responsibility assessments have been paid in full. 5. The provisions of this section shall also be applicable to any person convicted of any violation of section forty-nine-a of the navigation law, any person convicted of a violation of section 25.24 of the parks, recreation and historic preservation law, or any person found to have refused a chemical test in accordance with the applicable provisions of either the navigation law or the parks, recreation and historic preservation law not arising out of the same incident as such conviction.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 32 - Stopping, Standing, and Parking1200 - Basic Rules.

(b) When standing is prohibted by this article, or by local law, ordinance, order, rule or regulation, no person shall stand or park a vehicle, whether occupied or not, but may stop temporarily for the purpose of and while actually engaged in receiving or discharging passengers. (c) When parking is prohibited by this article, or by local law, ordinance, order, rule or regulation, no person shall park a vehicle, whether occupied or not, but may stop or stand temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers. (d) When official signs have been posted prohibiting, restricting or limiting the stopping, standing or parking of vehicles on any highway, no person shall stop, stand or park any vehicle in violation of the restrictions stated on such signs.

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2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 32 - Stopping, Standing, and Parking1201 - Stopping, Standing, or Parking Outside of Business or Residence Districts.

(b) This section shall not apply to the driver of any vehicle which is disabled while on the paved or main-traveled portion of a highway in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving such disabled vehicle in such position.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 32 - Stopping, Standing, and Parking1202 - Stopping, Standing or Parking Prohibited in Specified Places.

1. Stop, stand or park a vehicle: a. On the roadway side of any vehicle stopped, standing or parked at the edge or curb of a street; b. On a sidewalk; c. Within an intersection, except when permitted by official signs or parking meters on the side of a highway opposite a street which intersects but does not cross such highway; d. On a cross walk; e. Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone, unless a different distance is indicated by official signs, markings or parking meters; f. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic; g. Upon any bridge or other elevated structure upon a highway or within a highway tunnel, unless otherwise indicated by official signs, markings or parking meters; h. On any railroad tracks; i. In the area between roadways of a divided highway, including crossovers, except in an emergency; j. On a state expressway highway or state interstate route highway, including the entrances thereto and exits therefrom, which are a part thereof, except in an emergency; k. Engage in the retail sale of frozen desserts as that term is defined in subdivision thirty-seven of section three hundred seventy-five of this chapter directly to pedestrians on any highway having a speed limit in excess of thirty miles per hour. Nothing herein shall be construed to prohibit the operator of such vehicle from stopping such vehicle off such highway, in a safe manner, for the sole purpose of delivering such retail product directly to the residence of a consumer or to the business address of a customer of such retailer; l. In a space designated as provided in this subparagraph for the exclusive purpose of charging an electric vehicle at an electric vehicle charging station, unless such vehicle is an electric vehicle connected to such charging station. Provided, however, that an electric motor vehicle disconnected from the electric vehicle charging station for no more than thirty continuous minutes while stopped, standing or parked in such designated space shall not be in violation of this subparagraph. Parking spaces designated for the exclusive purpose of charging an electric vehicle at an electric vehicle charging station shall be clearly identified, and such designation shall include conspicuous and permanently installed above grade signs which shall be positioned from the parking space surface at a height of not less than five feet nor more than seven feet and which identify such space as an electric vehicle charging station, indicate that such space is only for electric vehicle charging and include any day or time restrictions. For the purposes of this subparagraph, the term "electric vehicle" shall mean a motor vehicle that is propelled at least in part by an electric motor and associated power electronics which provide acceleration torque to the drive wheels sometime during normal vehicle operation, and that draws electricity from a battery or hydrogen fuel cell that is capable of being recharged from an external source of electricity, such that the external source of electricity cannot be connected to the vehicle while the vehicle is in motion, and the term "electric vehicle charging station" shall mean the equipment needed to convey electric power from the electric grid or another power source to an onboard motor vehicle energy storage system. 2. Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers: a. In front of a public or private driveway; b. Within twenty feet of a cross walk at an intersection, unless a different distance is indicated by official signs, markings or parking meters; c. Within thirty feet upon the approach to any flashing signal, stop or yield sign or traffic-control signal located at the side of the roadway, unless a different distance is indicated by official signs, markings or parking meters; d. Within twenty feet of the driveway entrance to any fire station and, when on the side of the street opposite to the entrance of any fire station, within seventy-five feet of said entrance, when properly signposted, unless a different distance is indicated by official signs, markings or parking meters. e. Alongside or obstructing a curb area which has been cut down, lowered or constructed so as to provide accessibility to the sidewalk. 3. Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers, within fifty feet of the nearest rail of a railroad crossing, unless a different distance is indicated by official signs, markings or parking meters.(b) 1. No person shall stop, stand or park a vehicle within fifteen feet of a fire hydrant except when such vehicle is attended by a licensed operator or chauffeur who is seated in the front seat and who can immediately move such vehicle in case of emergency, unless a different distance is indicated by official signs, markings or parking meters.2. No person shall stop, stand or park a vehicle within fifteen feet of a fire hydrant except when such vehicle is attended by a licensed operator or chauffeur who is seated in the front seat and who can immediately move such vehicle in case of emergency, when such vehicle impairs or hinders the access of a fire vehicle to a fire hydrant while such fire vehicle is engaged in an emergency operation, unless a different distance is indicated by official signs, markings, parking meters or the provisions of any local law, rule, or ordinance.(c) No person shall move a vehicle not lawfully under his control into any prohibited area or away from a curb such distance as is unlawful. (b) 1. No person shall stop, stand or park a vehicle within fifteen feet of a fire hydrant except when such vehicle is attended by a licensed operator or chauffeur who is seated in the front seat and who can immediately move such vehicle in case of emergency, unless a different distance is indicated by official signs, markings or parking meters. 2. No person shall stop, stand or park a vehicle within fifteen feet of a fire hydrant except when such vehicle is attended by a licensed operator or chauffeur who is seated in the front seat and who can immediately move such vehicle in case of emergency, when such vehicle impairs or

hinders the access of a fire vehicle to a fire hydrant while such fire vehicle is engaged in an emergency operation, unless a different distance is indicated by official signs, markings, parking meters or the provisions of any local law, rule, or ordinance. (c) No person shall move a vehicle not lawfully under his control into any prohibited area or away from a curb such distance as is unlawful.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 32 - Stopping, Standing, and Parking1203-A - Parking Permits for Handicapped Persons.

(i) any resident of New York state who is a severely disabled person, as defined in subdivision four of section four hundred four-a of this chapter, upon application of such person or such person's parent or guardian, provided, however, that an issuing agent shall issue permits only to residents of the city, town or village in which such issuing agent is located, except that, an issuing agent, in their discretion, may issue a permit to a severely disabled person who is not a resident of the city, town, or village in which such issuing agent is located where such person resides in a city, town, or village in which the governing body has not appointed an issuing agent; and an issuing agent, in their discretion, may issue a temporary special vehicle identification parking permit, as authorized by subdivision three of this section, to a person who is temporarily unable to ambulate without the aid of an assisting device, as certified by a physician, who resides in a city, town, or village in which the issuing agent does not issue temporary special vehicle identification parking permits, or who is not a resident of the United States and is temporarily visiting the state; or (ii) any state facility, or agency licensed by the state of New York or any of its political subdivisions, that operates a motor vehicle for purposes of transporting handicapped persons, upon the application of such a facility or agency. For the purposes of paragraph (i) of this subdivision, such permit shall be for use exclusively in a vehicle in which the person to whom it has been issued is being transported and such permit shall not be transferable and shall be forfeited if presented by any other person. Any abuse by any person, facility or agency to whom such permit has been issued of any privilege, benefit, precedence or consideration granted pursuant to the issuance of such permit, shall be sufficient cause for revocation of said permit. 1-a. Any resident of New York state who is a severely disabled person, as defined in subdivision four of section four hundred four-a of this chapter, shall not be required to provide an updated medical certification or additional medical documents upon application for renewal of a permit issued pursuant to this section. For the purposes of this subdivision, the term "permit" shall not include a temporary special vehicle identification parking permit issued pursuant to this section to a person who is temporarily unable to ambulate without the aid of an assisting device. 2. The special vehicle identification parking permit issued by the commissioner shall be recognized statewide and, except for a permit issued pursuant to and used subject to the limitations of subdivision three of this section is the only valid permit for the purpose of preserving parking spaces for the handicapped. 3. Notwithstanding any provision of this chapter to the contrary, any municipality may issue a temporary special vehicle identification parking permit to any person who is temporarily unable to ambulate without the aid of an assisting device, as certified by a physician. Such temporary special vehicle identification parking permit shall be valid for not more than six months and shall be recognized statewide. 4. A person who knowingly and wilfully with the intent to deceive makes a false statement or gives information which such individual knows to be false to a public official to obtain a parking permit for handicapped persons or to prevent the marking on such permit of the last three digits of a driver's license or non-driver identification card held by such person, in addition to any other penalty provided by law, shall be subject to a civil penalty of not less than two hundred fifty dollars nor more than one thousand dollars.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 32 - Stopping, Standing, and Parking1203-B - Parking Spaces; Handicapped.

§ 1203-b. Parking spaces; handicapped. 1. Parking spaces for the handicapped as provided for in sections one thousand two hundred three-a and one thousand two hundred three-c of this chapter shall also be extended to a motor vehicle registered in accordance with section four hundred four-a of this chapter. A handicapped permit issued in accordance with the provisions of section one thousand two hundred three-a of this chapter shall entitle the driver to park in such parking spaces. Parking spaces for the handicapped shall be those parking spaces accorded to a holder of a handicapped parking permit provided in accordance with section one thousand two hundred three-a or as provided in section four hundred four-a of this chapter. 2. It shall be a violation for any person to stop, stand or park a vehicle in any area designated as a place for handicapped parking unless the vehicle bears a permit issued under section one thousand two hundred three-a or a registration issued under section four hundred four-a of this chapter and such vehicle is being used for the transportation of a severely disabled or handicapped person. This subdivision shall not apply to a violation of section twelve hundred three-c of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 32 - Stopping, Standing, and Parking1203-C - Off Street Parking Spaces for the Handicapped.

2. (a) The parking spaces designated pursuant to the provisions of this section shall be clearly identified for use by handicapped persons which designation shall include conspicuous and permanently installed above grade signs which display the international symbol of access and which shall be positioned from the parking space surface at a height of not less than five feet nor more than seven feet and may include the use of blue painted lines or markings. Such parking spaces also may be marked as tow-away zones.(b) Whenever a person, firm or corporation creates an off-street parking lot or parking garage, or repaves or repaints more than one-half of the total number of parking spaces in an off-street parking lot or parking garage, which contains designated handicapped parking spaces, or creates designated handicapped parking spaces in an off-street parking lot or parking garage, or repaves or repaints more than one-half of the total number of designated handicapped parking spaces in an off-street parking lot or

parking garage, the size of designated handicapped parking spaces and designated handicapped parking space access aisles each shall be at least eight feet wide. Such access aisles also shall be (i) clearly designated with conspicuous and permanently installed above grade signs which shall read "No Parking Anytime" and which shall be positioned from the access aisle surface at a height of not less than five feet nor more than seven feet, and (ii) marked with diagonal stripes.3. A violation of this section by any person, firm or corporation owning a shopping center or facility with at least five separate retail stores and at least twenty off street parking spaces which are provided for use by the shopping public who fails to provide spaces only for the handicapped and clearly marked for use by the handicapped in accordance with this section, shall be punishable by a fine up to two hundred fifty dollars.4. Except as otherwise provided by local law which imposes a larger maximum fine, any person who stops, stands or parks in spaces clearly marked for use by the handicapped either: (a) in accordance with this section; or (b) in the parking area of a shopping center or facility with at least one but less than five separate retail stores and at least twenty off street parking spaces provided for use by the shopping public, in accordance with the state fire prevention and building code, without a special vehicle identification parking permit, a special municipal parking permit or whose motor vehicle is not registered in accordance with section four hundred four-a of this chapter and being used for the transportation of a handicapped person; or with such permit or registration and such person is not the one to whom the permit or registration was issued or is not transporting the person issued the permit or registration; or any person who parks in a handicapped parking access aisle; shall be subject to a fine of not less than fifty dollars nor more than seventy-five dollars for the first offense and seventy-five to one hundred fifty dollars for the second offense occurring within a period of two years within the same municipality. The arresting or ticketing officer shall issue a summons to violators of this section. A ticketing officer issuing a summons pursuant to this section may provide for the removal and storage of a motor vehicle illegally parked in a handicapped parking space, or a handicapped parking access aisle.5. As used in this section, the term "handicapped" shall also include a "severely disabled person" as defined in section four hundred four-a of this chapter.6. Notwithstanding any other state or local law to the contrary, a state, county or municipal law enforcement officer seeking to enforce subdivision four of this section may enter onto the parking lot of any shopping center or facility as described in subdivision one or four of this section or any other parking lot as described in the state fire prevention and building code, which is required to contain accessible and designated parking spaces for people with disabilities, regardless of the existence or absence of any state or local law or rule otherwise permitting or restricting such access for such law enforcement officer. (b) Whenever a person, firm or corporation creates an off-street parking lot or parking garage, or repaves or repaints more than one-half of the total number of parking spaces in an off-street parking lot or parking garage, which contains designated handicapped parking spaces, or creates designated handicapped parking spaces in an off-street parking lot or parking garage, or repaves or repaints more than one-half of the total number of designated handicapped parking spaces in an off-street parking lot or parking garage, the size of designated handicapped parking spaces and designated handicapped parking space access aisles each shall be at least eight feet wide. Such access aisles also shall be (i) clearly designated with conspicuous and permanently installed above grade signs which shall read "No Parking Anytime" and which shall be positioned from the access aisle surface at a height of not less than five feet nor more than seven feet, and (ii) marked with diagonal stripes. 3. A violation of this section by any person, firm or corporation owning a shopping center or facility with at least five separate retail stores and at least twenty off street parking spaces which are provided for use by the shopping public who fails to provide spaces only for the handicapped and clearly marked for use by the handicapped in accordance with this section, shall be punishable by a fine up to two hundred fifty dollars. 4. Except as otherwise provided by local law which imposes a larger maximum fine, any person who stops, stands or parks in spaces clearly marked for use by the handicapped either: (a) in accordance with this section; or (b) in the parking area of a shopping center or facility with at least one but less than five separate retail stores and at least twenty off street parking spaces provided for use by the shopping public, in accordance with the state fire prevention and building code, without a special vehicle identification parking permit, a special municipal parking permit or whose motor vehicle is not registered in accordance with section four hundred four-a of this chapter and being used for the transportation of a handicapped person; or with such permit or registration and such person is not the one to whom the permit or registration was issued or is not transporting the person issued the permit or registration; or any person who parks in a handicapped parking access aisle; shall be subject to a fine of not less than fifty dollars nor more than seventy-five dollars for the first offense and seventy-five to one hundred fifty dollars for the second offense occurring within a period of two years within the same municipality. The arresting or ticketing officer shall issue a summons to violators of this section. A ticketing officer issuing a summons pursuant to this section may provide for the removal and storage of a motor vehicle illegally parked in a handicapped parking space, or a handicapped parking access aisle. 5. As used in this section, the term "handicapped" shall also include a "severely disabled person" as defined in section four hundred four-a of this chapter. 6. Notwithstanding any other state or local law to the contrary, a state, county or municipal law enforcement officer seeking to enforce subdivision four of this section may enter onto the parking lot of any shopping center or facility as described in subdivision one or four of this section or any other parking lot as described in the state fire prevention and building code, which is required to contain accessible and designated parking spaces for people with disabilities, regardless of the existence or absence of any state or local law or rule otherwise permitting or restricting such access for such law enforcement officer.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 32 - Stopping, Standing, and Parking1203-D - Out-of-State Vehicles Bearing Special Identification.

§ 1203-d. Out-of-state vehicles bearing special identification. Motor vehicles displaying a special license plate or parking permit issued by any other state, district, territory or other governmental entity subject to the laws of the United States, or a foreign country

for the purpose of granting special parking privileges to people with disabilities shall be accorded the special parking privileges allowed pursuant to the provisions of sections twelve hundred three-b and twelve hundred three-c of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 32 - Stopping, Standing, and Parking1203-E - Dumping or Plowing Snow Onto Parking Places for Handicapped Prohibited.

§ 1203-e. Dumping or plowing snow onto parking places for handicapped prohibited. 1. Except as otherwise provided in subdivision two of this section, any person who knowingly dumps or shovels snow onto a parking place for handicapped persons rendering such place unusable for parking purposes shall be subject to a fine of twenty-five dollars for the first offense and a fine not to exceed one hundred dollars for every offense thereafter. However, a local or municipal government may, by local law or ordinance, establish fines higher than those established in this subdivision, but in no instance shall the fines exceed fifty dollars for the first offense or two hundred dollars for the second or subsequent offense. 2. Notwithstanding the provisions of subdivision one of this section, any firm, corporation, partnership or association engaged in the conduct of any business, trade or commerce or in the furnishing of any service in this state who knowingly dumps, shovels or plows snow onto a parking place for handicapped persons rendering such place unusable for parking purposes shall be subject to a fine of one hundred twenty-five dollars for the first offense and a fine not to exceed two hundred fifty dollars for every offense thereafter. However, a local or municipal government may, by local law or ordinance, establish fines higher than those established in this subdivision, but in no instance shall the fines exceed two hundred fifty dollars for the first offense or four hundred fifty dollars for the second or subsequent offense.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 32 - Stopping, Standing, and Parking1203-F - Handicapped Parking Enforcement.

2. A local law or ordinance enacted in accordance with the provisions of this section shall:(a) establish a training program of no less than two hours in length and require each volunteer to participate in and complete such training program;(b) provide for the assignment of an identification number to each volunteer, and provide official identification and equipment to assist volunteer personnel in the conduct of their duties;(c) establish uniform procedures for volunteers to follow in determining whether a violation has occurred;(d) establish procedures for the uniform reporting of violations, which reporting shall include the identification number of the volunteer making the report;(e) if such local law or ordinance provides for the taking of photographs of violations, (i) grant only the enforcement agency the authority to process or to contract for the processing of all film submitted by volunteers; (ii) require any photographs evidencing a violation to be available for inspection in any proceeding to adjudicate the liability for such violation; (iii) provide that a certificate, sworn to or affirmed by a technician employed by the locality in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs produced from film submitted by volunteers, shall be prima facie evidence of the facts contained therein; and (iv) prohibit the use of such a photograph for any purpose other than as evidence of a handicapped parking violation; and(f) provide the following with respect to notices of violation: (i) a notice of violation shall be sent by first class mail to each person alleged to be liable as an owner for a violation of a handicapped parking law or ordinance. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein; (ii) a notice of violation shall reference the law which was allegedly violated, and shall contain the name and address of the person alleged to be liable as an owner for a violation of a handicapped parking law or ordinance, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation, and the identification number of the volunteer who recorded the violation; (iii) a notice of violation shall contain information advising the person charged of the manner and the time in which he or she may contest the violation alleged in the notice, and shall also contain a warning to advise the persons charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon. (a) establish a training program of no less than two hours in length and require each volunteer to participate in and complete such training program; (b) provide for the assignment of an identification number to each volunteer, and provide official identification and equipment to assist volunteer personnel in the conduct of their duties; (c) establish uniform procedures for volunteers to follow in determining whether a violation has occurred; (d) establish procedures for the uniform reporting of violations, which reporting shall include the identification number of the volunteer making the report; (e) if such local law or ordinance provides for the taking of photographs of violations, (i) grant only the enforcement agency the authority to process or to contract for the processing of all film submitted by volunteers; (ii) require any photographs evidencing a violation to be available for inspection in any proceeding to adjudicate the liability for such violation; (iii) provide that a certificate, sworn to or affirmed by a technician employed by the locality in which the charged violation occurred, or a facsimile thereof, based upon inspection of photographs produced from film submitted by volunteers, shall be prima facie evidence of the facts contained therein; and (iv) prohibit the use of such a photograph for any purpose other than as evidence of a handicapped parking violation; and (f) provide the following with respect to notices of violation: (i) a notice of violation shall be sent by first class mail to each person alleged to be liable as an owner for a violation of a handicapped parking law or ordinance. A manual or automatic record of mailing prepared in the ordinary course of business shall be prima facie evidence of the facts contained therein; (ii) a notice of violation shall reference the law which was allegedly violated, and shall contain the name and address of the person alleged to be liable as an owner for a violation of a handicapped parking law or ordinance, the registration number of the vehicle involved in such violation, the location where such violation took place, the date and time of such violation, and the identification number of the volunteer who recorded the violation; (iii) a notice of violation shall contain information advising the person charged of the manner and the time in which he or she may contest the violation alleged in the notice, and shall also contain a warning to

advise the persons charged that failure to contest in the manner and time provided shall be deemed an admission of liability and that a default judgment may be entered thereon.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 32 - Stopping, Standing, and Parking1203-G - Establishment of the Handicapped Parking Education Program.

§ 1203-g. Establishment of the handicapped parking education program. 1. Every county and the city of New York shall establish a separate handicapped parking education program. Each program shall be organized by a coordinator for handicapped parking education and advocacy, who shall be designated by the chief executive officer of the county, if there be one, otherwise by the chair of the governing board of the county, and in the city of New York, a person designated by the mayor thereof. 2. The handicapped parking education program shall be established for the purposes of providing education, advocacy and increased awareness of handicapped parking laws. The program shall provide funding for activities such as public service announcements, public education and awareness campaigns, distribution of literature, and any other activities that are consistent with such purposes. 3. It shall be the duty of the coordinator to: (a) render annually or at the request of the county legislature or other governing body of the county, a verified account of all moneys received and expended by the coordinator or under the coordinator's direction and an account of other pertinent matters; and (b) make a biennial report to the commissioner, which shall be due on the first day of April every second year following implementation of the program and shall include an assessment of the effectiveness of the program, recommendations for expanding and improving the program and any problems or other matters related to the administration of the program. Such report shall also be made available to the temporary president of the senate and the speaker of the assembly. 4. Every county and the city of New York that establishes a handicapped parking education program shall establish a separate handicapped parking education fund in the custody of the chief fiscal officer of each such county or city, by April first, two thousand, which shall consist of moneys granted to such county or city pursuant to section eighteen hundred nine-b of this chapter. No provision of law shall be deemed to preclude a county or the city of New York from receiving funds from other sources to be deposited in the handicapped parking education fund, provided such funds are used in a manner and for purposes consistent with this section. The moneys of such fund shall be disbursed to provide education, advocacy and increased awareness of handicapped parking laws and may be used to execute contracts with private organizations for such purposes. Such contracts shall be awarded upon competitive bids after the issuance of requests for proposal.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 32 - Stopping, Standing, and Parking1203-H - Metered Parking Waiver for Certain Disabilities.

2. The application, permit design, period of validity, and procedures for reissuance of such waiver permits shall be as determined by the commissioner. 3. Such waiver permits shall be issued by issuing agents appointed pursuant to subdivision one of section twelve hundred three-a of this article by governing bodies of cities, villages and towns having a population of less than one million to persons with disabilities who:(a) are residents of New York state; and(b) are residents of the city, town or village in which such issuing agent is located, except that, an issuing agent, in his or her discretion, may issue a permit to a severely disabled person who is not a resident of the city, town, or village in which such issuing agent is located where such person resides in a city, town, or village in which the governing body has not appointed an issuing agent; and(c) hold a valid driver's license issued by New York state; and(d) are severely disabled persons, as defined in subdivision four of section four hundred four-a of this chapter, whose severe disability, as certified by a licensed physician, limits one or more of the following:(i) fine motor control in both hands;(ii) ability to reach or access a parking meter due to use of a wheelchair or other ambulatory device; or(iii) ability to reach a height of forty-two inches from the ground due to the lack of finger, hand or upper extremity strength or mobility.4. For the purposes of this section, such waiver permit shall be for use exclusively in a vehicle when the person to whom it has been issued is driving and unaccompanied by a person able to put payment into a parking meter. Such permit shall not be transferable and shall be forfeited if used by any other person. Any abuse by any person to whom such waiver permit has been issued shall be sufficient cause for revocation of said permit.5. The special metered parking waiver permit issued by the commissioner shall be recognized statewide and is the only valid permit, other than a special vehicle identification parking permit issued by cities having a population of one million or more pursuant to paragraph fifteen of subdivision a of section twenty-nine hundred three of the New York city charter, for the waiver of metered parking fees for certain severely disabled drivers.6. A person who knowingly and willfully, with the intent to deceive, makes a false statement or gives information which such individual knows to be false to a public official to obtain a metered parking waiver permit in addition to any other penalty provided by law, shall be subject to a civil penalty of not less than two hundred fifty dollars nor more than one thousand dollars. (a) are residents of New York state; and (b) are residents of the city, town or village in which such issuing agent is located, except that, an issuing agent, in his or her discretion, may issue a permit to a severely disabled person who is not a resident of the city, town, or village in which such issuing agent is located where such person resides in a city, town, or village in which the governing body has not appointed an issuing agent; and (c) hold a valid driver's license issued by New York state; and (d) are severely disabled persons, as defined in subdivision four of section four hundred four-a of this chapter, whose severe disability, as certified by a licensed physician, limits one or more of the following: (i) fine motor control in both hands; (ii) ability to reach or access a parking meter due to use of a wheelchair or other ambulatory device; or (iii) ability to reach a height of forty-two inches from the ground due to the lack of finger, hand or upper extremity strength or mobility. 4. For the purposes of this section, such waiver permit shall be for use exclusively in a vehicle when the person to whom it has been issued is driving and unaccompanied by a person able to put payment into a parking meter. Such permit shall not be transferable and

shall be forfeited if used by any other person. Any abuse by any person to whom such waiver permit has been issued shall be sufficient cause for revocation of said permit. 5. The special metered parking waiver permit issued by the commissioner shall be recognized statewide and is the only valid permit, other than a special vehicle identification parking permit issued by cities having a population of one million or more pursuant to paragraph fifteen of subdivision a of section twenty-nine hundred three of the New York city charter, for the waiver of metered parking fees for certain severely disabled drivers. 6. A person who knowingly and willfully, with the intent to deceive, makes a false statement or gives information which such individual knows to be false to a public official to obtain a metered parking waiver permit in addition to any other penalty provided by law, shall be subject to a civil penalty of not less than two hundred fifty dollars nor more than one thousand dollars.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 32 - Stopping, Standing, and Parking1203 - Additional Parking Regulations.

(a) Except where angle parking is authorized, every vehicle stopped, standing, or parked wholly upon a two-way roadway shall be so stopped, standing, or parked with the right-hand wheels of such vehicle parallel to and within twelve inches of the right-hand curb or edge of the roadway. (b) Except where angle parking is authorized, every vehicle stopped, standing, or parked wholly upon a one-way roadway shall be so stopped, standing, or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within twelve inches of the right-hand curb or edge of the roadway, or its left-hand wheels within twelve inches of the left-hand curb or edge of the roadway. (c) Except where angle parking is authorized, every vehicle stopped, standing, or parked partly upon a roadway shall be so stopped, standing, or parked parallel to the curb or edge of the roadway. On a one-way roadway such vehicle shall be facing in the direction of authorized traffic movement; on a two-way roadway such vehicle shall be facing in the direction of authorized traffic movement on that portion of the roadway on which the vehicle rests. (d) No person regularly engaged in the sale or repair of vehicles shall park a vehicle upon any highway for the purpose of: 1. Displaying such vehicle for sale. 2. Greasing or repairing such vehicle, except for such repairs as may be necessitated by an emergency.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 32 - Stopping, Standing, and Parking1204 - Officers Authorized to Remove Illegally Stopped Vehicles.

(b) 1. Whenever any police officer, or in a city having a population in excess of one million any person designated by the commissioner of traffic of such city or on highways under the jurisdiction of the New York state thruway authority, the office of parks and recreation, a county park commission, a parkway authority, a bridge authority or a bridge and tunnel authority any person designated by such office, commission or authority finds a vehicle unattended where it constitutes an obstruction to traffic, or any place where stopping, standing or parking is prohibited, such officer is hereby authorized to provide for the removal of such vehicle, semitrailer or trailer to a garage, automobile pound or other place of safety. 2. In any city with a population of one million or more, whenever any police officer, or any person designated by the commissioner of traffic, finds a semitrailer or trailer without a tractor or towing vehicle attached, parked or unattended on any city street, such officer or person designated by the commissioner of traffic is hereby authorized to provide for the removal of such semitrailer or trailer to a garage, automobile pound or other place of safety. (c) The owner or other person lawfully entitled to the possession of such vehicle may be charged with a reasonable cost for removal and storage, payable before the vehicle is released. (d) No police officer or other public, state or municipal employee shall release a motor vehicle impounded because of any traffic or parking violation to any person who does not have a currently valid driver's license and an insurance identification card or other acceptable evidence indicating current insurance coverage on such vehicle. The provisions of this subdivision with respect to insurance coverage shall not apply to a motor vehicle which will not be moved under its own power but will be transported by a tow truck or upon another vehicle, provided that the registration for such impounded vehicle has been surrendered to the commissioner and proof of such surrender is presented to the police officer or other public, state or municipal employee.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1210 - Unattended Motor Vehicle.

(b) A driver may, for the purpose of getting away from the place of standing, move another vehicle which is so placed he cannot get his vehicle out; provided, however, that immediately thereafter he shall reset the brake and, if on a grade, turn the front wheels to the curb or side of the highway. This privilege is subject to the limitation set forth in subdivision (e) of section twelve hundred two. (c) Towing agencies, which remove vehicles unlawfully parked on private property at request of the owner of the premises and without the written consent of the owner of the vehicle, shall immediately notify the local police station house having jurisdiction over the area where such vehicle was unlawfully parked, of the description of the car which was removed, and the time of removal.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1211 - Limitations on Backing.

(b) The driver of a vehicle shall not back the same upon any shoulder or roadway of any controlled-access highway. (c) the driver of a motor vehicle engaged in retail sales of frozen desserts as that term is defined in subdivision thirty-seven of section three hundred seventy-five of this chapter directly to pedestrians shall not back the same to make or attempt to make a sale.

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2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1212 - Reckless Driving.

(b) As used in this section, "parking lot" shall mean any area or areas of private property, including a driveway, near or contiguous to and provided in connection with premises and used as a means of access to and egress from a public highway to such premises and having a capacity for the parking of four or more motor vehicles. The provisions of this section shall not apply to any area or areas of private property comprising all or part of property on which is situated a one or two family residence.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1213 - Obstruction to Driver's View or Driving Mechanism.

(b) No passenger in a vehicle shall ride in such a position as to interfere with the driver's view ahead or to the sides, or to interfere with his control over the driving mechanism of the vehicle.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1214 - Opening and Closing Vehicle Doors.

§ 1214. Opening and closing vehicle doors. No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1215 - Driving on Mountain Highways.

§ 1215. Driving on mountain highways. The driver of a motor vehicle traveling through defiles or canyons or on mountain highways shall hold such motor vehicle under control and as near the right-hand edge of the highway as reasonably possible and, upon approaching any curve where the view is obstructed within a distance of two hundred feet along the highway, shall give audible warning with the horn of such motor vehicle.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1216 - Coasting Prohibited.

§ 1216. Coasting prohibited. The driver of any motor vehicle when traveling upon a down grade shall not coast with the gears of such vehicle in neutral, nor with the clutch disengaged.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1217 - Following Emergency Fire Vehicles Prohibited.

§ 1217. Following emergency fire vehicles prohibited. The driver of any vehicle other than one on official business shall not follow any authorized emergency fire vehicle in the same lane or an adjacent lane to the one being used by such fire vehicle at a distance closer than two hundred feet while such fire vehicle is displaying one or more red or combination red and white lights, or one white light which must be a revolving, rotating, flashing, oscillating or constantly moving light, nor shall such driver drive into or park his or her vehicle within the block or where there is no block, within one thousand feet of where such fire vehicle has stopped in answer to a fire alarm.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1218 - Crossing Fire Hose.

§ 1218. Crossing fire hose. No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or private driveway, to be used at any fire or alarm of fire, without the consent of the fire department official in command.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1219 - Putting Glass or Other Injurious Substances on Highway Prohibited.

(b) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material or any material which interferes with the safe use of the highway shall immediately remove the same or cause it to be removed. (c) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1220-A - Liability for Violation of a Local Law Prohibiting Unlawful Dumping in a City Having a Population of One Million or More.

2. Upon certification pursuant to the provisions of this section from the environmental control board that there remains unpaid a civil penalty imposed for a violation of a local law prohibiting unlawful dumping, the commissioner shall suspend the driver's license, or

resident or non-resident privilege to operate, of an operator or owner-operator found to be in violation of such local law and who has failed to pay such civil penalty, and the registration of all vehicles owned by an owner or owner-operator found to be in violation of such local law and who has failed to pay such civil penalty. Such suspension shall remain in effect until such board notifies the commissioner pursuant to subdivision four of this section that such suspension shall be terminated. Such certification and notice of termination shall be made in the form and manner agreed upon between such environmental control board and the commissioner. 3. Whenever an owner, operator or owner-operator has been found by the environmental control board to be in violation of a local law prohibiting unlawful dumping, and such owner, operator or owner-operator has failed to make payment on a civil penalty imposed for such violation within one hundred days of the date such civil penalty was imposed, such board may certify such fact to the commissioner. Provided, however, that prior to making such certification, notification shall be provided to each such owner, operator or owner-operator pursuant to subdivision four of this section. No such certification shall be made unless (a) such civil penalty has remained unpaid one hundred days from the date such civil penalty was imposed, either in full or in accordance with the terms of any written payment schedule established by such board with the consent of the person found in violation, and (b) such city with a population of one million or more has complied with the notice requirements pursuant to this section. 4. (a) A city with a population of one million or more which has adopted a local law prohibiting unlawful dumping shall provide an owner, operator, or owner-operator found to be in violation of such local law with a minimum of two written notices stating that failure to make payment on a civil penalty within one hundred days of the date such civil penalty was imposed for such violation may result in certification to the department to suspend the driver's license, privilege to operate, or vehicle registration, as the case may be, unless, by such date, such owner, operator or owner-operator makes full payment of such civil penalty or enters into a written payment schedule established by such board with the consent of such owner, operator or owner-operator and continues to comply with the terms of such schedule. Such city shall include one such written notice in the notice of violation served upon such owner, operator or owner-operator for a violation of a local law prohibiting unlawful dumping, and the environmental control board shall send the second such written notice by first class mail to such owner, operator or owner-operator not less than thirty days but in no event more than sixty days prior to the date such board makes a certification to the commissioner pursuant to this section.(b) Upon the compliance of the owner, operator, or owner-operator with the provisions of paragraph (c) of this subdivision, the board shall notify the commissioner, within five business days of such compliance, that the suspension imposed pursuant to subdivision two of this section shall be terminated.(c) An owner, operator or owner-operator who has received a notice that his or her driver's license, privilege to operate a motor vehicle, or vehicle registration, as the case may be, shall be suspended, may avoid such suspension by: (i) making full payment of the civil penalty to the board by the specified date; or (ii) entering into a written payment schedule established by such board with the consent of such owner, operator, or owner-operator by the specified date and complying with the terms of such schedule.5. Notwithstanding section one hundred fifty-five of this chapter or any other provision of law, where a person has been adjudicated by such environmental control board to be in violation of a local law described in subdivision one of this section, such adjudication shall not have the force and effect of a conviction of a traffic infraction, or a violation of any provision of this chapter. (b) Upon the compliance of the owner, operator, or owner-operator with the provisions of paragraph (c) of this subdivision, the board shall notify the commissioner, within five business days of such compliance, that the suspension imposed pursuant to subdivision two of this section shall be terminated. (c) An owner, operator or owner-operator who has received a notice that his or her driver's license, privilege to operate a motor vehicle, or vehicle registration, as the case may be, shall be suspended, may avoid such suspension by: (i) making full payment of the civil penalty to the board by the specified date; or (ii) entering into a written payment schedule established by such board with the consent of such owner, operator, or owner-operator by the specified date and complying with the terms of such schedule. 5. Notwithstanding section one hundred fifty-five of this chapter or any other provision of law, where a person has been adjudicated by such environmental control board to be in violation of a local law described in subdivision one of this section, such adjudication shall not have the force and effect of a conviction of a traffic infraction, or a violation of any provision of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1220-B - Unlawful Solicitation of Ground Transportation Services at an Airport.

§ 1220-b. Unlawful solicitation of ground transportation services at an airport. 1. No person shall unlawfully solicit ground transportation services at an airport. A person unlawfully solicits ground transportation services at an airport, when, at an airport, such person, without being authorized to do so by the airport operator, or without having made a prior agreement to provide ground transportation services to a specific patron, engages or offers to engage in any business, trade or commercial transaction involving the rendering to another person of any ground transportation services from such airport. 2. As used in this section, the term "ground transportation service" shall mean a service offering transportation by any vehicle, including taxi cab, limousine, van or bus. 3. As used in this section, the term "airport" shall mean all of the real property forming part of any facility used for the landing and taking off of airplanes engaged in the transportation of passengers, including without limitation, all roadways, parking areas, pedestrian walkways and terminal buildings forming part of such facility. 4. Any person who engages in the unlawful solicitation of ground transportation services at an airport shall be guilty of a traffic infraction punishable by a fine of not less than seven hundred fifty dollars nor more than one thousand five hundred dollars, or by imprisonment for not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not less than one thousand five hundred dollars nor more than two thousand dollars, or by imprisonment for not more than forty-five days, or by both such fine and imprisonment; for a conviction of a third or subsequent

violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not less than two thousand dollars nor more than three thousand dollars, or by imprisonment for not more than ninety days, or by both such fine and imprisonment.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1220-C - Work Permits for Work on State Highways.

§ 1220-c. Work permits for work on state highways. Except in connection with the construction, reconstruction, maintenance, or improvement of a state highway, no person shall work on a state highway without a work permit issued by the state commissioner of transportation.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1220 - Throwing Refuse on Highways and Adjacent Lands Prohibited.

(b) Nothing herein contained shall be construed as prohibiting the use in a reasonable manner of ashes, sand, salt or other material for the purpose of reducing the hazard of, or providing traction on snow, ice or sleet. (b-1) Nothing herein contained shall be construed as prohibiting the use of any highway or private lands adjacent thereto for the transport or transit of agricultural trucks, machines or implements or dairy or domestic animals or agricultural stock with any accompanying reasonable or unavoidable deposit of nauseous or offensive matter. (c) A violation of the provisions of subdivision (a) of this section shall be punishable by a fine not to exceed three hundred fifty dollars and/or a requirement to perform services for a public or not-for-profit corporation, association, institution or agency not to exceed ten hours and for any second or subsequent violation by a fine not to exceed seven hundred dollars and/or a requirement to perform services for a public or not-for-profit corporation, association, institution or agency not to exceed fifteen hours.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1221 - Driving Through Safety Zone Prohibited.

§ 1221. Driving through safety zone prohibited. No vehicle shall at any time be driven through or within a safety zone.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1222 - Persons Riding on Trucks.

§ 1222. Persons riding on trucks. 1. No operator of any motor vehicle commonly known as an auto truck shall operate such auto truck, nor shall the owner thereof permit it to be operated, for a distance in excess of five miles, while there is standing therein or thereon any person or persons in excess of one-third of the number of persons therein or thereon: a. Unless suitable seats are securely attached to the body of such auto truck; b. Unless side racks of at least three feet in height above the floor of such auto truck are securely attached; and c. Unless it shall have attached thereto a tail board or tail gate which is securely closed. The provisions of this subdivision shall not apply to persons or corporations operating an agency or agencies for public service, who or which are subject to the jurisdiction, supervision and regulations prescribed by or pursuant to the public service law nor to their agents or employees when engaged in the business of such persons or corporations. 2. No operator of any motor vehicle commonly known as an auto truck shall operate such auto truck, nor shall the owner thereof permit it to be operated, in excess of five miles, while there are in excess of five persons under eighteen years of age in the body of such truck unless at least one person over eighteen years of age also rides in the body of said truck.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1223-A - School Buses; Required Identification.

§ 1223-a. School buses; required identification. All school buses, as defined in section one hundred forty-two of this chapter, purchased, leased or acquired on or after September first, nineteen hundred ninety-seven shall have the area code and telephone number of the owner and/or operator printed in three inch bold type on the rear of such vehicle. Provided, however, that nothing contained herein shall be deemed to prohibit the printing of such information as herein provided on school buses purchased, acquired or leased prior to September first, nineteen hundred ninety-seven.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1223 - Lights on Vehicles Used for Transportation of Passengers.

§ 1223. Lights on vehicles used for transportation of passengers. Unless otherwise governed by the provisions of this chapter, every vehicle used for the transportation of ten or more passengers upon the public highways, such as for picnics, hayrides and sleigh rides, shall, during the period from one-half hour after sunset to one-half hour before sunrise, display at least two lighted lamps on the front, one on each side, having light sources of equal power, which shall be visible for a distance of at least five hundred feet ahead of the vehicle and which shall project either white or yellow light, and at least two lighted lamps on the rear, one on each side, having light sources of equal power, which shall be visible for a distance of at least five hundred feet behind the vehicle and which shall project red light.

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2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1224 - Abandoned Vehicles.

(a) with no number plates affixed thereto, for more than six hours on any highway or other public place; (b) for more than twenty-four hours on any highway or other public place, except a portion of a highway or public place on which parking is legally permitted; (c) for more than forty-eight hours, after the parking of such vehicle shall have become illegal, if left on a portion of a highway or public place on which parking is legally permitted; (d) for more than ninety-six hours on property of another if left without permission of the owner. 2. If an abandoned vehicle, at the time of abandonment, has no number plates affixed and is of a wholesale value, taking into consideration the condition of the vehicle, of one thousand two hundred fifty dollars or less, ownership shall immediately vest in the local authority having jurisdiction thereof and title to the vehicle shall vest in accordance with applicable law and regulations of the commissioner, provided however that a local authority shall not be required to obtain title to an abandoned vehicle that is subject to the provisions of this subdivision if the vehicle will be sold or otherwise disposed of as junk or salvage, dismantled for use other than as a motor vehicle, or otherwise destroyed. 3. (a) Except for vehicles governed by subdivision two, a local authority having custody of an abandoned vehicle shall make an inquiry concerning the last owner of such vehicle as follows: (i) abandoned vehicle with number plates affixed--to the jurisdiction which issued such number plates; (ii) abandoned vehicle with no number plates affixed--the department of motor vehicles. (b) Such local authority shall notify the last owner, if known, that the vehicle in question has been recovered as an abandoned vehicle and that, if unclaimed, it will be sold at public auction or by bid after ten days from the date such notice was given. If the agency described in paragraph (a) also notifies such local authority that a lien or mortgage exists such notice shall also be sent to the lienholder or mortgagee. The commissioner shall prescribe the methods of giving notice. Any person claiming such vehicle shall be required to pay the costs of removal and storage of such vehicle. (c) Ownership of such abandoned vehicles, if unclaimed, shall vest in such local authority ten days from the date such notice is given; or if the last owner cannot be ascertained, when notice of such fact is received. 4. For the purposes of this section, a local authority entitled to custody of an abandoned vehicle shall be the town in which the vehicle was abandoned, or if abandoned in a city or village, the city or village in which the vehicle was abandoned, except that if a vehicle is abandoned on property of the New York state thruway authority or property under the jurisdiction of the office of parks, recreation and historic preservation, the department of transportation, or a public authority or commission, such authority, office, department or commission shall be entitled to the custody of such vehicle. Notwithstanding any provision of this section to the contrary, the office of general services shall be entitled to the custody of any vehicle abandoned on state property subsequent to its sale by such office. The commissioner may, by regulation, provide that a county may act as the agent for a local authority for the purpose of removing and disposing of abandoned vehicles. 5. (a) Such local authority shall determine if an abandoned vehicle is suitable for operation on the public highways. If so, the vehicle shall be sold at public auction to the highest bidder or converted pursuant to subdivision six of this section. (b) If such local authority determines that an abandoned vehicle is not suitable for operation on the public highways, it shall sell the vehicle to a vehicle dismantler or scrap processor registered or certified pursuant to section four hundred fifteen-a of this chapter or to a vehicle dismantler or scrap processor who does not have a place of business in this state but who conforms to the laws and regulations of the state in which he has a place of business. (c) An abandoned vehicle without a vehicle identification number plate must be sold only to a vehicle dismantler or a scrap processor registered or certified pursuant to section four hundred fifteen-a of this chapter or to a vehicle dismantler or scrap processor who does not have a place of business in this state but who conforms to the laws and regulations of the state in which he has a place of business. Nothing contained herein shall be construed as preventing a local authority from applying for a replacement vehicle identification number plate. 6. (a) A local authority, if authorized by local law, may convert to its own use those abandoned vehicles not affected by subdivision two of this section or may, by sale or gift, transfer title to any of such vehicles to any other municipal corporation for use by its law enforcement agency, provided however, the total number of vehicles converted and/or transferred in any calendar year may not exceed one percent of the local authority's unclaimed abandoned vehicles not affected by subdivision two of this section or two such vehicles, whichever is greater. (b) Any proceeds from the sale of an abandoned vehicle less any expenses incurred by such local authority shall be held by the local authority without interest, for the benefit of the owner of such vehicle for a period of one year. If not claimed within such one year period, such proceeds shall be paid into the general fund of such local authority. 7. (a) No person shall cause any vehicle to be an abandoned vehicle. There shall be a rebuttable presumption that the owner of an abandoned vehicle caused such vehicle to be abandoned. A violation of this subdivision shall be punishable by a fine of not less than two hundred fifty dollars nor more than one thousand dollars. In a city having a population of one million or more, a violation of this subdivision shall in addition be punishable by a civil penalty of not less than two hundred fifty dollars nor more than one thousand dollars. (b) Notwithstanding any other provision of law, in addition to those persons otherwise authorized to enforce this subdivision and adjudicate violations thereof, this subdivision shall also be enforceable in a city having a population of one million or more by an agency or agencies designated for such purpose by the mayor of such city, and notices of violation may be returnable to the environmental control board of such city, which shall have the power to impose the civil penalties herein provided. Notwithstanding any other provision of law, service of a notice of violation for a violation of this subdivision committed in such city may be made upon an owner by first class mail, postage prepaid, and any such notice served by mail shall be returnable only to such environmental control board. Such service by first class mail shall be deemed complete upon mailing of the notice of violation, unless the notice of violation is returned to the sender by the United States postal service for any reason other than refusal of delivery. In addition, any notice of violation for a violation of this

subdivision may be served by a means prescribed in article three of the civil practice law and rules or article three of the business corporation law. Notwithstanding any other provision of law, such civil penalties imposed by such environmental control board shall be paid into the general fund of such city. Notwithstanding section one hundred fifty-five of this chapter or any other provision of law, where a person has been adjudicated by such environmental control board to be in violation of this subdivision, such adjudication shall not have the force and effect of a conviction of a traffic infraction or of a violation of any provision of this chapter for any purpose not specified in this subdivision. (c) Any final order issued pursuant to this subdivision by an environmental control board of a city having a population of one million or more shall constitute a judgment which may be entered in any place provided for the entry of civil judgments within the state, and may be enforced without court proceedings in the same manner as the enforcement of money judgments entered in civil actions; provided, however, that no such judgment shall be entered that exceeds the sum of ten thousand dollars for each respondent. Notwithstanding the preceding sentence, before a judgment based upon a default may be so entered, such environmental control board must have notified the respondent by first class mail in such form as such environmental control board may direct: (1) of the default decision and order and the penalty imposed; (2) that a judgment will be entered in any place provided for the entry of civil judgments in the state; and (3) that entry of such judgment may be avoided by requesting a stay of default for good cause shown and either requesting a hearing or entering a plea pursuant to the rules of such environmental control board within thirty days of the mailing of such notice. No judgment based upon a default may be so entered by the environmental control board within less than sixty days from the completion of service by mail of the notice of violation as provided in paragraph (b) of this subdivision. Any requirement of any provision of law other than this subdivision that relates to the manner of service of the notice of violation that precedes any final order of such environmental control board shall not apply to a final order issued pursuant to this subdivision. A judgment entered pursuant to this paragraph shall remain in full force and effect for eight years. (d) Notwithstanding any other provision of this chapter, where the environmental control board of a city having a population of one million or more has adjudicated any person to be in violation of this subdivision and the civil penalty therefor is not paid, such environmental control board shall notify the commissioner of motor vehicles of the judgment, who shall suspend any license of such person to operate a motor vehicle in this state, or, if such person is unlicensed, such person's privilege of obtaining a license issued by the commissioner, or, if such person is a non-resident, such person's privilege of operating a motor vehicle in this state, pending payment of such civil penalty. The procedures set forth in the first paragraph of subdivision seven of section five hundred ten of this chapter shall be applicable to a suspension pursuant to this paragraph. (e) For purposes of this subdivision only, the term "owner" means any person, corporation, partnership, firm, agency, association, lessor or organization who at the time of the issuance of a notice of violation for a violation of this subdivision: (i) is the beneficial or equitable owner of the abandoned vehicle; or (ii) has title to such vehicle; or (iii) is the registrant or co-registrant of such vehicle registered with the department of motor vehicles of this state or any other state, territory, district, province, nation or other jurisdiction; or (iv) uses such vehicle in its renting and/or leasing business; or (v) is an owner of such vehicle as defined by section one hundred twenty-eight of this chapter or subdivision (a) of section twenty-one hundred one of this chapter. 9. The last owner of an abandoned vehicle shall be liable to such local authority for the costs of removal and storage of such vehicle. 10. The commissioner shall prescribe by regulation such forms and procedures necessary or desirable to effectuate the provisions of this section. Such regulations may include procedures for the removal and disposition of vehicle identification numbers of abandoned vehicles and forms for local records for abandoned vehicles and inquiries relating to ownership of such vehicles.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1225-A - Driving on Sidewalks.

(a) to gain access to a public highway, private way or lands or buildings adjacent to such highway or way; (b) in the conduct of work upon a highway, or upon a private way or lands or buildings adjacent to such highway or way, or (c) to plow snow or perform any other public service, for hire, or otherwise, which could not otherwise be reasonably and properly performed.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1225-B - Retail Sale of Frozen Desserts by Motor Vehicle; Restrictions.

§ 1225-b. Retail sale of frozen desserts by motor vehicle; restrictions. 1. No person operating a motor vehicle engaged in retail sales of frozen desserts as that term is defined in subdivision thirty-seven of section three hundred seventy-five of this chapter directly to pedestrians shall engage in any such retail sale: (a) unless such motor vehicle is lawfully parked or stopped; (b) to any person, unless such sale occurs from the side of the vehicle away from moving traffic and as near as possible to the curb or shoulder of the roadway; and (c) to any person standing in the roadway. 2. A violation of this section shall be punishable by a fine of not more than fifty dollars.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1225-C - Use of Mobile Telephones.

(a) "Mobile telephone" shall mean the device used by subscribers and other users of wireless telephone service to access such service. (b) "Wireless telephone service" shall mean two-way real time voice telecommunications service that is interconnected to a public switched telephone network and is provided by a commercial mobile radio service, as such term is defined by 47 C.F.R. § 20.3. (c) "Using" shall mean (i) holding a mobile telephone to, or in the immediate proximity of, the user's ear; and (ii) with respect to a person operating a commercial motor vehicle, holding a mobile telephone to, or in the immediate proximity of, the user's ear, or

dialing or answering a mobile telephone by pressing more than a single button, or reaching for a mobile telephone in a manner that requires such person to maneuver so that he or she is no longer in a seated driving position, restrained by a seat belt that is installed in accordance with section 393.93 of title 49 of the code of federal regulations and adjusted in accordance with the vehicle manufacturer's instructions. (d) "Hand-held mobile telephone" shall mean a mobile telephone with which a user engages in a call using at least one hand. (e) "Hands-free mobile telephone" shall mean a mobile telephone that has an internal feature or function, or that is equipped with an attachment or addition, whether or not permanently part of such mobile telephone, by which a user engages in a call without the use of either hand, whether or not the use of either hand is necessary to activate, deactivate or initiate a function of such telephone. Provided, however, that for purposes of this section, a mobile telephone used by a person operating a commercial motor vehicle shall not be deemed a "hands-free mobile telephone" when such person dials or answers such mobile telephone by pressing more than a single button. (f) "Engage in a call" shall mean talking into or listening on a hand-held mobile telephone, but shall not include holding a mobile telephone to activate, deactivate or initiate a function of such telephone. (g) "Immediate proximity" shall mean that distance as permits the operator of a mobile telephone to hear telecommunications transmitted over such mobile telephone, but shall not require physical contact with such operator's ear. (h) "Commercial motor vehicle" shall have the same meaning as such term is defined by subdivision four-a of section two of the transportation law. (i) "Motor carrier" shall have the same meaning as such term is defined by subdivision seventeen of section two of the transportation law. 2. (a) Except as otherwise provided in this section, no person shall operate a motor vehicle upon a public highway while using a mobile telephone to engage in a call while such vehicle is in motion; provided, however, that no person shall operate a commercial motor vehicle while using a mobile telephone to engage in a call on a public highway including while temporarily stationary because of traffic, a traffic control device, or other momentary delays. Provided further, however, that a person shall not be deemed to be operating a commercial motor vehicle while using a mobile telephone to engage in a call on a public highway when such vehicle is stopped at the side of, or off, a public highway in a location where such vehicle is not otherwise prohibited from stopping by law, rule, regulation or any lawful order or direction of a police officer. (b) An operator of any motor vehicle who holds a mobile telephone to, or in the immediate proximity of, his or her ear while such vehicle is in motion is presumed to be engaging in a call within the meaning of this section; provided, however, that an operator of a commercial motor vehicle who holds a mobile telephone to, or in the immediate proximity of, his or her ear while such vehicle is temporarily stationary because of traffic, a traffic control device, or other momentary delays is also presumed to be engaging in a call within the meaning of this section except that a person operating a commercial motor vehicle while using a mobile telephone to engage in a call when such vehicle is stopped at the side of, or off, a public highway in a location where such vehicle is not otherwise prohibited from stopping by law, rule, regulation or any lawful order or direction of a police officer shall not be presumed to be engaging in a call within the meaning of this section. The presumption established by this subdivision is rebuttable by evidence tending to show that the operator was not engaged in a call. (c) The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a mobile telephone, unless otherwise provided by law. (d) No motor carrier shall allow or require its drivers to use a hand-held mobile telephone while operating a commercial motor vehicle as provided in this section. 3. Subdivision two of this section shall not apply to (a) the use of a mobile telephone for the sole purpose of communicating with any of the following regarding an emergency situation: an emergency response operator; a hospital, physician's office or health clinic; an ambulance company or corps; a fire department, district or company; or a police department, (b) any of the following persons while in the performance of their official duties: a police officer or peace officer; a member of a fire department, district or company; or the operator of an authorized emergency vehicle as defined in section one hundred one of this chapter, or (c) the use of a hands-free mobile telephone. 4. A violation of subdivision two of this section shall be a traffic infraction and shall be punishable by a fine of not less than fifty dollars nor more than two hundred dollars upon conviction of a first violation; upon conviction of a second violation, both of which were committed within a period of eighteen months, such violation shall be punished by a fine of not less than fifty dollars nor more than two hundred fifty dollars; upon conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such violation shall be punished by a fine of not less than fifty dollars nor more than four hundred fifty dollars.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1225-D - Use of Portable Electronic Devices.

1-a. No motor carrier shall allow or require its drivers to use a portable electronic device while operating a commercial motor vehicle as provided in this section. 2. For the purposes of this section, the following terms shall have the following meanings:(a) "Portable electronic device" shall mean any hand-held mobile telephone, as defined by subdivision one of section twelve hundred twenty-five-c of this article, personal digital assistant (PDA), handheld device with mobile data access, laptop computer, pager, broadband personal communication device, two-way messaging device, electronic game, or portable computing device, or any other electronic device when used to input, write, send, receive, or read text for present or future communication.(b) "Using" shall mean holding a portable electronic device while viewing, taking or transmitting images, playing games, or, for the purpose of present or future communication: performing a command or request to access a world wide web page, composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages, instant messages, or other electronic data.(c) "Commercial motor vehicle" shall have the same meaning as such term is defined by subdivision four-a of section two of the transportation law.(d) "Motor carrier" shall have the same meaning as such term is defined by subdivision seventeen of section two of the transportation law.3. Subdivision one of this section shall not apply to (a) the use of a portable electronic device for the sole purpose of communicating with any of the following regarding an emergency situation: an emergency response operator; a hospital;

a physician's office or health clinic; an ambulance company or corps; a fire department, district or company; or a police department, (b) any of the following persons while in the performance of their official duties: a police officer or peace officer; a member of a fire department, district or company; or the operator of an authorized emergency vehicle as defined in section one hundred one of this chapter.4. A person who holds a portable electronic device in a conspicuous manner while operating a motor vehicle or while operating a commercial motor vehicle on a public highway including while temporarily stationary because of traffic, a traffic control device, or other momentary delays but not including when such commercial motor vehicle is stopped at the side of, or off, a public highway in a location where such vehicle is not otherwise prohibited from stopping by law, rule, regulation or any lawful order or direction of a police officer is presumed to be using such device, except that a person operating a commercial motor vehicle while using a portable electronic device when such vehicle is stopped at the side of, or off, a public highway in a location where such vehicle is not otherwise prohibited from stopping by law, rule, regulation or any lawful order or direction of a police officer shall not be presumed to be using such device. The presumption established by this subdivision is rebuttable by evidence tending to show that the operator was not using the device within the meaning of this section.5. The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a portable electronic device, unless otherwise provided by law.6. A violation of this section shall be a traffic infraction and shall be punishable by a fine of not less than fifty dollars nor more than two hundred dollars upon conviction of a first violation; upon conviction of a second violation, both of which were committed within a period of eighteen months, such violation shall be punished by a fine of not less than fifty dollars nor more than two hundred fifty dollars; upon conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such violation shall be punished by a fine of not less than fifty dollars nor more than four hundred fifty dollars. (a) "Portable electronic device" shall mean any hand-held mobile telephone, as defined by subdivision one of section twelve hundred twenty-five-c of this article, personal digital assistant (PDA), handheld device with mobile data access, laptop computer, pager, broadband personal communication device, two-way messaging device, electronic game, or portable computing device, or any other electronic device when used to input, write, send, receive, or read text for present or future communication. (b) "Using" shall mean holding a portable electronic device while viewing, taking or transmitting images, playing games, or, for the purpose of present or future communication: performing a command or request to access a world wide web page, composing, sending, reading, viewing, accessing, browsing, transmitting, saving or retrieving e-mail, text messages, instant messages, or other electronic data. (c) "Commercial motor vehicle" shall have the same meaning as such term is defined by subdivision four-a of section two of the transportation law. (d) "Motor carrier" shall have the same meaning as such term is defined by subdivision seventeen of section two of the transportation law. 3. Subdivision one of this section shall not apply to (a) the use of a portable electronic device for the sole purpose of communicating with any of the following regarding an emergency situation: an emergency response operator; a hospital; a physician's office or health clinic; an ambulance company or corps; a fire department, district or company; or a police department, (b) any of the following persons while in the performance of their official duties: a police officer or peace officer; a member of a fire department, district or company; or the operator of an authorized emergency vehicle as defined in section one hundred one of this chapter. 4. A person who holds a portable electronic device in a conspicuous manner while operating a motor vehicle or while operating a commercial motor vehicle on a public highway including while temporarily stationary because of traffic, a traffic control device, or other momentary delays but not including when such commercial motor vehicle is stopped at the side of, or off, a public highway in a location where such vehicle is not otherwise prohibited from stopping by law, rule, regulation or any lawful order or direction of a police officer is presumed to be using such device, except that a person operating a commercial motor vehicle while using a portable electronic device when such vehicle is stopped at the side of, or off, a public highway in a location where such vehicle is not otherwise prohibited from stopping by law, rule, regulation or any lawful order or direction of a police officer shall not be presumed to be using such device. The presumption established by this subdivision is rebuttable by evidence tending to show that the operator was not using the device within the meaning of this section. 5. The provisions of this section shall not be construed as authorizing the seizure or forfeiture of a portable electronic device, unless otherwise provided by law. 6. A violation of this section shall be a traffic infraction and shall be punishable by a fine of not less than fifty dollars nor more than two hundred dollars upon conviction of a first violation; upon conviction of a second violation, both of which were committed within a period of eighteen months, such violation shall be punished by a fine of not less than fifty dollars nor more than two hundred fifty dollars; upon conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such violation shall be punished by a fine of not less than fifty dollars nor more than four hundred fifty dollars.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1225 - Avoiding Intersection or Traffic-Control Device.

§ 1225. Avoiding intersection or traffic-control device. No person shall drive across or upon a sidewalk, driveway, parking lot or private property, or otherwise drive off a roadway, in order to avoid an intersection or traffic-control device.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1226 - Control of Steering Mechanism.

§ 1226. Control of steering mechanism. No person shall operate a motor vehicle without having at least one hand or, in the case of a physically handicapped person, at least one prosthetic device or aid on the steering mechanism at all times when the motor vehicle is in motion.

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2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1227 - Consumption or Possession of Alcoholic Beverages in Certain Motor Vehicles.

§ 1227. Consumption or possession of alcoholic beverages in certain motor vehicles. 1. The drinking of alcoholic beverages or consumption of cannabis, or the possession of an open container containing an alcoholic beverage, in a motor vehicle located upon the public highways or right-of-way public highway is prohibited. Any operator or passenger violating this section shall be guilty of a traffic infraction. The provisions of this section shall not be deemed to prohibit the drinking of alcoholic beverages, the consumption of cannabis by means other than burning, or the possession of an open container containing an alcoholic beverage by passengers in passenger vehicles operated pursuant to a certificate or permit issued by the department of transportation or the United States department of transportation. Furthermore, the provisions of this section shall not be deemed to prohibit the possession of wine which is: (a) resealed in accordance with the provisions of subdivision four of section eighty-one of the alcoholic beverage control law; and (b) is transported in the vehicle's trunk or is transported behind the last upright seat or in an area not normally occupied by the driver or passenger in a motor vehicle that is not equipped with a trunk. 2. For the purposes of this section, a passenger vehicle shall mean a vehicle designed to carry ten or more passengers and used to carry passengers for profit or hire.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1228 - Riding in House Coach Trailers.

§ 1228. Riding in house coach trailers. No person shall drive a vehicle on a public highway while drawing a house coach trailer occupied by any person and no person shall occupy a house coach trailer while it is being drawn upon a public highway.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1229-A - Pedestrians, Animals, and Non-Motorized Vehicles Prohibited on State Expressway Highways or State Interstate Route Highways Including the Entrances Thereto and Exits Therefrom.

§ 1229-a. Pedestrians, animals, and non-motorized vehicles prohibited on state expressway highways or state interstate route highways including the entrances thereto and exits therefrom. No person, unless otherwise directed by a police officer shall: (a) As a pedestrian, occupy any space within the limits of a state expressway highway or state interstate route highway, including the entrances thereto and exits therefrom, except: in a rest area, parking area, or scenic overlook; in the performance of public works or official duties; as a result of an emergency caused by an accident or breakdown of a motor vehicle or to obtain assistance; where a sidewalk, footpath or pedestrian crossing of such a highway is provided; (b) Occupy any space of a state expressway highway or state interstate route highway, including the entrances thereto and exits therefrom, with: an animal-drawn vehicle; herded animals, a pushcart; a bicycle; except in the performance of public works or official duties, or on paths or parts of such highway provided for such uses.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1229-B - Operation of School, Camp and Charter Omnibuses With Passengers Standing Prohibited.

2. It shall be unlawful to operate upon the public highways a school bus owned by or contracted to a school district with any passenger standing whenever it is employed exclusively for the transportation of students under the age of twenty-one and teachers or other persons acting in a supervisory capacity to or from school or school activities, except as provided in paragraph (a) or (b) of this subdivision:(a) Standing passengers may be permitted on such a school bus, provided that the number of standing passengers on a school bus shall not exceed the limit established in the following schedule for the applicable time period:Period: Not more than: Through June 30, 2001 20% of approved seating capacity Between July 1, 2001 and 15% of approved seating capacity June 30, 2002 Between July 1, 2002 and 10% of approved seating capacity June 30, 2003 Between July 1, 2003 and 5% of approved seating capacity June 30, 2004(b) Notwithstanding any other provision of this section to the contrary, standing passengers may be permitted without limitation as to number during the first ten days of session in each school year, and in circumstances where a breakdown, accident, or other unforeseen occurrence necessitates the transportation of standing passengers.(c) Nothing contained in this section shall be construed to restrict the power of a city with a population of one million or more to adopt and enforce local laws that comply with at least the minimum applicable standards set forth in this section. (a) Standing passengers may be permitted on such a school bus, provided that the number of standing passengers on a school bus shall not exceed the limit established in the following schedule for the applicable time period: Period: Not more than: Through June 30, 2001 20% of approved seating capacity Between July 1, 2001 and 15% of approved seating capacity June 30, 2002 Between July 1, 2002 and 10% of approved seating capacity June 30, 2003 Between July 1, 2003 and 5% of approved seating capacity June 30, 2004 (b) Notwithstanding any other provision of this section to the contrary, standing passengers may be permitted without limitation as to number during the first ten days of session in each school year, and in circumstances where a breakdown, accident, or other unforeseen occurrence necessitates the transportation of standing passengers. (c) Nothing contained in this section shall be construed to restrict the power of a city with a population of one million or more to adopt and enforce local laws that comply with at least the minimum applicable standards set forth in this section.

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2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1229-C - Operation of Vehicles With Safety Seats and Safety Belts.

2. No person shall operate a motor vehicle unless all front seat passengers (a) under the age of sixteen are restrained by a safety belt; or (b) if they are under the age of four, by a specially designed seat which is either permanently affixed or affixed to such vehicle by a safety belt as required by subdivision one of this section, or in the event that the weight of such passenger under the age of four exceeds forty pounds, such passenger may be restrained (i) in an appropriate child restraint system as defined in subdivision four of this section used with combination lap safety and shoulder harness belts or (ii) by a lap safety belt in the event such vehicle is not equipped with combination lap safety and shoulder harness belts or all the combination lap safety and shoulder harness belts are being used to properly restrain other passengers who are under the age of sixteen; or (c) if they are age four or older but under age eight, (i) are restrained in an appropriate child restraint system as defined in subdivision four of this section used with combination lap safety and shoulder harness belts or (ii) are restrained in a lap safety belt in the event such vehicle is not equipped with combination lap safety and shoulder harness belts or all the combination lap safety and shoulder harness belts are being used to properly restrain other passengers who are under the age of sixteen. 3. No person shall operate a motor vehicle unless such person is restrained by a safety belt approved by the commissioner. No person sixteen years of age or over shall be a passenger in a motor vehicle unless such person is restrained by a safety belt approved by the commissioner. 3-a. Except as otherwise provided for passengers under the age of four, it shall be a violation of this section if a person is seated in a seating position equipped with both a lap safety belt and a shoulder harness belt and such person is not restrained by both such lap safety belt and shoulder harness belt. 3-b. No person holding a class DJ learner's permit or class DJ license issued pursuant to section five hundred two of this chapter, shall operate a motor vehicle in this state unless such person is restrained by a safety belt approved by the commissioner, and all passengers under the age of four are restrained in a specially designed seat which meets the federal motor vehicle safety standards set forth in 49 C.F.R. 571.213 and which is either permanently affixed or is affixed to such vehicle by a safety belt and, in the case of any other passenger under the age of sixteen, he or she is restrained by a safety belt approved by the commissioner. No person sixteen years of age or over shall be a passenger in a motor vehicle operated by a person holding a class DJ learner's permit, a class DJ license or a limited class DJ license unless such passenger is restrained by a safety belt approved by the commissioner. 3-c. (a) No person shall operate a taxi or livery unless such person is restrained by a safety belt approved by the commissioner.(b) No person sixteen years of age or over shall be a passenger in a taxi or livery unless such person is restrained by a safety belt approved by the commissioner.(c) No person eight years of age or older but under age sixteen shall be a passenger in a taxi or livery unless such person is restrained by a safety belt approved by the commissioner. A police officer shall only issue a summons for a violation of this paragraph to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or more. Such summons shall only be issued to such parent or guardian and shall not be issued to the person eight years of age or older but under age sixteen.* 3-d. (a) No person sixteen years of age or older shall be a passenger in a charter bus unless such person is restrained by a safety belt approved by the commissioner.(b) No person eight years of age or older but under age sixteen shall be a passenger in a charter bus unless such person is restrained by a safety belt approved by the commissioner. A police officer shall only issue a summons for a violation of this paragraph to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or older. Such summons shall only be issued to such parent or guardian and shall not be issued to the person eight years of age or older but under age sixteen.* NB Effective April 21, 20254. For the purposes of this section, the following terms shall have the following meanings: (a) "motor vehicle" shall include all motor vehicles which are required by section three hundred eighty-three of this chapter or regulation or would be required if such motor vehicle were registered in New York state to be equipped by a safety belt but shall not include those vehicles which are used as school buses, as such term is defined in section one hundred forty-two of this chapter and those vehicles which are authorized emergency vehicles, as such term is defined in section one hundred one of this chapter, provided, however, that for purposes of this section, "motor vehicle" shall also include fire vehicles owned and/or operated by a fire company as defined by subdivision two of section one hundred of the general municipal law and ambulances owned and/or operated by a voluntary ambulance service as defined by subdivision three of section one hundred of the general municipal law;* (b) "child restraint system" shall mean any device, used in conjunction with safety belts, designed for use in a motor vehicle to restrain, seat, or position children and which meets the applicable Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213; and* NB Effective until April 21, 2025* (b) "child restraint system" shall mean any device, used in conjunction with safety belts, designed for use in a motor vehicle to restrain, seat, or position children and which meets the applicable Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213;* NB Effective April 21, 2025* (c) "appropriate child restraint system" shall mean a child restraint system for which the occupant meets the occupant size and weight recommendations of the manufacturer of such system.* NB Effective until April 21, 2025* (c) "appropriate child restraint system" shall mean a child restraint system for which the occupant meets the occupant size and weight recommendations of the manufacturer of such system;* NB Effective April 21, 2025* (d) "charter bus" shall mean a bus manufactured or assembled on or after November twenty-eighth, two thousand sixteen transporting passengers for compensation in a chartered party; and* NB Effective April 21, 2025* (e) "chartered party" shall mean a group of persons who, pursuant to a common purpose and under a single contract and at a fixed charge, have acquired exclusive use of a bus to travel together as a group to a specific destination or for a particular itinerary either agreed upon in advance or modified after having left the place of origin by

such group.* NB Effective April 21, 2025* 5. Any person who violates the provisions of subdivision three, three-c or ten-a of this section shall be punished by a civil fine of up to fifty dollars. Any person who violates the provisions of subdivision one, two, eleven or thirteen of this section shall be punished by a civil fine of not less than twenty-five nor more than one hundred dollars. In any prosecution or proceeding alleging a violation of paragraph (b) of subdivision one or paragraph (c) of subdivision two of this section, it shall be an affirmative defense that the passenger subject to the requirements of such paragraphs was restrained by a safety belt and measures more than four feet nine inches in height and/or weighs more than one hundred pounds. In any prosecution or proceeding alleging a violation of paragraph (b) or paragraph (c) of subdivision three-c of this section, it shall be an affirmative defense that such taxi or livery was in violation of subdivision four-b of section three hundred eighty-three of this chapter.* NB Effective until April 21, 2025* 5. Any person who violates the provisions of subdivision three, three-c, three-d or ten-a of this section shall be punished by a civil fine of up to fifty dollars. Any person who violates the provisions of subdivision one, two, eleven or thirteen of this section shall be punished by a civil fine of not less than twenty-five nor more than one hundred dollars. In any prosecution or proceeding alleging a violation of paragraph (b) of subdivision one or paragraph (c) of subdivision two of this section, it shall be an affirmative defense that the passenger subject to the requirements of such paragraphs was restrained by a safety belt and measures more than four feet nine inches in height and/or weighs more than one hundred pounds. In any prosecution or proceeding alleging a violation of paragraph (b) or paragraph (c) of subdivision three-c of this section, it shall be an affirmative defense that such taxi or livery was in violation of subdivision four-b of section three hundred eighty-three of this chapter. In any prosecution or proceeding alleging a violation of subdivision three-d of this section, it shall be an affirmative defense that such charter bus was not equipped with seat belts, or such seat belts were not clearly visible, accessible, or maintained in good working order.* NB Effective April 21, 20256. The court shall waive any fine for which a person who violates the provisions of this section would be liable with respect to passengers under the age of eight if such person supplies the court with proof that, between the date on which he is charged with having violated this section and the appearance date for such violation, he purchased or rented a child restraint system which meets the requirements of subdivision one of this section. Provided, however, that such waiver of fine shall not apply to a second or subsequent conviction under this section.7. The provisions of this section shall not apply to a passenger or operator with a physically disabling condition whose physical disability would prevent appropriate restraint in such safety seat or safety belt provided, however, such condition is duly certified by a physician who shall state the nature of the handicap, as well as the reason such restraint is inappropriate.8. Non-compliance with the provisions of this section shall not be admissible as evidence in any civil action in a court of law in regard to the issue of liability but may be introduced into evidence in mitigation of damages provided the party introducing said evidence has pleaded such non-compliance as an affirmative defense.* 9. Notwithstanding the provisions of subdivision four of this section, the provisions of this section shall not apply to buses other than school buses and the provisions of subdivisions one, two, three and three-a of this section shall not apply to taxis and liveries except that the provisions of subdivision three-a of this section shall be applicable to any person operating a taxi or livery and to taxi and livery passengers age eight or older.* NB Effective until April 21, 2025* 9. Notwithstanding the provisions of subdivision four of this section, (a) the provisions of this section shall not apply to buses other than school buses, except as otherwise provided in subdivision three-d of this section and except that the provisions of subdivision three-a of this section shall be applicable to any person operating a charter bus and to charter bus passengers age eight or older, and (b) the provisions of subdivisions one, two, three and three-a of this section shall not apply to taxis and liveries except that the provisions of subdivision three-a of this section shall be applicable to any person operating a taxi or livery and to taxi and livery passengers age eight or older.* NB Effective April 21, 202510. The provisions of this section shall not apply to persons employed as rural letter carriers, as defined by the United States postal service, while such persons are discharging the duties of such employment.10-a. Notwithstanding the provisions of subdivision one of this section, no person sixteen years of age or over shall be a passenger in the rear seat of a fire vehicle owned and/or operated by a fire company as defined by subdivision two of section one hundred of the general municipal law or in the rear seat of an ambulance owned and/or operated by a voluntary ambulance service as defined by subdivision three of section one hundred of the general municipal law unless such person is restrained by a safety belt approved by the commissioner. Provided, however, that the provisions of this subdivision shall not apply: (a) to a passenger in the rear seat of such fire vehicle or ambulance if such seat is not required to be equipped with safety belts pursuant to the provisions of section three hundred eighty-three of this chapter, nor (b) to emergency medical personnel during the course of providing patient care in the rear compartment of an ambulance in accordance with applicable patient care standards, guidelines and protocols established pursuant to article thirty of the public health law.11. Notwithstanding the provisions of subdivision four of this section, no person shall operate a school bus unless all passengers under the age of four are restrained in a specially designed detachable or removable seat as required by subdivision one of this section, or another restraining device approved by the commissioner.12. (a) Every rental vehicle company, as defined in paragraph (c) of subdivision one of section three hundred ninety-six-z of the general business law, shall post a sign in their place of business which states in conspicuous lettering of at least seventy-two point boldface type:NEW YORK STATE LAW REQUIRES ALL CHILDREN UNDER THE AGE OF EIGHT TO BE RESTRAINED IN A FEDERALLY APPROVED CHILD RESTRAINT SYSTEM.(b) Such sign shall be placed in an upright position and in a conspicuous place where it can easily be read by the clientele of the rental vehicle company.(b-1) A peer-to-peer car sharing program as defined in section three thousand four hundred fifty-eight of the insurance law shall provide comparable notice for shared vehicle drivers and shared vehicle owners, as defined in section three thousand four hundred fifty-eight of the insurance law, on its website in conspicuous lettering.(c) Any rental vehicle company or peer-to-peer car sharing program that makes a shared vehicle, as defined in section three thousand four hundred fifty-eight of the insurance law, available for peer-to-peer car sharing which violates the provisions of this subdivision shall be subject to a civil penalty, not to exceed one hundred dollars for

each day of violation.13. Notwithstanding the provisions of subdivision four of this section, no person shall operate a school bus for which there are no applicable federal school bus safety standards unless all occupants are restrained by a safety belt approved by the commissioner or, regarding occupants age four or older but under age seven, are restrained pursuant to subdivision one or two of this section. (b) No person sixteen years of age or over shall be a passenger in a taxi or livery unless such person is restrained by a safety belt approved by the commissioner. (c) No person eight years of age or older but under age sixteen shall be a passenger in a taxi or livery unless such person is restrained by a safety belt approved by the commissioner. A police officer shall only issue a summons for a violation of this paragraph to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or more. Such summons shall only be issued to such parent or guardian and shall not be issued to the person eight years of age or older but under age sixteen. * 3-d. (a) No person sixteen years of age or older shall be a passenger in a charter bus unless such person is restrained by a safety belt approved by the commissioner. (b) No person eight years of age or older but under age sixteen shall be a passenger in a charter bus unless such person is restrained by a safety belt approved by the commissioner. A police officer shall only issue a summons for a violation of this paragraph to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or older. Such summons shall only be issued to such parent or guardian and shall not be issued to the person eight years of age or older but under age sixteen. * NB Effective April 21, 2025 4. For the purposes of this section, the following terms shall have the following meanings: (a) "motor vehicle" shall include all motor vehicles which are required by section three hundred eighty-three of this chapter or regulation or would be required if such motor vehicle were registered in New York state to be equipped by a safety belt but shall not include those vehicles which are used as school buses, as such term is defined in section one hundred forty-two of this chapter and those vehicles which are authorized emergency vehicles, as such term is defined in section one hundred one of this chapter, provided, however, that for purposes of this section, "motor vehicle" shall also include fire vehicles owned and/or operated by a fire company as defined by subdivision two of section one hundred of the general municipal law and ambulances owned and/or operated by a voluntary ambulance service as defined by subdivision three of section one hundred of the general municipal law; * (b) "child restraint system" shall mean any device, used in conjunction with safety belts, designed for use in a motor vehicle to restrain, seat, or position children and which meets the applicable Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213; and * NB Effective until April 21, 2025 * (b) "child restraint system" shall mean any device, used in conjunction with safety belts, designed for use in a motor vehicle to restrain, seat, or position children and which meets the applicable Federal Motor Vehicle Safety Standards set forth in 49 C.F.R. 571.213; * NB Effective April 21, 2025 * (c) "appropriate child restraint system" shall mean a child restraint system for which the occupant meets the occupant size and weight recommendations of the manufacturer of such system. * NB Effective until April 21, 2025 * (c) "appropriate child restraint system" shall mean a child restraint system for which the occupant meets the occupant size and weight recommendations of the manufacturer of such system; * NB Effective April 21, 2025 * (d) "charter bus" shall mean a bus manufactured or assembled on or after November twenty-eighth, two thousand sixteen transporting passengers for compensation in a chartered party; and * NB Effective April 21, 2025 * (e) "chartered party" shall mean a group of persons who, pursuant to a common purpose and under a single contract and at a fixed charge, have acquired exclusive use of a bus to travel together as a group to a specific destination or for a particular itinerary either agreed upon in advance or modified after having left the place of origin by such group. * NB Effective April 21, 2025 * 5. Any person who violates the provisions of subdivision three, three-c or ten-a of this section shall be punished by a civil fine of up to fifty dollars. Any person who violates the provisions of subdivision one, two, eleven or thirteen of this section shall be punished by a civil fine of not less than twenty-five nor more than one hundred dollars. In any prosecution or proceeding alleging a violation of paragraph (b) of subdivision one or paragraph (c) of subdivision two of this section, it shall be an affirmative defense that the passenger subject to the requirements of such paragraphs was restrained by a safety belt and measures more than four feet nine inches in height and/or weighs more than one hundred pounds. In any prosecution or proceeding alleging a violation of paragraph (b) or paragraph (c) of subdivision three-c of this section, it shall be an affirmative defense that such taxi or livery was in violation of subdivision four-b of section three hundred eighty-three of this chapter. * NB Effective until April 21, 2025 * 5. Any person who violates the provisions of subdivision three, three-c, three-d or ten-a of this section shall be punished by a civil fine of up to fifty dollars. Any person who violates the provisions of subdivision one, two, eleven or thirteen of this section shall be punished by a civil fine of not less than twenty-five nor more than one hundred dollars. In any prosecution or proceeding alleging a violation of paragraph (b) of subdivision one or paragraph (c) of subdivision two of this section, it shall be an affirmative defense that the passenger subject to the requirements of such paragraphs was restrained by a safety belt and measures more than four feet nine inches in height and/or weighs more than one hundred pounds. In any prosecution or proceeding alleging a violation of paragraph (b) or paragraph (c) of subdivision three-c of this section, it shall be an affirmative defense that such taxi or livery was in violation of subdivision four-b of section three hundred eighty-three of this chapter. In any prosecution or proceeding alleging a violation of subdivision three-d of this section, it shall be an affirmative defense that such charter bus was not equipped with seat belts, or such seat belts were not clearly visible, accessible, or maintained in good working order. * NB Effective April 21, 2025 6. The court shall waive any fine for which a person who violates the provisions of this section would be liable with respect to passengers under the age of eight if such person supplies the court with proof that, between the date on which he is charged with having violated this section and the appearance date for such violation, he purchased or rented a child restraint system which meets the requirements of subdivision one of this section. Provided, however, that such waiver of fine shall not apply to a second or subsequent conviction under this section. 7. The provisions of this section shall not apply to a passenger or operator with a physically disabling condition whose physical disability would prevent appropriate restraint

in such safety seat or safety belt provided, however, such condition is duly certified by a physician who shall state the nature of the handicap, as well as the reason such restraint is inappropriate. 8. Non-compliance with the provisions of this section shall not be admissible as evidence in any civil action in a court of law in regard to the issue of liability but may be introduced into evidence in mitigation of damages provided the party introducing said evidence has pleaded such non-compliance as an affirmative defense. * 9. Notwithstanding the provisions of subdivision four of this section, the provisions of this section shall not apply to buses other than school buses and the provisions of subdivisions one, two, three and three-a of this section shall not apply to taxis and liveries except that the provisions of subdivision three-a of this section shall be applicable to any person operating a taxi or livery and to taxi and livery passengers age eight or older. * NB Effective until April 21, 2025 * 9. Notwithstanding the provisions of subdivision four of this section, (a) the provisions of this section shall not apply to buses other than school buses, except as otherwise provided in subdivision three-d of this section and except that the provisions of subdivision three-a of this section shall be applicable to any person operating a charter bus and to charter bus passengers age eight or older, and (b) the provisions of subdivisions one, two, three and three-a of this section shall not apply to taxis and liveries except that the provisions of subdivision three-a of this section shall be applicable to any person operating a taxi or livery and to taxi and livery passengers age eight or older. * NB Effective April 21, 2025 10. The provisions of this section shall not apply to persons employed as rural letter carriers, as defined by the United States postal service, while such persons are discharging the duties of such employment. 10-a. Notwithstanding the provisions of subdivision one of this section, no person sixteen years of age or over shall be a passenger in the rear seat of a fire vehicle owned and/or operated by a fire company as defined by subdivision two of section one hundred of the general municipal law or in the rear seat of an ambulance owned and/or operated by a voluntary ambulance service as defined by subdivision three of section one hundred of the general municipal law unless such person is restrained by a safety belt approved by the commissioner. Provided, however, that the provisions of this subdivision shall not apply: (a) to a passenger in the rear seat of such fire vehicle or ambulance if such seat is not required to be equipped with safety belts pursuant to the provisions of section three hundred eighty-three of this chapter, nor (b) to emergency medical personnel during the course of providing patient care in the rear compartment of an ambulance in accordance with applicable patient care standards, guidelines and protocols established pursuant to article thirty of the public health law. 11. Notwithstanding the provisions of subdivision four of this section, no person shall operate a school bus unless all passengers under the age of four are restrained in a specially designed detachable or removable seat as required by subdivision one of this section, or another restraining device approved by the commissioner. 12. (a) Every rental vehicle company, as defined in paragraph (c) of subdivision one of section three hundred ninety-six-z of the general business law, shall post a sign in their place of business which states in conspicuous lettering of at least seventy-two point boldface type: NEW YORK STATE LAW REQUIRES ALL CHILDREN UNDER THE AGE OF EIGHT TO BE RESTRAINED IN A FEDERALLY APPROVED CHILD RESTRAINT SYSTEM. (b) Such sign shall be placed in an upright position and in a conspicuous place where it can easily be read by the clientele of the rental vehicle company. (b-1) A peer-to-peer car sharing program as defined in section three thousand four hundred fifty-eight of the insurance law shall provide comparable notice for shared vehicle drivers and shared vehicle owners, as defined in section three thousand four hundred fifty-eight of the insurance law, on its website in conspicuous lettering. (c) Any rental vehicle company or peer-to-peer car sharing program that makes a shared vehicle, as defined in section three thousand four hundred fifty-eight of the insurance law, available for peer-to-peer car sharing which violates the provisions of this subdivision shall be subject to a civil penalty, not to exceed one hundred dollars for each day of violation. 13. Notwithstanding the provisions of subdivision four of this section, no person shall operate a school bus for which there are no applicable federal school bus safety standards unless all occupants are restrained by a safety belt approved by the commissioner or, regarding occupants age four or older but under age seven, are restrained pursuant to subdivision one or two of this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1229-D - School Bus Attendant.

(2) Screening of applicants for position of school bus attendant (a) a school district, pursuant to a policy statement or resolution adopted by such district, may review the qualifications of every applicant for the position of school bus attendant on school buses operated by or under contract to the district and determine at its discretion whether the applicant is suitable for qualification. In such cases, applicants may be made the subject of a criminal history check. Upon receipt of the fingerprints forwarded to them by such school district, the division of criminal justice services shall forward to such school district the criminal history review. A fee not to exceed the cost for the criminal history review shall be charged by the division of criminal justice services. Such fingerprints also may be submitted to the federal bureau of investigation for a national criminal history record check. (b) In determining the qualifications of school bus attendants, a school district may use the criteria listed in subdivision two of section five hundred nine-cc of this chapter relative to criminal convictions. (c) All inquiries made, and the use of any criminal record obtained, pursuant to this section shall be in accordance with section two hundred ninety-six of the executive law. In addition, the secondary dissemination of such information shall be limited to other authorized agencies, by express agreement between the school district and the division of criminal justice services, or as authorized pursuant to federal law, and rules and regulations. No cause of action against the school district or division of criminal justice services for damages related to the dissemination of criminal history records pursuant to this section shall exist when the school district or division of criminal justice services has reasonably and in good faith relied upon the accuracy and completeness of criminal history information furnished to it by qualified agencies. (3) The commissioner of education shall promulgate rules and regulations requiring that every school bus attendant serving pupils with a disabling condition receive school bus safety training and instruction relating to the special needs of such pupils. Such training shall include guidance on the

proper techniques for assisting disabled students in entering and exiting the school bus, and shall include instruction in cardiopulmonary resuscitation where such skills are required as part of the individualized education plan prepared for the student, as well as any additional first aid or health emergency skills that the commissioner of education deems appropriate and necessary for school bus attendants to possess. In addition, such school bus attendants shall demonstrate the ability to perform procedures necessary in emergency situations as deemed appropriate by the commissioner of education. Any person employed as a school bus attendant serving pupils with a disabling condition on January first, two thousand four shall comply with the requirements of this subdivision by July first, two thousand four. Any person hired after January first, two thousand four shall complete training, instruction and testing prior to assuming their duties as a school bus attendant serving pupils with a disabling condition. (4) The commissioner of education, in consultation with the justice center for the protection of people with special needs, shall promulgate rules and regulations requiring that every school bus attendant serving a student or students with a disability receive training and instruction relating to the understanding of and attention to the special needs of such students. Such training and instruction may be included with the training and instruction required pursuant to subdivision three of this section and shall be provided at least once per year or more frequently as determined by the commissioner of education in consultation with the state comprehensive school bus driver safety training council. For the purposes of this subdivision, the term "student with a disability" shall have the same meaning as such term is defined in subdivision one of section forty-four hundred one of the education law. Any person employed as a school bus attendant serving a student or students with a disability on January first, two thousand nine shall comply with the requirements of this subdivision by July first, two thousand nine. Any person hired after January first, two thousand nine shall complete such training, instruction and testing prior to assuming his or her duties as a school bus attendant serving a student or students with a disability.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 33 - Miscellaneous Rules1229 - Sign Required on Privately-Owned Vehicle Used in Delivery of Mail.

§ 1229. Sign required on privately-owned vehicle used in delivery of mail. 1. Every person operating a privately-owned vehicle in delivering the United States mail to the addressee thereof shall affix to such vehicle a white sign, visible from the rear, containing the following statement: U. S. MAIL Such statement shall be in black lettering at least four inches in height. 2. Every person who violates the provisions of this section shall be punishable by a fine not exceeding twenty-five dollars or by imprisonment for not more than ten days or by both such fine and imprisonment.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-A - Operation of Motorcycles1250 - Traffic Laws Apply to Persons Operating Motorcycles.

§ 1250. Traffic laws apply to persons operating motorcycles. Every person operating a motorcycle shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this title, except as to special regulations in this article and except as to those provisions of this title which by their nature can have no application.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-A - Operation of Motorcycles1251 - Riding on Motorcycles.

(b) A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle, unless said person is seated in a sidecar affixed to said motorcycle. (c) No person shall operate a motorcycle while carrying any package, bundle or other article which prevents him from keeping both hands on the handlebars. (d) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or the view of the operator.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-A - Operation of Motorcycles1252 - Operating Motorcycles on Roadways Laned for Traffic.

(b) The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken. (c) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles. (d) Motorcycles shall not be operated more than two abreast in a single lane. (e) Subsections (b) and (c) shall not apply to police officers in the performance of their official duties.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-A - Operation of Motorcycles1253 - Clinging to Other Vehicles.

§ 1253. Clinging to other vehicles. No person riding upon a motorcycle shall attach himself or the motorcycle to any other vehicle or streetcar on a roadway.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-B - Riding Horses1260 - Effect of Regulations.

(b) These regulations applicable to horses shall apply whenever a horse is ridden or led upon any highway and upon private roads open to public motor vehicle traffic.

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2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-B - Riding Horses1261 - Traffic Laws Apply to Persons Riding or Leading Horses.

§ 1261. Traffic laws apply to persons riding or leading horses. Every person riding or leading a horse upon a roadway shall be granted all rights and shall be subject to all the duties applicable to the driver of a vehicle by this title, except as to special regulations in this article and except as to those provisions of this title which by their nature can have no application.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-B - Riding Horses1262 - Riding on Roadways, Shoulders and Horse Paths.

(b) Persons riding or leading horses upon a roadway shall do so single file. (c) Any person riding or leading a horse who is entering the roadway from a private road, driveway, alley or over a curb shall bring the horse to a full stop before entering the roadway.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-B - Riding Horses1263 - Carrying Articles.

§ 1263. Carrying articles. No person riding or leading a horse shall carry any package, bundle, or article which prevents such person from keeping at least one hand upon the reins.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-B - Riding Horses1264 - Ban on Night Riding.

§ 1264. Ban on night riding. No person shall ride or lead a horse upon a roadway during the period from one-half hour after sunset to one-half hour before sunrise. The provisions of this section shall not apply to horse-drawn carriages or carts or police officers, peace officers or park rangers mounted on horseback.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-B - Riding Horses1265 - Wearing of Helmets.

2. Any person who violates the provisions of this section shall pay a civil fine not to exceed two hundred fifty dollars. A police officer shall only issue a summons for a violation of this section by a person less than eighteen years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or more. Such summons shall only be issued to such parent or guardian, and shall not be issued to the person less than eighteen years of age. 3. (a) The court shall waive any civil fine for which a person who violates the provisions of this section would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a helmet.(b) The court may waive any civil fine for which a person who violates the provisions of the section would be liable if the court finds that due to reasons of economic hardship such person was unable to purchase a helmet.4. The failure of any person to comply with the provisions of this section shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action. (b) The court may waive any civil fine for which a person who violates the provisions of the section would be liable if the court finds that due to reasons of economic hardship such person was unable to purchase a helmet. 4. The failure of any person to comply with the provisions of this section shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-C - Operation of Electric Personal Assistive Mobility Devices1270 - Effect of Regulations.

§ 1270. Effect of regulations. 1. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article. 2. These regulations applicable to electric personal assistive mobility devices shall apply whenever an electric personal assistive mobility device, pursuant to section twelve hundred seventy-one of this article, is operated upon any highway, upon private roads open to public motor vehicle traffic, upon any designated bicycle or in-line skate lane. Additionally, if the governing body of any county not wholly included within a city, city with a population of less than one million, town or village which authorizes the use of electric personal assistive mobility devices upon any place not specifically authorized by this article, such as sidewalks these regulations shall be applicable thereon.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-C - Operation of Electric Personal Assistive Mobility Devices1271 - Traffic Laws Apply to Persons Operating Electric Personal Assistive Mobility Devices; Local Laws.

2. (a) The governing body of any county not wholly included within a city, city with a population of less than one million, town or village may, by local law, ordinance, order, rule or regulation, further regulate the time, place and manner of the operation of electric

personal assistive mobility devices including authorizing the use of electric personal assistive mobility devices on sidewalks, and limiting, prohibiting entirely or prohibiting the use thereof in specified areas under the jurisdiction of such county not wholly included within a city, city with a population of less than one million, town or village.(b) The operation of electric personal assistive mobility devices in a city having a population of one million or more is prohibited. (b) The operation of electric personal assistive mobility devices in a city having a population of one million or more is prohibited.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-C - Operation of Electric Personal Assistive Mobility Devices1272 - Operating Electric Personal Assistive Mobility Devices.

§ 1272. Operating electric personal assistive mobility devices. 1. No electric personal assistive mobility device shall be used to carry more persons at one time than the number for which such device is designed and equipped. No person operating an electric personal assistive mobility device shall carry any person as a passenger in a pack fastened to the operator or fastened to such device. 2. No person shall operate an electric personal assistive mobility device outside during the period of time between one-half hour after sunset and one-half hour before sunrise unless such person is wearing readily visible reflective clothing or material which is of a light or bright color. 3. No person operating an electric personal assistive mobility device shall carry any package, bundle or article which prevents the operator from keeping at least one hand upon the handle bars or which obstructs his or her vision in any direction. 4. Every person operating an electric personal assistive mobility device shall yield the right of way to pedestrians and motor vehicles. 5. Every operator of an electric personal assistive mobility device shall be sixteen years of age or older. 6. No person shall operate an electric personal assistive mobility device in a state park or historic site. 7. If the governing body of any county not wholly included within a city, city with a population of less than one million, town or village shall authorize the use of electric personal assistive mobility devices upon any sidewalk, such authorization shall not permit the operation thereof at a speed in excess of eight miles per hour. Additionally, if such authorization is granted, no operator of an electric personal assistive mobility device shall overtake a pedestrian on a sidewalk unless there is adequate space for the personal assistive mobility device to pass around the pedestrian and warning is given to such pedestrian through the audible device defined in subdivision two of section twelve hundred seventy-five of this article. 8. A first violation of the provisions of this section shall result in no fine. A second or subsequent violation shall result in a civil fine not to exceed fifty dollars.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-C - Operation of Electric Personal Assistive Mobility Devices1273 - Clinging to Vehicles.

§ 1273. Clinging to vehicles. 1. No person operating an electric personal assistive mobility device shall attach such device, or himself or herself to any vehicle being operated upon a roadway. 2. No vehicle operator shall knowingly permit any person to attach any electric personal assistive mobility device or himself or herself to such operator's vehicle in violation of subdivision one of this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-C - Operation of Electric Personal Assistive Mobility Devices1274 - Riding on Roadways, Shoulders and Lanes Reserved for Non-Motorized Vehicles and Devices.

§ 1274. Riding on roadways, shoulders and lanes reserved for non-motorized vehicles and devices. 1. Upon all roadways, any electric personal assistive mobility device shall be operated either on a usable bicycle or in-line skate lane or, if a usable bicycle or in-line skate lane has not been provided, near the right-hand curb or edge of the roadway or upon a usable right-hand shoulder in such a manner as to prevent undue interference with the flow of traffic except when preparing to enter into a crosswalk to turn left at or to cross an intersection or when reasonably necessary to avoid conditions that would make it unsafe to continue along near the right-hand curb or edge of the roadway. Conditions to be taken into consideration include, but are not limited to, fixed or moving objects, vehicles, bicycles, in-line skaters, pedestrians, animals, surface hazards and traffic lanes too narrow for an electric personal assistive mobility device and a vehicle to travel safely side-by-side within the lane. 2. Persons operating electric personal assistive mobility devices upon a roadway shall ride single file. Persons operating electric personal assistive mobility devices upon a shoulder, bicycle or in-line skate lane, or bicycle or in-line skate path, intended for the use of bicycles, electric personal assistive mobility devices or in-line skates may ride two or more abreast if sufficient space is available, except that when passing a vehicle, bicycle, electric personal assistive mobility device, person on in-line skates or pedestrian standing or proceeding along such shoulder, lane or path, persons operating electric personal assistive mobility devices shall operate such devices in single file. 3. Any person operating an electric personal assistive mobility device who is entering the roadway from a private road, driveway, alley or over a curb shall come to a full stop before entering the roadway.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-C - Operation of Electric Personal Assistive Mobility Devices1275 - Lamps and Other Equipment.

§ 1275. Lamps and other equipment. 1. Every electric personal assistive mobility device when in use during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with a lamp on the front which shall emit a white light visible during hours of darkness from a distance of at least five hundred feet to the front and with a red light visible to the rear for three hundred feet. At least one of these lights shall be visible for two hundred feet from each side. 2. No person shall operate an

electric personal assistive mobility device unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet, except that such device shall not be equipped with nor shall any person use upon such device any siren or whistle. 3. Every electric personal assistive mobility device shall be equipped with a system that enables the operator to bring the device to a controlled stop.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-C - Operation of Electric Personal Assistive Mobility Devices1276 - Operators to Wear Protective Headgear.

§ 1276. Operators to wear protective headgear. 1. No person shall ride upon, propel or otherwise operate an electric personal assistive mobility device unless such person is wearing a helmet meeting standards established by the commissioner pursuant to the provisions of subdivision two-a of section twelve hundred thirty-eight of this title. As used in this subdivision, wearing a helmet means having a properly fitting helmet fixed securely on the head of such wearer with the helmet straps securely fastened. 2. Any person who violates the provisions of subdivision one of this section shall pay a civil fine not to exceed fifty dollars. 3. The court shall waive any fine for which a person who violates the provisions of subdivision one of this section would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a helmet, which meets the requirements of subdivision one of this section, or if the court finds that due to reasons of economic hardship such person was unable to purchase a helmet or due to such economic hardship such person was unable to obtain a helmet from the statewide in-line skate and bicycle helmet distribution program, as established in section two hundred six of the public health law or a local distribution program. Such waiver of fine shall not apply to a second or subsequent conviction under subdivision one of this section. 4. The failure of any person to comply with the provisions of this section shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action. 5. A police officer shall only issue a summons for a violation of subdivision one of this section by a person less than fourteen years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or older. Such summons shall only be issued to such parent or guardian, and shall not be issued to the person less than fourteen years of age.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-C - Operation of Electric Personal Assistive Mobility Devices1277 - Leaving the Scene of an Incident Involving an Electric Personal Assistive Mobility Device Without Reporting.

(b) A violation of paragraph (a) of this subdivision shall be a violation. 2. (a) Any person eighteen years of age or older operating an electric personal assistive mobility device who, knowing or having cause to know, that serious physical injury, as defined in subdivision ten of section 10.00 of the penal law, has been caused to another person, due to the operation of such electric personal assistive mobility device by such person shall, before leaving the place where such serious physical injury occurred, stop and provide his or her name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then such person shall report said incident as soon as physically able to the nearest police station or judicial officer. (b) A violation of paragraph (a) of this subdivision shall be a class B misdemeanor.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-D - Operation of Electric Scooters1280 - Effect of Regulations.

§ 1280. Effect of regulations. 1. The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of this article. 2. These regulations applicable to electric scooters shall apply whenever an electric scooter is operated upon any highway, upon private roads open to public motor vehicle traffic and upon any path set aside for the exclusive use of bicycles, in-line skates, electric scooters, or all.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-D - Operation of Electric Scooters1281 - Traffic Laws Apply to Persons Operating Electric Scooters; Local Laws.

2. (a) Except as provided in paragraphs (b) and (c) of this subdivision, the governing body of any city, town or village may, by local law or ordinance, further regulate the time, place and manner of the operation of electric scooters, including, but not limited to, maximum speed, requiring the use of protective headgear, and the wearing of readily visible reflective clothing or material by operators of electric scooters, and may limit, prohibit the use thereof in specified areas, or prohibit entirely the use of electric scooters within such city, town, or village, provided that adequate signage is visibly posted outside the boundaries of such prohibited areas.(b) The governing body of any city, town or village in the counties of Nassau or Suffolk may, by local law or ordinance, further regulate the time, place and manner of the operation of electric scooters, including, but not limited to, maximum speed, requiring the use of protective headgear, and the wearing of readily visible reflective clothing or material by operators of electric scooters only after adoption of a local law or ordinance by the governing body of the county in which the city, town or village is located. Provided, however, that the provisions of this paragraph shall not apply to the adoption of a local law or ordinance by a city, town or village in the counties of Nassau or Suffolk pursuant to the provisions of paragraph (a) of this subdivision to prohibit the use

of electric scooters in specified areas, or prohibit entirely the use of electric scooters within such city, town or village, provided that adequate signage is visibly posted outside the boundaries of such prohibited areas.(c) The governing body of any town or village in the county of Westchester may, by local law or ordinance, further regulate the time, place and manner of the operation of electric scooters, including, but not limited to, maximum speed, requiring the use of protective headgear, and the wearing of readily visible reflective clothing or material by operators of electric scooters only after adoption of a local law or ordinance by the governing body of Westchester county. Provided, however, that the provisions of this paragraph shall not apply to the adoption of a local law or ordinance by a town or village in the county of Westchester pursuant to the provisions of paragraph (a) of this subdivision to prohibit the use of electric scooters in specified areas, or prohibit entirely the use of electric scooters within such town or village, provided that adequate signage is visibly posted outside the boundaries of such prohibited areas.3. No person shall operate an electric scooter unless such operation is in compliance with the provisions of this chapter, and any regulation or order or local law or ordinance adopted pursuant to this article. (b) The governing body of any city, town or village in the counties of Nassau or Suffolk may, by local law or ordinance, further regulate the time, place and manner of the operation of electric scooters, including, but not limited to, maximum speed, requiring the use of protective headgear, and the wearing of readily visible reflective clothing or material by operators of electric scooters only after adoption of a local law or ordinance by the governing body of the county in which the city, town or village is located. Provided, however, that the provisions of this paragraph shall not apply to the adoption of a local law or ordinance by a city, town or village in the counties of Nassau or Suffolk pursuant to the provisions of paragraph (a) of this subdivision to prohibit the use of electric scooters in specified areas, or prohibit entirely the use of electric scooters within such city, town or village, provided that adequate signage is visibly posted outside the boundaries of such prohibited areas. (c) The governing body of any town or village in the county of Westchester may, by local law or ordinance, further regulate the time, place and manner of the operation of electric scooters, including, but not limited to, maximum speed, requiring the use of protective headgear, and the wearing of readily visible reflective clothing or material by operators of electric scooters only after adoption of a local law or ordinance by the governing body of Westchester county. Provided, however, that the provisions of this paragraph shall not apply to the adoption of a local law or ordinance by a town or village in the county of Westchester pursuant to the provisions of paragraph (a) of this subdivision to prohibit the use of electric scooters in specified areas, or prohibit entirely the use of electric scooters within such town or village, provided that adequate signage is visibly posted outside the boundaries of such prohibited areas. 3. No person shall operate an electric scooter unless such operation is in compliance with the provisions of this chapter, and any regulation or order or local law or ordinance adopted pursuant to this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-D - Operation of Electric Scooters1282 - Operating Electric Scooters.

2. No person operating an electric scooter shall carry any package, bundle or article which prevents the operator from keeping at least one hand upon the handle bars or which obstructs his or her vision in any direction. 3. Every person operating an electric scooter shall yield the right of way to pedestrians. 4. No person less than sixteen years of age shall operate or ride as a passenger upon an electric scooter, and no person sixteen years of age or older shall allow any person less than sixteen years of age to operate or ride as a passenger upon such scooter. 5. Except as may be otherwise provided by local law, ordinance, order, rule or regulation enacted or promulgated pursuant to this article, an electric scooter may only be operated on highways with a posted speed limit of thirty miles per hour or less, including non-interstate public highways, private roads open to motor vehicle traffic, and designated bicycle or in-line skate lanes. 6. No person shall operate an electric scooter in excess of fifteen miles per hour. 7. (a) No person shall operate an electric scooter on a sidewalk, except as may be authorized by a local law or ordinance adopted by a city, town or village having jurisdiction over such sidewalk including parking on certain sidewalks within such city, town or village in compliance with the federal Americans with Disabilities Act of 1990, as amended (Public Law 101-336).(b) Notwithstanding the provisions of paragraph (a) of this subdivision, an electric scooter owned by a natural person where the owner is engaged in personal use may park on a sidewalk whether attended or unattended, provided however that no person shall park an electric scooter pursuant to this paragraph in a manner that interferes with the free passage of pedestrians on a sidewalk. A city, town or village having jurisdiction over such sidewalk shall provide a method by which an electric scooter owned by a natural person may be identified as such.8. (a) No person shall operate an electric scooter on any public lands or property, other than a highway exclusive of any greenway running adjacent to or connected with a highway, except that an electric scooter may be operated on any such lands that have been designated and posted for travel by electric scooters in accordance with the provisions of paragraph (b) of this subdivision. For the purposes of this subdivision, the term "greenway" shall have the same meaning as such term is defined by subdivision seven of section 44-0103 of the environmental conservation law and subdivision one of section 39.03 of the parks, recreation and historic preservation law.(b) A state agency, by regulation or order, and a city, town or village, by local law or ordinance, may designate any appropriate public lands and properties under its jurisdiction, other than highways exclusive of any greenway running adjacent to or connected with a highway, as a place open for travel by electric scooters upon written request for such designation by any person, and may impose restrictions and conditions for the regulation and safe operation of electric scooters on such public lands or property, such as travel on designated trails and hours of operation.9. (a) No person, firm, association or corporation engaged in the business of selling or leasing electric scooters shall sell or lease any electric scooter on or after June first, two thousand twenty-two unless such electric scooter has permanently affixed thereto, in a prominent location, a manufacturer's label which shall include the following information: the maximum motor-assisted speed, the number of persons for which such electric scooter is designed and equipped, and motor wattage of such electric scooter. Manufacturers and distributors of electric scooters shall, by April first, two

thousand twenty-two, establish a process by which an owner of an electric scooter may request and obtain a manufacturer's label providing the maximum motor-assisted speed, the number of persons for which such electric scooter is designed and equipped, and motor wattage applicable to his or her electric scooter purchased prior to June first, two thousand twenty-two and installation instructions from such manufacturers and distributors.(b) No person shall operate an electric scooter on any public highway or street in this state after June first, two thousand twenty-two unless such electric scooter has permanently affixed thereto, in a prominent location, a manufacturer's label providing the maximum motor-assisted speed, the number of persons for which such electric scooter is designed and equipped, and motor wattage of such electric scooter. Any person who violates the provisions of this paragraph shall be punished by a civil fine of up to fifty dollars. The court shall waive any fine for which a person who violates the provisions of this paragraph would be liable if such person supplies the court with proof that, between the date on which he or she is charged with having violated this paragraph and the appearance date for such violation, a manufacturer's label was affixed to his or her electric scooter as required by this paragraph. Provided, however, that such waiver of fine shall not apply to a second or subsequent conviction under this paragraph.10. (a) The governing body of any city, town or village may, by local law, ordinance, order, rule or regulation, authorize and regulate shared electric scooter systems within such city, town or village. No such shared systems shall operate within a city, town or village except as authorized by such local law, ordinance, order, rule or regulation. No such shared electric scooter system shall operate on public highways in a county with a population of no less than one million five hundred eighty-five thousand and no more than one million five hundred eighty-seven thousand as of the two thousand ten decennial census. For the purposes of this subdivision, the term shared electric scooter system shall mean a network of self-service and publicly available electric scooters, and related infrastructure, in which an electric scooter trip begins and/or ends on any public highway.(b) Notwithstanding any other provision of law to the contrary, all trip data, personal information, images, videos, and other recorded images collected by any shared electric scooter system which is authorized to operate within a city, town or village pursuant to this section: (i) shall be for the exclusive use of such shared electric scooter system and shall not be sold, distributed or otherwise made available for any commercial purpose and (ii) shall not be disclosed or otherwise made accessible except: (1) to the person who is the subject of such data, information or record; or (2) if necessary to comply with a lawful court order, judicial warrant signed by a judge appointed pursuant to article III of the United States constitution, or subpoena for individual data, information or records properly issued pursuant to the criminal procedure law or the civil practice law and rules. Provided, however, that nothing contained in this paragraph shall be deemed to preclude the exchange of such data, information or recorded images solely for the purpose of administering such authorized shared system.For the purposes of this subdivision, "personal information" shall mean information that identifies an individual, including but not limited to name, address, telephone number, and the type and form of payment including credit card number, debit card number, or other payment method.11. A violation of the provisions of subdivision one, two, three, four, six, or seven of this section shall result in a civil fine not to exceed fifty dollars.12. A police officer shall only issue a summons for a violation of this section by a person less than sixteen years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or more. Such summons shall only be issued to such parent or guardian, and shall not be issued to the person less than sixteen years of age. (b) Notwithstanding the provisions of paragraph (a) of this subdivision, an electric scooter owned by a natural person where the owner is engaged in personal use may park on a sidewalk whether attended or unattended, provided however that no person shall park an electric scooter pursuant to this paragraph in a manner that interferes with the free passage of pedestrians on a sidewalk. A city, town or village having jurisdiction over such sidewalk shall provide a method by which an electric scooter owned by a natural person may be identified as such. 8. (a) No person shall operate an electric scooter on any public lands or property, other than a highway exclusive of any greenway running adjacent to or connected with a highway, except that an electric scooter may be operated on any such lands that have been designated and posted for travel by electric scooters in accordance with the provisions of paragraph (b) of this subdivision. For the purposes of this subdivision, the term "greenway" shall have the same meaning as such term is defined by subdivision seven of section 44-0103 of the environmental conservation law and subdivision one of section 39.03 of the parks, recreation and historic preservation law. (b) A state agency, by regulation or order, and a city, town or village, by local law or ordinance, may designate any appropriate public lands and properties under its jurisdiction, other than highways exclusive of any greenway running adjacent to or connected with a highway, as a place open for travel by electric scooters upon written request for such designation by any person, and may impose restrictions and conditions for the regulation and safe operation of electric scooters on such public lands or property, such as travel on designated trails and hours of operation. 9. (a) No person, firm, association or corporation engaged in the business of selling or leasing electric scooters shall sell or lease any electric scooter on or after June first, two thousand twenty-two unless such electric scooter has permanently affixed thereto, in a prominent location, a manufacturer's label which shall include the following information: the maximum motor-assisted speed, the number of persons for which such electric scooter is designed and equipped, and motor wattage of such electric scooter. Manufacturers and distributors of electric scooters shall, by April first, two thousand twenty-two, establish a process by which an owner of an electric scooter may request and obtain a manufacturer's label providing the maximum motor-assisted speed, the number of persons for which such electric scooter is designed and equipped, and motor wattage applicable to his or her electric scooter purchased prior to June first, two thousand twenty-two and installation instructions from such manufacturers and distributors. (b) No person shall operate an electric scooter on any public highway or street in this state after June first, two thousand twenty-two unless such electric scooter has permanently affixed thereto, in a prominent location, a manufacturer's label providing the maximum motor-assisted speed, the number of persons for which such electric scooter is designed and equipped, and motor wattage of such electric scooter. Any person who violates the provisions of this paragraph shall be punished by a civil fine of up to fifty dollars. The court shall

waive any fine for which a person who violates the provisions of this paragraph would be liable if such person supplies the court with proof that, between the date on which he or she is charged with having violated this paragraph and the appearance date for such violation, a manufacturer's label was affixed to his or her electric scooter as required by this paragraph. Provided, however, that such waiver of fine shall not apply to a second or subsequent conviction under this paragraph. 10. (a) The governing body of any city, town or village may, by local law, ordinance, order, rule or regulation, authorize and regulate shared electric scooter systems within such city, town or village. No such shared systems shall operate within a city, town or village except as authorized by such local law, ordinance, order, rule or regulation. No such shared electric scooter system shall operate on public highways in a county with a population of no less than one million five hundred eighty-five thousand and no more than one million five hundred eighty-seven thousand as of the two thousand ten decennial census. For the purposes of this subdivision, the term shared electric scooter system shall mean a network of self-service and publicly available electric scooters, and related infrastructure, in which an electric scooter trip begins and/or ends on any public highway. (b) Notwithstanding any other provision of law to the contrary, all trip data, personal information, images, videos, and other recorded images collected by any shared electric scooter system which is authorized to operate within a city, town or village pursuant to this section: (i) shall be for the exclusive use of such shared electric scooter system and shall not be sold, distributed or otherwise made available for any commercial purpose and (ii) shall not be disclosed or otherwise made accessible except: (1) to the person who is the subject of such data, information or record; or (2) if necessary to comply with a lawful court order, judicial warrant signed by a judge appointed pursuant to article III of the United States constitution, or subpoena for individual data, information or records properly issued pursuant to the criminal procedure law or the civil practice law and rules. Provided, however, that nothing contained in this paragraph shall be deemed to preclude the exchange of such data, information or recorded images solely for the purpose of administering such authorized shared system. For the purposes of this subdivision, "personal information" shall mean information that identifies an individual, including but not limited to name, address, telephone number, and the type and form of payment including credit card number, debit card number, or other payment method. 11. A violation of the provisions of subdivision one, two, three, four, six, or seven of this section shall result in a civil fine not to exceed fifty dollars. 12. A police officer shall only issue a summons for a violation of this section by a person less than sixteen years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or more. Such summons shall only be issued to such parent or guardian, and shall not be issued to the person less than sixteen years of age.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-D - Operation of Electric Scooters1283 - Clinging to Vehicles.

§ 1283. Clinging to vehicles. 1. No person operating an electric scooter shall attach such scooter, or himself or herself, to any vehicle being operated upon a roadway. 2. No vehicle operator shall knowingly permit any person to attach any electric scooter, or himself or herself, to such operator's vehicle in violation of subdivision one of this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-D - Operation of Electric Scooters1284 - Riding on Roadways, Shoulders, and Lanes Reserved for Non-Motorized Vehicles and Devices.

§ 1284. Riding on roadways, shoulders, and lanes reserved for non-motorized vehicles and devices. 1. Upon all roadways, any electric scooter shall be operated either on a usable bicycle or in-line skate lane or, if a usable bicycle or in-line skate lane has not been provided, near the right-hand curb or edge of the roadway or upon a usable right-hand shoulder in such a manner as to prevent undue interference with the flow of traffic except when preparing for a left turn or when reasonably necessary to avoid conditions that would make it unsafe to continue along near the right-hand curb or edge. Conditions to be taken into consideration include, but are not limited to, fixed or moving objects, vehicles, bicycles, in-line skates, pedestrians, animals, surface hazards or traffic lanes too narrow for a person operating an electric scooter and a vehicle to travel safely side-by-side within the lane. 2. Persons operating electric scooters upon a roadway shall ride single file. Persons operating electric scooters upon a shoulder, bicycle or in-line skate lane, or bicycle or in-line skate path intended for the use of bicycles, in-line skates or electric scooters may ride two or more abreast if sufficient space is available, except that when passing a vehicle, bicycle, electric personal assistive mobility device, person on in-line skates or pedestrian standing or proceeding along such shoulder, lane or path, persons operating electric scooters shall operate such scooters single file. 3. Any person operating an electric scooter who is entering a roadway from a private road, driveway, alley or over a curb shall come to a full stop before entering the roadway.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-D - Operation of Electric Scooters1285 - Lamps and Other Equipment.

§ 1285. Lamps and other equipment. 1. Every electric scooter when in use during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with a lamp on the front which shall emit a white light visible during hours of darkness from a distance of at least five hundred feet to the front and with a red light visible to the rear for three hundred feet. At least one such light shall be visible for two hundred feet from each side. 2. No person shall operate an electric scooter unless such scooter is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet, except that an electric scooter shall not be equipped with nor shall any person use upon an electric scooter any siren or whistle. 3. Every electric scooter shall be equipped with a brake that enables the operator to bring the electric scooter to a controlled stop.

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2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-D - Operation of Electric Scooters1286 - Operators to Wear Protective Headgear.

§ 1286. Operators to wear protective headgear. 1. No person sixteen or seventeen years of age shall ride upon, propel or otherwise operate an electric scooter unless such person is wearing a helmet meeting standards established by the commissioner pursuant to the provisions of subdivision two-a of section twelve hundred thirty-eight of this title. As used in this subdivision, wearing a helmet means having a properly fitting helmet fixed securely on the head of such wearer with the helmet straps securely fastened. 2. Any person who violates the provisions of subdivision one of this section shall pay a civil fine not to exceed fifty dollars. 3. The court shall waive any fine for which a person who violates the provisions of subdivision one of this section would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a helmet, which meets the requirements of subdivision one of this section, or if the court finds that due to reasons of economic hardship such person was unable to purchase a helmet or due to such economic hardship such person was unable to obtain a helmet from the statewide in-line skate and bicycle helmet distribution program, as established in section two hundred six of the public health law or a local distribution program. Such waiver of fine shall not apply to a second or subsequent violation of subdivision one of this section. 4. The failure of any person to comply with the provisions of this section shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-D - Operation of Electric Scooters1287 - Leaving the Scene of an Accident Involving an Electric Scooter Without Reporting in the Second Degree.

§ 1287. Leaving the scene of an incident involving an electric scooter without reporting in the second degree. 1. Any person age eighteen years or older operating an electric scooter who, knowing or having cause to know, that physical injury, as defined in subdivision nine of section 10.00 of the penal law, has been caused to another person, due to the operation of such electric scooter by such person, shall, before leaving the place where such physical injury occurred, stop, and provide his or her name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then such person shall report such incident as soon as physically able to the nearest police station or judicial officer. 2. Leaving the scene of an incident involving an electric scooter without reporting in the second degree is a violation.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-D - Operation of Electric Scooters1288 - Leaving the Scene of an Accident Involving an Electric Scooter Without Reporting in the First Degree.

§ 1288. Leaving the scene of an incident involving an electric scooter without reporting in the first degree. 1. Any person age eighteen years or older operating an electric scooter who, knowing or having cause to know, that serious physical injury, as defined in subdivision ten of section 10.00 of the penal law, has been caused to another person, due to the operation of such electric scooter by such person, shall, before leaving the place where such serious physical injury occurred, stop, and provide his or her name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then such person shall report said incident as soon as physically able to the nearest police station or judicial officer. 2. Leaving the scene of an incident involving an electric scooter without reporting in the first degree is a class B misdemeanor.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34-D - Operation of Electric Scooters1289 - Operation of an Electric Scooter While Under the Influence of Alcohol or Drugs.

(i) A violation of this paragraph shall be a traffic infraction and shall be punishable by a fine of not more than three hundred dollars, or by imprisonment in a penitentiary or county jail for not more than fifteen days, or by both such fine and imprisonment. (ii) A person who operates an electric scooter in violation of this paragraph after having been convicted of a violation of any paragraph of this subdivision within the preceding five years shall be punished by a fine of not more than seven hundred fifty dollars, or by imprisonment of not more than thirty days in a penitentiary or county jail or by both such fine and imprisonment. (iii) A person who operates an electric scooter in violation of this paragraph after being convicted two or more times of a violation of any paragraph of this subdivision within the preceding ten years shall be guilty of a misdemeanor, and shall be punished by a fine of not more than one thousand dollars, or by imprisonment of not more than one hundred eighty days in a penitentiary or county jail or by both such fine and imprisonment. (b) Operating an electric scooter while intoxicated; per se. No person shall operate an electric scooter while such person has .08 of one per centum or more by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of subdivision five of this section. (c) Operating an electric scooter while intoxicated. No person shall operate an electric scooter while in an intoxicated condition. (d) Operating an electric scooter while ability impaired by drugs. No person shall operate an electric scooter while the person's ability to operate such electric scooter is impaired by the use of a drug as defined in this chapter. (e) Operating an electric scooter while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs. No person shall operate an electric scooter while the person's ability to operate such electric scooter is impaired by the combined influence of drugs or of alcohol and any drug or drugs. (f)

Penalty. (i) A violation of paragraph (b), (c), (d) or (e) of this subdivision shall be a misdemeanor and shall be punishable by a fine of not more than five hundred dollars, or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment. (ii) A person who operates an electric scooter in violation of paragraph (b), (c), (d) or (e) of this subdivision after having been convicted of a violation of paragraph (b), (c), (d) or (e) of this subdivision within the preceding ten years shall be guilty of a class E felony, and shall be punished by a fine of not more than one thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. (iii) A person who operates an electric scooter in violation of paragraph (b), (c), (d) or (e) of this subdivision after having been convicted of a violation of paragraph (b), (c), (d) or (e) of this subdivision two or more times within the preceding ten years shall be guilty of a class E felony, and shall be punished by a fine of not more than four thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. 2. Certain sentences prohibited. Notwithstanding any provisions of the penal law, no judge or magistrate shall impose a sentence of unconditional discharge for a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section. 3. Sentencing: previous convictions. When sentencing a person for a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section pursuant to subparagraph (ii) of paragraph (f) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of subdivision two, two-a, three, four, or four-a of section eleven hundred ninety-two of this title within the preceding ten years. When sentencing a person for a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section pursuant to subparagraph (iii) of paragraph (f) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of subdivision two, two-a, three, four, or four-a of section eleven hundred ninety-two of this title within the preceding ten years. When sentencing a person for a violation of subparagraph (ii) of paragraph (a) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of this title within the preceding five years. When sentencing a person for a violation of subparagraph (iii) of paragraph (a) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of this title within the preceding ten years. 4. Arrest and field testing. (a) Arrest. Notwithstanding the provisions of section 140.10 of the criminal procedure law, a police officer may, without a warrant, arrest a person, in case of a violation of any paragraph of subdivision one of this section, if such violation is coupled with an accident or collision in which such person is involved, which in fact had been committed, though not in the police officer's presence, when the officer has reasonable cause to believe that the violation was committed by such person. For the purposes of this subdivision, police officer shall also include a peace officer authorized to enforce this chapter when the alleged violation constitutes a crime. (b) Field testing. Every person operating an electric scooter which has been involved in an accident shall, at the request of a police officer, submit to a breath test to be administered by the police officer. If such test indicates that such operator has consumed alcohol, the police officer may request such operator to submit to a chemical test in the manner set forth in subdivision five of this section. 5. Chemical tests; when authorized. A police officer may request any person who operates an electric scooter in this state to consent to a chemical test of one or more of the following: breath, blood, urine, or saliva, for the purpose of determining the alcoholic and/or drug content of such person's blood, provided that such test is administered at the direction of a police officer with respect to a chemical test of breath, urine or saliva or, with respect to a chemical test of blood, at the direction of a police officer: (a) having reasonable grounds to believe such person to have been operating in violation of paragraph (a), (b), (c), (d) or (e) of subdivision one of this section and within two hours after such person has been placed under arrest for any such violation; or (b) within two hours after a breath test, as provided in paragraph (b) of subdivision four of this section, indicates that alcohol has been consumed by such person and in accordance with the rules and regulations established by the police force of which the officer is a member. 6. Testing procedures. (a) Persons authorized to withdraw blood; immunity; testimony. (i) At the request of a police officer, the following persons may withdraw blood for the purpose of determining the alcoholic or drug content therein: (A) a physician, a registered professional nurse, a registered physician assistant, a certified nurse practitioner, or an advanced emergency medical technician as certified by the department of health; or (B) under the supervision and at the direction of a physician, registered physician assistant or certified nurse practitioner acting within his or her lawful scope of practice, or upon the express consent of the person eighteen years of age or older from whom such blood is to be withdrawn: a clinical laboratory technician or clinical laboratory technologist licensed pursuant to article one hundred sixty-five of the education law; a phlebotomist; or a medical laboratory technician or medical technologist employed by a clinical laboratory approved under title five of article five of the public health law. This limitation shall not apply to the taking of a urine, saliva or breath specimen. (ii) No person entitled to withdraw blood pursuant to subparagraph one of this paragraph or hospital employing such person, and no other employer of such person shall be sued or held liable for any act done or omitted in the course of withdrawing blood at the request of a police officer pursuant to this section. (iii) Any person who may have a cause of action arising from the withdrawal of blood as aforesaid, for which no personal liability exists under subparagraph (ii) of this paragraph, may maintain such action against the state if any person entitled to withdraw blood pursuant to this paragraph acted at the request of a police officer employed by the state, or against the appropriate political subdivision of the state if such person acted at the request of a police officer employed by a political subdivision of the state. No action shall be maintained pursuant to this subparagraph unless notice of claim is duly filed or served in compliance with law. (iv) Notwithstanding subparagraphs (i), (ii) and (iii) of this paragraph an action may be maintained by the state or a political subdivision thereof against a person entitled to withdraw blood pursuant to subparagraph (i) of this paragraph or hospital employing such person for whose act or omission the state or the political subdivision has been held liable under this paragraph to recover damages, not exceeding the amount awarded to the claimant, that may have been sustained by the state or the political subdivision by reason of gross negligence or bad faith on the part of such person. (v) The testimony of any

person other than a physician, entitled to withdraw blood pursuant to subparagraph (i) of this paragraph, in respect to any such withdrawal of blood made by such person may be received in evidence with the same weight, force and effect as if such withdrawal of blood were made by a physician. (vi) The provisions of subparagraphs (ii), (iii) and (iv) of this paragraph shall also apply with regard to any person employed by a hospital as security personnel for any act done or omitted in the course of withdrawing blood at the request of a police officer pursuant to this section. (b) Right to additional test. The person tested shall be permitted to choose a physician to administer a chemical test in addition to the one administered at the direction of the police officer. (c) Rules and regulations. The department of health shall issue and file rules and regulations approving satisfactory techniques or methods of conducting chemical analyses of a person's blood, urine, breath or saliva and to ascertain the qualifications and competence of individuals to conduct and supervise chemical analyses of a person's blood, urine, breath or saliva. If the analyses were made by an individual possessing a permit issued by the department of health, this shall be presumptive evidence that the examination was properly given. The provisions of this paragraph do not prohibit the introduction as evidence of an analysis made by an individual other than a person possessing a permit issued by the department of health. 7. Chemical test evidence. (a) Admissibility. Upon the trial of any such action or proceeding arising out of actions alleged to have been committed by any person arrested for a violation of any paragraph of subdivision one of this section, the court shall admit evidence of the amount of alcohol or drugs in the defendant's blood as shown by a test administered pursuant to the provisions of subdivision five of this section. (b) Probative value. The following effect shall be given to evidence of blood-alcohol content, as determined by such tests, of a person arrested for a violation of subdivision one of this section: (i) evidence that there was .05 of one per centum or less by weight of alcohol in such person's blood shall be prima facie evidence that the ability of such person to operate an electric scooter was not impaired by the consumption of alcohol, and that such person was not in an intoxicated condition; (ii) evidence that there was more than .05 of one per centum but less than .07 of one per centum by weight of alcohol in such person's blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be relevant evidence, but shall not be given prima facie effect, in determining whether the ability of such person to operate an electric scooter was impaired by the consumption of alcohol; and (iii) evidence that there was .07 of one per centum or more but less than .08 of one per centum by weight of alcohol in such person's blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be given prima facie effect in determining whether the ability of such person to operate an electric scooter was impaired by the consumption of alcohol. 8. Where applicable. The provisions of this section shall apply upon public highways, private roads open to motor vehicle traffic, any other parking lot, and sidewalks. For the purposes of this section "parking lot" shall mean any area or areas of private property, including a driveway, near or contiguous to and provided in connection with premises and used as a means of access to and egress from a public highway to such premises and having a capacity for the parking of four or more motor vehicles. The provisions of this section shall not apply to any area or areas of private property comprising all or part of property on which is situated a one or two family residence. 9. Enforcement upon crash. Notwithstanding any provision of this section, no part of this section may be enforced unless in conjunction with a crash involving an operator of an electric scooter. For the purposes of this subdivision, "crash" shall mean colliding with a vehicle, person, building or other object.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34 - Operation of Bicycles and Play Devices1230 - Effect of Regulations.

(b) These regulations applicable to bicycles or to in-line skates shall apply whenever a bicycle is, or in-line skates are, operated upon any highway, upon private roads open to public motor vehicle traffic and upon any path set aside for the exclusive use of bicycles, or in-line skates, or both.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34 - Operation of Bicycles and Play Devices1231 - Traffic Laws Apply to Persons Riding Bicycles or Skating or Gliding on In-Line Skates.

§ 1231. Traffic laws apply to persons riding bicycles or skating or gliding on in-line skates. Every person riding a bicycle or skating or gliding on in-line skates upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this title, except as to special regulations in this article and except as to those provisions of this title which by their nature can have no application.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34 - Operation of Bicycles and Play Devices1232 - Riding on Bicycles.

(b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34 - Operation of Bicycles and Play Devices1233 - Clinging to Vehicles.

2. No person shall ride on or attach himself to the outside of any vehicle being operated upon a roadway. The provisions of this section shall not apply to:(i) vehicles in an emergency operation as defined in section one hundred fourteen-b of this chapter; and(ii) farm type tractors used exclusively for agricultural purposes or other farm equipment; and(iii) riding on the open, uncovered cargo area of a truck with the permission of the operator of such truck; and(iv) vehicles employed by a municipality for local garbage collection; and(v) vehicles participating in a parade pursuant to a municipal permit.3. No vehicle operator shall knowingly permit

any person to attach any device or himself to such operator's vehicle in violation of subdivision one or subdivision two of this section. (i) vehicles in an emergency operation as defined in section one hundred fourteen-b of this chapter; and (ii) farm type tractors used exclusively for agricultural purposes or other farm equipment; and (iii) riding on the open, uncovered cargo area of a truck with the permission of the operator of such truck; and (iv) vehicles employed by a municipality for local garbage collection; and (v) vehicles participating in a parade pursuant to a municipal permit. 3. No vehicle operator shall knowingly permit any person to attach any device or himself to such operator's vehicle in violation of subdivision one or subdivision two of this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34 - Operation of Bicycles and Play Devices1234 - Riding on Roadways, Shoulders, Bicycle or In-Line Skate Lanes and Bicycle or In-Line Skate Paths.

(b) Persons riding bicycles or skating or gliding on in-line skates upon a roadway shall not ride more than two abreast. Persons riding bicycles or skating or gliding on in-line skates upon a shoulder, bicycle or in-line skate lane, or bicycle or in-line skates path, intended for the use of bicycles or in-line skates may ride two or more abreast if sufficient space is available, except that when passing a vehicle, bicycle or person on in-line skates, or pedestrian, standing or proceeding along such shoulder, lane or path, persons riding bicycles or skating or gliding on in-line skates shall ride, skate, or glide single file. Persons riding bicycles or skating or gliding on in-line skates upon a roadway shall ride, skate, or glide single file when being overtaken by a vehicle. (c) Any person operating a bicycle or skating or gliding on in-line skates who is entering the roadway from a private road, driveway, alley or over a curb shall come to a full stop before entering the roadway.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34 - Operation of Bicycles and Play Devices1235 - Carrying Articles.

§ 1235. Carrying articles. No person operating a bicycle shall carry any package, bundle, or article which prevents the driver from keeping at least one hand upon the handle bars. No person skating or gliding on in-line skates shall carry any package, bundle, or article which obstructs his or her vision in any direction. No person operating a skate board shall carry any package, bundle, or article which obstructs his or her vision in any direction.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34 - Operation of Bicycles and Play Devices1236 - Lamps and Other Equipment on Bicycles.

(b) No person shall operate a bicycle unless it is equipped with a bell or other device capable of giving a signal audible for a distance of at least one hundred feet, except that a bicycle shall not be equipped with nor shall any person use upon a bicycle any siren or whistle. (c) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement. (d) Every new bicycle shall be equipped with reflective tires or, alternately, a reflex reflector mounted on the spokes of each wheel, said tires and reflectors to be of types approved by the commissioner. The reflex reflector mounted on the front wheel shall be colorless or amber, and the reflex reflector mounted on the rear wheel shall be colorless or red. (e) Every bicycle when in use during the period from one-half hour after sunset to one-half hour before sunrise shall be equipped with reflective devices or material meeting the standards established by rules and regulations promulgated by the commissioner; provided, however, that such standards shall not be inconsistent with or otherwise conflict with the requirements of subdivisions (a) and (d) of this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34 - Operation of Bicycles and Play Devices1237 - Method of Giving Hand and Arm Signals by Bicyclists.

§ 1237. Method of giving hand and arm signals by bicyclists. All signals herein required to be given by bicyclists by hand and arm shall be given in the following manner and such signals shall indicate as follows: 1. Left turn. Left hand and arm extended horizontally. 2. Right turn. Left hand and arm extended upward or right hand and arm extended horizontally. 3. Stop or decrease speed. Left hand and arm extended downward.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34 - Operation of Bicycles and Play Devices1238 - Passengers on Bicycles Under One Year of Age Prohibited; Passengers and Operators Under Fourteen Years of Age to Wear Protective Headgear; Operators of Class Three Bicycles With Electric Assist to Wear Protective Headgear.

2. No person operating a bicycle shall allow a person one or more years of age and less than five years of age to ride as a passenger on a bicycle unless:(a) such passenger is wearing a helmet meeting standards established by the commissioner. For the purposes of this subdivision wearing a helmet means having a helmet of good fit fastened securely upon the head with the helmet straps; and(b) such passenger is placed in a separate seat attached to the bicycle and such seat shall have adequate provision for retaining the passenger in place and for protecting the passenger from the moving parts of the bicycle.2-a. The commissioner shall promulgate rules and regulations establishing standards for helmets required to be worn while bicycling, in-line skating, or operating a skate board. Such standards, to the extent practicable, shall reflect the standards recommended by the Snell Memorial Foundation, Safety Equipment Institute, or United States Consumer Product Safety Commission.3. Any person who violates the provisions of subdivision two of this section shall pay a civil fine not to exceed fifty dollars.4. The court shall waive any fine for which a person who violates the provisions of paragraph (a) of subdivision two of this section would be liable if such person supplies the court with

proof that between the date of violation and the appearance date for such violation such person purchased or rented a helmet, which meets the requirements of paragraph (a) of subdivision two of this section. Further, the court shall waive any fine for which a person who violates the provisions of paragraph (b) of subdivision two of this section would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a seat which meets the requirements of paragraph (b) of subdivision two of this section. The court may waive any fine for which a person who violates the provisions of subdivision two of this section would be liable if the court finds that due to reasons of economic hardship such person was unable to purchase a helmet or seat. Such waiver of fine shall not apply to a second or subsequent conviction under paragraph (a) or (b) of subdivision two of this section.5. (a) No person operating a bicycle shall allow a person five or more years of age and less than fourteen years of age to ride as a passenger on a bicycle unless such passenger is wearing a helmet meeting standards established by the commissioner.(b) No person, one or more years of age and less than fourteen years of age, shall operate a bicycle unless such person is wearing a helmet meeting standards established by the commissioner.(c) For the purposes of this subdivision wearing a helmet means having a helmet of good fit fastened securely upon the head with the helmet straps.5-a. No person, one or more years of age and less than fourteen years of age, shall skate or glide on in-line skates or a skate board unless such person is wearing a helmet meeting standards established by the commissioner. For the purposes of this subdivision, wearing a helmet means having a helmet of good fit fastened securely on the head of such wearer with the helmet straps securely fastened.5-b. No person less than fourteen years of age shall ride upon, propel or otherwise operate a two-wheeled vehicle commonly called a scooter unless such person is wearing a helmet meeting standards established by the commissioner. As used in this subdivision, wearing a helmet means having a properly fitting helmet fixed securely on the head of such wearer with the helmet straps securely fastened.5-c. No person shall ride upon, propel or otherwise operate a class three bicycle with electric assist unless such person is wearing a helmet meeting standards established by the commissioner. For the purposes of this subdivision, wearing a helmet means having a properly fitting helmet fixed securely on the head of such wearer with the helmet straps securely fastened.6. (a) Any person who violates the provisions of subdivision five, five-a, five-b or five-c of this section shall pay a civil fine not to exceed fifty dollars.(b) The court shall waive any fine for which a person who violates the provisions of subdivision five or subdivision five-c of this section would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a helmet.(c) The court may waive any fine for which a person who violates the provisions of subdivision five, five-a, five-b, or five-c of this section would be liable if the court finds that due to reasons of economic hardship such person was unable to purchase a helmet or due to such economic hardship such person was unable to obtain a helmet from the statewide in-line skate and bicycle helmet distribution program, as established in section two hundred six of the public health law, or a local distribution program. Such waiver of a fine shall not apply to a second or subsequent violation of subdivision five-c of this section.7. The failure of any person to comply with the provisions of this section shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action.8. (a) A police officer shall only issue a summons for a violation of subdivision two, five, or five-a of this section by a person less than fourteen years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or more. Such summons shall only be issued to such parent or guardian, and shall not be issued to the person less than fourteen years of age.(b) A police officer shall only issue a summons for a violation of subdivision five-c of this section by a person less than sixteen years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or more. Such summons shall only be issued to such parent or guardian, and shall not be issued to the person less than sixteen years of age.9. Subdivisions five, five-a, five-b, and six of this section shall not be applicable to any county, city, town or village that has enacted a local law or ordinance prior to the effective date of this subdivision that prohibits a person who is one or more years of age and less than fourteen years of age from operating a bicycle or skating or gliding on in-line skates or a skate board without wearing a bicycle helmet meeting the standards of the American National Standards Institute (Ansi Z 90.4 bicycle helmet standards), the Snell Memorial Foundation's Standards for Protective Headgear for use in Bicycling, or the American Society of Testing and Materials (ASTM) bike helmet standards, or that prohibits a person operating a bicycle from allowing a person five or more years of age and less than fourteen years of age to ride as a passenger on a bicycle unless such passenger is wearing a bicycle helmet that meets such standards. The failure of any person to comply with any such local law or ordinance shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action. The legislative body of a county, city, town or village may enact a local law or ordinance that prohibits a person who is fourteen or more years of age from skating or gliding on in-line skates, operating a skate board, or operating or riding as a passenger on a bicycle without wearing a bicycle helmet.10. No person shall skate or glide on in-line skates or a skate board outside during the period of time between one-half hour after sunset and one-half hour before sunrise unless such person is wearing readily visible reflective clothing or material which is of a light or bright color. (a) such passenger is wearing a helmet meeting standards established by the commissioner. For the purposes of this subdivision wearing a helmet means having a helmet of good fit fastened securely upon the head with the helmet straps; and (b) such passenger is placed in a separate seat attached to the bicycle and such seat shall have adequate provision for retaining the passenger in place and for protecting the passenger from the moving parts of the bicycle. 2-a. The commissioner shall promulgate rules and regulations establishing standards for helmets required to be worn while bicycling, in-line skating, or operating a skate board. Such standards, to the extent practicable,

shall reflect the standards recommended by the Snell Memorial Foundation, Safety Equipment Institute, or United States Consumer Product Safety Commission. 3. Any person who violates the provisions of subdivision two of this section shall pay a civil fine not to exceed fifty dollars. 4. The court shall waive any fine for which a person who violates the provisions of paragraph (a) of subdivision two of this section would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a helmet, which meets the requirements of paragraph (a) of subdivision two of this section. Further, the court shall waive any fine for which a person who violates the provisions of paragraph (b) of subdivision two of this section would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a seat which meets the requirements of paragraph (b) of subdivision two of this section. The court may waive any fine for which a person who violates the provisions of subdivision two of this section would be liable if the court finds that due to reasons of economic hardship such person was unable to purchase a helmet or seat. Such waiver of fine shall not apply to a second or subsequent conviction under paragraph (a) or (b) of subdivision two of this section. 5. (a) No person operating a bicycle shall allow a person five or more years of age and less than fourteen years of age to ride as a passenger on a bicycle unless such passenger is wearing a helmet meeting standards established by the commissioner. (b) No person, one or more years of age and less than fourteen years of age, shall operate a bicycle unless such person is wearing a helmet meeting standards established by the commissioner. (c) For the purposes of this subdivision wearing a helmet means having a helmet of good fit fastened securely upon the head with the helmet straps. 5-a. No person, one or more years of age and less than fourteen years of age, shall skate or glide on in-line skates or a skate board unless such person is wearing a helmet meeting standards established by the commissioner. For the purposes of this subdivision, wearing a helmet means having a helmet of good fit fastened securely on the head of such wearer with the helmet straps securely fastened. 5-b. No person less than fourteen years of age shall ride upon, propel or otherwise operate a two-wheeled vehicle commonly called a scooter unless such person is wearing a helmet meeting standards established by the commissioner. As used in this subdivision, wearing a helmet means having a properly fitting helmet fixed securely on the head of such wearer with the helmet straps securely fastened. 5-c. No person shall ride upon, propel or otherwise operate a class three bicycle with electric assist unless such person is wearing a helmet meeting standards established by the commissioner. For the purposes of this subdivision, wearing a helmet means having a properly fitting helmet fixed securely on the head of such wearer with the helmet straps securely fastened. 6. (a) Any person who violates the provisions of subdivision five, five-a, five-b or five-c of this section shall pay a civil fine not to exceed fifty dollars. (b) The court shall waive any fine for which a person who violates the provisions of subdivision five or subdivision five-c of this section would be liable if such person supplies the court with proof that between the date of violation and the appearance date for such violation such person purchased or rented a helmet. (c) The court may waive any fine for which a person who violates the provisions of subdivision five, five-a, five-b, or five-c of this section would be liable if the court finds that due to reasons of economic hardship such person was unable to purchase a helmet or due to such economic hardship such person was unable to obtain a helmet from the statewide in-line skate and bicycle helmet distribution program, as established in section two hundred six of the public health law, or a local distribution program. Such waiver of a fine shall not apply to a second or subsequent violation of subdivision five-c of this section. 7. The failure of any person to comply with the provisions of this section shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action. 8. (a) A police officer shall only issue a summons for a violation of subdivision two, five, or five-a of this section by a person less than fourteen years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or more. Such summons shall only be issued to such parent or guardian, and shall not be issued to the person less than fourteen years of age. (b) A police officer shall only issue a summons for a violation of subdivision five-c of this section by a person less than sixteen years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or more. Such summons shall only be issued to such parent or guardian, and shall not be issued to the person less than sixteen years of age. 9. Subdivisions five, five-a, five-b, and six of this section shall not be applicable to any county, city, town or village that has enacted a local law or ordinance prior to the effective date of this subdivision that prohibits a person who is one or more years of age and less than fourteen years of age from operating a bicycle or skating or gliding on in-line skates or a skate board without wearing a bicycle helmet meeting the standards of the American National Standards Institute (Ansi Z 90.4 bicycle helmet standards), the Snell Memorial Foundation's Standards for Protective Headgear for use in Bicycling, or the American Society of Testing and Materials (ASTM) bike helmet standards, or that prohibits a person operating a bicycle from allowing a person five or more years of age and less than fourteen years of age to ride as a passenger on a bicycle unless such passenger is wearing a bicycle helmet that meets such standards. The failure of any person to comply with any such local law or ordinance shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action. The legislative body of a county, city, town or village may enact a local law or ordinance that prohibits a person who is fourteen or more years of age from skating or gliding on in-line skates, operating a skate board, or operating or riding as a passenger on a bicycle without wearing a bicycle helmet. 10. No person shall skate or glide on in-line skates or a skate board outside during the period of time between one-half hour after sunset and one-half hour before sunrise unless such person is wearing readily visible reflective clothing or material which is of a light or bright color.

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34 - Operation of Bicycles and Play Devices1239 - Reflective Material and Devices for In-Line Skating.

§ 1239. Reflective material and devices for in-line skating. The commissioner is hereby directed to promulgate rules and regulations to establish standards for reflective devices and/or material to be equipped into in-line skates pursuant to section three hundred ninety-one-m of the general business law.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34 - Operation of Bicycles and Play Devices1240 - Leaving the Scene of an Incident Involving a Wheeled Non-Motorized Means of Conveyance Without Reporting in the Second Degree.

§ 1240. Leaving the scene of an incident involving a wheeled non-motorized means of conveyance without reporting in the second degree. 1. Any person age eighteen years or older operating a wheeled non-motorized means of conveyance, including, but not limited to bicycles, in-line skates, roller skates and skate boards, who, knowing or having cause to know, that physical injury, as defined in subdivision nine of section 10.00 of the penal law, has been caused to another person, due to the operation of such non-motorized means of conveyance by such person, shall, before leaving the place where the said physical injury occurred, stop, and provide his name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then such person shall report said incident as soon as physically able to the nearest police station or judicial officer. 2. Leaving the scene of an incident involving a wheeled non-motorized means of conveyance without reporting in the second degree is a violation.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34 - Operation of Bicycles and Play Devices1241 - Leaving the Scene of an Incident Involving a Wheeled Non-Motorized Means of Conveyance Without Reporting in the First Degree.

§ 1241. Leaving the scene of an incident involving a wheeled non-motorized means of conveyance without reporting in the first degree. 1. Any person age eighteen years or older operating a wheeled non-motorized means of conveyance, including, but not limited to bicycles, in-line skates, roller skates and skate boards, who, knowing or having cause to know, that serious physical injury, as defined in subdivision ten of section 10.00 of the penal law, has been caused to another person, due to the operation of such non-motorized means of conveyance by such person, shall, before leaving the place where the said serious physical injury occurred, stop, and provide his name and residence, including street and street number, to the injured party, if practical, and also to a police officer, or in the event that no police officer is in the vicinity of the place of said injury, then such person shall report said incident as soon as physically able to the nearest police station or judicial officer. 2. Leaving the scene of an incident involving a wheeled non-motorized means of conveyance without reporting in the first degree is a class B misdemeanor.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34 - Operation of Bicycles and Play Devices1242-A - Operation of a Bicycle With Electric Assist While Under the Influence of Alcohol or Drugs.

(i) A violation of this paragraph shall be a traffic infraction and shall be punishable by a fine of not more than three hundred dollars, or by imprisonment in a penitentiary or county jail for not more than fifteen days, or by both such fine and imprisonment. (ii) A person who operates a bicycle with electric assist in violation of this paragraph after having been convicted of a violation of any paragraph of this subdivision within the preceding five years shall be punished by a fine of not more than seven hundred fifty dollars, or by imprisonment of not more than thirty days in a penitentiary or county jail or by both such fine and imprisonment. (iii) A person who operates a bicycle with electric assist in violation of this paragraph after being convicted two or more times of a violation of any paragraph of this subdivision within the preceding ten years shall be guilty of a misdemeanor, and shall be punished by a fine of not more than one thousand dollars, or by imprisonment of not more than one hundred eighty days in a penitentiary or county jail or by both such fine and imprisonment. (b) Operating a bicycle with electric assist while intoxicated; per se. No person shall operate a bicycle with electric assist while such person has .08 of one per centum or more by weight of alcohol in the person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva, made pursuant to the provisions of subdivision five of this section. (c) Operating a bicycle with electric assist while intoxicated. No person shall operate a bicycle with electric assist while in an intoxicated condition. (d) Operating a bicycle with electric assist while ability impaired by drugs. No person shall operate a bicycle with electric assist while the person's ability to operate such bicycle with electric assist is impaired by the use of a drug as defined in this chapter. (e) Operating a bicycle with electric assist while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs. No person shall operate a bicycle with electric assist while the person's ability to operate such bicycle with electric assist is impaired by the combined influence of drugs or of alcohol and any drug or drugs. (f) Penalty. (i) A violation of paragraph (b), (c), (d) or (e) of this subdivision shall be a misdemeanor and shall be punishable by a fine of not more than five hundred dollars, or by imprisonment in a penitentiary or county jail for not more than one year, or by both such fine and imprisonment. (ii) A person who operates a bicycle with electric assist in violation of paragraph (b), (c), (d) or (e) of this subdivision after having been convicted of a violation of paragraph (b), (c), (d) or (e) of this subdivision within the preceding ten years shall be guilty of a class E felony, and shall be punished by a fine of not more than one thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. (iii) A person who operates a bicycle with electric assist in

violation of paragraph (b), (c), (d) or (e) of this subdivision after having been convicted of a violation of paragraph (b), (c), (d) or (e) of this subdivision two or more times within the preceding ten years shall be guilty of a class E felony, and shall be punished by a fine of not more than four thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. 2. Certain sentences prohibited. Notwithstanding any provisions of the penal law, no judge or magistrate shall impose a sentence of unconditional discharge for a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section. 3. Sentencing; previous convictions. When sentencing a person for a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section pursuant to subparagraph (ii) of paragraph (f) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of subdivision two, two-a, three, four, or four-a of section eleven hundred ninety-two of this title within the preceding ten years. When sentencing a person for a violation of paragraph (b), (c), (d) or (e) of subdivision one of this section pursuant to subparagraph (iii) of paragraph (f) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of subdivision two, two-a, three, four, or four-a of section eleven hundred ninety-two of this title within the preceding ten years. When sentencing a person for a violation of subparagraph (ii) of paragraph (a) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of this title within the preceding five years. When sentencing a person for a violation of subparagraph (iii) of paragraph (a) of subdivision one of this section, the court shall consider any prior convictions the person may have for a violation of any subdivision of section eleven hundred ninety-two of this title within the preceding ten years. 4. Arrest and field testing. (a) Arrest. Notwithstanding the provisions of section 140.10 of the criminal procedure law, a police officer may, without a warrant, arrest a person, in case of a violation of any paragraph of subdivision one of this section, if such violation is coupled with an accident or collision in which such person is involved, which in fact had been committed, though not in the police officer's presence, when the officer has reasonable cause to believe that the violation was committed by such person. For the purposes of this subdivision, police officer shall also include a peace officer authorized to enforce this chapter when the alleged violation constitutes a crime. (b) Field testing. Every person operating a bicycle with electric assist which has been involved in an accident shall, at the request of a police officer, submit to a breath test to be administered by the police officer. If such test indicates that such operator has consumed alcohol, the police officer may request such operator to submit to a chemical test in the manner set forth in subdivision five of this section. 5. Chemical tests; when authorized. A police officer may request any person who operates a bicycle with electric assist in this state to consent to a chemical test of one or more of the following: breath, blood, urine, or saliva, for the purpose of determining the alcoholic and/or drug content of such person's blood, provided that such test is administered at the direction of a police officer with respect to a chemical test of breath, urine or saliva or, with respect to a chemical test of blood, at the direction of a police officer: (a) having reasonable grounds to believe such person to have been operating in violation of paragraph (a), (b), (c), (d) or (e) of subdivision one of this section and within two hours after such person has been placed under arrest for any such violation; or (b) within two hours after a breath test, as provided in paragraph (b) of subdivision four of this section, indicates that alcohol has been consumed by such person and in accordance with the rules and regulations established by the police force of which the officer is a member. 6. Testing procedures. (a) Persons authorized to withdraw blood; immunity; testimony. (i) At the request of a police officer, the following persons may withdraw blood for the purpose of determining the alcoholic or drug content therein: (A) a physician, a registered professional nurse, a registered physician assistant, a certified nurse practitioner, or an advanced emergency medical technician as certified by the department of health; or (B) under the supervision and at the direction of a physician, registered physician assistant or certified nurse practitioner acting within his or her lawful scope of practice, or upon the express consent of the person eighteen years of age or older from whom such blood is to be withdrawn: a clinical laboratory technician or clinical laboratory technologist licensed pursuant to article one hundred sixty-five of the education law; a phlebotomist; or a medical laboratory technician or medical technologist employed by a clinical laboratory approved under title five of article five of the public health law. This limitation shall not apply to the taking of a urine, saliva or breath specimen. (ii) No person entitled to withdraw blood pursuant to subparagraph (i) of this paragraph or hospital employing such person, and no other employer of such person shall be sued or held liable for any act done or omitted in the course of withdrawing blood at the request of a police officer pursuant to this section. (iii) Any person who may have a cause of action arising from the withdrawal of blood as aforesaid, for which no personal liability exists under subparagraph (ii) of this paragraph, may maintain such action against the state if any person entitled to withdraw blood pursuant to this paragraph acted at the request of a police officer employed by the state, or against the appropriate political subdivision of the state if such person acted at the request of a police officer employed by a political subdivision of the state. No action shall be maintained pursuant to this subparagraph unless notice of claim is duly filed or served in compliance with law. (iv) Notwithstanding subparagraphs (i), (ii) and (iii) of this paragraph, an action may be maintained by the state or a political subdivision thereof against a person entitled to withdraw blood pursuant to subparagraph (i) of this paragraph or hospital employing such person for whose act or omission the state or the political subdivision has been held liable under this paragraph to recover damages, not exceeding the amount awarded to the claimant, that may have been sustained by the state or the political subdivision by reason of gross negligence or bad faith on the part of such person. (v) The testimony of any person other than a physician, entitled to withdraw blood pursuant to subparagraph (i) of this paragraph, in respect to any such withdrawal of blood made by such person may be received in evidence with the same weight, force and effect as if such withdrawal of blood were made by a physician. (vi) The provisions of subparagraphs (ii), (iii) and (iv) of this paragraph shall also apply with regard to any person employed by a hospital as security personnel for any act done or omitted in the course of withdrawing blood at the request of a police officer pursuant to this section. (b) Right to additional test. The person tested shall be permitted to choose a physician to administer a chemical test in addition to the one administered at the direction of the police officer. (c) Rules and regulations. The

department of health shall issue and file rules and regulations approving satisfactory techniques or methods of conducting chemical analyses of a person's blood, urine, breath or saliva and to ascertain the qualifications and competence of individuals to conduct and supervise chemical analyses of a person's blood, urine, breath or saliva. If the analyses were made by an individual possessing a permit issued by the department of health, this shall be presumptive evidence that the examination was properly given. The provisions of this paragraph do not prohibit the introduction as evidence of an analysis made by an individual other than a person possessing a permit issued by the department of health. 7. Chemical test evidence. (a) Admissibility. Upon the trial of any such action or proceeding arising out of actions alleged to have been committed by any person arrested for a violation of any paragraph of subdivision one of this section, the court shall admit evidence of the amount of alcohol or drugs in the defendant's blood as shown by a test administered pursuant to the provisions of subdivision five of this section. (b) Probative value. The following effect shall be given to evidence of blood-alcohol content, as determined by such tests, of a person arrested for a violation of subdivision one of this section: (i) evidence that there was .05 of one per centum or less by weight of alcohol in such person's blood shall be prima facie evidence that the ability of such person to operate a bicycle with electric assist was not impaired by the consumption of alcohol, and that such person was not in an intoxicated condition; (ii) evidence that there was more than .05 of one per centum but less than .07 of one per centum by weight of alcohol in such person's blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be relevant evidence, but shall not be given prima facie effect, in determining whether the ability of such person to operate a bicycle with electric assist was impaired by the consumption of alcohol; and (iii) evidence that there was .07 of one per centum or more but less than .08 of one per centum by weight of alcohol in such person's blood shall be prima facie evidence that such person was not in an intoxicated condition, but such evidence shall be given prima facie effect in determining whether the ability of such person to operate a bicycle with electric assist was impaired by the consumption of alcohol. 8. Where applicable. The provisions of this section shall apply upon public highways, private roads open to motor vehicle traffic, any other parking lot, and sidewalks. For the purposes of this section "parking lot" shall mean any area or areas of private property, including a driveway, near or contiguous to and provided in connection with premises and used as a means of access to and egress from a public highway to such premises and having a capacity for the parking of four or more motor vehicles. The provisions of this section shall not apply to any area or areas of private property comprising all or part of property on which is situated a one or two-family residence. 9. Enforcement upon crash. Notwithstanding any provision of this section, no part of this section may be enforced unless in conjunction with a crash involving an operator of a bicycle with electric assist. For the purposes of this subdivision, "crash" shall mean colliding with a vehicle, person, building or other object.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34 - Operation of Bicycles and Play Devices1242 - Additional Provisions Applicable to Bicycles With Electric Assist.

2. No person less than sixteen years of age shall operate a bicycle with electric assist. The failure of any person to comply with the provisions of this subdivision shall not constitute contributory negligence or assumption of risk, and shall not in any way bar, preclude or foreclose an action for personal injury or wrongful death by or on behalf of such person, nor in any way diminish or reduce the damages recoverable in any such action. 3. (a) Except as provided in paragraphs (b) and (c) of this subdivision, the governing body of any city, town or village may, by local law or ordinance, further regulate the time, place and manner of the operation of bicycles with electric assist including, but not limited to, maximum speed, requiring the use of protective headgear, and the wearing of readily visible reflective clothing or material by operators of bicycles with electric assist, and may limit, prohibit the use thereof in specified areas, or prohibit entirely the use of bicycles with electric assist within such city, town or village, provided that adequate signage is visibly posted outside the boundaries of such prohibited areas.(b) The governing body of any city, town or village in the counties of Nassau or Suffolk may, by local law or ordinance, further regulate the time, place and manner of the operation of bicycles with electric assist, including, but not limited to, maximum speed, requiring the use of protective headgear, and the wearing of readily visible reflective clothing or material by operators of bicycles with electric assist only after adoption of a local law or ordinance by the governing body of the county in which the city, town or village is located. Provided, however, that the provisions of this paragraph shall not apply to the adoption of a local law or ordinance by a city, town or village in the counties of Nassau or Suffolk pursuant to the provisions of paragraph (a) of this subdivision to prohibit the use of bicycles with electric assist in specified areas, or prohibit entirely the use of bicycles with electric assist within such city, town or village, provided that adequate signage is visibly posted outside the boundaries of such prohibited areas.(c) The governing body of any town or village in the county of Westchester may, by local law or ordinance, further regulate the time, place and manner of the operation of bicycles with electric assist, including, but not limited to, maximum speed, requiring the use of protective headgear, and the wearing of readily visible reflective clothing or material by operators of bicycles with electric assist only after adoption of a local law or ordinance by the governing body of Westchester county. Provided, however, that the provisions of this paragraph shall not apply to the adoption of a local law or ordinance by a town or village in the county of Westchester pursuant to the provisions of paragraph (a) of this subdivision to prohibit the use of bicycles with electric assist in specified areas, or prohibit entirely the use of bicycles with electric assist within such town or village, provided that adequate signage is visibly posted outside the boundaries of such prohibited areas.4. (a) No person shall operate a bicycle with electric assist on any public lands or property, other than a highway exclusive of any greenway running adjacent to or connected with a highway, except that a bicycle with electric assist may be operated on any such lands that have been designated and posted for travel by bicycles with electric assist in accordance with the provisions of paragraph (b) of this subdivision. For the purposes of this subdivision, the term "greenway" shall have the same meaning as such term is defined by subdivision seven of section 44-0103 of the environmental conservation law and subdivision one of section 39.03 of the

parks, recreation and historic preservation law.(b) A state agency, by regulation or order, and a city, town or village, by local law or ordinance, may designate any appropriate public lands and properties under its jurisdiction, other than highways exclusive of any greenway running adjacent to or connected with a highway, as a place open for travel by bicycles with electric assist upon written request for such designation by any person, and may impose restrictions and conditions for the regulation and safe operation of bicycles with electric assist on such public lands or property, such as travel on designated trails and hours of operation.5. (a) No bicycle with electric assist shall be operated on a sidewalk, except as may be authorized by a local law or ordinance adopted by a city, town or village having jurisdiction over such sidewalk including parking on certain sidewalks within such city, town or village in compliance with the federal Americans with Disabilities Act of 1990, as amended (Public Law 101-336).(b) (i) Notwithstanding the provisions of paragraph (a) of this subdivision, a bicycle with electric assist owned by a natural person where the owner is engaged in personal use may park on a sidewalk whether attended or unattended. A city, town or village having jurisdiction over such sidewalk shall provide a method by which a bicycle with electric assist owned by a natural person may be identified as such.(ii) Notwithstanding the provisions of paragraph (a) of this subdivision, a bicycle with electric assist used to transport property in commerce may temporarily park on a sidewalk, whether attended or unattended, for the purpose of and while actually engaged commercially in the loading or unloading of property. A city, town or village having jurisdiction over such sidewalk shall provide a method by which a bicycle with electric assist used to transport property in commerce may be identified as such.(iii) No person shall park a bicycle with electric assist pursuant to this paragraph in a manner that interferes with the free passage of pedestrians on a sidewalk.6. Every person operating a bicycle with electric assist shall yield the right of way to pedestrians.7. Notwithstanding the provisions of subdivision (b) of section twelve hundred thirty-four of this article to the contrary, persons operating bicycles with electric assist upon a roadway shall ride single file.8. Except as may be otherwise provided by local law, ordinance, order, rule or regulation enacted or promulgated pursuant to this article, a bicycle with electric assist may only be operated on highways with a posted speed limit of thirty miles per hour or less, including non-interstate public highways, private roads open to motor vehicle traffic, and designated bicycle or in-line skate lanes.9. No person shall operate a class one or class two bicycle with electric assist in excess of twenty miles per hour. No person shall operate a class three bicycle with electric assist in excess of twenty-five miles per hour.10. The operation of a class three bicycle with electric assist outside of a city having a population of one million or more is prohibited.11. (a) No person, firm, association or corporation engaged in the business of selling or leasing bicycles with electric assist shall sell or lease any bicycle with electric assist on or after June first, two thousand twenty-two unless such bicycle with electric assist has permanently affixed thereto, in a prominent location, a manufacturer's label which shall include the following information: the class, maximum motor-assisted speed, and motor wattage of such bicycle with electric assist. Manufacturers and distributors of bicycles with electric assist shall, by April first, two thousand twenty-two, establish a process by which an owner of a bicycle with electric assist may request and obtain a manufacturer's label providing the class, maximum motor-assisted speed, and motor wattage applicable to his or her bicycle with electric assist purchased prior to June first, two thousand twenty-two and installation instructions from such manufacturers and distributors.(b) No person shall operate a bicycle with electric assist on any public highway or street in this state after June first, two thousand twenty-two unless such bicycle with electric assist has permanently affixed thereto, in a prominent location, a manufacturer's label providing the class, maximum motor-assisted speed, and motor wattage of such bicycle with electric assist. Any person who violates the provisions of this paragraph shall be punished by a civil fine of up to fifty dollars. The court shall waive any fine for which a person who violates the provisions of this paragraph would be liable if such person supplies the court with proof that, between the date on which he or she is charged with having violated this paragraph and the appearance date for such violation, a manufacturer's label was affixed to his or her bicycle with electric assist as required by this paragraph. Provided, however, that such waiver of fine shall not apply to a second or subsequent conviction under this paragraph.12. A violation of the provisions of subdivision two, five, six, nine, or ten of this section shall result in a civil fine not to exceed fifty dollars.13. A police officer shall only issue a summons for a violation of this section by a person less than sixteen years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or older. Such summons shall only be issued to such parent or guardian, and shall not be issued to the person less than sixteen years of age. (b) The governing body of any city, town or village in the counties of Nassau or Suffolk may, by local law or ordinance, further regulate the time, place and manner of the operation of bicycles with electric assist, including, but not limited to, maximum speed, requiring the use of protective headgear, and the wearing of readily visible reflective clothing or material by operators of bicycles with electric assist only after adoption of a local law or ordinance by the governing body of the county in which the city, town or village is located. Provided, however, that the provisions of this paragraph shall not apply to the adoption of a local law or ordinance by a city, town or village in the counties of Nassau or Suffolk pursuant to the provisions of paragraph (a) of this subdivision to prohibit the use of bicycles with electric assist in specified areas, or prohibit entirely the use of bicycles with electric assist within such city, town or village, provided that adequate signage is visibly posted outside the boundaries of such prohibited areas. (c) The governing body of any town or village in the county of Westchester may, by local law or ordinance, further regulate the time, place and manner of the operation of bicycles with electric assist, including, but not limited to, maximum speed, requiring the use of protective headgear, and the wearing of readily visible reflective clothing or material by operators of bicycles with electric assist only after adoption of a local law or ordinance by the governing body of Westchester county. Provided, however, that the provisions of this paragraph shall not apply to the adoption of a local law or ordinance by a town or village in the county of Westchester pursuant to the provisions of paragraph (a) of this subdivision to prohibit the use of bicycles with electric assist in specified areas, or prohibit entirely the use of bicycles with electric assist within such town or village, provided that adequate signage is visibly posted outside the boundaries of such prohibited areas.

4. (a) No person shall operate a bicycle with electric assist on any public lands or property, other than a highway exclusive of any greenway running adjacent to or connected with a highway, except that a bicycle with electric assist may be operated on any such lands that have been designated and posted for travel by bicycles with electric assist in accordance with the provisions of paragraph (b) of this subdivision. For the purposes of this subdivision, the term "greenway" shall have the same meaning as such term is defined by subdivision seven of section 44-0103 of the environmental conservation law and subdivision one of section 39.03 of the parks, recreation and historic preservation law. (b) A state agency, by regulation or order, and a city, town or village, by local law or ordinance, may designate any appropriate public lands and properties under its jurisdiction, other than highways exclusive of any greenway running adjacent to or connected with a highway, as a place open for travel by bicycles with electric assist upon written request for such designation by any person, and may impose restrictions and conditions for the regulation and safe operation of bicycles with electric assist on such public lands or property, such as travel on designated trails and hours of operation. 5. (a) No bicycle with electric assist shall be operated on a sidewalk, except as may be authorized by a local law or ordinance adopted by a city, town or village having jurisdiction over such sidewalk including parking on certain sidewalks within such city, town or village in compliance with the federal Americans with Disabilities Act of 1990, as amended (Public Law 101-336). (b) (i) Notwithstanding the provisions of paragraph (a) of this subdivision, a bicycle with electric assist owned by a natural person where the owner is engaged in personal use may park on a sidewalk whether attended or unattended. A city, town or village having jurisdiction over such sidewalk shall provide a method by which a bicycle with electric assist owned by a natural person may be identified as such. (ii) Notwithstanding the provisions of paragraph (a) of this subdivision, a bicycle with electric assist used to transport property in commerce may temporarily park on a sidewalk, whether attended or unattended, for the purpose of and while actually engaged commercially in the loading or unloading of property. A city, town or village having jurisdiction over such sidewalk shall provide a method by which a bicycle with electric assist used to transport property in commerce may be identified as such. (iii) No person shall park a bicycle with electric assist pursuant to this paragraph in a manner that interferes with the free passage of pedestrians on a sidewalk. 6. Every person operating a bicycle with electric assist shall yield the right of way to pedestrians. 7. Notwithstanding the provisions of subdivision (b) of section twelve hundred thirty-four of this article to the contrary, persons operating bicycles with electric assist upon a roadway shall ride single file. 8. Except as may be otherwise provided by local law, ordinance, order, rule or regulation enacted or promulgated pursuant to this article, a bicycle with electric assist may only be operated on highways with a posted speed limit of thirty miles per hour or less, including non-interstate public highways, private roads open to motor vehicle traffic, and designated bicycle or in-line skate lanes. 9. No person shall operate a class one or class two bicycle with electric assist in excess of twenty miles per hour. No person shall operate a class three bicycle with electric assist in excess of twenty-five miles per hour. 10. The operation of a class three bicycle with electric assist outside of a city having a population of one million or more is prohibited. 11. (a) No person, firm, association or corporation engaged in the business of selling or leasing bicycles with electric assist shall sell or lease any bicycle with electric assist on or after June first, two thousand twenty-two unless such bicycle with electric assist has permanently affixed thereto, in a prominent location, a manufacturer's label which shall include the following information: the class, maximum motor-assisted speed, and motor wattage of such bicycle with electric assist. Manufacturers and distributors of bicycles with electric assist shall, by April first, two thousand twenty-two, establish a process by which an owner of a bicycle with electric assist may request and obtain a manufacturer's label providing the class, maximum motor-assisted speed, and motor wattage applicable to his or her bicycle with electric assist purchased prior to June first, two thousand twenty-two and installation instructions from such manufacturers and distributors. (b) No person shall operate a bicycle with electric assist on any public highway or street in this state after June first, two thousand twenty-two unless such bicycle with electric assist has permanently affixed thereto, in a prominent location, a manufacturer's label providing the class, maximum motor-assisted speed, and motor wattage of such bicycle with electric assist. Any person who violates the provisions of this paragraph shall be punished by a civil fine of up to fifty dollars. The court shall waive any fine for which a person who violates the provisions of this paragraph would be liable if such person supplies the court with proof that, between the date on which he or she is charged with having violated this paragraph and the appearance date for such violation, a manufacturer's label was affixed to his or her bicycle with electric assist as required by this paragraph. Provided, however, that such waiver of fine shall not apply to a second or subsequent conviction under this paragraph. 12. A violation of the provisions of subdivision two, five, six, nine, or ten of this section shall result in a civil fine not to exceed fifty dollars. 13. A police officer shall only issue a summons for a violation of this section by a person less than sixteen years of age to the parent or guardian of such person if the violation by such person occurs in the presence of such person's parent or guardian and where such parent or guardian is eighteen years of age or older. Such summons shall only be issued to such parent or guardian, and shall not be issued to the person less than sixteen years of age.

2024 New York LawsVAT - Vehicle and TrafficTitle 7 - Rules of the RoadArticle 34 - Operation of Bicycles and Play Devices1243 - Shared Bicycle and Shared Bicycle With Electric Assist Systems; Data Protection.

§ 1243. Shared bicycle and shared bicycle with electric assist systems; data protection. 1. The governing body of any city, town or village may, by local law, ordinance, order, rule or regulation, authorize and regulate shared bicycle systems or shared bicycle with electric assist systems within such city, town or village. No such shared systems shall operate within a city, town or village except as authorized by such local law, ordinance, order, rule or regulation. For the purposes of this subdivision, the term shared bicycle system or shared bicycle with electric assist system shall mean a network of self-service and publicly available bicycles or bicycles with electric assist in which a bicycle or bicycle with electric assist trip begins and/or ends on any public highway. 2. Notwithstanding any other provision of law to the contrary, all trip data, personal information, images, videos, and other recorded

images collected by any shared bicycle system or shared bicycle with electric assist system which is authorized to operate within a city, town or village pursuant to this section: (a) shall be for the exclusive use of such shared bicycle or shared bicycle with electric assist system and shall not be sold, distributed, or otherwise made available for any commercial purpose and (b) shall not be disclosed or otherwise made accessible except (i) to the person who is the subject of such data, information or record; or (ii) if necessary to comply with a lawful court order, judicial warrant signed by a judge appointed pursuant to article III of the United States constitution, or subpoena for individual data, information or records properly issued pursuant to the criminal procedure law or the civil practice law and rules. Provided, however, that nothing contained in this paragraph shall be deemed to preclude the exchange of such data, information or recorded images solely for the purpose of administering such authorized shared system. For the purposes of this subdivision, "personal information" shall mean information that identifies an individual, including but not limited to name, address, telephone number, and the type and form of payment including credit card number, debit card number, or other payment method.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 35 - Uniform Statewide Application1600 - Provisions of Chapter Uniform Throughout State.

§ 1600. Provisions of chapter uniform throughout state. The provisions of this chapter shall be applicable and uniform throughout this state and in all political subdivisions and municipalities therein and no local authority shall enact or enforce any local law, ordinance, order, rule or regulation in conflict with the provisions of this chapter unless expressly authorized herein. No local authority shall enact or duplicate any provision of this chapter as a local law, ordinance, order, rule or regulation, except that any local authority authorized to supersede any provision of this chapter may enact any such provision in a modified or amended form.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 35 - Uniform Statewide Application1601 - Rights of Owners of Real Property.

§ 1601. Rights of owners of real property. Nothing in this chapter shall be construed to prevent the owner of real property used by the public for purposes of vehicular travel by permission of the owner and not as matter of right from prohibiting such use, or from requiring conditions additional to those specified in this chapter, or from otherwise regulating such use as may seem best to such owner.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 35 - Uniform Statewide Application1602 - Emergency Rule.

(b) In the event of a fire or other emergency or to expedite traffic or to safeguard pedestrians or property: any police officer or other person empowered to regulate traffic at the scene may, to the extent authorized by local law, ordinance, order, rule, regulation or administrative code provision adopted by local authorities with respect to highways within their corporate boundaries, direct traffic as conditions may require notwithstanding the provisions of this chapter or of local laws, ordinances, orders, rules, regulations, administrative code or sanitary code provisions regulating traffic; and, in addition, outside of cities and villages any member of the state police may direct traffic as conditions may require notwithstanding the provisions of this chapter or of local laws, ordinances, orders, rules or regulations regulating traffic. (c) Whenever the head of any police force or police department or the chief executive officer of a city, town or village shall deem it advisable during a snow storm or in order to remove snow or to plow streets, provided that signs or markings giving notice are posted as required by section sixteen hundred eighty-three of this chapter, such head of the police force or police department or the chief executive officer of a city, town or village may close any street or part thereof to vehicular traffic or prohibit, restrict or limit the stopping, standing or parking of vehicles. (d) The superintendent of the New York state police or the head of any police force or police department may authorize the temporary closure of any street or part thereof to vehicular traffic, or to vehicles of a certain description, or to divert the traffic thereof, or to divert or break a course of pedestrian traffic in the following situations: 1. during the time of any speed contest, exhibition of speed or similar special event which is being held pursuant to section eleven hundred eighty-two-a of this chapter; 2. during the time of the filming of any movie, commercial or similar event which is being undertaken pursuant to section eleven hundred eighty-two-b of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 35 - Uniform Statewide Application1603 - Delegation of Powers.

(b) Any or all of the powers to adopt orders, rules or regulations granted by this chapter to the legislative body of any city having a population in excess of one million, whether through provisions applicable to cities generally or applicable specifically to any such city, may be exercised in such city, with respect to any highway, park, bridge or tunnel therein, except as otherwise provided in subsection (c) of this section, by any official, board or agency thereof authorized by law, immediately prior to the effective date of this section, to promulgate traffic regulations with respect to such place, unless and until any such power shall be transferred to any other official, board or agency of such city by local law or state statute. (c) Any or all of the powers to adopt orders, rules, regulations or health code provisions in relation to transportation of combustibles, chemicals, explosives, inflammables or other dangerous substances, articles, compounds or mixtures granted by this title to the legislative body of any city having a population in excess of one million may be exercised by the official, board or agency having the power immediately prior to the effective date of this section, to promulgate regulations or health code provisions governing such matters, unless and until a different official, board

or agency is designated by local law or state statute to exercise such power. (d) In any case where any provision of this title grants to the legislative body of any city having a population in excess of one million any power to adopt orders, rules, regulations or health code provisions not possessed by such legislative body or any official, board or agency of such city, immediately prior to the effective date of this section, such power may be exercised by the official, board or agency authorized by law, immediately prior to the effective date of this section, to promulgate traffic regulations applicable generally throughout such city, unless and until a different official, board or agency is designated by local law or state statute to exercise such power, provided that any such power with respect to any park or highway under the jurisdiction of a commissioner of parks or a department of parks, shall be exercised by the official, board or agency having the power, immediately prior to the effective date of this section, to promulgate traffic regulations with respect to such park or highway, unless and until a different official, board or agency is designated by local law or state statute to exercise such power, and provided further that any such power in relation to transportation of combustibles, chemicals, explosives, inflammables or other dangerous substances, articles, compounds or mixtures shall be exercised by the official, board or agency having the power, immediately prior to the effective date of this section, to promulgate regulations or health code provisions governing such matters, unless and until a different official, board or agency is designated by local law or state statute to exercise such power. (e) Any or all of the powers granted by this title to the town board of a town, except those set forth in paragraphs one, five, nine, fifteen and twenty of subdivision (a) of section sixteen hundred sixty may be delegated to any official, board or agency designated by it or by law.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 35 - Uniform Statewide Application1604 - Local Ordinances Prohibited.

§ 1604. Local ordinances prohibited. Except as otherwise provided in this chapter, local authorities shall have no power to pass, enforce or maintain any ordinance, rule or regulation requiring from any owner of a motor vehicle or motorcycle, or from any operator or chauffeur to whom this chapter is applicable, any tax, fee, license or permit for the use of the public highways, or excluding any such owner, operator or chauffeur from the free use of such public highways, excepting such driveway, speedway or road as has been or may be expressly set apart by law for the exclusive use of horses and light carriages, or in any other way restricting motor vehicles or motorcycles or their speed upon or use of the public highways; or setting aside for any given time a specified public highway or any part thereof constructed in whole or in part at the expense of the state for exhibitions, shows, exercises, entertainments or meetings; and no ordinance, rule or regulation contrary to or in any wise inconsistent with the provisions of this chapter, now in force or hereafter enacted shall have any effect. Provided, however, that the power given to local authorities to license and regulate vehicles offered to the public for hire, and processions, assemblages or parades in the streets or public places, and all ordinances, rules and regulations which may have been or which may be enacted in pursuance of such powers shall remain in full force and effect.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 36 - State Department of Transportation1610 - General Powers and Duties.

§ 1610. General powers and duties. The department of transportation shall cooperate with the officials of cities and villages toward the adoption of uniform ordinances, signs, signals, signal lights and markings in the cities and villages of the state.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 36 - State Department of Transportation1611 - Effect of Department Orders.

§ 1611. Effect of department orders. Orders issued by the department of transportation pursuant to the provisions of this chapter shall be deemed to be rules and regulations for the purpose of taking judicial notice thereof.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 36 - State Department of Transportation1612 - Enforcement.

§ 1612. Enforcement. The supreme court shall have jurisdiction to enforce the provisions of this article or any orders issued thereunder or to enjoin the enforcement thereof.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 36 - State Department of Transportation1613 - Review by Courts.

§ 1613. Review by courts. Any order made by the department of transportation pursuant to this chapter shall be subject to review by the supreme court in the manner provided in article seventy-eight of the civil practice law and rules or by any other appropriate remedy. Proceedings to review shall be brought in Albany county. Such proceedings shall be entitled to a preference.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 37 - Regulation of Traffic by Department of Transportation and Other State Authorities1620 - Speed Limits on State Highways, and on Indian Reservations.

(b) The department of transportation, whenever it determines on the basis of an engineering and traffic investigation that slow speeds on any part of a controlled-access state highway maintained by the state outside of cities having a population in excess of one

million consistently impede the normal and reasonable flow of traffic, may establish minimum speed limits below which vehicles may not proceed on or along such highway, (c) The department of transportation may determine the maximum speed which may be maintained without structural damage to bridges and elevated structures that are a part of any state highway maintained by the state, and, if such maximum speed is lower than the maximum speed limit otherwise applicable, may by order, rule or regulation establish such lower maximum speed limit at which vehicles may proceed on any such bridge or structure.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 37 - Regulation of Traffic by Department of Transportation and Other State Authorities1621 - Other Traffic Regulations on State Highways and on Indian Reservations.

1. Designate through highways and order stop signs, flashing signals or yield signs erected at specified entrances thereto or designate any intersection as a stop intersection or a yield intersection and order like signs or signals at one or more entrances to such intersection. 2. Prohibit, restrict or regulate the operation of vehicles on any controlled-access highway or the use of any controlled-access highway by any limited use vehicle, pedestrian, horseback rider or vehicle or device moved by human or animal power. 3. Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations. 4. Authorize angle parking on any roadway. 5. Regulate the crossing of any roadway by pedestrians. 6. Upon a roadway which is divided into three lanes, allocate the center lane exclusively for traffic moving in a specified direction. 7. Order signs erected directing slow-moving traffic, trucks, buses or specified types of vehicles to use a designated lane, or with signs, signals or markings designate those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway. 8. Designate any highway or any separate roadway thereof for one-way traffic. 9. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations, or tractor-trailer-semitrailer combinations from highways specified by the commissioner. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded. 10. Prohibit, restrict or limit the stopping, standing or parking of vehicles. 11. Determine those highways or portions of highways which shall be marked to indicate where overtaking and passing or driving to the left of or crossing such markings would be especially hazardous and order appropriate signs or markings on the roadway to indicate the beginning and end of such zone. 12. Require the use of lower gears on hills. 13. Regulate traffic by means of traffic-control signals. 14. Designate safety zones. 16. Designate a portion of a slope as a path for the use of bicycles. 17. Order signs or markings to identify the portion of the highway to be used for bicycle travel. 18. Prohibit, restrict or regulate the operation of limited use vehicles on any street or highway. 19. Make special provisions with relation to stopping, standing or parking of vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter. 20. Designate preferential use lanes for specified types or classes of vehicles. 21. Declare a snow emergency and designate any highway or portion thereof as a snow emergency route. 22. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations, or tractor-trailer-semitrailer combinations in excess of any designated weight, designated length, designated height, or eight feet in width, from highways or set limits on hours of operation of such vehicles on particular state highways or segments of such highways. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles or combinations are otherwise excluded. 23. Authorize the use of shoulders or slopes of any state controlled-access highway by motor vehicles.(b) The department of transportation shall cause to be determined, for all bridges and elevated structures under its jurisdiction, the capacity in tons of two thousand pounds which the bridge or structures will safely carry. At bridges or structures of insufficient strength to carry safely the legal loads permissible by section three hundred eighty-five of this chapter, the department of transportation shall cause signs to be erected to inform persons of the safe capacity.(c) Such department of transportation shall cause signs to be erected to inform persons of the legal overhead clearance for all bridges and elevated structures on highways under its jurisdiction. The legal clearance shall be one foot less than the measured clearance. The measured clearance shall be the minimum height to the bridge or structure measured vertically from the traveled portion of the roadway. On bridges or structures having fourteen feet or more of measured clearance, no such signs shall be required.(d) The department of transportation may by order, rule or regulation temporarily exclude from any portion of any state highway and any highway and bridge constructed or to be constructed by the state on any indian reservation any vehicle with a gross weight of over four or more tons or any vehicle with a gross weight in excess of any designated weight on any wheel, axle, any number of axles, or per inch width of tire when in its opinion such highway would be materially injured by the operation of any such vehicle thereon. Such exclusion shall take effect upon the erection of signs on the section of highway from which vehicles are excluded, and a notice that such vehicles are excluded shall be published in a newspaper in the county where the highway is situated. The exclusion shall remain in effect until the removal of the signs is directed by the department of transportation. (b) The department of transportation shall cause to be determined, for all bridges and elevated structures under its jurisdiction, the capacity in tons of two thousand pounds which the bridge or structures will safely carry. At bridges or structures of insufficient strength to carry safely the legal loads permissible by section three hundred eighty-five of this chapter, the department of transportation shall cause signs to be erected to inform persons of the safe capacity. (c) Such department of transportation shall cause signs to be erected to inform persons of the legal overhead clearance for all bridges and elevated structures on highways under its jurisdiction. The legal clearance shall be one foot less than the measured clearance. The measured clearance shall be the minimum height to the bridge or structure measured vertically from the traveled portion of the roadway. On bridges or structures having fourteen feet or more of measured clearance, no such signs shall be required. (d) The department of transportation may by order, rule or regulation

temporarily exclude from any portion of any state highway and any highway and bridge constructed or to be constructed by the state on any indian reservation any vehicle with a gross weight of over four or more tons or any vehicle with a gross weight in excess of any designated weight on any wheel, axle, any number of axles, or per inch width of tire when in its opinion such highway would be materially injured by the operation of any such vehicle thereon. Such exclusion shall take effect upon the erection of signs on the section of highway from which vehicles are excluded, and a notice that such vehicles are excluded shall be published in a newspaper in the county where the highway is situated. The exclusion shall remain in effect until the removal of the signs is directed by the department of transportation.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 37 - Regulation of Traffic by Department of Transportation and Other State Authorities1622 - Speed Limits on County Roads and Town Highways.

§ 1622. Speed limits on county roads and town highways. The department of transportation upon the request of the county superintendent of highways of a county and the town board of the town or towns affected with respect to county roads and town highways in such town or towns outside of cities or villages, may by order, rule or regulation: 1. Establish maximum speed limits at which vehicles may proceed on or along such highways higher or lower than the fifty-five miles per hour statutory maximum speed limit. No such limit shall be established at less than twenty-five miles per hour, except that school speed limits may be established at not less than fifteen miles per hour, for a distance not to exceed one thousand three hundred twenty feet, on a highway passing a school building, entrance or exit of a school abutting on the highway. 2. Establish maximum speed limits at which vehicles may proceed on or along all such highways lying within an area or areas as designated by a description of the boundaries of such area or areas submitted by the county superintendent of highways of a county and the town board of the town or towns affected lower than fifty-five miles per hour statutory maximum speed limit. No such limit shall be established at less than twenty-five miles per hour.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 37 - Regulation of Traffic by Department of Transportation and Other State Authorities1623 - Regulation of Traffic on the Grounds of State Departments, Institutions of the State University, State Hospitals and Other State Institutions.

§ 1623. Regulation of traffic on the grounds of state departments, institutions of the state university, state hospitals and other state institutions. (a) Upon the application of the head of any state department, upon the application of the board of trustees of the state university of New York and upon the application of the board of visitors or other similar board or body of a state hospital or state institution, the department of transportation may by order, rule or regulation prohibit, restrict or regulate traffic on or pedestrian use of any highway on the grounds of the department, institution or institutions over which the department head, board or body making such applications has jurisdiction. (b) This section shall not apply to any of the grounds referred to in section fifty-seven hundred eight of the education law.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 37 - Regulation of Traffic by Department of Transportation and Other State Authorities1624 - Limitation on Scope of Local Speed Limits; Reports of Local Speeding Convictions to Department of Transportation.

(b) The department of transportation may in its discretion at any time make a written order requiring any city, village or suburban town to report to the department of transportation the punishment inflicted upon conviction of exceeding the lawful maximum speed limit in such city, village or suburban town. Such order shall be in writing and shall be served in like manner as the order provided for in subdivision (a) of this section. Any city, village or suburban town upon which such order is served shall thereafter, at the close of each month and before the fifth day of the following month, make a report to the department of transportation showing the name and residence of each person fined or otherwise punished during the month, and the fines or punishment imposed. Such report shall be duly verified by the officer or officers, or magistrate or magistrates imposing the fines or punishment. The department of transportation may at any time suspend or rescind the order requiring such reports. If any city, village or suburban town fail to make any such report as required by the order of the department of transportation within the time prescribed by law, the right or power of such city, village or suburban town to impose any punishment upon conviction of exceeding the lawful maximum speed limit within such city, village or suburban town shall be suspended until the report is made as required.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 37 - Regulation of Traffic by Department of Transportation and Other State Authorities1625 - Traffic Regulations on Restricted Highways.

(a) The department of transportation, a county superintendent of highways, or a town superintendent of highways, with respect to any restricted highway, as defined in section one hundred four-a of the highway law, may prohibit, restrict or regulate traffic on, or pedestrian use of any such highway. The provisions of section sixteen hundred shall be applicable provided, however, that any action taken pursuant to this section shall supersede the provisions of this chapter where inconsistent with or in conflict with respect to the following enumerated subjects. 1. Establishment of maximum and minimum speed limits at which vehicles may proceed along any such restricted highway. 2. Weights and dimensions of vehicles. 3. Use of such restricted highway by pedestrians, equestrians and animals. 4. Parking, standing, stopping and backing of vehicles. 5. Control of persons and equipment engaged in

work on such highway. (b) the provisions of this chapter with respect to registration shall not apply to vehicles and equipment engaged in work on such restricted highways. (c) When used on such restricted highways, all traffic control devices shall be considered as official traffic control devices and shall conform to the manual and specifications for a uniform system of traffic control devices adopted by the department of transportation.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 37 - Regulation of Traffic by Department of Transportation and Other State Authorities1626 - Regulation of Rest and Parking Areas and Scenic Overlooks.

§ 1626. Regulation of rest and parking areas and scenic overlooks. The department of transportation with respect to rest and parking areas and scenic overlooks provided by the department of transportation along state highways maintained by the state, may prohibit, restrict or regulate traffic within such areas and overlooks or the use of such areas and overlooks. Any action taken pursuant to this section shall supersede the provisions of this chapter where inconsistent or in conflict therewith in respect to the establishment of maximum and minimum speed limits and to the parking, standing, stopping and backing of vehicles.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 37 - Regulation of Traffic by Department of Transportation and Other State Authorities1627 - Designation of Qualifying Highways and Access Highways.

(b) The department of transportation, for the purposes of this chapter, shall develop criteria to determine a highway providing access between qualifying highways and terminals, facilities for food, fuel, repairs, and rest and, in addition, for points of loading and unloading for household goods carriers. The department may, by order, rule or regulation, designate public highways within the state as access highways. The department of transportation, upon the request of the legislative body of any city or village, or of a county superintendent of highways, or of a town board may, by order, rule or regulation, designate other city or village streets, or county roads, or town highways, respectively, as access highways. Before designating any county, town, city or village, street or highway as an access highway, the commissioner of transportation shall notify the municipality having jurisdiction over such street or highway of the need for such local access road and solicit comments thereon. If objections to the designation are filed by the municipality having jurisdiction over a particular street or highway, the commissioner of transportation shall set, as soon as practicable, a public informational meeting. If the commissioner of transportation finds, after holding a public informational meeting, that his proposed designation is proper and reasonable, prior to filing a notice of agency action he shall so notify the municipality in writing setting forth his findings and justifications for such designation. The municipality shall have the right of judicial review pursuant to article seventy-eight of the civil practice law and rules. (c) In order to implement the provisions of this section, the commissioner of transportation may issue a permit pursuant to subdivision fifteen of section three hundred eighty-five of this chapter or may sign such public highways.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 37 - Regulation of Traffic by Department of Transportation and Other State Authorities1628 - Traffic Regulations on Bridge Approaches to the Barge Canal System.

§ 1628. Traffic regulations on bridge approaches to the barge canal system. The department of transportation with respect to any bridge structure that crosses a waterway which is part of the barge canal system may by order, rule or regulation, regulate traffic on the approaches thereto by means of traffic control devices, physical barriers and traffic control signals for a distance not exceeding one hundred fifty feet from such bridge structure.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 37 - Regulation of Traffic by Department of Transportation and Other State Authorities1629 - Closed or Restricted Bridges; Penalties for Noncompliance.

§ 1629. Closed or restricted bridges; penalties for noncompliance. 1. As used in this section, the term "bridge" means bridge as defined in article nine of the highway law. 2. Any person who knowingly defaces, removes, obliterates or otherwise alters any duly posted notice of closing of a bridge, or of restricted access to a bridge, with intent to deny proper notice of such closing or restricted access, is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than two hundred fifty dollars nor more than five hundred dollars, by imprisonment for not more than ninety days, or by both such fine and imprisonment. 3. Any person who knowingly operates a vehicle upon a bridge to which access is forbidden pursuant to the provisions of article nine of the highway law is guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than two hundred fifty dollars, by imprisonment for not more than thirty days, or by both such fine and imprisonment.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 38 - Regulation of Traffic by Public Authorities and Commissions1630 - Regulation of Traffic on Highways Under the Jurisdiction of Certain Public Authorities and Commissions.

§ 1630. Regulation of traffic on highways under the jurisdiction of certain public authorities and commissions. The New York state thruway authority, a county park commission, the Niagara Falls bridge commission, a parkway authority, a bridge authority,

including the Buffalo and Fort Erie public bridge authority, the metropolitan transportation authority, the Long Island Rail Road, the Metro-North Commuter Railroad, the office of parks, recreation and historic preservation, the department of environmental conservation, the department of agriculture and markets, the industrial exhibit authority or a bridge and tunnel authority may by ordinance, order, rule or regulation prohibit, restrict or regulate traffic on or pedestrian use of any highway, property or facility under its jurisdiction. The provisions of section sixteen hundred of this title shall be applicable to such ordinances, orders, rules and regulations, provided, however, that such ordinances, orders, rules and regulations shall supersede the provisions of this chapter where inconsistent or in conflict with respect to the following enumerated subjects: 1. Weights and dimensions of vehicles, except that no combination of commercial vehicles, (as defined in paragraph (b) of subdivision eleven of section three hundred seventy-six of the vehicle and traffic law) coupled together shall consist of more than three vehicles. 2. Parking, standing, stopping and backing of vehicles. 3. The prohibition or regulation of the use of any highway by particular vehicles or classes or types thereof or devices moved by human power, except hearses operated by or for a licensed funeral director or undertaker during a burial or funeral procession while travelling either to or from a funeral, interment or cremation and except specialized vehicles as defined by section four hundred one of this chapter. 4. Charging of tolls, taxes, fees, licenses or permits for the use of the highway or any of its parts or entry into or remaining within the central business district established by article forty-four-C of this chapter, where the imposition thereof is authorized by law. 5. Establishment of maximum and minimum speed limits at which vehicles may proceed on or along such highways. No such maximum speed limit shall be established at less than twenty-five miles per hour, except that school speed limits may be established at not less than fifteen miles per hour, for a distance not to exceed one thousand three hundred twenty feet, on a highway passing a school building, entrance or exit of a school abutting on the highway, and except that, with respect to bridge and elevated structures that are a part of any such highway, a lower maximum speed limit may be established if it is determined that such lower maximum speed limit is the maximum speed limit which may be maintained without structural damage to such bridge or structure, and except that, with respect to any highway under the jurisdiction of the office of parks, recreation and historic preservation, other than a parkway as defined in subdivision seventeen of section 1.03 of the parks, recreation and historic preservation law, the department of agriculture and markets or the industrial exhibit authority, a maximum speed limit of not less than ten miles per hour may be established on any portion thereof, if it is determined that such lower maximum speed limit is necessary to assure the safety of the public, and except that, with respect to any highway having toll plazas, a maximum speed limit of not less than five miles per hour may be established for passage through such toll plazas. 6. Operation of authorized emergency vehicles. 7. Control of persons and equipment engaged in work on the highway. 8. Hitchhiking and commercial activities. 9. Use of medial strips and dividing malls or sections and use of shoulders of the highway. 10. Use of the highway by pedestrians, equestrians and animals. 11. Turning of vehicles. 12. Regulation of the direction of the movement of traffic and the use of traffic lanes. 13. Regulation of the use of horns, lights and other required equipment of vehicles. 14. Towing and pushing of vehicles, including, but not limited to, the licensing and regulation of persons engaged in the business of towing, and the fixing of maximum charges to be made by such persons for the towing and storage of disabled vehicles. 15. Objects projecting or hanging outside or on the top of vehicles. 16. Entering and driving off the highway, its roadways, medial strips, dividing malls and shoulders. 17. The prohibition or regulation of speed contests, races, exhibitions of speed, processions or parades. 18. Littering the highway. 19. Vehicles illegally parked, stopped or standing, or vehicles involved in accidents, including, but not limited to, the removal and storage of such vehicles, the fixing of reasonable charges, to be paid by the owner, operator or person entitled to possession, for such removal and storage and for other expenses incurred in connection therewith, the creation of liens on such vehicles for such charges and expenses, the enforcement of such liens, the determination of ownership or right to possession of such vehicles, the time before such vehicles are deemed abandoned vehicles pursuant to section twelve hundred twenty-four of this chapter, and the disposition of the proceeds of sales held pursuant to said section. 19-a. Requirements imposing a duty upon any person removing a vehicle illegally parked, stopped or standing, without the permission of the owner or operator, to accept payment in person by credit card in accordance with generally accepted business practices. 20. Transportation of combustibles, chemicals, explosives, inflammables, or other dangerous substances, articles, compounds or mixtures, including, but not limited to, dangerous articles, as defined in section three hundred eighty of this chapter. 21. Traffic signal legend applicable to pedestrians and use of arrows. 22. Designate preferential use lanes for specified types or classes of vehicles. 23. Parking, standing and stopping of vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 38 - Regulation of Traffic by Public Authorities and Commissions1631 - Additional Traffic Regulation on the New York State Thruway.

§ 1631. Additional traffic regulation on the New York state thruway. In addition to the other powers granted by this article, the New York state thruway authority may by order, rule or regulation prohibit or regulate overtaking and passing on the New York state thruway. Any such order, rule or regulation shall supersede the provisions of section eleven hundred twenty-three.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 38 - Regulation of Traffic by Public Authorities and Commissions1632 - Application of Article.

§ 1632. Application of article. This article shall not apply with respect to any portion of the New York state thruway located within a city having a population in excess of one million.

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-A - Traffic Regulations at Parking Areas and Driveways of Hospitals, Shopping Centers, Office Buildings and Office Building Complexes, Places of Public As

§ 1640-a. Traffic regulations at parking areas and driveways of hospitals, shopping centers, office buildings and office building complexes, places of public assembly, facilities owned or leased by not-for-profit corporations, private apartment complexes and fire stations; private condominium complex; mobile home parks; manufactured home parks. The legislative body of any city or village, with respect to the parking areas and driveways of a hospital or parking area of a shopping center, office building and office building complex or place of public assembly, or the parking areas and driveways of facilities owned or leased by a not-for-profit corporation or the parking areas, driveways, and private streets or roadways of a private apartment house complex, private condominium complex, or cooperative apartment complex, or the parking areas, private streets, roadways or driveways of mobile home parks or manufactured home parks, or the parking areas and driveways of a fire station, and pursuant to the written request of the owner, the person in general charge of the operation and control of such area, the fire chief of the city or village fire department or the police chief or the police commissioner of the police department serving such area, may, by local law or ordinance: 1. Order stop signs, flashing signals or yield signs erected at specified entrance or exit locations to any such area or designate any intersection in such area as a stop intersection or as a yield intersection and order like signs or signals at one or more entrances to such intersection. 2. Regulate traffic in any such area, including regulation by means of traffic-control signals. 2-a. Notwithstanding the provisions of section sixteen hundred forty-three to the contrary, establish maximum speed limits in any such area at not less than fifteen miles per hour. 3. Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations in any such area. 4. Regulate the crossing of any roadway in any such area by pedestrians. 5. Designate any separate roadway in any such area for one-way traffic. 6. Prohibit, regulate, restrict or limit the stopping, standing or parking of vehicles in specified areas of any such area. 7. Designate safety zones in any such area. 8. Provide for the removal and storage of vehicles parked or abandoned in any such area during snowstorms, floods, fires or other public emergencies, or found unattended in any such area, (1) where they constitute an obstruction to traffic or (2) where stopping, standing or parking is prohibited, and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle. 9. Adopt such additional reasonable rules and regulations with respect to traffic and parking in any such area as local conditions may require for the safety and convenience of the public or of the users of any such area. 10. Make special provisions with relation to stopping, standing or parking of vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter. In the case of a college or university, as defined in section two of the education law, the provisions of this section shall apply only upon the written request of the governing body of such college or university.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-B - Residential Parking System in the Corn Hill Section of the City of Rochester.

2. Such residential parking permit system may only be established within the Corn Hill neighborhood of the city of Rochester which shall mean that area generally bounded by Ford Street, Exchange Boulevard and the Inner Loop. 3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system; and(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and(d) make not less than twenty percent of all spaces with in the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the city.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. (a) set forth factors necessitating the enactment of such parking system; and (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and (c) provide the times of the day and days of the week during which permit requirements shall be in effect; and (d) make not less than twenty percent of all spaces with in the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the city. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-C - Residential Parking System in the City of Rye.

2. Such residential parking permit system may only be established within the area of the city of Rye which shall mean that area generally bounded on the westerly side, by Blind Brook and Milton Harbor; on the southerly side, by Milton Point; on the easterly

side, by Long Island Sound; and on the northerly side, by the northerly side of Apawamis Avenue as extended by imaginary lines easterly from its point of intersection with Forest Avenue to Long Island Sound, and westerly from its point of intersection with Milton Road to Blind Brook. 3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system; and(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and(d) make not less than twenty percent of all spaces with in the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the city.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. (a) set forth factors necessitating the enactment of such parking system; and (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and (c) provide the times of the day and days of the week during which permit requirements shall be in effect; and (d) make not less than twenty percent of all spaces with in the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the city. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-D - Residential Parking System in the Village of Pelham in the County of Westchester.

2. Such residential parking permit system may only be established within the area of the village consisting of the following roadways:(a) the east side of Wolfs Lane, from Franklin Place to Boulevard;(b) the south side of Boulevard West, from Wolfs Lane to the city of Mount Vernon boundary;(c) both sides of Fifth Avenue, from Sixth Street to Willow Avenue;(d) both sides of NYAC Avenue, from Franklin Avenue to Second Street;(e) both sides of Corlies Avenue, from Colonial Avenue to Second Street;(f) both sides of Pelhamdale Avenue, from Colonial Avenue to Irving Place;(g) both sides of Highbrook Avenue, from Colonial Avenue to Irving Place;(h) both sides of Boulevard, from Wolfs Lane to Highbrook Avenue;(i) both sides of Seventh Street, from the west end of Seventh Street (dead end) to Sixth Avenue;(j) both sides of Fourth Avenue, from Seventh Street to the dead end;(k) both sides of Harmon Avenue, from Fifth Avenue to Harmon Place;(l) the north side of First Street, from Wolfs Lane to Corlies Avenue;(m) the west side of NYAC Avenue, two hundred feet south of the intersection with First Street to East Second Street;(n) the east side of Fourth Avenue, from First Street to Second Street;(o) the west side of First Avenue, from First Street to Third Street.3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use.4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system;(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;(c) provide the times of the day and days of the week during which permit requirements shall be in effect;(d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than one hundred twenty minutes in duration in the permit area;(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the village unless otherwise specified in such local law.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. (a) the east side of Wolfs Lane, from Franklin Place to Boulevard; (b) the south side of Boulevard West, from Wolfs Lane to the city of Mount Vernon boundary; (c) both sides of Fifth Avenue, from Sixth Street to Willow Avenue; (d) both sides of NYAC Avenue, from Franklin Avenue to Second Street; (e) both sides of Corlies Avenue, from Colonial Avenue to Second Street; (f) both sides of Pelhamdale Avenue, from Colonial Avenue to Irving Place; (g) both sides of Highbrook Avenue, from Colonial Avenue to Irving Place; (h) both sides of Boulevard, from Wolfs Lane to Highbrook Avenue; (i) both sides of Seventh Street, from the west end of Seventh Street (dead end) to Sixth Avenue; (j) both sides of Fourth Avenue, from Seventh Street to the dead end; (k) both sides of Harmon Avenue, from Fifth Avenue to Harmon Place; (l) the north side of First Street, from Wolfs Lane to Corlies Avenue; (m) the west side of NYAC Avenue, two hundred feet south of the intersection with First Street to East Second Street; (n) the east side of Fourth Avenue, from First Street to Second Street; (o) the west side of First Avenue, from First Street to Third Street. 3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall: (a) set forth factors necessitating the enactment of such parking system; (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; (c) provide the times of the day and days of the week during which permit requirements shall be in effect; (d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than one hundred twenty minutes in duration in the permit area; (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the village unless otherwise specified in such local law. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-E*2 - Residential Parking System in the City of Ithaca in the County of Tompkins.

2. Such residential parking permit system may only be established for public highways within the city, and exclusive of any highways located within Cornell University, as follows:(a) in the area bounded by the following roadways and corporate boundaries:(i) East State Street from Cornell Street to Giles Street;(ii) Giles Street to Water Street;(iii) Water Street to East State Street;(iv) East State Street from Water Street to Seneca Way;(v) Seneca Way from East State Street to East Seneca Street;(vi) East Seneca Street from Seneca Way to Parker Street;(vii) Parker Street to Terrace Place;(viii) Terrace Place to Linn Street;(ix) Linn Street from East Court Street to University Avenue;(x) University Avenue from Linn Street to Willard Way;(xi) Willard Way from University Avenue to Stewart Avenue;(xii) Stewart Avenue from Willard Way to the corporate boundary between the city of Ithaca and the village of Cayuga Heights;(xiii) following the corporate boundary between the city of Ithaca and the village of Cayuga Heights east to the corporate boundary between the city of Ithaca and the town of Ithaca;(xiv) following the corporate boundary between the city of Ithaca and the town of Ithaca south to East State Street; and(xv) East State Street from the corporate boundary to Giles Street; and(b) consisting of the following roadways:(i) Treva Avenue west of Water Street;(ii) Valentine Place south of East State Street;(iii) Quarry Street south of East State Street;(iv) Ferris Place south of East State Street;(v) Linn Street north of Terrace Place to Farm Street;(vi) Lake Street north of University Avenue to the north property line of tax map parcel 28-4-7; and(vii) Willard Way and Willard Way Loop north of University Avenue.3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use.4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system;(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;(c) provide the times of the day and days of the week during which permit requirements shall be in effect;(d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than one hundred twenty minutes in duration in the permit area;(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the city unless otherwise specified in such local law.5. No ordinance shall be adopted pursuant to this section until a pub- lic hearing thereon has been had in the same manner as required for pub- lic hearings on a local law pursuant to the municipal home rule law.* NB There are 2 § 1640-e's (a) in the area bounded by the following roadways and corporate boundaries: (i) East State Street from Cornell Street to Giles Street; (ii) Giles Street to Water Street; (iii) Water Street to East State Street; (iv) East State Street from Water Street to Seneca Way; (v) Seneca Way from East State Street to East Seneca Street; (vi) East Seneca Street from Seneca Way to Parker Street; (vii) Parker Street to Terrace Place; (viii) Terrace Place to Linn Street; (ix) Linn Street from East Court Street to University Avenue; (x) University Avenue from Linn Street to Willard Way; (xi) Willard Way from University Avenue to Stewart Avenue; (xii) Stewart Avenue from Willard Way to the corporate boundary between the city of Ithaca and the village of Cayuga Heights; (xiii) following the corporate boundary between the city of Ithaca and the village of Cayuga Heights east to the corporate boundary between the city of Ithaca and the town of Ithaca; (xiv) following the corporate boundary between the city of Ithaca and the town of Ithaca south to East State Street; and (xv) East State Street from the corporate boundary to Giles Street; and (b) consisting of the following roadways: (i) Treva Avenue west of Water Street; (ii) Valentine Place south of East State Street; (iii) Quarry Street south of East State Street; (iv) Ferris Place south of East State Street; (v) Linn Street north of Terrace Place to Farm Street; (vi) Lake Street north of University Avenue to the north property line of tax map parcel 28-4-7; and (vii) Willard Way and Willard Way Loop north of University Avenue. 3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall: (a) set forth factors necessitating the enactment of such parking system; (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; (c) provide the times of the day and days of the week during which permit requirements shall be in effect; (d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than one hundred twenty minutes in duration in the permit area; (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the city unless otherwise specified in such local law. 5. No ordinance shall be adopted pursuant to this section until a pub- lic hearing thereon has been had in the same manner as required for pub- lic hearings on a local law pursuant to the municipal home rule law. * NB There are 2 § 1640-e's

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-E - Residential Parking System in the Tibbetts Brook Park and Yonkers Raceway/empire City Areas of the City of Yonkers.

2. Such residential parking permit system may only be established within:(a) the Tibbetts Brook Park area of the city of Yonkers which shall mean that area generally bounded by Harrison Avenue proceeding south from Tibbetts Brook Park to Alan B. Shepard Place; Tibbetts Road proceeding southerly from Tibbetts Brook Park to Alan B. Shepard Place; Sedgewick Avenue proceeding southerly from Tibbetts Brook Park to Alan B. Shepard Place; Jervis Road between Harrison Avenue and Sedgewick Avenue and from the northern intersection of Sedgewick Avenue proceeding southerly along Jervis Road to the Alan B. Shepard Place line;

and(b) the Yonkers Raceway/Empire City area of the city of Yonkers consisting of the following roadways:(i) Belmont Avenue from Orient Street to Yonkers Avenue;(ii) Boone Street from Central Park Avenue to Dead End;(iii) Clark Street from Central Park Avenue to Orient Street;(iv) Loring Avenue from Central Park Avenue to Orient Street; and(v) Chamberlain Avenue from Belmont Avenue to Central Park Avenue.3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use.4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system; and(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the city.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.* NB There are 2 § 1640-e's (a) the Tibbetts Brook Park area of the city of Yonkers which shall mean that area generally bounded by Harrison Avenue proceeding south from Tibbetts Brook Park to Alan B. Shepard Place; Tibbetts Road proceeding southerly from Tibbetts Brook Park to Alan B. Shepard Place; Sedgewick Avenue proceeding southerly from Tibbetts Brook Park to Alan B. Shepard Place; Jervis Road between Harrison Avenue and Sedgewick Avenue and from the northern intersection of Sedgewick Avenue proceeding southerly along Jervis Road to the Alan B. Shepard Place line; and (b) the Yonkers Raceway/Empire City area of the city of Yonkers consisting of the following roadways: (i) Belmont Avenue from Orient Street to Yonkers Avenue; (ii) Boone Street from Central Park Avenue to Dead End; (iii) Clark Street from Central Park Avenue to Orient Street; (iv) Loring Avenue from Central Park Avenue to Orient Street; and (v) Chamberlain Avenue from Belmont Avenue to Central Park Avenue. 3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall: (a) set forth factors necessitating the enactment of such parking system; and (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and (c) provide the times of the day and days of the week during which permit requirements shall be in effect; and (d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the city. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. * NB There are 2 § 1640-e's

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-F*2 - Residential Parking System in the City of Auburn in the County of Cayuga.

2. Such residential parking permit system may only be established within the area of the city consisting of the following roadways: Liberty Street, Cady Street, Lansing Street, Nelson Street, Park Avenue and Curtis Place, as well as Clark Street from State Street to Green Street, Court Street from Westlake Avenue to Genesee Street, Dill Street from Genesee Street to North Street, East Genesee Street from Market Street to Fulton Street, Franklin Street from Lewis Street to Mann Street, Genesee Street from Market Street to Court Street, Green Street, Lewis Street from Franklin Street to an unnamed alley, Lewis Street from Grant Avenue to Seymour Street, Market Street, South Street from Genesee Street to Loop Road, Water Street, Genesee Street from Baker Avenue to Dunning Avenue/Columbus Street, and William Street from Westlake Avenue to Genesee Street. 3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system;(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;(c) provide the times of the day and days of the week during which permit requirements shall be in effect;(d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than ninety minutes in duration in the permit area;(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the city unless otherwise specified in such ordinance.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.* NB There are 3 § 1640-f's (a) set forth factors necessitating the enactment of such parking system; (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; (c) provide the times of the day and days of the week during which permit requirements shall be in effect; (d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than ninety minutes in duration in the permit area; (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the city unless otherwise specified in such ordinance. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. * NB There are 3 § 1640-f's

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-F*3 - Residential Parking System in the Village of Tarrytown.

2. Such residential parking permit system may only be established within the Miller Park neighborhood of the village of Tarrytown which shall mean that area generally bounded on the easterly side by South Broadway; on the northerly side by Franklin Street; on the westerly side by Franklin Courts and the Metro-North Commuter Railroad tracks; and on the southerly side by Church Street. The residential parking permit system shall also apply on Hamilton Place, White Street, Cottage Place, Wildey Street to Washington Street, Mechanics Avenue, Linden Place, Wood Court, Hanford Place, Central Avenue to Washington Street, Windle Park, Storm Street and on the southerly side of Main Street between White Street and Windle Park. 3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system; and(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the village.5. No ordinance shall be adopted pursuant to this action until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.* NB There are 3 § 1640-f's (a) set forth factors necessitating the enactment of such parking system; and (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and (c) provide the times of the day and days of the week during which permit requirements shall be in effect; and (d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the village. 5. No ordinance shall be adopted pursuant to this action until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. * NB There are 3 § 1640-f's

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-F - Residential Parking Permit System in the City of Beacon.

2. Such residential parking permit system may only be established within the area of the city of Beacon consisting of the following roadways: River Street, Ferry Street, Red Flynn Drive, West Main Street and Bank Street. 3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking permit system shall:(a) set forth factors necessitating the enactment of such parking permit system;(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;(c) provide the times of the day and days of the week during which permit requirements shall be in effect;(d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than ninety minutes in duration in the permit area;(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the city unless otherwise specified in such local law.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.* NB There are 3 § 1640-f's (a) set forth factors necessitating the enactment of such parking permit system; (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; (c) provide the times of the day and days of the week during which permit requirements shall be in effect; (d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than ninety minutes in duration in the permit area; (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the city unless otherwise specified in such local law. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. * NB There are 3 § 1640-f's

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-G - Residential Parking System in the Village of Tuckahoe in the County of Westchester.

2. Such residential parking permit system may only be established within that area bounded by the following:(a) the southerly corporate boundary between the village of Tuckahoe and the village of Bronxville to Midland Avenue;(b) Midland Avenue to its intersection with Winter Hill Road;(c) Winter Hill Road from its intersection with Midland Avenue to its intersection with Main Street;(d) Marbledale Road from its intersection with Main Street to a point where it intersects with the northerly corporate boundary between the village of Tuckahoe and the town of Eastchester;(e) the northerly corporate boundary between the village of Tuckahoe and the town of Eastchester to the westerly corporate boundary between the village of Tuckahoe and the city of Yonkers; and(f) the westerly corporate boundary between the village of Tuckahoe and the city of Yonkers to the southerly corporate boundary between the village of Tuckahoe and the village of Bronxville.3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use.4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system;(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit

requirement;(c) provide the times of the day and days of the week during which permit requirements shall be in effect;(d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short-term parking of not less than one hundred twenty minutes in duration in the permit area;(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the village unless otherwise specified in such local law.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. (a) the southerly corporate boundary between the village of Tuckahoe and the village of Bronxville to Midland Avenue; (b) Midland Avenue to its intersection with Winter Hill Road; (c) Winter Hill Road from its intersection with Midland Avenue to its intersection with Main Street; (d) Marbledale Road from its intersection with Main Street to a point where it intersects with the northerly corporate boundary between the village of Tuckahoe and the town of Eastchester; (e) the northerly corporate boundary between the village of Tuckahoe and the town of Eastchester to the westerly corporate boundary between the village of Tuckahoe and the city of Yonkers; and (f) the westerly corporate boundary between the village of Tuckahoe and the city of Yonkers to the southerly corporate boundary between the village of Tuckahoe and the village of Bronxville. 3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall: (a) set forth factors necessitating the enactment of such parking system; (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; (c) provide the times of the day and days of the week during which permit requirements shall be in effect; (d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short-term parking of not less than one hundred twenty minutes in duration in the permit area; (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the village unless otherwise specified in such local law. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-H*2 - Residential Parking System in the Village of Cold Spring in the County of Putnam.

2. Such residential parking permit system may only be established within the area of the village consisting of the following roadways on the west side of the metro north train station: Main Street, New Street, West Street, Fish Street and Market Street and on the following roadways on the east side of the metro north train station: Main Street from Metro North Tracks to Parsonage Street, Academy Street, B Street, Benedict Road, Cherry Street, East Belvedere Street, Fishkill Avenue, Furnace Street, Garden Street, Grandview Terrace, Hamilton Street, High Street, Kemble Avenue from Main Street to Wall Street, Locust Ridge, Maple Terrace, Marion Avenue, Mountain Avenue, Orchard Street, Parrot Street, Parsonage Street, Paulding Avenue, Pine Street, Railroad Avenue, Stone Street, West Belvedere Street, Whitehill Place, Church Street, Haldane Street, Rock Street, Cross Street and Northern Avenue. 3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system;(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;(c) provide the times of the day and days of the week during which permit requirements shall be in effect;(d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than one hundred twenty minutes in duration in the permit area;(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the village unless otherwise specified in such local law.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.* NB There are 2 § 1640-h's (a) set forth factors necessitating the enactment of such parking system; (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; (c) provide the times of the day and days of the week during which permit requirements shall be in effect; (d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than one hundred twenty minutes in duration in the permit area; (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the village unless otherwise specified in such local law. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. * NB There are 2 § 1640-h's

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-H - Residential Parking System in the City of Peekskill.

2. Such residential parking permit system may only be established within the area of the city generally bounded on the north and west sides by South Street, on the south side by Bay Street and on the east side by Smith Street and any and all streets and roads within that area including but not limited to those portions of Grove Street, Hudson Avenue, LaFayette Place, Simpson Place and Requa Street within that area, plus the portions of Bay Street and Requa Street located on the east side of Smith Street within one hundred feet of the east side of Smith Street. 3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system

shall:(a) set forth factors necessitating the enactment of such parking system; and(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the city.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.* NB There are 2 § 1640's (a) set forth factors necessitating the enactment of such parking system; and (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and (c) provide the times of the day and days of the week during which permit requirements shall be in effect; and (d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the city. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. * NB There are 2 § 1640's

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-I - Residential Parking System in the Village of Mt. Kisco.

2. Such residential parking permit system may only be established within the area of the village generally bounded by Gatto Drive and Highland Avenue on the South, Grove Street on the East, Carpenter Avenue and North Moger Avenue on the North, and Marion Avenue and Sands Street on the West and any and all streets and roads within that area including but not limited to those portions of Stewart Place, Britton Lane, Lieto Drive, Sarles Avenue, Dakin Avenue, Lundy Place, Oakridge Road, Hillview Circle, Green Street, South Moger Avenue, Brookside Avenue, Quaker Hill Place, Maple Avenue, Manchester Drive, and Hillside Avenue. 3. Notwithstanding the foregoing, no permit shall be required on streets or portion of streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system; and(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide short-term parking of not less than ninety minutes in duration in such area; and(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the village.5. No ordinance shall be adopted pursuant to this action until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. (a) set forth factors necessitating the enactment of such parking system; and (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and (c) provide the times of the day and days of the week during which permit requirements shall be in effect; and (d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide short-term parking of not less than ninety minutes in duration in such area; and (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the village. 5. No ordinance shall be adopted pursuant to this action until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-J*2 - Residential Parking System in the Village of Irvington.

2. Such residential parking permit system may only be established within the Main Street neighborhood of the village of Irvington, which shall mean that area generally bounded on the easterly side by North and South Dearman Street; on the northerly side by Matthiessen Park; on the westerly side by North and South Astor Street and the Metro-North Commuter Railroad tracks; and on the southerly side by Station Road. 3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system; and(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the village.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.* NB There are 2 § 1640-j's (a) set forth factors necessitating the enactment of such parking system; and (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and (c) provide the times of the day and days of the week during which permit requirements shall be in effect; and (d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the village. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same

manner as required for public hearings on a local law pursuant to the municipal home rule law. * NB There are 2 § 1640-j's

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-J - Residential Parking System in the Garrett Park Area of the City of Yonkers.

2. Such residential parking permit system may only be established within the Garrett Park area of the city of Yonkers which shall mean that area encompassing Palmer Road, from Parkview Avenue to Bronxville Road; Garrett Place; Parkview Avenue from Palmer Road to 103 Parkview Avenue, north of Pondfield Road West; Pondfield Road West from Bronxville Road to the Bronxville border and Gard Avenue from Pondfield Road West to 19 Gard Avenue, north of Pondfield Road West. 3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system; and(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the city.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.* NB There are 2 § 1640-j's (a) set forth factors necessitating the enactment of such parking system; and (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and (c) provide the times of the day and days of the week during which permit requirements shall be in effect; and (d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the city. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. * NB There are 2 § 1640-j's

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-K - Residential Parking Permit System in the City of Rensselaer.

2. Such residential parking permit system may only be established within the area of the city of Rensselaer consisting of the following streets: Elm Street, East Street and Wendell Street. 3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking permit system shall:(a) set forth factors necessitating the enactment of such parking permit system;(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;(c) provide the times of day and days of the week during which permit requirements shall be in effect;(d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than ninety minutes in duration in the permit area;(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the city of Rensselaer.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. (a) set forth factors necessitating the enactment of such parking permit system; (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; (c) provide the times of day and days of the week during which permit requirements shall be in effect; (d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than ninety minutes in duration in the permit area; (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the city of Rensselaer. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-L - Residential Parking System in the City of Binghamton.

2. Such residential parking permit system may only be established within the area of the city consisting of the following roadways:(a) Pine Street, from Carroll Street to Liberty Street;(b) Henry Street, from Carroll Street to Liberty Street;(c) Fayette Street, from Court Street to Henry Street;(d) Carroll Street, from Court Street to Henry Street; and(e) Liberty Street, from Court Street to Henry Street.3. Notwithstanding any other provision of this section, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use.4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system; and(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the city.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same

manner as required for public hearings on a local law pursuant to the municipal home rule law. (a) Pine Street, from Carroll Street to Liberty Street; (b) Henry Street, from Carroll Street to Liberty Street; (c) Fayette Street, from Court Street to Henry Street; (d) Carroll Street, from Court Street to Henry Street; and (e) Liberty Street, from Court Street to Henry Street. 3. Notwithstanding any other provision of this section, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall: (a) set forth factors necessitating the enactment of such parking system; and (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and (c) provide the times of the day and days of the week during which permit requirements shall be in effect; and (d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide for short-term parking of not less than ninety minutes in duration in such area; and (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the city. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-M - Residential Parking Permit System in the City of Albany.

§ 1640-m. Residential parking permit system in the city of Albany. 1. Notwithstanding the provisions of any law to the contrary, the city of Albany may, by adoption of a local law or ordinance, provide for a residential parking permit system and fix and require the payment of fees applicable to parking within certain areas of the city or as delineated by the common council of the city of Albany in accordance with the provisions of this section. 2. Such residential parking permit system may only be established within the areas of the city of Albany described as follows: an area within a one mile radius of the Nelson A. Rockefeller Empire State Plaza. The permitted streets within this area shall be described in a local law or ordinance adopted by the common council of the city of Albany pursuant to this section. 3. Notwithstanding the provisions of this section, no permit shall be required on streets where the adjacent properties are zoned for commercial, office and/or retail use. 4. The local law or ordinance providing for such residential parking permit system shall: a. Set forth the specific factors which necessitate the implementation of said system and shall include, but not be limited to, findings of facts as to the existence of such traffic hazards, congestion and air and noise pollution within any such areas; b. Provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; c. Provide the times of the day and the days of the week during which permit requirements shall be in effect; d. Make not less than twenty percent of all spaces within the permit area or areas available to nonresidents which shall provide short-term parking of not less than ninety minutes in duration in such area or areas; e. Make not more than three thousand five hundred of the approximately nine thousand residential spaces within the permit area or areas available for residential parking by permit; f. Provide the schedule of fees to be paid for residential permits; and g. Provide that such fees shall be credited to the general fund of the city of Albany. 5. No local law or ordinance shall be adopted pursuant to this section until a public hearing thereon has been held by the common council of the city of Albany concerning the designation of the certain area or areas in which said parking permit system is to be implemented.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-O*2 - Residential Parking System in the Village of Mamaroneck in the County of Westchester.

2. Such residential parking permit system may only be established within the area of the village consisting of the following roadways:(a) Union Avenue, from Halstead Avenue to Tompkins Avenue;(b) Melbourne Avenue, from Halstead Avenue to Tompkins Avenue;(c) Hinman Place, from Melbourne Avenue to Union Avenue;(d) Anita Lane, from Union Avenue to the dead end;(e) Valley Place, from Ward Avenue to the dead end;(f) Ward Avenue, from Union Avenue to Spencer Place;(g) Stanley Avenue, from Mt. Pleasant Avenue to Fenimore Road;(h) Waverly Avenue, from Plaza Avenue to Mamaroneck Avenue;(i) Center Avenue, from Plaza Avenue to Old White Plains Road;(j) Madison Street, from Plaza Avenue to Old White Plains Road;(k) Washington Street, from Plaza Avenue to Old White Plains Road;(l) Grand Street, from Plaza Avenue to Old White Plains Road, and from Old White Plains Road to Mamaroneck Avenue;(m) Alling Street and Pelham Street, from Grand Street to Old White Plains Road;(n) New Street, from Old White Plains Road to Mamaroneck Avenue;(o) Willow Street, from Jefferson Avenue to the dead end;(p) Jefferson Avenue, from Jefferson Street to Cedar Street;(q) Grade Street, from Jefferson Avenue to the dead end;(r) the north-west side of Bishop Avenue, from the north-west corner of the property line of 420 Mount Pleasant Avenue to Fenimore Road.3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use.4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system;(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;(c) provide the times of the day and days of the week during which permit requirements shall be in effect;(d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than sixty minutes in duration in the permit area;(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the village of Mamaroneck unless otherwise specified in such local law.5. No local law or ordinance shall be adopted pursuant to this section until a public hearing on such ordinance has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.6. The provisions of this section shall not apply to any state highway maintained by the

state.* NB There are 2 § 1640-o's (a) Union Avenue, from Halstead Avenue to Tompkins Avenue; (b) Melbourne Avenue, from Halstead Avenue to Tompkins Avenue; (c) Hinman Place, from Melbourne Avenue to Union Avenue; (d) Anita Lane, from Union Avenue to the dead end; (e) Valley Place, from Ward Avenue to the dead end; (f) Ward Avenue, from Union Avenue to Spencer Place; (g) Stanley Avenue, from Mt. Pleasant Avenue to Fenimore Road; (h) Waverly Avenue, from Plaza Avenue to Mamaroneck Avenue; (i) Center Avenue, from Plaza Avenue to Old White Plains Road; (j) Madison Street, from Plaza Avenue to Old White Plains Road; (k) Washington Street, from Plaza Avenue to Old White Plains Road; (l) Grand Street, from Plaza Avenue to Old White Plains Road, and from Old White Plains Road to Mamaroneck Avenue; (m) Alling Street and Pelham Street, from Grand Street to Old White Plains Road; (n) New Street, from Old White Plains Road to Mamaroneck Avenue; (o) Willow Street, from Jefferson Avenue to the dead end; (p) Jefferson Avenue, from Jefferson Street to Cedar Street; (q) Grade Street, from Jefferson Avenue to the dead end; (r) the north-west side of Bishop Avenue, from the north-west corner of the property line of 420 Mount Pleasant Avenue to Fenimore Road. 3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall: (a) set forth factors necessitating the enactment of such parking system; (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; (c) provide the times of the day and days of the week during which permit requirements shall be in effect; (d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than sixty minutes in duration in the permit area; (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the village of Mamaroneck unless otherwise specified in such local law. 5. No local law or ordinance shall be adopted pursuant to this section until a public hearing on such ordinance has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. 6. The provisions of this section shall not apply to any state highway maintained by the state. * NB There are 2 § 1640-o's

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-O - Residential Parking System in the Village of Dobbs Ferry in the County of Westchester.

2. Such residential parking permit system may only be established in the village of Dobbs Ferry within the area of the village consisting of the following roadways:(a) Oak street, from Broadway to Main street;(b) Elm street, from Broadway to Main street;(c) Chestnut street, from Broadway to Main street;(d) Walnut street, from Broadway to Livingston avenue;(e) Hatch terrace, from Broadway to Walnut street;(f) Palisade street, from Cedar street to Chestnut street;(g) Riverside place;(h) Cedar street, from Main street to a point 750 feet west of Palisade street;(i) The portion of Draper lane owned by the village of Dobbs Ferry.3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial, office and/or retail use.4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system;(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;(c) provide the times of the day and days of the week during which permit requirements shall be in effect;(d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than sixty minutes in duration in the permit area;(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the village of Dobbs Ferry unless otherwise specified in such local law.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.6. The provisions of this section shall not apply to any state highway maintained by the state.* NB There are 2 § 1640-o's (a) Oak street, from Broadway to Main street; (b) Elm street, from Broadway to Main street; (c) Chestnut street, from Broadway to Main street; (d) Walnut street, from Broadway to Livingston avenue; (e) Hatch terrace, from Broadway to Walnut street; (f) Palisade street, from Cedar street to Chestnut street; (g) Riverside place; (h) Cedar street, from Main street to a point 750 feet west of Palisade street; (i) The portion of Draper lane owned by the village of Dobbs Ferry. 3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial, office and/or retail use. 4. The local law or ordinance providing for such residential parking system shall: (a) set forth factors necessitating the enactment of such parking system; (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; (c) provide the times of the day and days of the week during which permit requirements shall be in effect; (d) make not less than twenty percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than sixty minutes in duration in the permit area; (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the village of Dobbs Ferry unless otherwise specified in such local law. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. 6. The provisions of this section shall not apply to any state highway maintained by the state. * NB There are 2 § 1640-o's

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-Q - Residential Parking System in the Village of Croton-on-Hudson.

2. Such residential parking permit system may only be established within the village of Croton-on-Hudson on Young Avenue and Hastings Avenue and Truesdale Drive, Nordica Drive, Cedar Lane, and Old Post Road South from Truesdale Drive to Morningside

Drive. 3. Notwithstanding the foregoing, no permit shall be required on streets or portion of streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system; and(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide short-term parking of not less than ninety minutes in duration in such area; and(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the village.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. (a) set forth factors necessitating the enactment of such parking system; and (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and (c) provide the times of the day and days of the week during which permit requirements shall be in effect; and (d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide short-term parking of not less than ninety minutes in duration in such area; and (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the village. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-R*2 - Residential Parking System in the City of New Rochelle.

2. Such residential parking permit system may only be established within the city of New Rochelle on Farragut Circle, Decatur Road and Sutton Manor Road. 3. Notwithstanding the foregoing, no permit shall be required on streets or portion of streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system; and(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and(d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide short-term parking of not less than ninety minutes in duration in such area; and(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the city.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.* NB There are 3 § 1640-r's (a) set forth factors necessitating the enactment of such parking system; and (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and (c) provide the times of the day and days of the week during which permit requirements shall be in effect; and (d) make not less than twenty percent of all spaces within the permit area available to non-residents and shall provide short-term parking of not less than ninety minutes in duration in such area; and (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the city. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. * NB There are 3 § 1640-r's

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-R*3 - Residential Parking System in the City of Rye.

2. Such residential parking permit system may only be established within the city of Rye on Mead Place. 3. Notwithstanding the foregoing, no permit shall be required on streets or those portions of such streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system; and(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and(d) make not less than twenty percent of all spaces within the permit area available to non-residents, and shall provide short-term parking of not less than ninety minutes in duration in such area; and(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the city.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.* NB There are 3 § 1640-r's (a) set forth factors necessitating the enactment of such parking system; and (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and (c) provide the times of the day and days of the week during which permit requirements shall be in effect; and (d) make not less than twenty percent of all spaces within the permit area available to non-residents, and shall provide short-term parking of not less than ninety minutes in duration in such area; and (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the city. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. * NB There are 3 § 1640-r's

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-R - Residential Parking System in the Village of Floral Park in the County

of Nassau.

2. Such residential parking permit system may only be established within the area of the village which shall mean that area generally bounded by the following: All of that area beginning at the intersection of Plainfield Avenue and Magnolia Avenue; proceeding east on Magnolia Avenue to its intersection with Ward Street; thence running southerly on Ward Street to its intersection with Tulip Avenue and East Poplar Street; thence running southerly on East Poplar Street to its intersection with Cypress Street; thence running westerly on Cypress Street to its intersection with Floral Parkway; thence running southeasterly on Floral Parkway to its intersection with Cedar Street; thence running southerly on Cedar street to its intersection with Cedar Place; thence running southerly on Cedar Place to its intersection with West Poplar Street; thence running southerly on West Poplar Street to its intersection with Miller Avenue; thence running westerly on Miller Avenue to its intersection with Beech Street; thence running southerly on Beech Street to its intersection with Vandewater Avenue; thence running westerly on Vandewater Avenue to its intersection with Plainfield Avenue; thence running northerly on Plainfield Avenue to its intersection with Zinnia Street; thence running westerly on Zinnia Street to its intersection with Violet Avenue; thence running southerly on Violet Avenue to its intersection with Pandosa Memorial Avenue; thence running westerly on Pandosa Memorial Avenue to a point where it intersects with the border between the Village of Floral Park and Belmont Park; thence running .835 miles westerly and then northerly along the border between the Village of Floral Park and Belmont Park to a point where it intersects with Poppy Place; thence running easterly on Poppy Place to its intersection with Larch Avenue; thence running northerly on Larch Avenue to its intersection with Atlantic Avenue; thence running easterly on Atlantic Avenue to its intersection with Woodbine Court; thence running easterly on Woodbine Court to its intersection with Plainfield Avenue and Magnolia Avenue, the place of beginning. For the purposes of this paragraph, permit parking may be implemented on both sides of any street whose center line is herein utilized as a boundary description; provided, however, that except for the reference to state highways solely for the purposes of delineating the boundaries of the area described in this paragraph, the provisions of this section shall not apply to any state highway maintained by the state. 3. Notwithstanding the foregoing, no permit shall be required on streets or those portions of such streets where the adjacent properties are zoned for commercial or retail use. 4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system;(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;(c) provide the times of the day and days of the week during which permit requirements shall be in effect;(d) make not less than twenty percent of all spaces within the permit area available to non-residents, and shall provide short-term parking of not less than ninety minutes in duration in such area;(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the village.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. (a) set forth factors necessitating the enactment of such parking system; (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; (c) provide the times of the day and days of the week during which permit requirements shall be in effect; (d) make not less than twenty percent of all spaces within the permit area available to non-residents, and shall provide short-term parking of not less than ninety minutes in duration in such area; (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the village. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640-S - Residential Parking System in Village of Port Chester.

2. Such residential parking permit system may only be established within the area of the village which shall mean that area generally bounded by the following: All of that area beginning at Franklin Street and the westerly border of the village of Port Chester; thence running easterly on Franklin Street to South Regent Street; thence running northerly on South Regent Street to Westchester Avenue; thence running easterly on Westchester Avenue to Pearl Street; thence running southerly on Pearl Street to Boston Post Road; thence running southerly on Boston Post Road to the southern border of the village of Port Chester; thence running .15 miles westerly and then northerly along the border between the village of Port Chester and the city of Rye to a point where it intersects with Franklin Street, the place of beginning. For the purposes of this subdivision, permit parking may be implemented on both sides of any street whose center line is herein utilized as a boundary description; provided, however, that except for the reference to state highways and to Westchester Avenue and Pearl Street solely for the purposes of delineating the boundaries of the area described in this subdivision, the provisions of this section shall not apply to any state highway maintained by the state nor to Westchester Avenue or Pearl Street. 3. Notwithstanding the foregoing, no permit shall be required on streets or portions of streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system; and(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and(d) make not less than fifteen percent of all spaces within the permit area available to non-residents and shall provide short-term parking of not less than ninety minutes in duration in such area; and(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the village.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same

manner as required for public hearings on a local law pursuant to the municipal home rule law. (a) set forth factors necessitating the enactment of such parking system; and (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and (c) provide the times of the day and days of the week during which permit requirements shall be in effect; and (d) make not less than fifteen percent of all spaces within the permit area available to non-residents and shall provide short-term parking of not less than ninety minutes in duration in such area; and (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the village. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1640 - Traffic Regulations in All Cities and Villages.

1. Designate through highways and order stop signs, flashing signals or yield signs erected at specified entrances thereto or designate any intersection as a stop intersection or a yield intersection and order like signs or signals at one or more entrances to such intersection. 2. Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations. 3. Regulate the crossing of any roadway by pedestrians. 4. Designate any highway or any separate roadway thereof for one-way traffic. 5. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations, or tractor-trailer-semitrailer combinations from highways specified by such legislative body. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded. 6. Prohibit, restrict or limit the stopping, standing or parking of vehicles; provided, however, that a vehicle may not be found to be in violation of a parking regulation if it is parked at a broken parking meter at a time when metered parking is authorized. 7. Determine those highways or portions of highways which shall be marked to indicate where overtaking and passing or driving to the left of or crossing such markings would be especially hazardous in accordance with the standards, minimum warrants and sign or marking specifications established by the department of transportation. 8. Designate safety zones. 9. Provide for the installation, operation, maintenance, policing, and supervision of parking meters, establish parking time limits at such meters, designate hours of operation of such meters, and, except as provided in section twelve hundred three-h of this chapter, fix and require the payment of fees applicable to parking where such meters are in operation. Such fees shall be paid to such city or village and credited to its general fund, unless a different disposition prescribed by local law or ordinance enacted prior to or after the effective date of this section. 10. Establish a system of truck routes upon which all trucks, tractors, and tractor-trailer combinations having a total gross weight in excess of ten thousand pounds are permitted to travel and operate and excluding such vehicles and combinations from all highways except those which constitute such truck route system. Such exclusion shall not be construed to prevent the delivery or pick up of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded. Any such system of truck routes shall provide suitable connection with all state routes entering or leaving such city or village. 11. Regulate traffic by means of traffic-control signals. 12. License, regulate or prohibit speed contests, races, exhibitions of speed, processions, assemblages or parades. Whenever such a speed contest, race, exhibition of speed, procession, assemblage or parade authorized by a local authority will block the movement of traffic on a state highway maintained by the state, or on a highway which connects two state highways maintained by the state to make a through route, for a period in excess of ten minutes, such authority must, prior to such blocking, provide and designate with conspicuous signs a detour adequate to prevent unreasonable delay in the movement of traffic on said highway maintained by the state. 13. Prohibit or regulate the operation and the stopping, standing or parking of vehicles in cemeteries and in public parks. 14. Provide for the removal and storage of vehicles parked or abandoned on highways during snowstorms, floods, fires or other public emergencies, or found unattended where they constitute an obstruction to traffic or any place where stopping, standing or parking is prohibited, and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle. 15. Provide for the establishment, operation, policing and supervision of a prepaid parking permit system, establishing parking time limits for such permits and fix and require the payment of fees applicable to parking where such a prepaid permit parking system is in operation. Such fees shall be paid to the city of Albany and credited to its general funds, unless a different disposition prescribed by local law is enacted. A prepaid parking permit system may not be established at any location at which parking is subject to a parking meter fee. The provisions of this paragraph shall only be applicable for the city of Albany. 16. Adopt such additional reasonable local laws, ordinances, orders, rules and regulations with respect to traffic as local conditions may require subject to the limitations contained in the various laws of this state. 17. Make special provisions with relation to stopping, standing or parking of vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter. 18. Declare a snow emergency and designate any highway or portion thereof as a snow emergency route. 19. Prohibit vehicles engaged in the retail sale of frozen desserts as that term is defined in subdivision thirty-seven of section three hundred seventy-five of this chapter directly to pedestrians from stopping for the purpose of such sales on any highway within such city or village, or on all such highways. Nothing herein shall be construed to prohibit the operator of such vehicle from stopping such vehicle off of such highway, in a safe manner, for the sole purpose of delivering such retail product directly to the residence of a consumer or to the business address of a customer of such retailer. 20. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations, or tractor-trailer-semitrailer combinations in excess of any designated weight, designated length, designated height, or eight feet in width, from highways or set limits on hours of operation of such vehicles on particular city or village highways or segments of such highways. Such exclusion shall not be

construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles or combinations are otherwise excluded. 21. Serve notice of a violation of any provision of local law or ordinance relating to the prevention of noise pollution caused by an audible motor vehicle burglar alarm and over which the city or village has jurisdiction upon the owner of a motor vehicle by affixing such notice to said vehicle in a conspicuous place. 22. Prohibit or regulate the stopping, standing and parking of vehicles in designated areas reserved for public business at or adjacent to a government facility.(b) Such a legislative body also may by local law, ordinance, order, rule or regulation prohibit, restrict or limit the stopping, standing or parking of vehicles upon property owned or leased by such city or village.(c) Each such legislative body shall cause to be determined, for all bridges and elevated structures under its jurisdiction, the capacity in tons of two thousand pounds which the bridge or structure will safely carry. At bridges or structures of insufficient strength to carry safely the legal loads permissible by section three hundred eighty-five, the legislative body of such city or village shall cause signs to be erected to inform persons of the safe capacity.(d) Each such legislative body of a city or a village shall cause signs to be erected to inform persons of the legal overhead clearance for all bridges and structures on highways under its jurisdiction. The legal clearance shall be one foot less than the measured clearance. The measured clearance shall be the minimum height to the bridge or structure measured vertically from the traveled portion of the roadway. On bridges or structures having fourteen feet or more of measured clearance, no such signs shall be required.(e) No legislative body of a city or a village shall enact any law that prohibits the use of sidewalks by persons with disabilities who use either a wheelchair or an electrically-driven mobility assistance device being operated or driven by such person. (b) Such a legislative body also may by local law, ordinance, order, rule or regulation prohibit, restrict or limit the stopping, standing or parking of vehicles upon property owned or leased by such city or village. (c) Each such legislative body shall cause to be determined, for all bridges and elevated structures under its jurisdiction, the capacity in tons of two thousand pounds which the bridge or structure will safely carry. At bridges or structures of insufficient strength to carry safely the legal loads permissible by section three hundred eighty-five, the legislative body of such city or village shall cause signs to be erected to inform persons of the safe capacity. (d) Each such legislative body of a city or a village shall cause signs to be erected to inform persons of the legal overhead clearance for all bridges and structures on highways under its jurisdiction. The legal clearance shall be one foot less than the measured clearance. The measured clearance shall be the minimum height to the bridge or structure measured vertically from the traveled portion of the roadway. On bridges or structures having fourteen feet or more of measured clearance, no such signs shall be required. (e) No legislative body of a city or a village shall enact any law that prohibits the use of sidewalks by persons with disabilities who use either a wheelchair or an electrically-driven mobility assistance device being operated or driven by such person.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1641 - Additional Traffic Regulations on All Highways Except State Highways Maintained by the State in Cities and Villages.

§ 1641. Additional traffic regulations on all highways except state highways maintained by the state in cities and villages. In addition to the other powers granted by this article, the legislative body of any city or village with respect to highways (which term for the purposes of this section shall include private roads open to public motor vehicle traffic) in such city or village except state highways maintained by the state, may by local law, ordinance, order, rule or regulation: 1. Prohibit, restrict or regulate the operation of vehicles on any controlled-access highway or the use of any controlled-access highway by any vehicle, device moved by human power or pedestrian. 2. Authorize angle parking on any roadway. 3. Upon a roadway which is divided into three lanes, allocate the center lane exclusively for traffic moving in a specified direction. 4. Order signs erected directing slow-moving traffic, trucks, buses or specified types of vehicles to use a designated lane, or with signs, signals or markings designate those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway. 5. Designate a portion of a slope as a path for the use of bicycles. 6. Order signs or markings to identify the portion of the highway to be used for bicycle travel. 7. Prohibit, restrict or regulate the operation of limited use vehicles on any street or highway. 8. Designate preferential use lanes for specified types or classes of vehicles.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1642-A - Bus Permit System in Cities Having a Population of One Million or More.

a. "Charter bus" shall mean a bus transporting passengers for compensation in chartered party. b. "Chartered party" shall mean a group of persons who, pursuant to a common purpose and under a single contract and at a fixed charge, have acquired exclusive use of a bus to travel together as a group to a specific destination or for a particular itinerary either agreed upon in advance or modified after having left the place of origin by such group. c. "Community board" shall mean a community board as defined in section twenty-eight hundred of the New York city charter. d. "Intercity bus" shall mean a bus that transports the general public between a city having a population of one million or more and any location outside of such city in scheduled bus service. Provided, however, that such term shall not include a school bus; or a bus providing public transportation; or a charter bus. e. "Metropolitan transportation authority" shall mean the corporation created by section twelve hundred sixty-three of the public authorities law. f. "Public transportation" shall mean:(i) mass transportation services provided to the general public by any public benefit corporation constituting a transportation authority, or a subsidiary thereof, or any public transportation corporation constituted as an instrumentality of a state, or a subsidiary thereof, directly or through a contact with another entity, or(ii) mass transportation services provided to the general public by any county, city, town or village directly or through a contract with another entity pursuant to

section one hundred nineteen-r of the general municipal law, or provided to the general public by another state or any county, city, town or village in a state other than New York directly or through a contract with another entity pursuant to a similar law of such other state.2. Notwithstanding any provision of law to the contrary, any city having a population of one million or more may prohibit intercity buses from loading or unloading passengers on streets within such city except on designated streets and at designated locations on such streets pursuant to a permit in accordance with the provisions of this section.3. The mayor of such city which acts pursuant to subdivision two of this section shall designate an agency to promulgate rules to implement this section. Such city agency shall promulgate such rules which shall comply with chapter forty-five of the New York city charter including a public hearing. Such rules shall:a. Establish a system of permits for allocating locations on designated streets where intercity buses may load and unload passengers, and prohibit loading and unloading of passengers other than at such designated locations on such designated streets pursuant to a permit;b. Require the owner or operator of an intercity bus to submit an application for a permit for each proposed location for loading and unloading of passengers. Such application shall include the following information:(i) The name, address, telephone number, e-mail address and motor carrier number of the intercity bus owner or operator, the United States department of transportation number and/or New York state department of transportation number for each bus that would use such proposed location;(ii) A proposed location or locations to be used by the specified intercity buses for loading or unloading passengers, and two or more alternative proposed locations;(iii) The number of intercity buses that would use the proposed location or locations;(iv) The number of passengers anticipated for each such intercity bus;(v) The proposed intercity bus schedule;(vi) The planned garage or parking location of the intercity buses during periods when such buses are not being used; and(vii) Any other information deemed necessary by the commissioner of the city agency designated pursuant to this subdivision.c. Establish criteria for assigning locations to permit applicants, which shall include traffic and safety considerations, the preferences of the applicant, consultation with the local community board as provided in paragraph b of subdivision four of this section and other criteria deemed appropriate by the commissioner of such city agency;d. Provide that such permit shall be issued for a term of up to three years, except that such city may relocate a designated location for the loading and unloading of passengers by an intercity bus, upon ninety days notice to the holder of a permit and after consultation with the local community board as provided in paragraph b of subdivision four of this section, pursuant to the criteria established in accordance with paragraph c of this subdivision;e. Include criteria under which intercity bus owners or operators assigned a designated location for loading and unloading passengers prior to the effective date of this section shall be issued a permit to use such location for the loading and unloading of passengers for a period of up to three years from the effective date of this section;f. Establish a timeframe of up to one hundred fifty days for determinations on permit applications, and a process for reviewing the determination on the application;g. Require intercity bus owners or operators to notify such city agency of changes to information provided in such permit application;h. Require intercity bus owners or operators to prominently display a copy of the permit in each intercity bus;i. Require the posting of all approved applications on a website for public access by such city agency within thirty days of approval;j. Include such other requirements as are deemed appropriate by the commissioner of such city agency;k. Set forth a schedule of fines or civil penalties for violations of the rules by owners or operators of intercity buses, including for loading or unloading passengers on a city street without a permit or for failure to comply with any permit requirements or restrictions, provided that such fines or civil penalties shall not be more than one thousand dollars for a first violation, and not be more than two thousand five hundred dollars for a second or subsequent violation within two years of the first violation; and1. Provide for the suspension or revocation of a permit for failure to comply with any permit requirements or restrictions.Such rules also may provide for the imposition of an annual fee for such permit to cover administrative expenses, not to exceed two hundred seventy-five dollars per vehicle.4. The city agency designated pursuant to subdivision three of this section to promulgate rules shall:a. Have the authority to designate streets and locations where the loading or unloading of passengers by intercity buses shall be permitted;b. Consult with the local community board for the district encompassing the location to be designated in a permit, including but not limited to a notice and comment period of forty-five days, prior to the issuance or permanent amendment of such permit;c. Consult with the metropolitan transportation authority when a proposed location or relocation for the loading and unloading of passengers by an intercity bus would overlap with an existing metropolitan transportation authority bus stop;d. Consult with the port authority of New York and New Jersey when a proposed location or relocation for the loading and unloading of passengers by an intercity bus would overlap with an existing port authority of New York and New Jersey bus facility.e. Post all locations designated for the loading and unloading of passengers by intercity bus on a website for public access within thirty days of approval; andf. Have the authority to temporarily amend any approved location for a period of up to ninety days for reasons of public safety or other emergency or temporary need as determined by such city agency without prior consultation with the local community board; provided that such city agency informs the affected community board in writing no more than thirty days after any such temporary amendment.5. Notwithstanding any other provision of law, in addition to those persons otherwise authorized to enforce any rules promulgated pursuant to this section and adjudicate violations thereof pursuant to article two-A or two-B of this chapter, this section shall also be enforceable by an agency or agencies designated for such purpose by the mayor of such city, and notices of violation issued by such agency or agencies shall be returnable to the environmental control board of such city, which shall have the power to impose the civil penalties herein provided. All proceedings before the environmental control board and any enforcement proceedings shall be conducted in accordance with subdivision d of section one thousand forty-nine-a of the New York city charter and the rules of the environmental control board, except that service of a notice of violation of any rule promulgated pursuant to this section shall be made on the owner or operator of the intercity bus involved in the violation (i) in the same manner as is prescribed for service of process by article three of the civil practice law and rules or article three of the business corporation law; (ii) by delivering such notice to the operator of the intercity

bus, and mailing a copy of the notice to the owner or operator of the intercity bus, provided that proof of such service shall be filed with the environmental control board within twenty days, and service shall be complete ten days after such filing; or (iii) by affixing such notice to the intercity bus, and mailing a copy of the notice to the owner or operator of the intercity bus, provided that proof of such service shall be filed with the environmental control board within twenty days, and service shall be complete ten days after such filing. Civil penalties may also be recovered in a proceeding commenced in a court of competent jurisdiction. Notwithstanding any other provision of law, such civil penalties imposed by such environmental control board shall be paid into the general fund of such city. Notwithstanding section one hundred fifty-five of this chapter or any other provision of law, where a person has been adjudicated to be in violation of any rules promulgated pursuant to subdivision three of this section, such adjudication shall not have the force and effect of a conviction of a traffic infraction or of a violation of any provision of this chapter for any purpose not specified in this section. (i) mass transportation services provided to the general public by any public benefit corporation constituting a transportation authority, or a subsidiary thereof, or any public transportation corporation constituted as an instrumentality of a state, or a subsidiary thereof, directly or through a contact with another entity, or (ii) mass transportation services provided to the general public by any county, city, town or village directly or through a contract with another entity pursuant to section one hundred nineteen-r of the general municipal law, or provided to the general public by another state or any county, city, town or village in a state other than New York directly or through a contract with another entity pursuant to a similar law of such other state. 2. Notwithstanding any provision of law to the contrary, any city having a population of one million or more may prohibit intercity buses from loading or unloading passengers on streets within such city except on designated streets and at designated locations on such streets pursuant to a permit in accordance with the provisions of this section. 3. The mayor of such city which acts pursuant to subdivision two of this section shall designate an agency to promulgate rules to implement this section. Such city agency shall promulgate such rules which shall comply with chapter forty-five of the New York city charter including a public hearing. Such rules shall: a. Establish a system of permits for allocating locations on designated streets where intercity buses may load and unload passengers, and prohibit loading and unloading of passengers other than at such designated locations on such designated streets pursuant to a permit; b. Require the owner or operator of an intercity bus to submit an application for a permit for each proposed location for loading and unloading of passengers. Such application shall include the following information: (i) The name, address, telephone number, e-mail address and motor carrier number of the intercity bus owner or operator, the United States department of transportation number and/or New York state department of transportation number for each bus that would use such proposed location; (ii) A proposed location or locations to be used by the specified intercity buses for loading or unloading passengers, and two or more alternative proposed locations; (iii) The number of intercity buses that would use the proposed location or locations; (iv) The number of passengers anticipated for each such intercity bus; (v) The proposed intercity bus schedule; (vi) The planned garage or parking location of the intercity buses during periods when such buses are not being used; and (vii) Any other information deemed necessary by the commissioner of the city agency designated pursuant to this subdivision. c. Establish criteria for assigning locations to permit applicants, which shall include traffic and safety considerations, the preferences of the applicant, consultation with the local community board as provided in paragraph b of subdivision four of this section and other criteria deemed appropriate by the commissioner of such city agency; d. Provide that such permit shall be issued for a term of up to three years, except that such city may relocate a designated location for the loading and unloading of passengers by an intercity bus, upon ninety days notice to the holder of a permit and after consultation with the local community board as provided in paragraph b of subdivision four of this section, pursuant to the criteria established in accordance with paragraph c of this subdivision; e. Include criteria under which intercity bus owners or operators assigned a designated location for loading and unloading passengers prior to the effective date of this section shall be issued a permit to use such location for the loading and unloading of passengers for a period of up to three years from the effective date of this section; f. Establish a timeframe of up to one hundred fifty days for determinations on permit applications, and a process for reviewing the determination on the application; g. Require intercity bus owners or operators to notify such city agency of changes to information provided in such permit application; h. Require intercity bus owners or operators to prominently display a copy of the permit in each intercity bus; i. Require the posting of all approved applications on a website for public access by such city agency within thirty days of approval; j. Include such other requirements as are deemed appropriate by the commissioner of such city agency; k. Set forth a schedule of fines or civil penalties for violations of the rules by owners or operators of intercity buses, including for loading or unloading passengers on a city street without a permit or for failure to comply with any permit requirements or restrictions, provided that such fines or civil penalties shall not be more than one thousand dollars for a first violation, and not be more than two thousand five hundred dollars for a second or subsequent violation within two years of the first violation; and 1. Provide for the suspension or revocation of a permit for failure to comply with any permit requirements or restrictions. Such rules also may provide for the imposition of an annual fee for such permit to cover administrative expenses, not to exceed two hundred seventy-five dollars per vehicle. 4. The city agency designated pursuant to subdivision three of this section to promulgate rules shall: a. Have the authority to designate streets and locations where the loading or unloading of passengers by intercity buses shall be permitted; b. Consult with the local community board for the district encompassing the location to be designated in a permit, including but not limited to a notice and comment period of forty-five days, prior to the issuance or permanent amendment of such permit; c. Consult with the metropolitan transportation authority when a proposed location or relocation for the loading and unloading of passengers by an intercity bus would overlap with an existing metropolitan transportation authority bus stop; d. Consult with the port authority of New York and New Jersey when a proposed location or relocation for the loading and unloading of passengers by an intercity bus would overlap with an existing port authority of New York and New Jersey bus facility. e. Post all locations designated for the loading and unloading of passengers by intercity bus on a

website for public access within thirty days of approval; and f. Have the authority to temporarily amend any approved location for a period of up to ninety days for reasons of public safety or other emergency or temporary need as determined by such city agency without prior consultation with the local community board; provided that such city agency informs the affected community board in writing no more than thirty days after any such temporary amendment. 5. Notwithstanding any other provision of law, in addition to those persons otherwise authorized to enforce any rules promulgated pursuant to this section and adjudicate violations thereof pursuant to article two-A or two-B of this chapter, this section shall also be enforceable by an agency or agencies designated for such purpose by the mayor of such city, and notices of violation issued by such agency or agencies shall be returnable to the environmental control board of such city, which shall have the power to impose the civil penalties herein provided. All proceedings before the environmental control board and any enforcement proceedings shall be conducted in accordance with subdivision d of section one thousand forty-nine-a of the New York city charter and the rules of the environmental control board, except that service of a notice of violation of any rule promulgated pursuant to this section shall be made on the owner or operator of the intercity bus involved in the violation (i) in the same manner as is prescribed for service of process by article three of the civil practice law and rules or article three of the business corporation law; (ii) by delivering such notice to the operator of the intercity bus, and mailing a copy of the notice to the owner or operator of the intercity bus, provided that proof of such service shall be filed with the environmental control board within twenty days, and service shall be complete ten days after such filing; or (iii) by affixing such notice to the intercity bus, and mailing a copy of the notice to the owner or operator of the intercity bus, provided that proof of such service shall be filed with the environmental control board within twenty days, and service shall be complete ten days after such filing. Civil penalties may also be recovered in a proceeding commenced in a court of competent jurisdiction. Notwithstanding any other provision of law, such civil penalties imposed by such environmental control board shall be paid into the general fund of such city. Notwithstanding section one hundred fifty-five of this chapter or any other provision of law, where a person has been adjudicated to be in violation of any rules promulgated pursuant to subdivision three of this section, such adjudication shall not have the force and effect of a conviction of a traffic infraction or of a violation of any provision of this chapter for any purpose not specified in this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1642 - Additional Traffic Regulations in Cities Having a Population in Excess of One Million.

1. Weights and dimensions of vehicles. 2. Parking, standing, stopping and backing of vehicles. 3. The prohibition or regulation of the use of any highway by particular vehicles or classes or types thereof or devices moved by human power. 4. Charging of tolls, taxes, fees, licenses or permits for the use of the highway or any of its parts, where the imposition thereof is authorized by law. 5. Establishment of minimum speed limits at which vehicles may proceed on or along such highways. 6. Operation of authorized emergency vehicles. 7. Control of persons and equipment engaged in work on the highway. 8. Hitchhiking and commercial activities. 9. Use of medial strips and dividing malls or sections and use of shoulders of the highway. 10. Right of way of vehicles and pedestrians. 11. Use of the highway by pedestrians, equestrians and animals. 12. Turning of vehicles. 13. Regulation of the direction of the movement of traffic and the use of traffic lanes. 14. Regulation of the use of horns, lights and other required equipment of vehicles. 15. Towing and pushing of vehicles, including, but not limited to, the establishment of minimum insurance levels for and the licensing and regulation of persons engaged in the business of towing, and the fixing of maximum charges to be made by such persons for the towing and storage of disabled vehicles. 16. Objects projecting or hanging outside or on the top of vehicles. 17. Entering and driving off the highway, its roadways, medial strips, dividing malls and shoulders. 18. The prohibition or regulation of speed contests, races, exhibitions of speed, processions or parades. 19. Littering the highway. 20. Vehicles illegally parked, stopped or standing, or vehicles involved in accidents, including, but not limited to, the removal and storage of such vehicles, the fixing of reasonable charges, to be paid by the owner, operator or person entitled to possession, for such removal and storage and for other expenses incurred in connection therewith, the creation of liens on such vehicles for such charges and expenses, the enforcement of such liens, the determination of ownership or right to possession of such vehicles, the time before such vehicles are deemed abandoned vehicles pursuant to section twelve hundred twenty-four of this chapter, and the disposition of the proceeds of sales held pursuant to said section. 21. Transportation of combustibles, chemicals, explosives, inflammables, or other dangerous substances, articles, compounds or mixtures, including, but not limited to, dangerous articles, as defined in section three hundred eighty of this chapter. 22. Traffic signal legend applicable to pedestrians and use of arrows. 23. Prohibit, restrict or regulate the operation of limited use vehicles on any street or highway. 24. Prohibition of the operation of motorcycles during the period between nine post meridian through eight ante meridian along designated streets or parts of streets on which the properties fronting thereon are zoned for residential uses. Provided that notice of such prohibition shall be given by the posting of suitable signs at the entrance to each such street or part thereof and that no such prohibition shall apply to a motorcycle being operated thereon for the purpose or as a direct incident of law enforcement; crime prevention; detection; prevention or relief of any condition which may threaten the health, safety or welfare of persons or property; or direct travel to or from employment. 25. Parking, standing and stopping of vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter. 26. (a) With respect to highways (which term for the purposes of this paragraph shall include private roads open to public motor vehicle traffic) in such city, other than state highways maintained by the state on which the department of transportation shall have established higher or lower speed limits than the statutory fifty-five miles per hour speed limit as provided in section sixteen hundred twenty of

this title, or on which the department of transportation shall have designated that such city shall not establish any maximum speed limit as provided in section sixteen hundred twenty-four of this title, subject to the limitations imposed by section sixteen hundred eighty-four of this title, establishment of maximum speed limits at which vehicles may proceed within such city or within designated areas of such city higher or lower than the fifty-five miles per hour maximum statutory limit. No such speed limit applicable throughout such city or within designated areas of such city shall be established at less than twenty miles per hour, except that (i) school speed limits may be established at no less than fifteen miles per hour pursuant to the provisions of section sixteen hundred forty-three of this article, and (ii) on portions of highways that consist of three or more vehicular travel lanes in the same direction outside of New York county, speed limits shall be established at no less than twenty-five miles per hour.(b) A city shall not lower or raise a speed limit pursuant to this paragraph unless such city provides written notice and an opportunity to comment to the community board or community boards established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which the lower or higher speed limit shall apply. Such notice may be provided by electronic mail and shall be provided sixty days prior to the establishment of such lower or higher speed limit and a community board may issue an advisory opinion prior to the raising or lowering of such speed limit. Notwithstanding any inconsistent provision of this subdivision, a speed limit applicable throughout such city shall only be lowered or raised pursuant to a local law.27. (a) Establishment of maximum speed limits below twenty miles per hour at which motor vehicles may proceed on or along designated highways within such city for the explicit purpose of implementing traffic calming measures as such term is defined herein; provided, however, that no speed limit shall be set below ten miles per hour nor shall such speed limit be established where the traffic calming measure to be implemented consists solely of a traffic control sign. Establishment of such a speed limit shall, where applicable, be in compliance with the provisions of sections sixteen hundred twenty-four and sixteen hundred eighty-four of this title. Nothing contained herein shall be deemed to alter or affect the establishment of school speed limits pursuant to the provisions of section sixteen hundred forty-three of this article. For the purposes of this paragraph, "traffic calming measures" shall mean any physical engineering measure or measures that reduce the negative effects of motor vehicle use, alter driver behavior and improve conditions for non-motorized street users such as pedestrians and bicyclists.(b) Any city establishing maximum speed limits below twenty miles per hour pursuant to clause (i) of this subparagraph shall submit a report to the governor, the temporary president of the senate and the speaker of the assembly on or before March first, two thousand fifteen and biannually thereafter on the results of using traffic calming measures and speed limits lower than twenty miles per hour as authorized by this paragraph. This report shall also be made available to the public by such city on its website. Such report shall include, but not be limited to the following:(i) a description of the designated highways where traffic calming measures and a lower speed limit were established;(ii) a description of the specific traffic calming measures used and the maximum speed limit established;(iii) an explanation of the reasons for setting lower speed limits, how those lower speed limits comply with engineering standards, and how they will ensure that motor vehicles can operate at safe speeds in a manner that optimizes all road users' safety and convenience; and(iv) a comparison of the aggregate type, number, and severity of accidents reported on streets on which street calming measures and lower speed limits were implemented in the year preceding the implementation of such measures and policies and the year following the implementation of such measures and policies, to the extent this information is maintained by any agency of the state or the city.(b) The police commissioner of any such city may, in any emergency, suspend within such city or any part thereof, for a period of forty-eight hours, any provision of title seven of this chapter or any local law, ordinance, order, rule or regulation adopted pursuant to this article. In the event of any such suspension, the police commissioner shall forthwith give notice thereof to the official, board or agency of such city having jurisdiction to promulgate traffic regulations in relation to any place affected by such suspension. (b) A city shall not lower or raise a speed limit pursuant to this paragraph unless such city provides written notice and an opportunity to comment to the community board or community boards established pursuant to section twenty-eight hundred of the New York city charter with jurisdiction over the area in which the lower or higher speed limit shall apply. Such notice may be provided by electronic mail and shall be provided sixty days prior to the establishment of such lower or higher speed limit and a community board may issue an advisory opinion prior to the raising or lowering of such speed limit. Notwithstanding any inconsistent provision of this subdivision, a speed limit applicable throughout such city shall only be lowered or raised pursuant to a local law. 27. (a) Establishment of maximum speed limits below twenty miles per hour at which motor vehicles may proceed on or along designated highways within such city for the explicit purpose of implementing traffic calming measures as such term is defined herein; provided, however, that no speed limit shall be set below ten miles per hour nor shall such speed limit be established where the traffic calming measure to be implemented consists solely of a traffic control sign. Establishment of such a speed limit shall, where applicable, be in compliance with the provisions of sections sixteen hundred twenty-four and sixteen hundred eighty-four of this title. Nothing contained herein shall be deemed to alter or affect the establishment of school speed limits pursuant to the provisions of section sixteen hundred forty-three of this article. For the purposes of this paragraph, "traffic calming measures" shall mean any physical engineering measure or measures that reduce the negative effects of motor vehicle use, alter driver behavior and improve conditions for non-motorized street users such as pedestrians and bicyclists. (b) Any city establishing maximum speed limits below twenty miles per hour pursuant to clause (i) of this subparagraph shall submit a report to the governor, the temporary president of the senate and the speaker of the assembly on or before March first, two thousand fifteen and biannually thereafter on the results of using traffic calming measures and speed limits lower than twenty miles per hour as authorized by this paragraph. This report shall also be made available to the public by such city on its website. Such report shall include, but not be limited to the following: (i) a description of the designated highways where traffic calming measures and a lower speed limit were established; (ii) a description of the specific traffic calming measures used and the maximum speed limit established; (iii) an explanation of the reasons for setting lower speed limits, how those lower

speed limits comply with engineering standards, and how they will ensure that motor vehicles can operate at safe speeds in a manner that optimizes all road users' safety and convenience; and (iv) a comparison of the aggregate type, number, and severity of accidents reported on streets on which street calming measures and lower speed limits were implemented in the year preceding the implementation of such measures and policies and the year following the implementation of such measures and policies, to the extent this information is maintained by any agency of the state or the city. (b) The police commissioner of any such city may, in any emergency, suspend within such city or any part thereof, for a period of forty-eight hours, any provision of title seven of this chapter or any local law, ordinance, order, rule or regulation adopted pursuant to this article. In the event of any such suspension, the police commissioner shall forthwith give notice thereof to the official, board or agency of such city having jurisdiction to promulgate traffic regulations in relation to any place affected by such suspension.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1643 - Speed Limits on Highways in Cities and Villages.

§ 1643. Speed limits on highways in cities and villages. The legislative body of any city or village with respect to highways (which term for the purposes of this section shall include private roads open to public motor vehicle traffic) in such city or village, other than state highways maintained by the state on which the department of transportation shall have established higher or lower speed limits than the statutory fifty-five miles per hour speed limit as provided in section sixteen hundred twenty of this title, or on which the department of transportation shall have designated that such city or village shall not establish any maximum speed limit as provided in section sixteen hundred twenty-four of this title, subject to the limitations imposed by section sixteen hundred eighty-four of this title may by local law, ordinance, order, rule or regulation establish maximum speed limits at which vehicles may proceed within such city or village, within designated areas of such city or village or on or along designated highways within such city or village higher or lower than the fifty-five miles per hour maximum statutory limit. No such speed limit applicable throughout such city or village or within designated areas of such city or village shall be established at less than twenty-five miles per hour; except that in the city of Long Beach, in the county of Nassau, speed limits may be established at not less than fifteen miles per hour on any portion of the following highways in such city: Cleveland avenue, Harding avenue, Mitchell avenue, Belmont avenue, Atlantic avenue, Coolidge avenue, Wilson avenue and Taft avenue. No such speed limit applicable on or along designated highways within such city or village shall be established at less than twenty-five miles per hour, except that school speed limits may be established at not less than fifteen miles per hour, for a distance not to exceed one thousand three hundred twenty feet, on a highway passing a school building, entrance or exit of a school abutting on the highway and except that within the cities of Buffalo and Rochester speed limits may be established at not less than fifteen miles per hour for any portion of a highway within a city park. No speed limits shall be established pursuant to the provisions of this section except in accordance with the engineering considerations and factors for speed limits set forth in the manual and specifications for a uniform system of traffic control devices maintained by the commissioner of transportation pursuant to section sixteen hundred eighty of this title, as such manual and specifications may be amended from time to time, certified by a licensed professional engineer who specializes in traffic operations.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1644 - Special Speed Limits on Bridges and Other Elevated Structures in Cities and Villages.

§ 1644. Special speed limits on bridges and other elevated structures in cities and villages. The legislative body of any city or village may determine the maximum speed which may be maintained without structural damage on bridges and elevated structures in such city or village, and if such maximum speed is lower than the maximum speed limit otherwise applicable, subject to the limitations imposed by section sixteen hundred eighty-four, may by local law, ordinance, order, rule or regulation establish such lower maximum speed limits at which vehicles may proceed on such bridge or structure.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1645 - Exempting Fuel Oil Trucks From Use of Truck Routes in Cities Having a Population in Excess of One Million.

§ 1645. Exempting fuel oil trucks from use of truck routes in cities having a population in excess of one million. No ordinance, order, rule or regulation made by the legislative body of any city having a population in excess of one million shall require any fuel oil truck to use a designated truck route while such fuel oil truck is being used to make deliveries to a heating oil customer or is returning to the place of business of the owner of such fuel oil truck immediately after having made a delivery to a heating oil customer.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 39 - Regulation of Traffic by Cities and Villages1646 - Application of Article.

§ 1646. Application of article. This article shall not apply with respect to state highways maintained by the state which are controlled-access highways outside of cities having a population in excess of one million, nor to highways under the jurisdiction of the New York state thruway authority, a regional state park commission, a county park commission, a parkway authority, a bridge authority, or a bridge and tunnel authority, except that this article shall apply to any portion of the New York state thruway that is

located within a city having a population in excess of one million.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 40 - Regulation of Traffic by County Superintendent of Highways1650 - Traffic Regulations on County Roads.

1. Upon a roadway which is divided into three lanes, allocate the center lane exclusively for traffic moving in a specified direction. 2. Order signs erected directing slow-moving traffic, trucks, buses or specified types of vehicles to use a designated lane, or with signs, signals or markings designate those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway. 3. Determine those highways or portions of highways which shall be marked to indicate where overtaking and passing or driving to the left of or crossing such markings would be especially hazardous in accordance with the standards, minimum warrants and sign or marking specifications established by the department of transportation. 4. Temporarily exclude from any portion of any county road any vehicle with a gross weight of over four or more tons or any vehicle with a gross weight in excess of any designated weight on any wheel, axle, any number of axles, or per inch width of tire when in his opinion such highway would be materially injured by the operation of any such vehicle thereon. Such exclusion shall take effect upon the erection of signs on the section of highway from which such vehicles are excluded, and a notice that such vehicles are excluded shall be published in a newspaper in the county where the highway is situated. The exclusion shall remain in effect until the removal of the signs as directed by the county superintendent of highways. Upon written application by any operator of a vehicle subject to this section, the county superintendent of highways may issue a permit providing appropriate exemption to such vehicle, if it is deemed that said vehicle is performing essential local pickup or delivery service and that a failure to grant such permit would create hardship. Every such permit may designate the route to be traversed and contain other reasonable restrictions or conditions deemed necessary. Every such permit shall be carried on the vehicle to which it refers and shall be open to inspection of any peace officer, acting pursuant to his special duties, or police officer. Such permits shall be for the duration of the restriction imposed under this section. 4-a. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations, or tractor-trailer-semitrailer combinations in excess of any designated weight, designated length, designated height, or eight feet in width, from county highways, except for qualifying or access highways or set limits on hours of operation of such vehicles. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles or combinations are otherwise excluded. 5. Designate a portion of a slope as a path for the use of bicycles. 6. Order signs or markings to identify the portion of the highway to be used for bicycle travel. * 7. Designate preferential use lanes for specified types or classes of vehicles. * NB There are two par 7's * 7. Declare a snow emergency and designate any highway or portion thereof as a snow emergency route. * NB There are two par 7's(b) Each such county superintendent of highways shall cause to be determined, for all bridges and elevated structures under his jurisdiction, the capacity in tons of two thousand pounds which the bridge or structure will safely carry. At bridges or structures of insufficient strength to carry safely the legal loads permissible by section three hundred eighty-five of this chapter, the county superintendent of highways shall cause signs to be erected to inform persons of the safe capacity.(c) Each such county superintendent of highways shall cause signs to be erected to inform persons of the legal overhead clearance for all bridges, and elevated structures on highways under his jurisdiction. The legal clearance shall be one foot less than the measured clearance. The measured clearance shall be the minimum height to the bridge or structure measured vertically from the traveled portion of the roadway. On bridges or structures having fourteen feet or more of measured clearance, no such signs shall be required.d. The legislative body of any county with respect to county roads in such county, may by local law, ordinance, order, rule or regulation, provide for the removal and storage of vehicles parked or abandoned on highways during snowstorms, floods, fire or other public emergencies, or found unattended where they constitute an obstruction to traffic or any place where stopping, standing or parking is prohibited, and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle.(e) The legislative body of any county with respect to county roads in such county, may by local law or ordinance prohibit vehicles engaged in retail sales of frozen desserts as that term is defined in subdivision thirty-seven of section three hundred seventy-five of this chapter directly to pedestrians from stopping for the purpose of such sales on any such road or on all such roads. Nothing herein shall be construed to prohibit the operator of such vehicle from stopping such vehicle off of such road, in a safe manner, for the sole purpose of delivering such retail product directly to the residence of a consumer or to the business address of a customer of such retailer. (b) Each such county superintendent of highways shall cause to be determined, for all bridges and elevated structures under his jurisdiction, the capacity in tons of two thousand pounds which the bridge or structure will safely carry. At bridges or structures of insufficient strength to carry safely the legal loads permissible by section three hundred eighty-five of this chapter, the county superintendent of highways shall cause signs to be erected to inform persons of the safe capacity. (c) Each such county superintendent of highways shall cause signs to be erected to inform persons of the legal overhead clearance for all bridges, and elevated structures on highways under his jurisdiction. The legal clearance shall be one foot less than the measured clearance. The measured clearance shall be the minimum height to the bridge or structure measured vertically from the traveled portion of the roadway. On bridges or structures having fourteen feet or more of measured clearance, no such signs shall be required. d. The legislative body of any county with respect to county roads in such county, may by local law, ordinance, order, rule or regulation, provide for the removal and storage of vehicles parked or abandoned on highways during snowstorms, floods, fire or other public emergencies, or found unattended where they constitute an obstruction to traffic or any place where stopping, standing or parking is prohibited, and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle. (e) The legislative body of any county with respect to county roads in such county, may by local law or ordinance prohibit vehicles engaged in retail sales of frozen desserts as that term is defined in subdivision thirty-seven of section three hundred seventy-five of

this chapter directly to pedestrians from stopping for the purpose of such sales on any such road or on all such roads. Nothing herein shall be construed to prohibit the operator of such vehicle from stopping such vehicle off of such road, in a safe manner, for the sole purpose of delivering such retail product directly to the residence of a consumer or to the business address of a customer of such retailer.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 40 - Regulation of Traffic by County Superintendent of Highways1651 - Traffic Regulations on County Roads Outside of Cities and Villages.

§ 1651. Traffic regulations on county roads outside of cities and villages. The county superintendent of highways of a county may by order, rule or regulation designate county roads in such county outside of cities and villages as through highways and order traffic signals, stop signs, flashing signals or yield signs erected on county roads or town highways at specified entrances to such through highways or designate any intersection of a county road with another county road or with a town highway as a stop intersection or a yield intersection and order like signs or signals at one or more entrances to such intersection.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 40 - Regulation of Traffic by County Superintendent of Highways1652-A - Traffic Signs, Signals and Marking on Highways, Roads and Streets.

§ 1652-a. Traffic signs, signals and marking on highways, roads and streets. The county superintendent of highways of a county, except the county of Suffolk, having a functioning traffic engineering unit may, when authorized by the county governing board, have the responsibility and authority for the installation, removal and maintenance of traffic signs, signals and markings on, and provide traffic engineering services in relation to any highway, road or street within a city, town or village within such county, except state highways maintained by the state, providing the governing body of the city, town or village consents thereto by written agreement with the county governing board as to the extent of the authority and responsibility of the county superintendent of highways and any apportionment of costs for the installation, removal and maintenance of the signs, signals and markings and traffic engineering services. The power granted to the county superintendent of highways by this section shall in no way diminish any power over roads granted to counties or county highway superintendents but shall be in addition to any such powers.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 40 - Regulation of Traffic by County Superintendent of Highways1652-B - Supervision and Installation of Traffic Devices in Suffolk County.

§ 1652-b. Supervision and installation of traffic devices in Suffolk county. The county superintendent of highways of Suffolk county may, when authorized by the Suffolk county governing board, erect and maintain traffic signs, signals and markings on, and provide traffic engineering services in relation to any highway, road or street within a town or village within such county, except state highways maintained by the state, providing the governing body of the town or village having jurisdiction over such highway, road or street determines on the basis of an engineering and traffic investigation that such traffic signs, signals and markings are necessary, issues any necessary ordinance, order, rule or regulation with respect thereto, consents to the erection and maintenance of such traffic signs, signals and markings by the county and consents thereto by written agreement with the Suffolk county governing board as to the extent of the authority and responsibility of the county superintendent of highways of Suffolk county and any apportionment of costs for the erection and maintenance of signs, signals and markings and traffic engineering services. The power granted to the Suffolk county superintendent of highways by this section shall in no way diminish any power over roads granted to him by law but shall be in addition to any such powers.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 40 - Regulation of Traffic by County Superintendent of Highways1652 - Special Speed Limits on Bridges and Other Elevated Structures.

§ 1652. Special speed limits on bridges and other elevated structures. The county superintendent of highways of a county may determine the maximum speed which may be maintained without structural damage to bridges and elevated structures that are a part of any county road in such county and, if such maximum speed is lower than the maximum speed limit otherwise applicable, may by order, rule or regulation establish such lower maximum speed limit at which vehicles may proceed on such bridge or structure.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 41 - Regulation of Traffic by Towns1660-A - Traffic Regulations at Parking Areas and Driveways of Hospitals, Shopping Centers, Office Buildings and Office Building Complexes, Places of Public As

§ 1660-a. Traffic regulations at parking areas and driveways of hospitals, shopping centers, office buildings and office building complexes, places of public assembly, private apartment complexes, fire stations, private condominium complexes, mobile home parks, manufactured home parks, industrial parks and industrial complexes. The town board of any town, with respect to the parking areas and driveways of a hospital, office building or office building complex or place of public assembly, or parking area of a shopping center or the parking areas and driveways of facilities owned or leased by a not-for-profit corporation or the parking areas,

driveways and private streets or roadways of a private apartment house complex, private condominium complex or cooperative apartment complex, or the parking areas, private streets, roadways or driveways of mobile home parks or manufactured home parks, or the parking areas and driveways of a fire station, or the parking areas, private streets, roadways or driveways of an industrial park or industrial complex, and pursuant to the written request of either the owner or the person in general charge of the operation and control of such area, the fire chief of the fire department or the police chief or the police commissioner of the police department serving such area, may, by local law or ordinance: 1. Order stop signs, flashing signals or yield signs erected at entrance or exit locations to any such area or designate any intersection in such area as a stop intersection or as a yield intersection and order like signs or signals at one or more entrances to such intersection. 2. Regulate traffic in any such area, including regulation by means of traffic-control signals. 2-a. Notwithstanding the provisions of section sixteen hundred sixty-two-a to the contrary, establish maximum speed limits in any such area at not less than fifteen miles per hour. 3. Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations in any such area. 4. Regulate the crossing of any roadway in any such area by pedestrians. 5. Designate any separate roadway in any such area for one-way traffic. 6. Prohibit, regulate, restrict or limit the stopping, standing or parking of vehicles in specified areas of any such area. 7. Designate safety zones in any such area. 8. Provide for the removal and storage of vehicles parked or abandoned in any such area during snowstorms, floods, fires or other public emergencies, or found unattended in any such area, (1) where they constitute an obstruction to traffic or (2) where stopping, standing or parking is prohibited, and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle. 9. Adopt such additional reasonable rules and regulations with respect to traffic and parking in any such area as local conditions may require for the safety and convenience of the public or of the users of any such area. 10. Make special provisions with relation to stopping, standing or parking of vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter. In the case of a college or university, as defined in section two of the education law, the provisions of this section shall apply only upon the written request of the governing body of such college or university.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 41 - Regulation of Traffic by Towns1660 - Traffic Regulation in All Towns.

1. Designate county roads and town highways as through highways and order stop signs, flashing signals or yield signs erected on county roads or town highways at specified entrances to such through highways or designate any intersection except those where one or more entering highways is a state highway maintained by the state as a stop intersection or a yield intersection and order like signs or signals at one or more entrances to such intersections. 2. Upon a roadway which is divided into three lanes, allocate the center lane exclusively for traffic moving in a specified direction. 3. Order signs erected directing slow-moving traffic, trucks, buses or specified types of vehicles to use a designated lane, or with signs, signals or markings designate those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway. 4. Determine those highways or portions of highways which shall be marked to indicate where overtaking and passing or driving to the left of or crossing such markings would be especially hazardous in accordance with the standards, minimum warrants and sign or marking specifications established by the department of transportation. 5. Regulate traffic by means of traffic-control signals. 6. (i) License, regulate or prohibit speed contests, races, exhibitions of speed, processions, assemblages, or parades. Whenever such a speed contest, race, exhibition of speed, procession, assemblage or parade authorized by a local authority will block the movement of traffic on a state highway maintained by the state, or on a highway which connects two state highways maintained by the state to make a through route, for a period in excess of ten minutes, such authority must, prior to such blocking, provide and designate with conspicuous signs a detour adequate to prevent unreasonable delay in the movement of traffic on said state highway maintained by the state.(ii) Prohibit vehicles engaged in retail sales of frozen desserts as that term is defined in subdivision thirty-seven of section three hundred seventy-five of this chapter directly to pedestrians from stopping for the purpose of such sales on any highway within such town or on all such highways. Nothing herein shall be construed to prohibit the operator of such vehicle from stopping such vehicle off of such highway, in a safe manner, for the sole purpose of delivering such retail product directly to the residence of a consumer or to the business address of a customer of such retailer.7. Prohibit or regulate the operation and the stopping, standing or parking of vehicles in cemeteries and in public parks.8. Provide for the removal and storage of vehicles parked or abandoned on highways during snowstorms, floods, fires or other public emergencies, or found unattended where they constitute an obstruction to traffic or any place where stopping, standing or parking is prohibited and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle.9. Provide for the installation, operation, maintenance, policing and supervision of parking meters, establish parking time limits at such meters, designate hours of operation of such meters, and, except as provided in section twelve hundred three-h of this chapter, fix and require the payment of a fee applicable to parking where such meters are in operation. The town board of any town may exercise these powers on behalf and at the expense of a public parking district with respect to highways outside of villages but within such public parking district, in which event the fees from such parking meters shall belong to such district, and the cost of operation and maintenance thereof shall thereafter be borne by such public parking district.10. Establish a system of truck routes upon which all trucks, tractors, and tractor-trailer combinations having a total gross weight in excess of ten thousand pounds are permitted to travel and operate and excluding such vehicles and combinations from all highways except those which constitute such truck route system. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded. Any such system of truck routes shall provide suitable connection with all state routes entering or leaving such town.11. Temporarily exclude from any

portion of any town highway any vehicle with a gross weight of over four or more tons or any vehicle with a gross weight in excess of any designated weight on any wheel, axle, any number of axles, or per inch width of tire when in its opinion such highway would be materially injured by the operation of any such vehicle thereon. Such exclusion shall take effect upon the erection of signs on the section of highway from which such vehicles are excluded, and a notice that such vehicles are excluded shall be published in a newspaper in the county where the highway is situated. The exclusion shall remain in effect until the removal of the signs as directed by the town board. Upon written application by any operator of a vehicle subject to this section, the town board may issue a permit providing appropriate exemption to such vehicle, if it is deemed that said vehicle is performing essential local pickup or delivery service and that a failure to grant such permit would create hardship. Every such permit may designate the route to be traversed and contain other reasonable restrictions or conditions deemed necessary. Every such permit shall be carried on the vehicle to which it refers and shall be open to inspection of any peace officer, acting pursuant to his special duties, or police officer. Such permits shall be for the duration of the restriction imposed under this section.12. Prohibit, restrict or regulate the operation of vehicles on any controlled-access highway or the use of any controlled-access highway by any vehicle, device moved by human power or pedestrian.13. Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations.14. Regulate the crossing of any roadway by pedestrians.15. Authorize angle parking on any roadway.16. Designate any highway or any separate roadway thereof for one-way traffic.17. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations, or tractor-trailer-semitrailer combinations from highways specified by such town board. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded.18. Prohibit, restrict or limit the stopping, standing or parking of vehicles.19. Designate safety zones.21. Designate a portion of a slope as a path for the use of bicycles.22. Order signs or markings to identify the portion of the highway to be used for bicycle travel.23. Designate preferential use lanes for specified types or classes of vehicles.24. Prohibit, restrict or regulate the operation of limited use vehicles on any street or highway.25. Adopt such additional reasonable ordinances, orders, rules and regulations with respect to traffic as local conditions may require subject to the limitations contained in the various laws of this state.26. Make special provisions with relation to stopping, standing or parking of vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter.27. Declare a snow emergency and designate any highway or portion thereof as a snow emergency route.28. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations, or tractor-trailer-semitrailer combinations in excess of any designated weight, designated length, designated height, or eight feet in width, from highways or set limits on hours of operation of such vehicles on particular town highways or segments of such highways. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles or combinations are otherwise excluded.(b) Each such town board shall cause to be determined, for all bridges and elevated structures under its jurisdiction, the capacity in tons of two thousand pounds which the bridge or structure will safely carry. Upon bridges or structures of insufficient strength to carry safely the legal loads permissible by section three hundred eighty-five of this chapter, the town board shall cause signs to be erected to inform persons of the safe capacity.(c) Each such town board shall cause signs to be erected to inform persons of the legal overhead clearance for all bridges and elevated structures on highways under its jurisdiction. The legal clearance shall be one foot less than the measured clearance. The measured clearance shall be the minimum height to the bridge or structure measured vertically from the traveled portion of the roadway. On bridges or structures having fourteen feet or more of measured clearance, no such signs shall be required.(d) Such a town board also may by ordinance, order, rule or regulation prohibit, restrict or limit the stopping, standing or parking of vehicles upon property owned or leased by such town.(e) Any town with a population of seven hundred thousand or more may by local law or ordinance, provide for the removal and storage of vehicles parked on private property upon request of the owner of such private property, where such vehicles constitute an obstruction to the private property owner's right of ingress and egress, and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle. Such local law or ordinance shall be applicable only in the unincorporated areas of such town.(f) No town shall enact any local law or ordinance to prohibit the use of sidewalks by persons with disabilities who use either a wheelchair or an electrically-driven mobility assistance device being operated or driven by such person. (ii) Prohibit vehicles engaged in retail sales of frozen desserts as that term is defined in subdivision thirty-seven of section three hundred seventy-five of this chapter directly to pedestrians from stopping for the purpose of such sales on any highway within such town or on all such highways. Nothing herein shall be construed to prohibit the operator of such vehicle from stopping such vehicle off of such highway, in a safe manner, for the sole purpose of delivering such retail product directly to the residence of a consumer or to the business address of a customer of such retailer. 7. Prohibit or regulate the operation and the stopping, standing or parking of vehicles in cemeteries and in public parks. 8. Provide for the removal and storage of vehicles parked or abandoned on highways during snowstorms, floods, fires or other public emergencies, or found unattended where they constitute an obstruction to traffic or any place where stopping, standing or parking is prohibited and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle. 9. Provide for the installation, operation, maintenance, policing and supervision of parking meters, establish parking time limits at such meters, designate hours of operation of such meters, and, except as provided in section twelve hundred three-h of this chapter, fix and require the payment of a fee applicable to parking where such meters are in operation. The town board of any town may exercise these powers on behalf and at the expense of a public parking district with respect to highways outside of villages but within such public parking district, in which event the fees from such parking meters shall belong to such district, and the cost of operation and maintenance thereof shall thereafter be borne by such public parking district. 10. Establish a system of truck routes upon which all

trucks, tractors, and tractor-trailer combinations having a total gross weight in excess of ten thousand pounds are permitted to travel and operate and excluding such vehicles and combinations from all highways except those which constitute such truck route system. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded. Any such system of truck routes shall provide suitable connection with all state routes entering or leaving such town. 11. Temporarily exclude from any portion of any town highway any vehicle with a gross weight of over four or more tons or any vehicle with a gross weight in excess of any designated weight on any wheel, axle, any number of axles, or per inch width of tire when in its opinion such highway would be materially injured by the operation of any such vehicle thereon. Such exclusion shall take effect upon the erection of signs on the section of highway from which such vehicles are excluded, and a notice that such vehicles are excluded shall be published in a newspaper in the county where the highway is situated. The exclusion shall remain in effect until the removal of the signs as directed by the town board. Upon written application by any operator of a vehicle subject to this section, the town board may issue a permit providing appropriate exemption to such vehicle, if it is deemed that said vehicle is performing essential local pickup or delivery service and that a failure to grant such permit would create hardship. Every such permit may designate the route to be traversed and contain other reasonable restrictions or conditions deemed necessary. Every such permit shall be carried on the vehicle to which it refers and shall be open to inspection of any peace officer, acting pursuant to his special duties, or police officer. Such permits shall be for the duration of the restriction imposed under this section. 12. Prohibit, restrict or regulate the operation of vehicles on any controlled-access highway or the use of any controlled-access highway by any vehicle, device moved by human power or pedestrian. 13. Prohibit or regulate the turning of vehicles or specified types of vehicles at intersections or other designated locations. 14. Regulate the crossing of any roadway by pedestrians. 15. Authorize angle parking on any roadway. 16. Designate any highway or any separate roadway thereof for one-way traffic. 17. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations, or tractor-trailer-semitrailer combinations from highways specified by such town board. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles and combinations are otherwise excluded. 18. Prohibit, restrict or limit the stopping, standing or parking of vehicles. 19. Designate safety zones. 21. Designate a portion of a slope as a path for the use of bicycles. 22. Order signs or markings to identify the portion of the highway to be used for bicycle travel. 23. Designate preferential use lanes for specified types or classes of vehicles. 24. Prohibit, restrict or regulate the operation of limited use vehicles on any street or highway. 25. Adopt such additional reasonable ordinances, orders, rules and regulations with respect to traffic as local conditions may require subject to the limitations contained in the various laws of this state. 26. Make special provisions with relation to stopping, standing or parking of vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter. 27. Declare a snow emergency and designate any highway or portion thereof as a snow emergency route. 28. Exclude trucks, commercial vehicles, tractors, tractor-trailer combinations, tractor-semitrailer combinations, or tractor-trailer-semitrailer combinations in excess of any designated weight, designated length, designated height, or eight feet in width, from highways or set limits on hours of operation of such vehicles on particular town highways or segments of such highways. Such exclusion shall not be construed to prevent the delivery or pickup of merchandise or other property along the highways from which such vehicles or combinations are otherwise excluded. (b) Each such town board shall cause to be determined, for all bridges and elevated structures under its jurisdiction, the capacity in tons of two thousand pounds which the bridge or structure will safely carry. Upon bridges or structures of insufficient strength to carry safely the legal loads permissible by section three hundred eighty-five of this chapter, the town board shall cause signs to be erected to inform persons of the safe capacity. (c) Each such town board shall cause signs to be erected to inform persons of the legal overhead clearance for all bridges and elevated structures on highways under its jurisdiction. The legal clearance shall be one foot less than the measured clearance. The measured clearance shall be the minimum height to the bridge or structure measured vertically from the traveled portion of the roadway. On bridges or structures having fourteen feet or more of measured clearance, no such signs shall be required. (d) Such a town board also may by ordinance, order, rule or regulation prohibit, restrict or limit the stopping, standing or parking of vehicles upon property owned or leased by such town. (e) Any town with a population of seven hundred thousand or more may by local law or ordinance, provide for the removal and storage of vehicles parked on private property upon request of the owner of such private property, where such vehicles constitute an obstruction to the private property owner's right of ingress and egress, and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle. Such local law or ordinance shall be applicable only in the unincorporated areas of such town. (f) No town shall enact any local law or ordinance to prohibit the use of sidewalks by persons with disabilities who use either a wheelchair or an electrically-driven mobility assistance device being operated or driven by such person.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 41 - Regulation of Traffic by Towns1662-A - Speed Limits in Certain Towns.

§ 1662-a. Speed limits in certain towns. The town board of any suburban town governed pursuant to article three-A of the town law and the town board of any other town having a population exceeding fifty thousand, with respect to highways (which term for the purposes of this section shall include private roads open to public motor vehicle traffic) in such towns outside any village, other than state highways maintained by the state on which the department of transportation shall have established higher or lower speed limits than the statutory fifty-five miles per hour speed limit as provided in section sixteen hundred twenty of this title, or on which the department of transportation shall have designated that such towns shall not establish any maximum speed limit as provided in

section sixteen hundred twenty-four of this title, subject to the limitations imposed by section sixteen hundred eighty-four of this title may by local law, ordinance, order, rule or regulation establish maximum speed limits at which vehicles may proceed within such towns, within designated areas of such towns or on or along designated highways within such towns lower than the fifty-five miles per hour maximum statutory limit. No such speed limit applicable throughout such towns or within designated areas of such towns shall be established at less than twenty-five miles per hour, except that in the town of Hempstead speed limits may be established at not less than fifteen miles per hour on any portion of a highway in the community known as Point Lookout and on all or any portion of the following highways in the community known as Lido Beach: Ocean Boulevard, Allevard Street, Bath Street, Buxton Street, Cheltenham Street, Pinehurst Street, Harrogate Street, Matlock Street, Nantwick Street, Biarritz Street, Royat Street, Luchon Street, Woodhail Street, Leamington Street, Saratoga Street, Kensington Street, and Prescott Street; provided, however, that no such speed limit in such town may be established unless a majority of the residents of each such community file a petition with the town board of such town requesting such speed limit. No such speed limit applicable on or along designated highways within such towns shall be established at less than twenty-five miles per hour, except that school speed limits may be established at not less than fifteen miles per hour, for a distance not to exceed one thousand three hundred twenty feet, on a highway passing a school building, entrance or exit of a school abutting on the highway, and except further that in the town of Hempstead speed limits may be established at not less than fifteen miles per hour on any portion of a highway in the communities known as Point Lookout and Lido Beach; provided, however, that no such speed limit in such town may be established unless a majority of the residents of each such community file a petition with the town board of such town requesting such speed limit. No speed limits shall be established pursuant to the provisions of this section except in accordance with the engineering considerations and factors for speed limits set forth in the manual and specifications for a uniform system of traffic control devices maintained by the commissioner of transportation pursuant to section sixteen hundred eighty of this title, as such manual and specifications may be amended from time to time, certified by a licensed professional engineer who specializes in traffic operations.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 41 - Regulation of Traffic by Towns1662-B - Residential Parking System in the Town of Eastchester in the County of Westchester.

2. Such residential parking permit system may only be established: (a) within the area of the town consisting of the following roadways:(i) Garth road;(ii) Grayrock road;(iii) Essex place;(iv) Buckingham place and(b) within the area generally bounded by the following:(i) On the north side by the northerly corporate boundary between the town of Eastchester and the village of Scarsdale, from Scarsdale Avenue east to White Plains Road Rt. 22;(ii) On the east side by White Plains Rd. Rt. 22, from the corporate boundary of the Village of Scarsdale south to the intersection of Hall Avenue, excluding the following streets:Gabriel Resigno drive;Swift avenue;Fairway drive;Park drive (north of Clubway);Hilldale place;Burnham road;(iii) On the south side by Hall avenue west to the corporate boundary between the town of Eastchester and the village of Tuckahoe;(iv) On the south side northerly along the corporate boundary of the village of Tuckahoe until the intersection of Benedict avenue and continuing north along the Metro-North Commuter Railroad tracks until the corporate boundary of the village of Scarsdale, at Scarsdale avenue.3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use.4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system;(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;(c) provide the times of the day and days of the week during which permit requirements shall be in effect;(d) make not less than fifteen percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than sixty minutes in duration in the permit area;(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the town of Eastchester unless otherwise specified in such local law.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.6. The provisions of this section shall not apply to any state highway maintained by the state. (i) Garth road; (ii) Grayrock road; (iii) Essex place; (iv) Buckingham place and (b) within the area generally bounded by the following: (i) On the north side by the northerly corporate boundary between the town of Eastchester and the village of Scarsdale, from Scarsdale Avenue east to White Plains Road Rt. 22; (ii) On the east side by White Plains Rd. Rt. 22, from the corporate boundary of the Village of Scarsdale south to the intersection of Hall Avenue, excluding the following streets: Gabriel Resigno drive; Swift avenue; Fairway drive; Park drive (north of Clubway); Hilldale place; Burnham road; (iii) On the south side by Hall avenue west to the corporate boundary between the town of Eastchester and the village of Tuckahoe; (iv) On the south side northerly along the corporate boundary of the village of Tuckahoe until the intersection of Benedict avenue and continuing north along the Metro-North Commuter Railroad tracks until the corporate boundary of the village of Scarsdale, at Scarsdale avenue. 3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall: (a) set forth factors necessitating the enactment of such parking system; (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; (c) provide the times of the day and days of the week during which permit requirements shall be in effect; (d) make not less than fifteen percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than sixty minutes in duration in the permit area; (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the town of Eastchester unless otherwise specified in such local law. 5. No

ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. 6. The provisions of this section shall not apply to any state highway maintained by the state.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 41 - Regulation of Traffic by Towns1662-C - Residential Parking System in the Town of Harrison.

2. Such residential parking system may only be established:(a) Within the area of the town of Harrison generally bounded by the following:beginning at the intersection of Harrison Avenue and Broadway; running north on Harrison Avenue to Davenport Street; thence running east on Davenport Street to Oakland Avenue; then running north along Oakland Avenue to the intersection of Macy Road; running thence north on Macy Road to the intersection of Macy Road and South Road and Sunnyside Avenue; running thence west along Sunnyside Avenue to Sunnyside Place; thence north to Emerson Place; thence along Emerson Place to Emerson Avenue north to Hyatt Avenue; thence west on Hyatt Avenue to Harrison Avenue; thence south on Harrison Avenue to Webster Avenue; thence west on Webster Avenue to Crotona Avenue; thence south on Crotona Avenue to Calvert Street; thence east on Calvert Street to Broadway; thence south on Broadway to the intersection of Harrison Avenue, the place of beginning.(b) Within the area of the town of Harrison generally bounded by the following: beginning at the intersection of Harrison Boulevard and Veterans Memorial Drive; thence running east on Harrison Boulevard to Pearl Avenue; thence running south on Pearl Avenue to Harrison Street; thence running west on Harrison Street to Willow Street; thence running south on Willow Street to Elmwood Avenue; thence running east on Elmwood Avenue to Underhill Avenue; thence running south on Underhill Avenue to Locust Avenue; thence running east on Locust Avenue to Main Place; thence running north on Main Place to Parkview Avenue; thence running west on Parkview Avenue to White Plains Avenue; thence running north on White Plains Avenue to High Street; thence running east on High Street to Kingston Avenue; thence running north on Kingston Avenue to Main Street; thence running west on Main Street to White Plains Avenue; thence running north on White Plains Avenue to Taylor Avenue; thence running west on Taylor Avenue to Gainsborg Avenue; thence running north on Gainsborg Avenue to Harrison Street; thence running east on Harrison Street to Woodside Avenue; thence running north on Woodside Avenue to Jefferson Street; thence running west on Jefferson Street to Park Avenue; thence running north on Park Avenue to Washington Street; thence running west on Washington Street to Lakeview Avenue; thence running south on Lakeview Avenue to Jefferson Street; thence running west on Jefferson Street to Gainsborg Avenue; thence running north on Gainsborg Avenue to Washington Street; thence running west on Washington Street to Lake Street; thence running south on Lake Street to Veterans Memorial Drive; thence running south on Veterans Memorial Drive to its intersection with Harrison Boulevard, the place of beginning.(c) Within the area of the town of Harrison consisting of the following roadways:(i) Ann Street from Pearl Avenue to the dead end;(ii) Dey Street from Ann Street to the dead end;(iii) Edward Street from Pearl Avenue to the dead end;(iv) Main Street from Underhill Avenue to the border with the city of White Plains;(v) Underhill Place from Underhill Avenue to the dead end;(vi) Park Place from Underhill Avenue to the dead end;(vii) Locust Avenue from Main Place to the dead end;(viii) Parkview Avenue from Main Place to the dead end;(ix) High Street from Kingston Avenue to the dead end;(x) Spring Lake Drive from High Street to the dead end;(xi) Clark Place from White Plains Avenue to the dead end;(xii) Taylor Avenue from White Plains Avenue to the dead end;(xiii) Harrison Street from Woodside Avenue to Sherman Avenue;(xiv) Madison Street from Woodside Avenue to Sherman Avenue;(xv) Sherman Avenue from Madison Street to the dead end;(xvi) Livingston Street from Woodside Avenue to the dead end;(xvii) Woodside Avenue from Jefferson Street to the dead end;(xviii) Park Avenue from Washington Street to the dead end;(xix) Washington Street running east from Park Avenue to the dead end;(xx) Lakeview Avenue from Washington Street to the dead end;(xxi) Washington Street running west from Lakeview Avenue to the dead end;(xxii) Gainsborg Avenue from Washington Street to the dead end; and(xxiii) Lincoln Avenue from Washington Street to the dead end.For the purposes of this subdivision, permit parking may be implemented on both sides of any street whose center line is herein utilized as a boundary description. Provided, however, that except for the reference to state highways solely for the purposes of delineating the boundaries of the area described in this subdivision, the provisions of this section shall not apply to any state highway maintained by the state.3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use.4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such residential parking system; and(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and(c) provide the times of the day and days of the week during which permit requirements shall be in effect; and(d) make not less than fifteen percent of all spaces within the permit area available to nonresidents and shall provide short term parking of not less than ninety minutes in duration in such area; and(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the town.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. (a) Within the area of the town of Harrison generally bounded by the following: beginning at the intersection of Harrison Avenue and Broadway; running north on Harrison Avenue to Davenport Street; thence running east on Davenport Street to Oakland Avenue; then running north along Oakland Avenue to the intersection of Macy Road; running thence north on Macy Road to the intersection of Macy Road and South Road and Sunnyside Avenue; running thence west along Sunnyside Avenue to Sunnyside Place; thence north to Emerson Place; thence along Emerson Place to Emerson Avenue north to Hyatt Avenue; thence west on Hyatt Avenue to Harrison Avenue; thence south on Harrison Avenue to Webster Avenue; thence west on Webster Avenue to Crotona Avenue; thence south on Crotona Avenue to Calvert Street; thence east on Calvert Street to Broadway; thence south on Broadway to the intersection of Harrison Avenue, the

place of beginning. (b) Within the area of the town of Harrison generally bounded by the following: beginning at the intersection of Harrison Boulevard and Veterans Memorial Drive; thence running east on Harrison Boulevard to Pearl Avenue; thence running south on Pearl Avenue to Harrison Street; thence running west on Harrison Street to Willow Street; thence running south on Willow Street to Elmwood Avenue; thence running east on Elmwood Avenue to Underhill Avenue; thence running south on Underhill Avenue to Locust Avenue; thence running east on Locust Avenue to Main Place; thence running north on Main Place to Parkview Avenue; thence running west on Parkview Avenue to White Plains Avenue; thence running north on White Plains Avenue to High Street; thence running east on High Street to Kingston Avenue; thence running north on Kingston Avenue to Main Street; thence running west on Main Street to White Plains Avenue; thence running north on White Plains Avenue to Taylor Avenue; thence running west on Taylor Avenue to Gainsborg Avenue; thence running north on Gainsborg Avenue to Harrison Street; thence running east on Harrison Street to Woodside Avenue; thence running north on Woodside Avenue to Jefferson Street; thence running west on Jefferson Street to Park Avenue; thence running north on Park Avenue to Washington Street; thence running west on Washington Street to Lakeview Avenue; thence running south on Lakeview Avenue to Jefferson Street; thence running west on Jefferson Street to Gainsborg Avenue; thence running north on Gainsborg Avenue to Washington Street; thence running west on Washington Street to Lake Street; thence running south on Lake Street to Veterans Memorial Drive; thence running south on Veterans Memorial Drive to its intersection with Harrison Boulevard, the place of beginning. (c) Within the area of the town of Harrison consisting of the following roadways: (i) Ann Street from Pearl Avenue to the dead end; (ii) Dey Street from Ann Street to the dead end; (iii) Edward Street from Pearl Avenue to the dead end; (iv) Main Street from Underhill Avenue to the border with the city of White Plains; (v) Underhill Place from Underhill Avenue to the dead end; (vi) Park Place from Underhill Avenue to the dead end; (vii) Locust Avenue from Main Place to the dead end; (viii) Parkview Avenue from Main Place to the dead end; (ix) High Street from Kingston Avenue to the dead end; (x) Spring Lake Drive from High Street to the dead end; (xi) Clark Place from White Plains Avenue to the dead end; (xii) Taylor Avenue from White Plains Avenue to the dead end; (xiii) Harrison Street from Woodside Avenue to Sherman Avenue; (xiv) Madison Street from Woodside Avenue to Sherman Avenue; (xv) Sherman Avenue from Madison Street to the dead end; (xvi) Livingston Street from Woodside Avenue to the dead end; (xvii) Woodside Avenue from Jefferson Street to the dead end; (xviii) Park Avenue from Washington Street to the dead end; (xix) Washington Street running east from Park Avenue to the dead end; (xx) Lakeview Avenue from Washington Street to the dead end; (xxi) Washington Street running west from Lakeview Avenue to the dead end; (xxii) Gainsborg Avenue from Washington Street to the dead end; and (xxiii) Lincoln Avenue from Washington Street to the dead end. For the purposes of this subdivision, permit parking may be implemented on both sides of any street whose center line is herein utilized as a boundary description. Provided, however, that except for the reference to state highways solely for the purposes of delineating the boundaries of the area described in this subdivision, the provisions of this section shall not apply to any state highway maintained by the state. 3. Notwithstanding the foregoing, no permit shall be required on streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall: (a) set forth factors necessitating the enactment of such residential parking system; and (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; and (c) provide the times of the day and days of the week during which permit requirements shall be in effect; and (d) make not less than fifteen percent of all spaces within the permit area available to nonresidents and shall provide short term parking of not less than ninety minutes in duration in such area; and (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the town. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 41 - Regulation of Traffic by Towns1662-D - Residential Parking System in the Town of Mamaroneck.

2. Such residential parking permit system may only be established within the area of the town consisting of the following roadways:(a) Washington Square;(b) North Chatsworth Avenue between Myrtle Boulevard and Edgewood Avenue;(c) New Jefferson Street;(d) Old Jefferson Street;(e) Murray Avenue between Myrtle Boulevard and Leafy Lane; and(f) Lester Place.3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use.4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system;(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;(c) provide the times of day and days of the week during which permit requirements shall be in effect;(d) make not less than fifteen percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than sixty minutes in duration in the permit area;(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the town of Mamaroneck unless otherwise specified in such local law.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.6. The provisions of this section shall not apply to any state highway maintained by the state. (a) Washington Square; (b) North Chatsworth Avenue between Myrtle Boulevard and Edgewood Avenue; (c) New Jefferson Street; (d) Old Jefferson Street; (e) Murray Avenue between Myrtle Boulevard and Leafy Lane; and (f) Lester Place. 3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall: (a) set forth factors necessitating the enactment of such parking

system; (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; (c) provide the times of day and days of the week during which permit requirements shall be in effect; (d) make not less than fifteen percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than sixty minutes in duration in the permit area; (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the town of Mamaroneck unless otherwise specified in such local law. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. 6. The provisions of this section shall not apply to any state highway maintained by the state.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 41 - Regulation of Traffic by Towns1662-E - Residential Parking System in the Town of Hempstead.

2. Such residential parking permit system may only be established:(i) within the area known as East Meadow of the town consisting of the following roadways:(a) Roosevelt Avenue west of Prospect Avenue;(b) Jefferson Street west of Prospect Avenue;(c) First Street west of Prospect Avenue;(d) Second Street West of Prospect Avenue;(e) Third Street west of Prospect Avenue;(f) Fourth Street west of Prospect Avenue;(g) Clearmeadow Drive;(h) Nottingham Road;(i) Florence Court;(j) Jane Court;(k) Dofena Lane;(l) Franklin Avenue north of 4th Street;(m) Bailey Avenue;(n) Franklin Avenue, north of 7th Street and south of Hempstead Turnpike;(o) Lincoln Avenue, north of 7th Street and south of Roosevelt Avenue;(p) 5th Street, west of Prospect Avenue;(q) 6th Street, west of Prospect Avenue;(r) 7th Street, west of Prospect Avenue;(s) Pengon Circle;(t) Lois Court;(u) Erma Drive;(v) Ava Drive;(w) Dorothy Drive;(x) Barbara Drive;(y) Rose Drive;(z) Bly Road;(aa) Marion Drive; and(bb) Conti Square Boulevard.(ii) within the area known as Oceanside of the town which shall mean that area generally bounded by the following: All of that area beginning at the intersection of Foxhurst Road and Soper Ave; proceeding west on Foxhurst Road to Long Beach Road; thence running north on Long Beach Road to Merrick Road; thence running east on Merrick Road to Oceanside Road; thence running north on Oceanside Road to Sunrise Highway; thence running east along Sunrise Highway to Charing Cross Road; thence running south on Charing Cross Road to Merrick Road; thence running west on Merrick Road to Soper Ave; thence running south on Soper Ave to its intersection with Foxhurst Road, the place of beginning. For the purposes of this paragraph, permit parking may be implemented on both sides of any street whose center line is herein utilized as a boundary description; provided, however, that except for the reference to state highways solely for the purposes of delineating the boundaries of the area described in this paragraph, the provisions of this section shall not apply to any state highway maintained by the state.(iii) within the area known as Elmont of the town consisting of the following roadways:(a) Holland Avenue north of Murray Hill Street;(b) Elzey Avenue north of Murray Hill Street;(c) Claridge Avenue north of Murray Hill Street;(d) Savoy Avenue north of Murray Hill Street;(e) Gotham Avenue north of Murray Hill Street;(f) Waldorf Avenue north of Murray Hill Street;(g) Biltmore Avenue north of Murray Hill Street;(h) Seville Street;(i) Blackstone Street;(j) Fieldmere Street north of 109th Avenue;(k) Warwick Road north of 109th Avenue;(l) Sussex Road north of 109th Avenue;(m) Sterling Road north of 109th Avenue;(n) Locustwood Boulevard north of 109th Avenue;(o) Heathcote Road north of 109th Avenue;(p) Wellington Road north of 109th Avenue;(q) Huntley Road;(r) Oak Street;(s) Pine Street; and(t) 106th Avenue.(iv) within the area known as Bellerose Terrace of the town consisting of the following roadways:(a) Superior Road west of Colonial Road;(b) Ontario Road from Colonial Road to 242nd Street and from 239th Street to 240th Street;(c) 95th Avenue east of 225th Street;(d) 225th Street;(e) 226th Street;(f) 238th Street;(g) 239th Street from Superior Road to Jamaica Avenue westbound;(h) 240th Street from Superior Road to Jamaica Avenue westbound;(i) 241st Street from Superior Road to Jamaica Avenue westbound;(j) 242nd Street;(k) 243rd Street;(l) 244th Street from Superior Road to Jamaica Avenue westbound;(m) 245th Street from Superior Road to the Jericho Turnpike westbound;(n) 246th Street from Superior Road to the Jericho Turnpike westbound; and(o) Colonial Road.3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use.4. The local law or ordinance providing for such residential parking system shall:(a) set forth factors necessitating the enactment of such parking system;(b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement;(c) provide the times of day and days of the week during which permit requirements shall be in effect;(d) make not less than fifteen percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than sixty minutes in duration in the permit area;(e) provide the schedule of fees to be paid for such permits; and(f) provide that such fees shall be credited to the general fund of the town of Hempstead unless otherwise specified in such local law.5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law.6. The provisions of this section shall not apply to any state highway maintained by the state. (i) within the area known as East Meadow of the town consisting of the following roadways: (a) Roosevelt Avenue west of Prospect Avenue; (b) Jefferson Street west of Prospect Avenue; (c) First Street west of Prospect Avenue; (d) Second Street West of Prospect Avenue; (e) Third Street west of Prospect Avenue; (f) Fourth Street west of Prospect Avenue; (g) Clearmeadow Drive; (h) Nottingham Road; (i) Florence Court; (j) Jane Court; (k) Dofena Lane; (l) Franklin Avenue north of 4th Street; (m) Bailey Avenue; (n) Franklin Avenue, north of 7th Street and south of Hempstead Turnpike; (o) Lincoln Avenue, north of 7th Street and south of Roosevelt Avenue; (p) 5th Street, west of Prospect Avenue; (q) 6th Street, west of Prospect Avenue; (r) 7th Street, west of Prospect Avenue; (s) Pengon Circle; (t) Lois Court; (u) Erma Drive; (v) Ava Drive; (w) Dorothy Drive; (x) Barbara Drive; (y) Rose Drive; (z) Bly Road; (aa) Marion Drive; and (bb) Conti Square Boulevard. (ii) within the area known as Oceanside of the town which shall mean that area generally bounded by the following: All of that area beginning at the intersection of Foxhurst Road and Soper Ave; proceeding west

on Foxhurst Road to Long Beach Road; thence running north on Long Beach Road to Merrick Road; thence running east on Merrick Road to Oceanside Road; thence running north on Oceanside Road to Sunrise Highway; thence running east along Sunrise Highway to Charing Cross Road; thence running south on Charing Cross Road to Merrick Road; thence running west on Merrick Road to Soper Ave; thence running south on Soper Ave to its intersection with Foxhurst Road, the place of beginning. For the purposes of this paragraph, permit parking may be implemented on both sides of any street whose center line is herein utilized as a boundary description; provided, however, that except for the reference to state highways solely for the purposes of delineating the boundaries of the area described in this paragraph, the provisions of this section shall not apply to any state highway maintained by the state. (iii) within the area known as Elmont of the town consisting of the following roadways: (a) Holland Avenue north of Murray Hill Street; (b) Elzey Avenue north of Murray Hill Street; (c) Claridge Avenue north of Murray Hill Street; (d) Savoy Avenue north of Murray Hill Street; (e) Gotham Avenue north of Murray Hill Street; (f) Waldorf Avenue north of Murray Hill Street; (g) Biltmore Avenue north of Murray Hill Street; (h) Seville Street; (i) Blackstone Street; (j) Fieldmere Street north of 109th Avenue; (k) Warwick Road north of 109th Avenue; (l) Sussex Road north of 109th Avenue; (m) Sterling Road north of 109th Avenue; (n) Locustwood Boulevard north of 109th Avenue; (o) Heathcote Road north of 109th Avenue; (p) Wellington Road north of 109th Avenue; (q) Huntley Road; (r) Oak Street; (s) Pine Street; and (t) 106th Avenue. (iv) within the area known as Bellerose Terrace of the town consisting of the following roadways: (a) Superior Road west of Colonial Road; (b) Ontario Road from Colonial Road to 242nd Street and from 239th Street to 240th Street; (c) 95th Avenue east of 225th Street; (d) 225th Street; (e) 226th Street; (f) 238th Street; (g) 239th Street from Superior Road to Jamaica Avenue westbound; (h) 240th Street from Superior Road to Jamaica Avenue westbound; (i) 241st Street from Superior Road to Jamaica Avenue westbound; (j) 242nd Street; (k) 243rd Street; (l) 244th Street from Superior Road to Jamaica Avenue westbound; (m) 245th Street from Superior Road to the Jericho Turnpike westbound; (n) 246th Street from Superior Road to the Jericho Turnpike westbound; and (o) Colonial Road. 3. Notwithstanding the foregoing, no permit shall be required on those portions of such streets where the adjacent properties are zoned for commercial/retail use. 4. The local law or ordinance providing for such residential parking system shall: (a) set forth factors necessitating the enactment of such parking system; (b) provide that motor vehicles registered pursuant to section four hundred four-a of this chapter shall be exempt from any permit requirement; (c) provide the times of day and days of the week during which permit requirements shall be in effect; (d) make not less than fifteen percent of the spaces within the permit area available to nonresidents, and shall provide short term parking of not less than sixty minutes in duration in the permit area; (e) provide the schedule of fees to be paid for such permits; and (f) provide that such fees shall be credited to the general fund of the town of Hempstead unless otherwise specified in such local law. 5. No ordinance shall be adopted pursuant to this section until a public hearing thereon has been had in the same manner as required for public hearings on a local law pursuant to the municipal home rule law. 6. The provisions of this section shall not apply to any state highway maintained by the state.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 41 - Regulation of Traffic by Towns1662 - Additional Traffic Regulations in Towns in the County of Suffolk.

§ 1662. Additional traffic regulations in towns in the county of Suffolk. In addition to the other powers granted by this article, the town board of any town in the county of Suffolk with respect to highways outside of villages in such town, subject to the limitations imposed by section sixteen hundred eighty-four and subject to disapproval by the department of transportation may by ordinance, order, rule or regulation limit the parking time of vehicles in congested areas.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 41 - Regulation of Traffic by Towns1663 - Special Speed Limits on Bridges and Other Elevated Structures.

§ 1663. Special speed limits on bridges and other elevated structures. The town board of any town may determine the maximum speed which may be maintained without structural damage to bridges and elevated structures that are a part of any town highway in such town and, if, such maximum speed is lower than the maximum speed limit otherwise applicable, may by order, rule or regulation establish such lower maximum speed limit at which vehicles may proceed on any such bridge or structure.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 41 - Regulation of Traffic by Towns1664 - Application of Article.

§ 1664. Application of article. This article shall not apply with respect to state highways maintained by the state which are controlled access highways, nor to highways under the jurisdiction of the New York state thruway authority, the office of parks and recreation, a county park commission, a parkway authority, a bridge authority, or a bridge and tunnel authority.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 42 - Regulation of Traffic by Local Authorities and School Districts1670 - Regulation of Traffic Within Municipal Facilities.

§ 1670. Regulation of traffic within municipal facilities. Any local authority or school district, with respect to driveways or parking fields accessory to any school, playground, park, municipal building, installation or facility, and under the jurisdiction of such local authority or school district for general regulatory or custodial purposes, may by ordinance, order, rule or regulation: 1. Prohibit, restrict or limit the stopping, standing or parking of vehicles. 2. Regulate the direction of traffic. 3. Establish lower maximum speed limits at which vehicles may proceed than the fifty-five miles per hour statutory maximum speed limit. 4. Adopt such additional

reasonable ordinances, orders, rules and regulations with respect to traffic as local conditions may require subject to the limitations contained in the various laws of this state. 5. Provide for the removal and storage of vehicles when: (a) parked in the parking fields or driveways during snowstorms, floods, fires or other public emergencies; or (b) found unattended in the parking fields or driveways where they constitute an obstruction to traffic; or (c) found abandoned in the parking fields or driveways, and for the payment of reasonable charges for such removal and storage by the owner or operator of any such vehicle. 6. Make special provisions with relation to stopping, standing or parking of vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 42 - Regulation of Traffic by Local Authorities and School Districts1671 - Access of Motorcycles.

§ 1671. Access of motorcycles. No local authority may enact or enforce a law that applies only to motorcycles and the principal purpose of which is to restrict the access of motorcycles to any highway or portion of a highway under the jurisdiction of any such local authority for which state funds have been utilized for planning, design, construction or maintenance. Provided, however, that nothing contained herein shall be deemed to supersede the authority of any local authority to regulate traffic pursuant to the provisions of this title, or to regulate noise.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 43 - Traffic Safety Boards1672 - Traffic Safety Board.

§ 1672. Traffic safety board. Any city, any town, or any county not wholly included within a city may by local law establish a traffic safety board. The borough president of any county wholly included within a city may establish a traffic safety board for such county.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 43 - Traffic Safety Boards1673 - Membership of Board.

(b) Each member shall be a resident of the city, town or county for which such board has been created and shall be a qualified elector thereof. For any county not wholly included within a city, at least one but not more than three of such members shall be a resident or residents of and be appointed from each one of the cities contained in the county, and the balance of such members shall be appointed from the county at large. (c) The term of office of such members shall be three years, except that the members first appointed to such board shall be appointed as follows: one-third shall be appointed for a term of three years; one-third for a term of two years and the remaining members of the board for a term of one year. Upon the expiration of the term of office of any member, his or her successor shall be appointed to membership in such board for a term of three years. (d) The members of such board shall receive no compensation for services but shall be entitled to their reasonable and necessary expenses, incurred in the performance of their duties, within any appropriation made for such purpose.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 43 - Traffic Safety Boards1674 - Organization and Reports by the Board.

§ 1674. Organization and reports by the board. The traffic safety board shall: 1. Meet and organize within fifteen days after its members are appointed. 2. Elect annually a chairman, vice-chairman and a secretary from its members. 3. Adopt rules for the conduct of its business. 4. Within the limits of the appropriations made therefor by the city council, town board, borough president or board of supervisors or other governing body of the city, town, borough or county for which such board has been created, authorize the employment of such personnel as may be necessary to properly perform the functions and carry out the objectives of this article. 5. Appoint an executive secretary who shall be the executive and administrative officer of the board. 6. Render annually to the city council, town board, borough president or board of supervisors or other governing body of the city, town, borough or county for which such board has been created, and from time to time as required, a verified account of all moneys received and expended by it or under its direction and an account of its proceedings and of other pertinent matters in such form and manner as may be required by such board or body. 7. Submit annually to the proper fiscal authorities of the city, town, borough or county for which such board has been created, at such time in such manner as may be required by the law applicable thereto, an estimate of the funds required to carry out the purposes of this article. 8. Submit a report of activities annually to the state and, from time to time, such other information or reports as may be required by the state pursuant to the provisions of article 16-a of the executive law.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 43 - Traffic Safety Boards1675 - Functions of the Board.

§ 1675. Functions of the board. The board is authorized: 1. To promote and encourage street and highway traffic safety. 2. To formulate highway safety programs and coordinate efforts of interested parties and agencies engaged in traffic safety education within such city, town, borough or county. 3. To cooperate with local officials in the formulation and execution of traffic safety programs and activities. 4. To study traffic conditions on streets and highways, study and analyze reports of accidents and causes thereof, and recommend to the appropriate legislative bodies, departments or commissions, such changes in rules, orders, regulations and existing law as the board may deem advisable. 5. To conduct meetings whenever and wherever the board shall deem it advisable

and to invite to such meetings parties and agencies, public and private, interested in traffic regulation, control and safety education. 6. To promote safety education for drivers and pedestrians. 7. To obtain and assemble motor vehicle accident data, and to analyze, study and consolidate such data for educational and informational purposes. 8. Coordinate and direct local activities related to the implementation of the state highway safety program, as approved by the governor or his designee.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 43 - Traffic Safety Boards1676 - Executive Secretary of Board.

§ 1676. Executive secretary of board. The executive secretary of the board shall: 1. Subject to the supervision and control of the board perform the functions necessary to properly and efficiently carry out the provisions and purposes of this article. 2. Be a citizen of the United States. 3. Receive such salary and expenses as the city council, town board, borough president board of supervisors or other governing body of the city, town, borough or county for which such board has been created may fix and properly account for such expenses. 4. Furnish an official undertaking in an amount and in such form and with such sureties as shall be approved by the city council, town board, borough president or board of supervisors or other governing body of the city, town, borough or county for which such board has been created.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 43 - Traffic Safety Boards1677 - County Purpose and Charges.

§ 1677. County purpose and charges. For any county not wholly included within a city, the provisions of this article and expenditures made hereunder shall be deemed a county purpose and charge.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 44-A - Authority of the Nassau and Suffolk County District Court and Buffalo City Court and Rochester City Court Judicial Hearing Officers1690 - Authority of the Nassau County and Suffolk County District Court Judicial Hearing Officers and the City of Buffalo Judicial Hearing Officers and the City of Rochester Judicial Hearing Officers.

(a) determine all questions of law; (b) act as the exclusive trier of all issues of fact; (c) render a verdict; (d) impose sentence; or (e) dispose of the case in any manner provided by law. 1-a. Notwithstanding any other provision of law, where the trial of a traffic infraction is authorized or required to be tried before the Buffalo city court, and such traffic infraction does not constitute a misdemeanor, felony, violation of subdivision one of section eleven hundred ninety-two, subdivision five of section eleven hundred ninety-two, section three hundred ninety-seven-a, or subdivision (g) of section eleven hundred eighty of this chapter, or a violation of paragraph (b) of subdivision four of section fourteen-f or clause (b) of subparagraph (iii) of paragraph c of subdivision two of section one hundred forty of the transportation law, or any parking, stopping, standing or pedestrian offense, or any offense that is part of the same criminal transaction, as that term is defined in subdivision two of section 40.10 of the criminal procedure law, as such a misdemeanor, felony, violation of subdivision one of section eleven hundred ninety-two, subdivision two of section eleven hundred ninety-two, section three hundred ninety-seven-a or subdivision (g) of section eleven hundred eighty of this chapter, or a violation of paragraph (b) of subdivision four of section fourteen-f or clause (b) of subparagraph (iii) of paragraph d of subdivision two of section one hundred forty of the transportation law, or any parking, stopping, standing or pedestrian offense, the administrative judge of the eighth judicial district may assign judicial hearing officers to conduct such a trial. Such judicial hearing officers shall: (i) be residents of the city of Buffalo; and (ii) be village or town court justices, city court judges or retired judges or justices all of which shall have at least two years of experience conducting trials of traffic violations cases; and (iii) be admitted to practice law in this state; and (iv) be selected from a list of recommendations of the mayor of the city of Buffalo provided that the mayor shall give at least three recommendations for each judicial hearing officer assignment. Where such assignment is made, the judicial hearing officer shall entertain the case in the same manner as a court and shall: (a) determine all questions of law; (b) act as the exclusive trier of all issues of fact; (c) render a verdict; (d) impose sentence; or (e) dispose of the case in any manner provided by law. 1-b. Notwithstanding any other provision of law, where the trial of a traffic infraction is authorized or required to be tried before the Rochester city court, and such traffic infraction does not constitute a misdemeanor, felony, violation of subdivision one of section eleven hundred ninety-two, subdivision five of section eleven hundred ninety-two, section three hundred ninety-seven-a, or subdivision (g) of section eleven hundred eighty of this chapter, or a violation of paragraph (b) of subdivision four of section fourteen-f or clause (b) of subparagraph (iii) of paragraph c of subdivision two of section one hundred forty of the transportation law, or any parking, stopping, standing or pedestrian offense, or any offense that is part of the same criminal transaction, as that term is defined in subdivision two of section 40.10 of the criminal procedure law, as such a misdemeanor, felony, violation of subdivision one of section eleven hundred ninety-two, subdivision two of section eleven hundred ninety-two, section three hundred ninety-seven-a or subdivision (g) of section eleven hundred eighty of this chapter, or a violation of paragraph (b) of subdivision four of section fourteen-f or clause (b) of subparagraph (iii) of paragraph d of subdivision two of section one hundred forty of the transportation law, or any parking, stopping, standing or pedestrian offense, the administrative judge of the seventh judicial district may assign judicial hearing officers to conduct such a trial. Such judicial hearing officers shall: (i) be residents of the county of Monroe; and (ii) be village or town court justices, city court judges or retired judges or justices or a current or former administrative law judge, referee or administrative hearing officer with at least one year experience conducting trials or hearings for any governmental agency of the state of New York or a political subdivision of the state, or a licensed attorney who has at least five years of relevant experience appearing in trials or hearings before courts or governmental agencies within the state; and (iii) be

admitted to practice law in this state; and (iv) be selected from a list of recommendations of the mayor of the city of Rochester provided that the mayor shall give at least three recommendations for each judicial hearing officer assignment. Where such assignment is made, the judicial hearing officer shall entertain the case in the same manner as a court and shall: (a) determine all questions of law; (b) act as the exclusive trier of all issues of fact; (c) render a verdict; (d) impose sentence; or (e) dispose of the case in any manner provided by law. 2. In the discharge of this responsibility, the judicial hearing officer shall have the same powers as a judge of the court in which the proceeding is pending. The rules of evidence and reasonable doubt burden of proof shall be applicable at a trial conducted by a judicial hearing officer. 3. Any action taken by a judicial hearing officer in the conduct of a trial or other disposition thereof shall be deemed the action of the court in which the proceeding is pending. 4. Judicial hearing officers are prohibited from appearing in any capacity other than as a judicial hearing officer in any part of the Nassau county or Suffolk county district court on any matter relating to traffic or parking violations and are further prohibited from appearing in any capacity other than as a judicial hearing officer in any other court or administrative tribunal on any matter relating to traffic or parking violations. 4-a. Judicial hearing officers are prohibited from appearing in any capacity other than as a judicial hearing officer in any part of Buffalo city court on any matter relating to traffic violations and are further prohibited from appearing in any capacity other than as a judicial hearing officer in any other court or administrative tribunal on any matter relating to traffic violations. 4-b. Judicial hearing officers are prohibited from appearing in any capacity other than as a judicial hearing officer in any part of Rochester city court on any matter relating to traffic violations and are further prohibited from appearing in any capacity other than as a judicial hearing officer in any other court or administrative tribunal on any matter relating to traffic violations.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 44-B - Transportation Network Company Services1691 - Definitions.

(a) used by a transportation network company driver to provide a TNC prearranged trip originating within the state of New York; and (b) owned, leased or otherwise authorized for use by the transportation network company driver; (c) such term shall not include: (i) a taxicab, as defined in section one hundred forty-eight-a of this chapter and section 19-502 of the administrative code of the city of New York, or as otherwise defined in local law; (ii) a livery vehicle, as defined in section one hundred twenty-one-e of this chapter, or as otherwise defined in local law; (iii) a black car, limousine, or luxury limousine, as defined in section 19-502 of the administrative code of the city of New York, or as otherwise defined in local law; (iv) a for-hire vehicle, as defined in section 19-502 of the administrative code of the city of New York, or as otherwise defined in local law; (v) a bus, as defined in section one hundred four of this chapter; (vi) any motor vehicle weighing more than six thousand five hundred pounds unloaded; (vii) any motor vehicle having a seating capacity of more than seven passengers; and (viii) any motor vehicle subject to section three hundred seventy of this chapter. 2. "Digital network" means any system or service offered or utilized by a transportation network company that enables TNC prearranged trips with transportation network company drivers. 3. "Transportation network company" or "TNC" means a person, corporation, partnership, sole proprietorship, or other entity that is licensed pursuant to this article and is operating in New York state exclusively using a digital network to connect transportation network company passengers to transportation network company drivers who provide TNC prearranged trips. 4. "Transportation network company driver" or "TNC driver" means an individual who: (a) Receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and (b) Uses a TNC vehicle to offer or provide a TNC prearranged trip to transportation network company passengers upon connection through a digital network controlled by a transportation network company in exchange for compensation or payment of a fee. 5. "Transportation network company passenger" or "passenger" means a person or persons who use a transportation network company's digital network to connect with a transportation network company driver who provides TNC prearranged trips to the passenger in the TNC vehicle between points chosen by the passenger. 6. (a) "TNC prearranged trip" or "trip" means the provision of transportation by a transportation network company driver to a passenger provided through the use of a TNC's digital network: (i) beginning when a transportation network company driver accepts a passenger's request for a trip through a digital network controlled by a transportation network company; (ii) continuing while the transportation network company driver transports the requesting passenger in a TNC vehicle; and (iii) ending when the last requesting passenger departs from the TNC vehicle. (b) The term "TNC prearranged trip" does not include transportation provided through any of the following: (i) shared expense carpool or vanpool arrangements, including those as defined in section one hundred fifty-eight-b of this chapter; and (ii) use of a taxicab, livery, luxury limousine, or other for-hire vehicle, as defined in this chapter, section 19-502 of the administrative code of the city of New York, or as otherwise defined in local law. 7. "Group policy" means an insurance policy issued pursuant to section three thousand four hundred fifty-five of the insurance law.

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2. (a) A TNC may not operate in the state of New York without first having obtained a license issued by the department in a form and manner and with applicable fees as provided for by regulations promulgated by the commissioner. As a condition of obtaining a license, a TNC shall be required to submit to the department proof of a group policy issued pursuant to section three thousand four hundred fifty-five of the insurance law. Failure of a TNC to comply with the provisions of this article may result in applicable penalties, which may include, but are not limited to fines, suspension or revocation of license or a combination thereof as otherwise provided by law. No license shall be suspended or revoked except upon notice to the TNC and after an opportunity to be heard.(b)

Failure of a TNC to obtain a license before operation, pursuant to this subdivision shall constitute a misdemeanor.3. A TNC must maintain an agent for service of process in the state of New York.4. On behalf of a TNC driver, a TNC may charge a fare for the services rendered to passengers; provided that, if a fare is collected from a passenger, the TNC shall disclose to such passenger the fare within the TNC's digital network. The TNC shall also provide passengers, before such passengers enter a TNC vehicle, the actual fare or an estimated fare for such TNC prearranged trip through the TNC's digital network. The TNC shall also post the fair calculation method on its website.5. A TNC's digital network shall display a picture of the TNC driver, and provide the make, model, color and license plate number of the TNC vehicle utilized for providing the TNC prearranged trip before the passenger enters the TNC vehicle.6. Within a reasonable period of time following the completion of a trip, a TNC shall transmit an electronic receipt to the passenger on behalf of the TNC driver that lists:(a) The origin and destination of the trip;(b) The total time and distance of the trip;(c) An itemization of the total fare paid, if any;(d) A separate statement of the applicable assessment fee and surcharge; and(e) The TNC name and operating license number.7. A TNC driver shall not solicit or accept street hails.8. A TNC shall adopt a policy prohibiting solicitation or acceptance of cash payments for the fares charged to passengers for TNC prearranged trips and notify TNC drivers of such policy. TNC drivers shall not solicit or accept cash payments from passengers.9. A TNC shall prevent a TNC driver from accepting TNC prearranged trips within a city of a population of one million or more and any county or city that has enacted a local law or ordinance pursuant to section one hundred eighty-two of the general municipal law and has not repealed such local law or ordinance, except where the acceptance of a prearranged trip is authorized pursuant to an existing reciprocity agreement.10. Nothing in this article shall apply to cities with a population of one million or more. (b) Failure of a TNC to obtain a license before operation, pursuant to this subdivision shall constitute a misdemeanor. 3. A TNC must maintain an agent for service of process in the state of New York. 4. On behalf of a TNC driver, a TNC may charge a fare for the services rendered to passengers; provided that, if a fare is collected from a passenger, the TNC shall disclose to such passenger the fare within the TNC's digital network. The TNC shall also provide passengers, before such passengers enter a TNC vehicle, the actual fare or an estimated fare for such TNC prearranged trip through the TNC's digital network. The TNC shall also post the fair calculation method on its website. 5. A TNC's digital network shall display a picture of the TNC driver, and provide the make, model, color and license plate number of the TNC vehicle utilized for providing the TNC prearranged trip before the passenger enters the TNC vehicle. 6. Within a reasonable period of time following the completion of a trip, a TNC shall transmit an electronic receipt to the passenger on behalf of the TNC driver that lists: (a) The origin and destination of the trip; (b) The total time and distance of the trip; (c) An itemization of the total fare paid, if any; (d) A separate statement of the applicable assessment fee and surcharge; and (e) The TNC name and operating license number. 7. A TNC driver shall not solicit or accept street hails. 8. A TNC shall adopt a policy prohibiting solicitation or acceptance of cash payments for the fares charged to passengers for TNC prearranged trips and notify TNC drivers of such policy. TNC drivers shall not solicit or accept cash payments from passengers. 9. A TNC shall prevent a TNC driver from accepting TNC prearranged trips within a city of a population of one million or more and any county or city that has enacted a local law or ordinance pursuant to section one hundred eighty-two of the general municipal law and has not repealed such local law or ordinance, except where the acceptance of a prearranged trip is authorized pursuant to an existing reciprocity agreement. 10. Nothing in this article shall apply to cities with a population of one million or more.

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(a) while the TNC driver is logged onto the TNC's digital network; and (b) while the TNC driver is engaged in a TNC prearranged trip. 2. (a) The following automobile financial responsibility insurance requirements shall apply while a TNC driver is logged onto the TNC's digital network but is not engaged in a TNC prearranged trip: insurance against loss from the liability imposed by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person, and injury to or destruction of property arising out of the ownership, maintenance, use or operation of a personal vehicle or vehicles within this state, or elsewhere in the United States in North America or Canada, subject to a limit, exclusive of interest and costs, with respect to each such occurrence, of at least seventy-five thousand dollars because of bodily injury to or death of one person in any one accident and, subject to said limit for one person, to a limit of at least one hundred fifty thousand dollars because of bodily injury to or death of two or more persons in any one accident, and to a limit of at least twenty-five thousand dollars because of injury to or destruction of property of others in any one accident, provided however, that such policy need not be for a period coterminous with the registration period of the personal vehicle insured, and coverage in satisfaction of the financial responsibility requirements set forth in section three thousand four hundred twenty of the insurance law, article fifty-one of the insurance law, and such other requirements or regulations that may apply for the purposes of satisfying the financial responsibility requirements with respect to the use or operation of a motor vehicle. (b) The coverage requirements of paragraph (a) of this subdivision may be satisfied by any of the following: (i) insurance maintained by the TNC driver; or (ii) insurance provided through a group policy maintained by the TNC; or (iii) a combination of subparagraphs (i) and (ii) of this paragraph. 3. (a) The following automobile financial responsibility insurance requirements shall apply while a TNC driver is engaged in a TNC prearranged trip: insurance against loss from the liability imposed by law for damages, including damages for care and loss of services, because of bodily injury to or death of any person, and injury to or destruction of property arising out of the ownership, maintenance, use, or operation of a specific personal vehicle or vehicles within this state, or elsewhere in the United States in North America or Canada, subject to a limit, exclusive of interest and costs, with respect to each such occurrence, of at least one million two hundred fifty thousand dollars because of bodily injury to or death of any person, and injury to or destruction of property provided however, that such policy need not be for a period coterminous with

the registration period of the personal vehicle insured, and coverage in satisfaction of the financial responsibility requirements set forth in section three thousand four hundred twenty of the insurance law, article fifty-one of the insurance law; coverage provided in accordance with subsection (f) of section three thousand four hundred twenty of the insurance law, providing supplementary uninsured/underinsured motorist insurance for bodily injury, in the amount of one million two hundred fifty thousand dollars because of bodily injury to or death of any person in any one accident; and such other requirements or regulations that may apply for the purposes of satisfying the financial responsibility requirements with respect to the use or operation of a motor vehicle. (b) The coverage requirements of paragraph (a) of this subdivision may be satisfied by any of the following: (i) insurance maintained by the TNC driver; or (ii) insurance provided through a group policy maintained by the TNC; or (iii) a combination of subparagraphs (i) and (ii) of this paragraph. 4. A TNC shall, upon entering into a contractual agreement with a TNC driver, provide notice to the TNC driver that he or she may need additional insurance coverage including motor vehicle physical damage coverage as described in paragraph nineteen of subsection (a) of section one thousand one hundred thirteen of the insurance law if the TNC vehicle being used by the TNC driver is subject to a lease or loan. A TNC shall also post this notice on its website in a prominent place, and provide contact information for the department of financial services. 5. If insurance maintained by a TNC driver pursuant to subdivisions two and three of this section has lapsed or does not provide the required coverage, then the group policy maintained by a TNC shall provide the coverage required by this section beginning with the first dollar of a claim and have the duty to defend such claim. 6. Coverage under a group policy maintained by the TNC shall not be dependent on the denial of a claim by the insurer that issued the insurance policy used to register the TNC vehicle, nor shall that insurer be required to first deny a claim. 7. (a) Except as provided in paragraph (b) of this subdivision, a group policy maintained by a TNC pursuant to subparagraph (ii) of paragraph (b) of subdivisions two or three of this section shall be placed with an insurer authorized to write insurance in this state. (b) If a TNC is unable to purchase a group policy pursuant to subparagraph (ii) of paragraph (b) of subdivisions two or three of this section because such insurance is unavailable from authorized insurers the TNC may acquire such group insurance with an excess line broker pursuant to section two thousand one hundred eighteen of the insurance law. (c) The obligation to determine whether the insurance required by this section is unavailable from insurers authorized to write insurance in this state shall be made prior to the initial placement and at each renewal of a policy. 8. A TNC driver who, while operating a TNC vehicle was logged on to the TNC's digital network but not engaged in a TNC prearranged trip or was engaged in a TNC prearranged trip, and has in effect the insurance required pursuant to this article, shall not be deemed to be in violation of article six of this chapter during such time that he or she was logged on to the TNC's digital network but not engaged in a TNC prearranged trip or was engaged in a TNC prearranged trip. 9. A TNC driver shall carry proof of coverage satisfying subdivisions two and three of this section with him or her at all times during his or her use or operation of a TNC vehicle in connection with a TNC's digital network. Such proof of coverage shall be in such form as the commissioner shall prescribe, which may be in the form of an insurance identification card as defined in section three hundred eleven of this chapter. Any insurance identification card issued pursuant to the provisions of this article shall be in addition to the insurance identification card required pursuant to article six of this chapter, and nothing contained in this article shall be deemed to supersede the requirements of such article six. Whenever the production of an insurance identification card is required by law, a TNC driver shall (a) produce the insurance identification card issued pursuant to article six of this chapter and, (b) if such driver (i) was logged onto the TNC's digital network but not engaged in a TNC prearranged trip or (ii) was engaged in a TNC prearranged trip, such driver shall also produce the insurance identification card required pursuant to this article. 10. The superintendent of financial services is authorized to issue such rules and regulations necessary to implement this section. 11. The superintendent of financial services may promulgate regulations to address insurance coverage under this section and section sixteen hundred ninety-five of this article when a TNC driver uses multiple digital networks simultaneously. 12. Nothing in this section shall impose financial responsibility requirements upon any entities operating as vehicles for hire in a city with a population of one million or more. 13. An insurer shall not include a mandatory arbitration clause in a policy issued pursuant to this section. Nothing in this section supercedes the mandatory arbitration requirements contained in section five thousand one hundred five of the insurance law.

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§ 1694. Disclosures. A TNC shall disclose in writing to TNC drivers the following before they are allowed to accept a request for a TNC prearranged trip on the TNC's digital network: 1. The insurance coverage, including the types of coverage and the limits for each coverage, that the TNC provides while the TNC driver uses a TNC vehicle in connection with a TNC's digital network; 2. That the TNC driver's own automobile insurance policy might not provide any coverage while the TNC driver is logged on to the TNC's digital network or is engaged in a TNC prearranged trip, depending on its terms; and 3. That, if a TNC vehicle has a lien against it, then the continued use of such TNC vehicle by its TNC driver without physical damage coverage may violate the terms of the contract with the lienholder.

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(a) liability coverage for bodily injury and property damage; (b) coverage provided pursuant to article fifty-one of the insurance law; (c) uninsured motorist coverage; (d) supplementary uninsured/underinsured motorist coverage; and (e) motor vehicle physical damage coverage as described in paragraph nineteen of subsection (a) of section one thousand one hundred thirteen of the insurance

law. 2. Such exclusions shall apply notwithstanding any requirement under the law to the contrary. Nothing in this section implies or requires that an owner's policy of liability insurance or other motor vehicle insurance policy provide coverage while the TNC driver is logged on to the TNC's digital network, while the TNC driver is engaged in a TNC prearranged trip or while the TNC driver otherwise uses or operates a TNC vehicle to transport passengers for compensation. 3. Nothing shall be deemed to preclude an insurer from providing primary, excess, or umbrella coverage for the TNC driver's TNC vehicle, if it chose to do so by contract or endorsement. 4. Motor vehicle insurers that exclude the coverage described in this article shall have no duty to defend or indemnify any claim expressly excluded thereunder. Nothing in this article shall be deemed to invalidate or limit an exclusion contained in a policy including any policy in use or approved for use in this state prior to the effective date of this section. 5. A motor vehicle insurer that defends or indemnifies a claim against a TNC driver that is excluded under the terms of its policy shall have a right of contribution against other insurers that provide motor vehicle insurance to the same driver in satisfaction of the coverage requirements of the provisions of this article. 6. In a claims coverage investigation, a TNC and any insurer providing coverage under this article shall, within fifteen days after a claim has been filed, facilitate the exchange of relevant information with directly involved parties and any insurer of the TNC driver if applicable, including the precise times that a TNC driver logged on and off of the TNC's digital network in the twelve hour period immediately preceding and in the twelve hour period immediately following the accident and disclose to one another a clear description of the coverage, exclusions and limits provided under any motor vehicle insurance maintained under this article. 7. The superintendent of financial services may promulgate such rules and regulations that the superintendent deems necessary to facilitate the sharing of information between insurers, when a motor vehicle accident occurs and at least one of the insurers is providing financial responsibility coverage to a TNC vehicle pursuant to this article. 8. The commissioner shall provide relevant insurance coverage information required by this article to the following persons upon request: (a) a person to whom an accident report pertains or who is named in such report, or his or her authorized representative; and (b) any other person or his or her authorized representative who has demonstrated to the satisfaction of the commissioner that such person is or may be a party to a civil action arising out of the conduct described in such accident report.

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(i) The individual shall submit an application to the TNC, which shall include information regarding his or her address, age, driver's license, motor vehicle registration, automobile liability insurance, and other information required by the TNC; (ii) The TNC shall conduct, or have a third party conduct, a criminal background check for each applicant in accordance with section sixteen hundred ninety-nine of this article and that shall review whether the applicant: (A) is listed on the New York state sex offender registry pursuant to article six-C of the correction law; and (B) is a match in the United States Department of Justice National Sex Offender Public Website; (iii) The TNC shall obtain and review, or have a third party obtain and review, a driving history research report for such individual. (b) The TNC shall not permit an applicant where such applicant: (i) fails to meet all qualifications pursuant to section sixteen hundred ninety-nine of this article; (ii) is a match in the United States Department of Justice National Sex Offender Public Website; (iii) is listed on the sex offender registry pursuant to article six-C of the correction law; (iv) does not possess a valid New York driver's license; (v) does not possess proof of registration for the motor vehicles used to provide TNC prearranged trips; (vi) does not possess proof of automobile liability insurance for the motor vehicles used to provide TNC prearranged trips as a TNC vehicle; or (vii) is not at least nineteen years of age. (c) Upon review of all information received and retained by the TNC and upon verifying that the individual is not disqualified pursuant to this section from receiving a TNC driver permit, a TNC may issue a TNC driver permit to the applicant. The TNC shall review all information received relating to such applicant and hold such information for six years along with a certification that such applicant qualifies to receive a TNC driver permit. (d) (i) A TNC that issues a TNC driver's permit pursuant to this section shall participate in the New York License Event Notification Service (LENS) established by the department to obtain timely notice when any of the following violations are added to a TNC driver's driving record: (A) unlawfully fleeing a police officer in a motor vehicle in violation of sections 270.25, 270.30 or 270.35 of the penal law; (B) reckless driving in violation of section one thousand two hundred twelve of this chapter; (C) operating while license or privilege is suspended or revoked in violation of section five hundred eleven of this chapter, excluding subdivision seven of such section; (D) operating a motor vehicle under the influence of alcohol or drugs in violation of section one thousand one hundred ninety-two of this chapter; and (E) leaving the scene of an incident without reporting in violation of subdivision two of section six hundred of this chapter. (ii) The department may promulgate regulations authorizing additional LENS notifications as the commissioner deems necessary to protect public health and safety. (iii) Upon such notice, a TNC may suspend or revoke any TNC driver's permit and revoke access to the TNC digital network, only after considering the number or severity of any such violations, including such factors as required by this article for obtaining a TNC permit, when necessary to protect public health and safety. If, however, such a notice provides that an applicant has been convicted of a disqualifying crime pursuant to section sixteen hundred ninety-nine of this article such TNC driver's access to the TNC digital network and such TNC driver's permit shall both immediately be suspended or revoked. Upon such revocation or suspension pursuant to this section, the TNC shall provide the driver with a copy of the LENS record used to make such determination. (e) No person shall operate a TNC vehicle or operate as a TNC driver unless such person holds a valid TNC driver permit issued pursuant to this section. A violation of this paragraph shall be a traffic infraction punishable by a fine of not less than seventy-five nor more than three hundred dollars, or by imprisonment for not more than fifteen days, or by both such fine and imprisonment. (f) The names and identifying information of TNC drivers provided pursuant to paragraph (d) of this subdivision shall be considered information, which if disclosed, would constitute an unwarranted invasion of personal privacy

under the provisions of article six of the public officers law. 2. A TNC shall implement a zero-tolerance policy regarding a TNC driver's activities while accessing the TNC's digital network. Such policy shall address the issue of operating a vehicle under the influence of alcohol or drugs while a TNC driver is providing TNC prearranged trips or is logged onto the TNC's digital network but is not providing TNC prearranged trips, and the TNC shall provide notice of this policy on its digital network, as well as procedures to report a complaint about a TNC driver with whom a TNC prearranged trip was commenced and whom the passenger reasonably suspects was operating a vehicle under the influence of alcohol or drugs during the course of the TNC prearranged trip. 3. (a) A TNC shall adopt a policy of non-discrimination on the basis of destination, race, color, national origin, religious belief, practice or affiliation, sex, disability, age, sexual orientation, or genetic predisposition with respect to passengers and potential passengers and notify TNC drivers of such policy. (b) TNC drivers shall comply with all applicable laws regarding non-discrimination against passengers or potential passengers on the basis of destination, race, color, national origin, religious belief, practice or affiliation, sex, disability, age, sexual orientation, or genetic predisposition with respect to passengers and potential passengers and notify TNC drivers of such policy. (c) TNC drivers shall comply with all applicable laws relating to accommodation of service animals. (d) A TNC shall implement and maintain a policy and an oversight process of providing accessibility to passengers or potential passengers with a disability and accommodation of service animals as such term is defined in section one hundred twenty-three-b of the agriculture and markets law and shall to the extent practicable adopt findings established by the New York state TNC accessibility task force adopted pursuant to section twenty-one of the chapter of the laws of two thousand seventeen that added this section. A TNC shall not impose additional charges for providing services to persons with physical disabilities because of those disabilities. (e) The New York state division of human rights shall be authorized to accept, review and investigate any potential or actual violations of this subdivision in a form and manner consistent with authority under article fifteen of the executive law and shall notify the department, upon a finding of a violation, for purposes of permit suspension. 4. A TNC shall require that any or all motor vehicles that a TNC driver will use as a TNC vehicle to provide TNC prearranged trips meets applicable New York state vehicle safety and emissions requirements, as set forth in section three hundred one of this chapter, or the vehicle safety and emissions requirements of the state in which the vehicle is registered. 5. The department shall promulgate regulations to ensure that each TNC vehicle is easily identified as such and that the TNC for which the TNC driver is providing the TNC service or TNC prearranged trip is distinguishable. Such marking shall be in such form as is approved by the commissioner, and shall be attached, affixed or displayed in such manner as he or she may prescribe by regulation.

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§ 1697. Maintenance of records. A TNC shall maintain the following records: 1. individual trip records for at least six years from the date each trip was provided; and 2. individual records of TNC drivers at least until the six year anniversary of the date on which a TNC driver's relationship with the TNC has ended.

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§ 1698. Audit procedures; confidentiality of records. 1. For the purpose of verifying that a TNC is in compliance with the licensing requirements of the department, the department shall reserve the right to audit a sample of records that the TNC is required to maintain, upon request by the department that shall be fulfilled in no fewer than ten business days by the TNC. The sample shall be chosen randomly by the department in a manner agreeable to both parties. The audit shall take place at a mutually agreed location in New York state. Any record furnished to the department may exclude information that would tend to identify specific drivers or passengers. 2. The names and identifying information of TNC drivers that are received pursuant to this section shall be considered information which, if disclosed, would constitute an unwarranted invasion of personal privacy under the provisions of article six of the public officers law. 3. The department shall establish regulations for the filing of complaints against any TNC driver or TNC pursuant to this section.

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2. (a) The method used to conduct a criminal history background check pursuant to subdivision one of this section shall be established in regulations adopted by the department within thirty days of the effective date of this subdivision. To ensure safety of the passengers and the public such regulations shall establish the method used to conduct such background checks and any processes and operations necessary to complete such checks. The review of criminal history information and determinations about whether or not an applicant is issued a TNC driver permit shall be controlled by paragraphs (b), (c) and (d) of this subdivision.(b) An applicant shall be disqualified to receive a TNC driver permit where he or she:(i) stands convicted in the last three years of: unlawful fleeing a police officer in a motor vehicle in violation of sections 270.35, 270.30 or 270.25 of the penal law, reckless driving in violation of section twelve hundred twelve of this chapter, operating while license or privilege is suspended or revoked in violation of section five hundred eleven of this chapter, excluding subdivision seven of such section, a misdemeanor offense of operating a motor vehicle while under the influence of alcohol or drugs in violation of section eleven hundred ninety-two of this chapter, or leaving the scene of an accident in violation of subdivision two of section six hundred of this chapter. In calculating the three year period under

this subparagraph, any period of time during which the person was incarcerated after the commission of such offense shall be excluded and such three year period shall be extended by a period or periods equal to the time spent incarcerated;(ii) stands convicted in the last seven years of: a felony offense defined in article one hundred twenty-five of the penal law, a violent felony offense defined in section 70.02 of the penal law, a class A felony offense defined in the penal law, a felony offense defined in section eleven hundred ninety-two of this chapter, or any conviction of an offense in any other jurisdiction that has all the essential elements of an offense listed in this subparagraph. In calculating the seven year period under this subparagraph, any period of time during which the person was incarcerated after the commission of such offense shall be excluded and such seven year period shall be extended by a period or periods equal to the time spent incarcerated; or(iii) is required to register as a sex offender pursuant to article six-C of the correction law.(c) A criminal history record that contains criminal conviction information that does not disqualify an applicant pursuant to subparagraphs (i) or (ii) of paragraph (b) of this subdivision, shall be reviewed and considered according to the provisions of article twenty-three-A of the correction law and subdivisions fifteen and sixteen of section two hundred ninety-six of the executive law in determining whether or not the applicant should be issued a TNC driver's permit.(d) Upon receipt of criminal conviction information pursuant to this section for any applicant, such applicant shall promptly be provided with a copy of such information as well as a copy of article twenty-three-A of the correction law. Such applicant shall also be informed of his or her right to seek correction of any incorrect information contained in such criminal history information pursuant to the regulations and procedures established by the division of criminal justice services.(e) The department shall promulgate regulations for the purpose of implementing the provisions of this subdivision.3. A TNC shall update the criminal history background check yearly during the period in which the person is authorized to drive for the company, however, the commissioner may require, pursuant to regulation, more frequent criminal history background checks.4. To ensure safety of the passengers and the public a TNC shall be responsible for all fees associated with the criminal history check pursuant to subdivision one of this section.5. Any TNC found to have violated any requirements established pursuant to this section, shall on the first instance, be subject to a civil penalty of not more than ten thousand dollars. For any subsequent instance within the period of two years from any initial violation, such TNC shall be subject to a civil penalty of not more than fifty thousand dollars, or the suspension or revocation of its TNC license or both. (b) An applicant shall be disqualified to receive a TNC driver permit where he or she: (i) stands convicted in the last three years of: unlawful fleeing a police officer in a motor vehicle in violation of sections 270.35, 270.30 or 270.25 of the penal law, reckless driving in violation of section twelve hundred twelve of this chapter, operating while license or privilege is suspended or revoked in violation of section five hundred eleven of this chapter, excluding subdivision seven of such section, a misdemeanor offense of operating a motor vehicle while under the influence of alcohol or drugs in violation of section eleven hundred ninety-two of this chapter, or leaving the scene of an accident in violation of subdivision two of section six hundred of this chapter. In calculating the three year period under this subparagraph, any period of time during which the person was incarcerated after the commission of such offense shall be excluded and such three year period shall be extended by a period or periods equal to the time spent incarcerated; (ii) stands convicted in the last seven years of: a felony offense defined in article one hundred twenty-five of the penal law, a violent felony offense defined in section 70.02 of the penal law, a class A felony offense defined in the penal law, a felony offense defined in section eleven hundred ninety-two of this chapter, or any conviction of an offense in any other jurisdiction that has all the essential elements of an offense listed in this subparagraph. In calculating the seven year period under this subparagraph, any period of time during which the person was incarcerated after the commission of such offense shall be excluded and such seven year period shall be extended by a period or periods equal to the time spent incarcerated; or (iii) is required to register as a sex offender pursuant to article six-C of the correction law. (c) A criminal history record that contains criminal conviction information that does not disqualify an applicant pursuant to subparagraphs (i) or (ii) of paragraph (b) of this subdivision, shall be reviewed and considered according to the provisions of article twenty-three-A of the correction law and subdivisions fifteen and sixteen of section two hundred ninety-six of the executive law in determining whether or not the applicant should be issued a TNC driver's permit. (d) Upon receipt of criminal conviction information pursuant to this section for any applicant, such applicant shall promptly be provided with a copy of such information as well as a copy of article twenty-three-A of the correction law. Such applicant shall also be informed of his or her right to seek correction of any incorrect information contained in such criminal history information pursuant to the regulations and procedures established by the division of criminal justice services. (e) The department shall promulgate regulations for the purpose of implementing the provisions of this subdivision. 3. A TNC shall update the criminal history background check yearly during the period in which the person is authorized to drive for the company, however, the commissioner may require, pursuant to regulation, more frequent criminal history background checks. 4. To ensure safety of the passengers and the public a TNC shall be responsible for all fees associated with the criminal history check pursuant to subdivision one of this section. 5. Any TNC found to have violated any requirements established pursuant to this section, shall on the first instance, be subject to a civil penalty of not more than ten thousand dollars. For any subsequent instance within the period of two years from any initial violation, such TNC shall be subject to a civil penalty of not more than fifty thousand dollars, or the suspension or revocation of its TNC license or both.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 44-B - Transportation Network Company Services1700 - Controlling Authority.

§ 1700. Controlling authority. 1. Notwithstanding any other provision of law, the regulation of TNCs and TNC drivers is governed exclusively by the provisions of the chapter of the laws of two thousand seventeen which added this section and any rules promulgated by the state through its agencies consistent with such chapter. No county, town, city or village may enact a tax or any

fee or other surcharge on a TNC, a TNC driver, or a TNC vehicle used by a TNC driver or require a license, permit, or additional insurance coverage or any other limitations or restrictions, except for a prohibition on pick-up pursuant to section one hundred eighty-two of the general municipal law, for a TNC, a TNC driver, or a TNC vehicle used by a TNC driver, where such fee, surcharge, unauthorized tax, license, permit, insurance coverage, limitation or restriction, relates to facilitating or providing TNC prearranged trips, or subjects a TNC, a TNC driver, or a TNC vehicle used by a TNC driver to operational, or other requirements. 2. Nothing in this article shall authorize any TNC driver to pick-up a passenger for purposes of a TNC prearranged trip in a city with a population of one million or more or where a county or city has opted to prohibit the same pursuant to authority consistent with section one hundred eighty-two of the general municipal law, except where the acceptance of a prearranged trip is authorized pursuant to an existing reciprocity agreement. 3. Nothing in this article shall: (a) limit the ability of a county, town, city or village to adopt or amend generally applicable limitations or restrictions relating to local traffic or parking control as authorized by state law; or (b) preempt any reciprocity agreements, including agreements entered into pursuant to section four hundred ninety-eight of this chapter, between a county, town, city or village that relates to services regulated by section one hundred eighty-one of the general municipal law. 4. Nothing in this article shall be construed to limit the ability of a municipality or other governing authority that owns or operates an airport located outside of a city with a population of one million or more from adopting regulations and entering into contracts or other agreements relating to the duties and responsibilities on airport property of a transportation network company, which may include the imposition and payment of reasonable fees, provided that any such contracts, agreements, or regulations shall not impose any license or other operational requirement on a transportation network company driver or transportation network company vehicle that is inconsistent with or additional to the requirements of this article.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 44-C - Central Business District Tolling Program1701 - Legislative Findings and Declaration.

§ 1701. Legislative findings and declaration. The ongoing failures of the tracks, signals, switches, electrical power, and other transportation infrastructure throughout the subway system in the city of New York continue to have a significant deleterious impact on the health, safety, and livelihood of commuters, tourists, resident New Yorkers, as well as business and commerce in the metropolitan commuter transportation district, which is the recognized economic engine of the state of New York, and thereby have adversely affected the economy of the state of New York. Temporary actions have been taken to address the safety of subway, bus and commuter rail riders in the short term including an emergency declaration and increased capital funding for the subways in the most recently adopted state budget. The legislature, however, determines that a long-term and sustainable solution is necessary in order to ensure stable and reliable funding to repair and revitalize this significantly important mass transit asset. The legislature further finds and declares that traffic congestion in the city of New York ranks second worst among cities in the United States and third worst among cities in the world, and results in significant cost to the New York metropolitan area economy and in turn the state's economy at estimates exceeding one hundred billion dollars over the next five years. Travel speeds in the city of New York's central business district have dropped more than seventeen percent in two thousand sixteen to an average of 6.8 miles per hour and in Midtown Manhattan, the most congested area of the city-the area from fifty-ninth street to thirty-fifth street and from ninth avenue to the east river-the average vehicular speed is 4.7 miles per hour. Congestion in these areas is crippling and impacts the everyday lives of residents, commuters, taxi and for-hire vehicle traffic, bus transit and emergency services, and is a significant contributor to decreased air quality. These issues have been recognized by both the Fix NYC Advisory Panel and the Metropolitan Transportation Sustainability Advisory Workgroup as significant impediments to everyday New Yorkers. In order to ensure a safe and efficient mass transit system within the city of New York and to protect the public health and safety of New York's residents, a program to establish tolls for vehicles entering or remaining in the most congested area of the state is found to be necessary and to be a matter of substantial state concern.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 44-C - Central Business District Tolling Program1702 - Short Title.

§ 1702. Short title. This act shall be known as and may be cited as "the traffic mobility act".

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 44-C - Central Business District Tolling Program1703 - Definitions.

§ 1703. Definitions. For the purposes of this article, unless the context otherwise requires: 1. "City" means the city of New York. 2. "Central business district toll" means a toll charged for entry into or remaining in the central business district as described in section seventeen hundred four of this article. 3. "Central business district tolling program" means the program for charging tolls for vehicles that enter or remain in the central business district and includes the central business district tolling infrastructure, the central business district tolling collection system and the central business district tolling customer service center. 4. "Central business district" means the area described in section seventeen hundred four of this article for which tolls shall be charged for a vehicle's entry into or remaining in such district. 5. "Central business district tolling infrastructure" means the devices and structures including but not limited to gantries, clear signage delineating entry into the central business district and toll amounts, and power and communication lines that the Triborough bridge and tunnel authority will plan, design, construct, and use as part of the central business district tolling program. Such infrastructure shall be planned, designed, installed and constructed pursuant to the memorandum of understanding executed pursuant to subdivision two-a of section seventeen hundred four of this article. 6. "Central

business district tolling collection system" means the electronic system of collecting tolls or other charges using electronic data and/or images that the Triborough bridge and tunnel authority will plan, design, install and construct pursuant to the memorandum of understanding executed pursuant to subdivision two-a of section seventeen hundred four of this article, and that such authority shall operate as part of the central business district tolling program. 7. "Central business district tolling customer service center" means the customer contact and back-office system and operation services for the collection of central business district tolls and enforcement of central business district toll violations that the Triborough bridge and tunnel authority will plan, design, implement and operate as part of the central business district tolling program. 8. "Operation date" means the date determined by the Triborough bridge and tunnel authority, which shall not be earlier than December thirty-first, two thousand twenty, for the beginning of the operation and enforcement of the central business district tolling program. The operation and enforcement date shall commence only after an initial program testing period of thirty days where no collection of any tolls, fees, or other charges shall be authorized. As of the commencement date of operation and enforcement, there shall be a period of sixty days where only the established tolls may be collected without the collection of other fees or charges or fines. 9. "Triborough bridge and tunnel authority" means the corporation organized pursuant to section five hundred fifty-two of the public authorities law as consolidated pursuant to section five hundred fifty-two-a of the public authorities law or any successor corporation or corporation into which it may be consolidated.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 44-C - Central Business District Tolling Program1704-A - Central Business District Toll.

2. No qualifying authorized emergency vehicle as defined pursuant to section one hundred one of this chapter or a qualifying vehicle transporting a person with disabilities shall be charged a central business district toll if it enters or remains in the central business district. Application for such toll exemption shall be made in such manner as prescribed by the Triborough bridge and tunnel authority and shall contain such information as the authority may reasonably require. 3. (a) The Triborough bridge and tunnel authority shall implement a plan for credits, discounts and/or exemptions for tolls paid on bridges and crossings informed by the recommendations of the traffic mobility review board.(b) The Triborough bridge and tunnel authority shall be authorized to provide additional credits, discounts and exemptions informed by the recommendations of the traffic mobility review board and a traffic study that considers impact.4. The Triborough bridge and tunnel authority shall implement a plan to address credits, discounts, and/or exemptions for for-hire vehicles as defined by, and subject to a surcharge imposed by, article twenty-nine-C of the tax law for a for-hire transportation trip, informed by the recommendation of the traffic mobility review board. (b) The Triborough bridge and tunnel authority shall be authorized to provide additional credits, discounts and exemptions informed by the recommendations of the traffic mobility review board and a traffic study that considers impact. 4. The Triborough bridge and tunnel authority shall implement a plan to address credits, discounts, and/or exemptions for for-hire vehicles as defined by, and subject to a surcharge imposed by, article twenty-nine-C of the tax law for a for-hire transportation trip, informed by the recommendation of the traffic mobility review board.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 44-C - Central Business District Tolling Program1704 - Establishment of Central Business District Tolling Program.

2. The central business district tolling program will operate in the central business district. The central business district shall include the geographic area in the borough of Manhattan south of and inclusive of sixtieth street to the extent practicable but shall not include the FDR Drive, and New York state route 9A otherwise known as the "West Side highway" including the Battery Park underpass and any surface roadway portion of the Hugh L. Carey Tunnel connecting to West St. The boundaries of the central business district shall not be modified, expanded, or reduced and shall incorporate the outer bounds of the aforementioned district to the extent practicable. 2-a. The Triborough bridge and tunnel authority shall enter into a memorandum of understanding with the city department of transportation for purposes of coordinating the planning, design, installation, construction and maintenance of the central business district tolling infrastructure including required signage. The Memorandum shall address the use of existing systems, devices and other facilities owned and operated by the city for the purposes of a central business district tolling program, as well as reimbursable costs associated with the planning, design, installation, construction and maintenance of such program. Such memorandum of understanding shall be entered into no later than sixty days from the effective date of this article. 3. (a) Notwithstanding any law to the contrary, the Triborough bridge and tunnel authority, pursuant to the memorandum of understanding executed pursuant to subdivision two-a of this section with the city department of transportation shall plan, design, install, construct, and maintain the central business district tolling infrastructure. The city of New York shall cooperate and consult with the Triborough bridge and tunnel authority to facilitate the planning, design, construction, timely implementation, and maintenance of the central business district tolling infrastructure and shall not unduly hinder or delay the planning, designing, installation, operation, construction, timely implementation, or maintenance of the same. Notwithstanding any provision of law to the contrary, the city of New York shall, pursuant to the memorandum of understanding executed pursuant to subdivision two-a of this section with the Triborough bridge and tunnel authority, be authorized to provide for the use of existing systems, devices and other facilities owned and operated by the city, including, but not limited to systems and devices installed pursuant to sections one thousand one hundred eleven-a, one thousand one hundred eleven-c, and one thousand one hundred eighty-b of this chapter to facilitate the Triborough bridge and tunnel authority's central business district tolling program and shall work with the Triborough bridge and tunnel authority to facilitate the same.(b) The Triborough bridge and tunnel authority shall, pursuant to the memorandum of understanding executed pursuant to subdivision two-a of this section with the city department of transportation, plan, design, install, construct, and maintain

a central business district toll collection system and implement and operate the same to collect the central business district toll.(c) The Triborough bridge and tunnel authority shall plan, design, implement and operate a central business district toll customer service center.(d) The central business district tolling program shall be planned, designed, implemented and operated to facilitate payment of central business district tolls by credit or debit card, check or automated clearing house payment, by telephone or over the internet or any other method of payment that the Triborough bridge and tunnel authority may implement.(e) All procurements of goods, services or construction of any kind by the Triborough bridge and tunnel authority for the central business district tolling program shall be deemed to be subject only to the same requirements that otherwise apply to procurements by the Triborough bridge and tunnel authority.(f) Signage shall be clearly delineated to provide notice at a reasonable distance prior to, and upon entry into, the central business district and upon exit from the central business district. Signage prior to entry must include the toll rates to be charged. Additionally, signage shall be provided, where practicable, to provide drivers adequate notice to avoid entry into the central business district. Design, placement and installation of signage by the Triborough bridge and tunnel authority shall be performed pursuant to the memorandum of understanding executed pursuant to subdivision two-a of this section with the city department of transportation.4. The central business district tolling infrastructure, the central business district toll collection system and the central business district tolling customer service center shall be completed by the operation date.5. Responsibility for maintenance of the central business district tolling infrastructure after the operation date shall be performed by the Triborough bridge and tunnel authority pursuant to the memorandum of understanding executed pursuant to subdivision two-a of this section with the city department of transportation.6. The planning, designing, constructing, installing or maintaining of the central business district tolling program and the planning, designing, installing, constructing, operating or maintaining of the central business district toll collection system by the Triborough bridge and tunnel authority including the establishment by such authority of central business district tolls, and any other fees or rentals for the use of its projects and any changes thereafter shall not be subject to the provisions of article eight of the environmental conservation law, the provisions of chapter six of article forty-three or chapter five of title sixty-two of the rules of the city of New York, or the provisions of section one hundred ninety-seven-c of the New York city charter, relating to a uniform land use review procedure, nor the provisions of any other local law of the city of New York of like or similar effect including approvals or charges associated with the use of property owned and maintained by the city of New York necessary for the installation of central business district tolling infrastructure nor shall the determination of the central business district toll amounts by the Triborough bridge and tunnel authority board be subject to any such provisions of law. The planning, designing, installing, constructing or maintaining of the central business district tolling program by the Triborough bridge and tunnel authority shall be performed pursuant to the memorandum of understanding executed pursuant to subdivision two-a of this section. (b) The Triborough bridge and tunnel authority shall, pursuant to the memorandum of understanding executed pursuant to subdivision two-a of this section with the city department of transportation, plan, design, install, construct, and maintain a central business district toll collection system and implement and operate the same to collect the central business district toll. (c) The Triborough bridge and tunnel authority shall plan, design, implement and operate a central business district toll customer service center. (d) The central business district tolling program shall be planned, designed, implemented and operated to facilitate payment of central business district tolls by credit or debit card, check or automated clearing house payment, by telephone or over the internet or any other method of payment that the Triborough bridge and tunnel authority may implement. (e) All procurements of goods, services or construction of any kind by the Triborough bridge and tunnel authority for the central business district tolling program shall be deemed to be subject only to the same requirements that otherwise apply to procurements by the Triborough bridge and tunnel authority. (f) Signage shall be clearly delineated to provide notice at a reasonable distance prior to, and upon entry into, the central business district and upon exit from the central business district. Signage prior to entry must include the toll rates to be charged. Additionally, signage shall be provided, where practicable, to provide drivers adequate notice to avoid entry into the central business district. Design, placement and installation of signage by the Triborough bridge and tunnel authority shall be performed pursuant to the memorandum of understanding executed pursuant to subdivision two-a of this section with the city department of transportation. 4. The central business district tolling infrastructure, the central business district toll collection system and the central business district tolling customer service center shall be completed by the operation date. 5. Responsibility for maintenance of the central business district tolling infrastructure after the operation date shall be performed by the Triborough bridge and tunnel authority pursuant to the memorandum of understanding executed pursuant to subdivision two-a of this section with the city department of transportation. 6. The planning, designing, constructing, installing or maintaining of the central business district tolling program and the planning, designing, installing, constructing, operating or maintaining of the central business district toll collection system by the Triborough bridge and tunnel authority including the establishment by such authority of central business district tolls, and any other fees or rentals for the use of its projects and any changes thereafter shall not be subject to the provisions of article eight of the environmental conservation law, the provisions of chapter six of article forty-three or chapter five of title sixty-two of the rules of the city of New York, or the provisions of section one hundred ninety-seven-c of the New York city charter, relating to a uniform land use review procedure, nor the provisions of any other local law of the city of New York of like or similar effect including approvals or charges associated with the use of property owned and maintained by the city of New York necessary for the installation of central business district tolling infrastructure nor shall the determination of the central business district toll amounts by the Triborough bridge and tunnel authority board be subject to any such provisions of law. The planning, designing, installing, constructing or maintaining of the central business district tolling program by the Triborough bridge and tunnel authority shall be performed pursuant to the memorandum of understanding executed pursuant to subdivision two-a of this section.

Title: vat

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 44-C - Central Business District Tolling Program1705 - Disposition of Revenue and Penalties.

§ 1705. Disposition of revenue and penalties. The Triborough bridge and tunnel authority shall establish and collect central business district tolls, fees and other charges as provided in subdivision twelve-a of section five hundred fifty-three of the public authorities law.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 44-C - Central Business District Tolling Program1706 - Reporting.

§ 1706. Reporting. Beginning one year after the operation date and every two years thereafter, the Triborough bridge and tunnel authority, in consultation with the city department of transportation shall report on the effect of the central business district tolling program on traffic congestion in and around the central business district and on mass transit use and taxi and for-hire vehicle use including the vehicle-miles traveled for each trip within the central business district for taxis and for-hire vehicles; the current and historic volume and type of vehicles including, but not limited to, commercial trucks, transportation network companies, taxis, private cars, and tour buses, entering the central business district; environmental improvements, including but not limited to, air quality, and emissions trends in and around the central business district; congestion reduction measures; and transit ridership and average bus speeds within the central business district, and on all receipts and expenditures relating to the central business district tolling program. The department of transportation of the city of New York shall be required to assist in gathering and providing to the Triborough bridge and tunnel authority traffic impact data and other related data as directed by the Triborough bridge and tunnel authority for purposes of compiling such report. The report shall be readily available to the public, and shall be posted on the authority's website and be submitted to the governor, the director of the budget, the temporary president of the senate, the speaker of the assembly, the mayor and council speaker of the city of New York, the metropolitan transportation authority board and the metropolitan transportation authority capital program review board.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 44 - Traffic-Control Devices1680 - Department of Transportation to Maintain a Manual of Uniform Traffic-Control Devices.

(b) No provision of this chapter shall be deemed to require that such manual contain authority for the future installation of any specific kind or type of traffic-control device or combination of traffic-control devices which in the judgment of the department of transportation does not conform to such nationally accepted standards. (c) No state or local authority shall hereafter fabricate or purchase any traffic-control device that does not conform to the current manual and specifications as amended from time to time. No state or local authority shall hereafter install any traffic-control device that does not conform to the current manual and specifications as amended from time to time, except that devices that are on order or on hand and serviceable or operable may be installed and used until the phase-in compliance date specified in the MUTCD. No state or local authority shall continue to use any traffic-control device that does not conform to the current manual and specifications as amended from time to time beyond the phase-in compliance date specified in the MUTCD, except that a city having a population in excess of one million shall conform to the state manual and specifications only insofar as such local authority in its discretion deems practicable. (d) No person, firm, association or corporation shall sell, lease, or offer for sale or hire for use in this state any traffic control device that does not conform to the current manual and specifications as amended from time to time, or unless a certificate of approval has been issued by the commissioner of transportation pursuant to the provisions of section five hundred ninety-nine-b of the general business law. The provisions of this subdivision shall not apply to the sale, lease or offer for sale or hire to a city having a population in excess of one million.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 44 - Traffic-Control Devices1681 - State Traffic-Control Devices.

(b) The department of transportation may order the erection and maintenance of suitable directional signs upon the streets of cities and villages and upon county roads and town highways outside of cities and villages within the state, to facilitate through traffic, provided consent therefor is first obtained from the local authorities of the city, village or town or the county superintendent of highways. (c) Except as otherwise provided the cost of providing, erecting, maintaining and removing traffic-control devices ordered by the department of transportation shall be paid from any moneys available for the maintenance, repair or reconstruction of state highways upon vouchers approved by the department of transportation. However, the work of providing, erecting and removing such traffic-control devices may be performed by contract in the same manner as provided for state highways in article three of the highway law, or, by the use of department of transportation forces and equipment and all materials purchased therefor, or by a combination of such methods, and the cost of such work may be paid from such moneys available for the construction of state highways. Except as herein provided, nothing shall be paid from such moneys for providing, erecting or maintaining traffic-control signals or flashing signals used in connection with regulating traffic upon a highway under the jurisdiction of the department of transportation at entrances to private property, and nothing shall be paid from such moneys for maintaining traffic-control signals or flashing signals used in connection with regulating traffic upon a highway under the jurisdiction of the department of transportation at entrances to schools. Upon determination by the department of transportation of the need for such a

signal, the department of transportation may permit any person, firm, association, corporation or public body to provide and erect such signal in accordance with standards and specifications established by the department of transportation. The department of transportation may require that some or all of the control equipment used in the signal construction be supplied by the state to ensure equipment quality and compatibility with state practices and the cost of such furnished equipment shall be reimbursed to the state by the party receiving permission to provide and erect the signal. All signals erected on or after the first day of April, nineteen hundred eighty-six with permission of the department of transportation and in accordance with the standards and specifications established by the department of transportation shall be maintained by the state. The party which erected such signals shall pay the state an annual fee to be determined by the commissioner of transportation. Such fees shall cover the cost of normal signal maintenance, but shall not include the cost of electrical energy or major modifications or replacements which shall remain the responsibility of the party which erected the signal. The department of transportation may, in its discretion, agree to assume the same maintenance responsibility for signals erected with the permission of the department of transportation prior to the first day of April, nineteen hundred eighty-six, if the department of transportation determines that such signal substantially meets established standards and is in a satisfactory state of repair. The party which erected such signals shall also pay the state an annual fee which shall be calculated in the same manner as fees for signals erected on or after the first day of April, nineteen hundred eighty-six. No such traffic signal or flashing signal erected with permission of the department of transportation shall be removed except with the written consent of the department of transportation. The department of transportation shall have the right to revoke its permission to provide, erect or maintain such a signal and shall have the right to require that the signal be removed without a hearing or necessity of showing cause. (d) Signs posting speed limits established on county roads and town highways as provided for in subdivision one of section sixteen hundred twenty-two, and traffic-control devices posting traffic regulations on the grounds of state departments and certain state institutions as provided for in sections sixteen hundred twenty-three and sixteen hundred twenty-seven shall be provided, installed and maintained at their own expense by the county, town, state or state institution respectively. Signs posting speed limits established as provided for in subdivision two of section sixteen hundred twenty-two shall be provided, installed and maintained at its own expense by the town. (e) Except as otherwise provided for in section sixteen hundred eighty-two no state agency, local authority or person shall place or maintain any traffic-control device upon any state highway maintained by the state except by permission of the department of transportation.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 44 - Traffic-Control Devices1682 - Local Traffic-Control Devices.

§ 1682. Local traffic-control devices. Local authorities in their respective jurisdiction shall place and maintain such traffic-control devices, conforming to the state manual and specifications, as they may deem necessary to indicate and carry out the provisions of this chapter or local traffic ordinances, orders, rules or regulations or to regulate, warn, or guide traffic, except that a city having a population in excess of one million shall conform to the state manual and specifications only insofar as such local authority in its discretion deems practicable.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 44 - Traffic-Control Devices1684 - State Highways Maintained by the State.

§ 1684. State highways maintained by the state. No local authority shall place or maintain any traffic-control device on any state highway maintained by the state, or at any location so as to prohibit, restrict or limit the movement of traffic proceeding along, entering or crossing such highway, nor shall any ordinance, rule or regulation affecting traffic or stopping, standing or parking on state highways maintained by the state be effective unless or until approval in writing has been obtained from the department of transportation, and the department of transportation may at any time rescind or modify such approval.

2024 New York LawsVAT - Vehicle and TrafficTitle 8 - Respective Powers of State and Local AuthoritiesArticle 44 - Traffic-Control Devices1685 - All Vehicles Must Stop or Yield at Certain Railroad Grade Crossings Where a Stop or Yield Sign Is Erected.

§ 1685. All vehicles must stop or yield at certain railroad grade crossings where a stop or yield sign is erected. The state transportation commissioner, with respect to state highways, and local authorities with respect to local streets within their jurisdiction, with the approval of the state transportation commissioner are hereby authorized to install a stop or yield sign at any highway-railroad crossings within their respective jurisdictions. The design and place and manner of installation of such signs shall conform to the manual and specifications for a uniform system of traffic control devices adopted by the state transportation commissioner. Whenever any such crossing is so designated and a stop or yield sign is installed, it shall be unlawful for the driver of any vehicle to fail to stop or yield within fifty feet but not less than fifteen feet from such railroad tracks before traversing such crossing. The failure to erect, or the erection of, or failure to replace or maintain such signs shall not be a basis for any action of negligence against a municipality or the state nor a basis of a defense by a railroad in an action based on negligence against a railroad.

2024 New York LawsVAT - Vehicle and TrafficTitle 9 - Penalties and Disposition of Fines and ForfeituresArticle 45 - Penalties and Disposition of Fines and Forfeitures1800 - Penalties for Traffic Infractions.

(b) 1. Every person convicted of a traffic infraction for a violation of any of the provisions of this chapter or of any ordinance, order, rule or regulation adopted pursuant to section sixteen hundred thirty or sixteen hundred thirty-one of this chapter for which another penalty is not provided shall for a first conviction thereof be punished by a fine of not more than one hundred fifty dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than three hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than four hundred fifty dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment, except that a person convicted of a traffic infraction for a violation of paragraph one of subdivision (d) of section one thousand one hundred eleven of this chapter outside of a city having a population of one million or more shall, for a first conviction thereof, be punished by a fine of not less than seventy-five dollars nor more than two hundred twenty-five dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not less than one hundred fifty dollars nor more than three hundred seventy-five dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not less than three hundred seventy-five dollars nor more than six hundred seventy-five dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment except that a person convicted for a violation of paragraph one of subdivision (d) of section one thousand one hundred eleven of this chapter shall, for a first conviction thereof, be punished by a fine of not less than one hundred fifty dollars nor more than four hundred fifty dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not less than three hundred dollars nor more than seven hundred fifty dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not less than seven hundred fifty dollars nor more than one thousand five hundred dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment. 2. Notwithstanding the provisions of paragraph one of this subdivision, a person convicted of a traffic infraction for a violation of paragraph two of subdivision (b) of section twelve hundred two of this chapter shall for a first conviction thereof be punished by a fine of not more than four hundred dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment. Upon a conviction for a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than six hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than seven hundred fifty dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment. (c) Every person convicted of a traffic infraction for a violation of any local law, ordinance, order, rule, regulation or administrative code provision adopted pursuant to this chapter by any local authority or continued in effect by this chapter, except those adopted pursuant to sections sixteen hundred thirty and sixteen hundred thirty-one, shall be punished in the same manner as has heretofore been prescribed by law unless or until otherwise prescribed by local law, ordinance or state statute. (d) A conviction of violation of any provision of this chapter shall not be a bar to a prosecution for an assault or for a homicide committed by any person in operating a motor vehicle or motorcycle. (e) Every person convicted of a violation of the provisions of section eleven hundred forty-four of this chapter shall for a first conviction thereof be punished by a fine of not more than two hundred seventy-five dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment. For a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than four hundred fifty dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment. For a conviction of a third violation and all subsequent violations, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than seven hundred fifty dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment. (f) Every person convicted of operating a truck, tractor or tractor-trailer combination having a total gross weight in excess of ten thousand pounds in violation of a local law, ordinance, rule or regulation enacted by the legislative body of any city with a population in excess of one million pursuant to the provisions of paragraph ten of subdivision (a) of section sixteen hundred forty of this chapter shall, for a first offense thereof, be punished by a fine of not less than two hundred dollars nor more than five hundred dollars or by imprisonment for not more than fifteen days or by both such fine and imprisonment. For a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not less than five hundred dollars nor more than one thousand dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment. For a conviction of a third violation and all subsequent violations, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not less than one thousand dollars nor more than two thousand dollars, or by imprisonment for not more than ninety days or by both such fine and imprisonment. (g) Notwithstanding the provisions of subdivisions (b) and (c) of this section, a person convicted of a traffic infraction for a violation of any ordinance, order, rule, regulation or local law adopted pursuant to one or more of the following provisions of this chapter: paragraphs two and nine of subdivision (a) of section sixteen hundred twenty-one; subdivision three of section sixteen hundred thirty; or subdivision five of section seventy-one of the transportation law, prohibiting the operation on a highway or parkway of a motor vehicle registered as a commercial vehicle and having a gross vehicle weight rating of less than ten thousand pounds shall, for a first conviction thereof, be

punished by a fine of not more than two hundred fifty dollars or by imprisonment of not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than seven hundred fifty dollars or by imprisonment of not more than ninety days or by both such fine and imprisonment. Provided, however, the provisions of this subdivision shall not apply to a commercial motor vehicle as such term is defined in paragraph (a) of subdivision four of section five hundred one-a of this chapter. (h) Notwithstanding the provisions of subdivisions (b) and (c) of this section, a person convicted of a traffic infraction for a violation of any ordinance, order, rule, regulation or local law adopted pursuant to one or more of the following provisions of this chapter: paragraphs two and nine of subdivision (a) of section sixteen hundred twenty-one; subdivision three of section sixteen hundred thirty; or subdivision five of section seventy-one of the transportation law, prohibiting the operation on a highway or parkway of a motor vehicle registered as a commercial vehicle and having a gross vehicle weight rating of at least ten thousand pounds but no more than twenty-six thousand pounds shall, for a first conviction thereof, be punished by a fine of not more than three hundred fifty dollars or by imprisonment of not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than seven hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than one thousand dollars or by imprisonment of not more than ninety days or by both such fine and imprisonment; provided, however, the provisions of this subdivision shall not apply to a commercial motor vehicle as such term is defined in paragraph (a) of subdivision four of section five hundred one-a of this chapter. (i) Notwithstanding the provisions of subdivisions (b) and (c) of this section, a person convicted of a traffic infraction for a violation of any ordinance, order, rule, regulation or local law adopted pursuant to one or more of the following provisions of this chapter: paragraphs two and nine of subdivision (a) of section sixteen hundred twenty-one; subdivision three of section sixteen hundred thirty; or subdivision five of section seventy-one of the transportation law, prohibiting the operation on a highway or parkway of a commercial motor vehicle as defined in paragraph (a) of subdivision four of section five hundred one-a of this chapter, for a first conviction thereof, be punished by a fine of not more than seven hundred dollars or by imprisonment of not more than fifteen days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than one thousand five hundred dollars or by imprisonment for not more than forty-five days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than two thousand dollars or by imprisonment of not more than ninety days or by both such fine and imprisonment.

2024 New York LawsVAT - Vehicle and TrafficTitle 9 - Penalties and Disposition of Fines and ForfeituresArticle 45 - Penalties and Disposition of Fines and Forfeitures1801 - Penalties for Misdemeanors.

§ 1801. Penalties for misdemeanors. 1. Every person convicted of a misdemeanor for a violation of any of the provisions of this chapter for which another penalty is not provided shall for a first conviction thereof be punished by a fine of not more than three hundred dollars or by imprisonment for not more than thirty days or by both such fine and imprisonment; for a conviction of a second violation, both of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than five hundred twenty-five dollars or by imprisonment for not more than ninety days or by both such fine and imprisonment; upon a conviction of a third or subsequent violation, all of which were committed within a period of eighteen months, such person shall be punished by a fine of not more than one thousand one hundred twenty-five dollars or by imprisonment for not more than one hundred eighty days or by both such fine and imprisonment, except that any fine imposed upon conviction of a violation of section twelve hundred twelve of this chapter shall be not less than one hundred dollars. 2. Notwithstanding the provisions of subdivision one of this section, every operator or registered owner of a motor vehicle having a registered maximum gross weight of eighteen thousand pounds or more convicted of a misdemeanor for a violation of the provisions of the closing paragraph of subdivision one of section three hundred seventy-five of this chapter with respect to the knowing disconnection of any set of service brakes on such motor vehicle, shall be punished by a fine of not more than two thousand two hundred fifty dollars.

2024 New York LawsVAT - Vehicle and TrafficTitle 9 - Penalties and Disposition of Fines and ForfeituresArticle 45 - Penalties and Disposition of Fines and Forfeitures1802 - Receipts for Fines or Bail; Installment Payment Plans.

2. Installment payment plans.(a) Whenever fines, fees, and/or surcharges are imposed upon a natural person upon a conviction of a violation of any of the provisions of this chapter or any local law, ordinance, order, rule or regulation made by local authorities in relation to traffic, or whenever an order is entered pursuant to subdivision three of section two hundred twenty-seven of this chapter, such fines, fees, and/or surcharges may be paid in installments at no charge to the natural person. The court or hearing officer shall offer such persons the opportunity to enter into an installment payment plan at any time, including after a conviction entered as a result of the failure to appear in response to a summons or appearance ticket. Any such installment payment plan shall be comprised of all fines, fees and mandatory surcharges, including but not limited to those described in subparagraph (i) of paragraph (j-1) of subdivision two of section five hundred three, subdivision three of section five hundred fourteen and paragraph a of subdivision four of section two hundred twenty-seven of this chapter, and shall consist of monthly payments that do not exceed two percent of such

person's monthly net income or twenty-five dollars per month, whichever is greater. For the purposes of this subdivision, the term "net income" shall mean such person's total income from all sources and assets, minus deductions required by law including but not limited to administrative or court-ordered garnishments and support payments. A court or hearing officer may require the submission of a financial disclosure report, on a form prescribed by the commissioner, from all persons who opt to enter into installment payment plans. A court or hearing officer also may accept payments higher than the set amount, but may not undertake additional collection activity so long as the person meets his or her payment obligations under the installment payment plan. A court or hearing officer may undertake additional collection activity, but no sooner than ninety days after a person fails to meet their payment obligation under the installment payment plan; a court, hearing officer or the commissioner shall not suspend such person's driver's license or privileges for failure to meet their payment obligation under the installment payment plan. A court or hearing officer may require persons entering installment payment plans to appear periodically before such court or hearing officer to assess their financial circumstances but no more frequently than annually and may set a new payment amount if such person's financial circumstances have changed. A person who enters into an installment payment plan and experiences a reduction in income may petition the court or hearing officer no more than two times in a calendar year to seek a reduction in the monthly payment; provided, however, in the interests of justice, the court or hearing officer may accept a reduction request from such person at any time.(b) The court or hearing officer shall have the discretion in the interests of justice to reduce or waive the amount of any fine, fee or mandatory surcharge assessed for a violation of any of the provisions of this chapter or any local law, ordinance, order, rule or regulation made by local authorities in relation to traffic.(c) A person assessed a fine, fee and/or mandatory surcharge following a conviction for a violation of any of the provisions of this chapter or any local law, ordinance, order, rule or regulation made by local authorities in relation to traffic, or the entering of an order pursuant to subdivision three of section two hundred twenty-seven of this chapter, shall be notified of their right to an installment payment plan (a) at the time the summons is issued; (b) at the time of sentencing; and (c) in any communication concerning imposition or collection of a fine, fee or mandatory surcharge. Information about the availability of installment payment plans shall be prominently posted, in a clear and conspicuous manner: at each court and administrative tribunal and its website, if any, and on the commissioner's website. (a) Whenever fines, fees, and/or surcharges are imposed upon a natural person upon a conviction of a violation of any of the provisions of this chapter or any local law, ordinance, order, rule or regulation made by local authorities in relation to traffic, or whenever an order is entered pursuant to subdivision three of section two hundred twenty-seven of this chapter, such fines, fees, and/or surcharges may be paid in installments at no charge to the natural person. The court or hearing officer shall offer such persons the opportunity to enter into an installment payment plan at any time, including after a conviction entered as a result of the failure to appear in response to a summons or appearance ticket. Any such installment payment plan shall be comprised of all fines, fees and mandatory surcharges, including but not limited to those described in subparagraph (i) of paragraph (j-1) of subdivision two of section five hundred three, subdivision three of section five hundred fourteen and paragraph a of subdivision four of section two hundred twenty-seven of this chapter, and shall consist of monthly payments that do not exceed two percent of such person's monthly net income or twenty-five dollars per month, whichever is greater. For the purposes of this subdivision, the term "net income" shall mean such person's total income from all sources and assets, minus deductions required by law including but not limited to administrative or court-ordered garnishments and support payments. A court or hearing officer may require the submission of a financial disclosure report, on a form prescribed by the commissioner, from all persons who opt to enter into installment payment plans. A court or hearing officer also may accept payments higher than the set amount, but may not undertake additional collection activity so long as the person meets his or her payment obligations under the installment payment plan. A court or hearing officer may undertake additional collection activity, but no sooner than ninety days after a person fails to meet their payment obligation under the installment payment plan; a court, hearing officer or the commissioner shall not suspend such person's driver's license or privileges for failure to meet their payment obligation under the installment payment plan. A court or hearing officer may require persons entering installment payment plans to appear periodically before such court or hearing officer to assess their financial circumstances but no more frequently than annually and may set a new payment amount if such person's financial circumstances have changed. A person who enters into an installment payment plan and experiences a reduction in income may petition the court or hearing officer no more than two times in a calendar year to seek a reduction in the monthly payment; provided, however, in the interests of justice, the court or hearing officer may accept a reduction request from such person at any time. (b) The court or hearing officer shall have the discretion in the interests of justice to reduce or waive the amount of any fine, fee or mandatory surcharge assessed for a violation of any of the provisions of this chapter or any local law, ordinance, order, rule or regulation made by local authorities in relation to traffic. (c) A person assessed a fine, fee and/or mandatory surcharge following a conviction for a violation of any of the provisions of this chapter or any local law, ordinance, order, rule or regulation made by local authorities in relation to traffic, or the entering of an order pursuant to subdivision three of section two hundred twenty-seven of this chapter, shall be notified of their right to an installment payment plan (a) at the time the summons is issued; (b) at the time of sentencing; and (c) in any communication concerning imposition or collection of a fine, fee or mandatory surcharge. Information about the availability of installment payment plans shall be prominently posted, in a clear and conspicuous manner: at each court and administrative tribunal and its website, if any, and on the commissioner's website.

§ 1804. Prohibition of imposition and collection of a fine, penalty, forfeiture, fee or surcharge. A municipality may only impose a fine, penalty, forfeiture, or any other fee or surcharge against a person charged with a violation of this chapter or any local law, ordinance, order, rule, regulation or administrative code adopted pursuant to this chapter if such person is convicted of or found liable for a violation of this chapter or any local law, ordinance, order, rule, regulation or administrative code adopted pursuant to this chapter in satisfaction of such charge.

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§ 1805. Plea of guilty, how put in. The provisions of section 170.10 of the criminal procedure law and the provisions of section eighteen hundred seven of this article may be waived, to the extent hereinafter indicated, by a defendant charged with a violation of any provision of the tax law or the transportation law regulating traffic, or a traffic infraction, as defined in this chapter, other than a third or subsequent speeding violation committed within a period of eighteen months, provided that he shall submit to the local criminal court having jurisdiction, in person, by duly authorized agent, by first class mail or by registered or certified mail, return receipt requested, an application setting forth (a) the nature of the charge, (b) the information or instructions required by section eighteen hundred seven of this article to be given defendant upon arraignment, (c) that defendant waives arraignment in open court and the aid of counsel, (d) that he pleads guilty to the offense as charged, (e) that defendant elects and requests that the charge be disposed of and the fine or penalty fixed by the court, pursuant to this section, (f) any statement or explanation that the defendant may desire to make concerning the offense charged and (g) that defendant makes all statements with respect to such application under penalty of perjury. This application shall be in such form as the commissioner shall prescribe and a copy thereof shall be handed to the defendant by the officer charging him with such offense. Thereupon the local criminal court may proceed as though the defendant had been convicted upon a plea of guilty in open court, provided, however, that any imposition of fine or penalty hereunder shall be deemed tentative until such fine or penalty shall have been paid and discharged in full, prior to which time such court, in its discretion, may annul any proceedings hereunder, including such tentative imposition of fine or penalty, and deny the application, in which event the charge shall be disposed of pursuant to the applicable provisions of law, as though no proceedings had been had under this section. If upon receipt of the aforesaid application such court shall deny the same, it shall thereupon inform the defendant of this fact, and that he is required to appear before the said court at a stated time and place to answer the charge which shall thereafter be disposed of pursuant to the applicable provisions of law.

2024 New York LawsVAT - Vehicle and TrafficTitle 9 - Penalties and Disposition of Fines and ForfeituresArticle 45 - Penalties and Disposition of Fines and Forfeitures1806-A - Default Judgment in Cases of Failure to Answer.

§ 1806-a. Default judgment in cases of failure to answer. 1. In the event a person charged with a traffic infraction does not answer within the time specified, the court having jurisdiction, other than a court in a city over one million population may, in addition to any other action authorized by law, enter a plea of guilty on behalf of the defendant and render a default judgment of a fine determined by the court within the amount authorized by law. Any judgment entered pursuant to default shall be civil in nature, but shall be treated as a conviction for the purposes of this section. However, at least thirty days after the expiration of the original date prescribed for entering a plea and before a plea of guilty and a default judgment may be rendered, the traffic violations bureau or, if there be none, the clerk of the court, shall notify the defendant by certified mail: (a) of the violation charged; (b) of the impending plea of guilty and default judgment; (c) that such judgment will be filed with the county clerk of the county in which the operator or registrant is located, and (d) that a default or plea of guilty may be avoided by entering a plea or making an appearance within thirty days of the sending of such notice. Pleas entered within that period shall be in a manner prescribed in the notice. In no case shall a default judgment and plea of guilty be rendered more than two years after the expiration of the time prescribed for originally entering a plea. When a person has entered a plea of not guilty and has demanded a hearing, no fine or penalty shall be imposed for any reason, prior to the holding of the hearing which shall be scheduled by the court of such city, village or town within thirty days of such demand. 2. The filing of the default judgment with the county clerk shall have the full force and effect of a judgment duly docketed in the office of such clerk and may be enforced in the same manner and with the same effect as that provided by law in respect to executions issued against property upon judgments of a court of record and such judgment shall remain in full force and effect for eight years notwithstanding any other provision of law. 3. Notwithstanding the provisions of subdivision one of this section, a traffic violations bureau or, if there be none, the clerk of the court, shall have two years from the effective date of this act to serve notice upon an operator or owner of a motor vehicle charged with a traffic violation who has not answered within the time specified and prior to the effective date of this act. 4. In the event a person charged with a parking violation does not answer within the time specified, a traffic and parking violations agency may, in addition to any other action authorized by law, enter a plea of guilty on behalf of the defendant and render a default judgment of a fine determined by the judicial hearing officer within the amount authorized by law. Any judgment entered pursuant to default shall be civil in nature, but shall be treated as a conviction for the purposes of this section. However, at least thirty days after the expiration of the original date prescribed for entering a plea and before a plea of guilty and a default judgment may be rendered, the traffic and parking violations agency shall notify the defendant by certified mail: (a) of the violation charged; (b) of the impending plea of guilty and default judgment; (c) that such judgment will be filed with the county clerk of the county in which the operator or registrant is located, and (d) that a default or plea of guilty may be avoided by entering a plea or making an appearance within thirty days of the sending of such notice. Pleas entered within that period shall be in a manner prescribed in the notice. In no case shall a default judgment and plea of guilty be rendered more than two

years after the expiration of the time prescribed for originally entering a plea. When a person has entered a plea of not guilty and has demanded a hearing, no fine or penalty shall be imposed for any reason, prior to the holding of the hearing which shall be scheduled by the traffic and parking violations agency within thirty days of such demand. 5. If a motor vehicle which is owned by a rental or leasing company is ticketed for a traffic infraction, the municipality shall not enter a default judgement under this section against the rental or leasing company if, when the municipality sends the notice to the company, the company sends to the municipality within fifteen days a copy of the rental or leasing agreement covering that vehicle on that date with the name and address of the lessee clearly legible. If this information is not sent to the municipality within such fifteen day time period, the municipality shall proceed under this section to enter a default judgement and the rental or leasing company shall be liable for the traffic infraction.

2024 New York LawsVAT - Vehicle and TrafficTitle 9 - Penalties and Disposition of Fines and ForfeituresArticle 45 - Penalties and Disposition of Fines and Forfeitures1806 - Plea of Not Guilty by a Defendant Charged With a Traffic Infraction.

§ 1806. Plea of not guilty by a defendant charged with a traffic infraction. In addition to appearing personally to enter a plea of not guilty to a violation of any provision of the tax law or the transportation law regulating traffic, or to a traffic infraction for the violation of any of the provisions of the vehicle and traffic law or of any local law, ordinance, order, rule or regulation relating to the operation of motor vehicles or motorcycles, a defendant may enter a plea of not guilty by mailing to the court of appropriate jurisdiction the ticket making the charge and a signed statement indicating such plea. Such plea must be sent: (a) by registered or certified mail, return receipt requested or by first class mail; and (b) within forty-eight hours after receiving such ticket. Upon receipt of such ticket and statement, the court shall advise the violator, by first class mail, of an appearance at which no testimony shall be taken. If the motorist requests a trial, the court shall set a trial date on a date subsequent to the date of the initial appearance and shall notify the defendant of the date by first class mail but no warrant of arrest for failure to appear can be issued until the violator is notified of a new court appearance date by registered or certified mail, return receipt requested, and fails to appear.

2024 New York LawsVAT - Vehicle and TrafficTitle 9 - Penalties and Disposition of Fines and ForfeituresArticle 45 - Penalties and Disposition of Fines and Forfeitures1807 - Provisions Applicable to Arraignments for Traffic Violations.

§ 1807. Provisions applicable to arraignments for traffic violations. 1. The local criminal court, upon the arraignment in this state of a resident of this state charged with a violation of the vehicle and traffic law, or other law or ordinance relating to the operation of motor vehicles or motor cycles, and before accepting a plea, or in the case of such a defendant who has previously pleaded not guilty, as provided in section eighteen hundred six of this chapter, and who wishes to change or withdraw such plea, must inform the defendant at the time of his arraignment or appearance for trial in substance as follows: A plea of guilty to this charge is equivalent to a conviction after trial. If you are convicted, not only will you be liable to a penalty, but in addition your license to drive a motor vehicle or motor cycle, and your certificate of registration, if any, are subject to suspension and revocation as prescribed by law. The giving of the foregoing instructions by means of a statement printed in a noticeably distinct manner and in bold type in a size equal to at least twelve point type, upon a summons or ticket issued to a person charged with any such offense shall constitute compliance with the requirements of this section. The foregoing provisions of this section may be waived as provided in section eighteen hundred five of this chapter. 2. Upon the arraignment of any person under eighteen years of age who resides within the household of his parent or guardian upon a charge of a violation of the vehicle and traffic law or other law or ordinance relating to the operation of motor vehicles or motor cycles, except a violation relating to parking, stopping or standing, the local criminal court which arraigns him shall forthwith transmit written notice of such arraignment to the parent or guardian of such minor person; provided, however, that if a conviction of such person follows such arraignment upon the same day, or in case such person waives arraignment and enters a plea of guilty to the offense as charged in accordance with the provisions of section eighteen hundred five of this chapter, transmittal of notice of his conviction as provided in section five hundred fourteen of this chapter shall be sufficient and the notice of arraignment hereunder need not be given; provided further that the failure of a local criminal court to transmit such notice of arraignment shall in no manner affect the validity of a conviction subsequently obtained.

2024 New York LawsVAT - Vehicle and TrafficTitle 9 - Penalties and Disposition of Fines and ForfeituresArticle 45 - Penalties and Disposition of Fines and Forfeitures1808 - Effect of Stay Order on Appeal From Judgment of Conviction of an Offense Under This Chapter.

(b) For good cause shown, such stay may be extended by the court, in its discretion, for additional periods not to exceed ninety days each; such extension order or orders, when served upon the commissioner of motor vehicles in the same manner as the original stay order, shall be binding upon him to the same extent as the original stay order for such additional period or periods. (c) A stay order or orders issued pursuant to section 460.50 of the criminal procedure law which purport to reinstate a license during the pendency of an appeal from a conviction resulting in the suspension or revocation of a license shall, for the purposes of such reinstatement, be deemed to be issued in accordance with the provisions of this section and the ninety day stay period authorized by this section shall apply.

2024 New York LawsVAT - Vehicle and TrafficTitle 9 - Penalties and Disposition of Fines and ForfeituresArticle 45 - Penalties and Disposition of Fines and Forfeitures1809-AA - Mandatory Surcharge Required for Certain Parking Violations.

§ 1809-aa. Mandatory surcharge required for certain parking violations. 1. Notwithstanding any other provision of law, whenever proceedings in an administrative tribunal or court result in a conviction for a violation of section twelve hundred, twelve hundred one or twelve hundred two of this chapter, except an adjudication of liability of an owner for a violation of bus operation-related traffic regulations as defined by article twenty-four of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus operation-related traffic regulations through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, there shall be levied a mandatory surcharge in addition to any other sentence, fine or penalty otherwise permitted or required, in the amount of twenty-five dollars. 2. The mandatory surcharge provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the surcharge the collecting authority shall pay such money to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the general fund.

2024 New York LawsVAT - Vehicle and TrafficTitle 9 - Penalties and Disposition of Fines and ForfeituresArticle 45 - Penalties and Disposition of Fines and Forfeitures1809-B - Mandatory Surcharge Required for Certain Violations Relating to Handicapped Parking Spaces.

§ 1809-b. Mandatory surcharge required for certain violations relating to handicapped parking spaces. 1. Notwithstanding any other provision of law, whenever proceedings in an administrative tribunal or a court result in a finding of liability, or conviction for a violation of section twelve hundred three-a, twelve hundred three-b or twelve hundred three-c of this chapter or any other statute, local law, ordinance or rule involving the parking, stopping or standing of motor vehicles registered pursuant to section four hundred four-a of this chapter or those possessing a special vehicle identification parking permit issued in accordance with section one thousand two hundred three-a of this chapter, there shall be levied a mandatory surcharge in addition to any other sentence, fine or penalty otherwise permitted or required, in the amount of thirty dollars. Such surcharge shall not be deemed a monetary penalty for the purposes of section two hundred thirty-seven of this chapter or section 19-203 of the administrative code of the city of New York. 2. The mandatory surcharge provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that made the determination of liability. Within the first ten days of the month next succeeding the collection of such surcharge, the collecting authority shall pay fifteen dollars of such surcharge to the chief fiscal officer of the county in which such violation occurred or of the city of New York, for deposit to the credit of the handicapped parking education fund of such county or city established pursuant to section twelve hundred three-g of this chapter which shall be used by such county or city solely for a handicapped parking education program pursuant to such section. The remaining amount of the surcharge shall be paid to the chief fiscal officer of the municipality from which it originated and used by such municipality for its local criminal justice programs and purposes; provided, however, that such municipality shall use ten percent of such funds for developing and implementing a disability awareness program for local law enforcement agencies for the purpose of training local law enforcement personnel to recognize and appropriately respond to persons with disabilities with whom such personnel come into contact in the course of their duties.

2024 New York LawsVAT - Vehicle and TrafficTitle 9 - Penalties and Disposition of Fines and ForfeituresArticle 45 - Penalties and Disposition of Fines and Forfeitures1809-C - Additional Surcharge Required for Certain Violations Relating to Driving While Intoxicated and Driving While Impaired.

§ 1809-c. Additional surcharge required for certain violations relating to driving while intoxicated and driving while impaired. 1. Notwithstanding any other provision of law, whenever proceedings in a court of this state result in a conviction pursuant to section eleven hundred ninety-two of this chapter or subparagraphs (ii) and (iii) of paragraph (a) of subdivision two or subparagraph (i) of paragraph (a) of subdivision three of section five hundred eleven of this chapter, there shall be levied, in addition to any sentence or other surcharge required or permitted by law, an additional surcharge of twenty-five dollars. 2. The additional surcharge provided for in subdivision one of this section shall be paid to the clerk of the court that rendered the conviction. Within the first ten days of the month following collection of the surcharge the collecting authority shall determine the amount of surcharge collected and it shall pay such money to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the general fund; provided, however, commencing April first, two thousand twenty-four, all such moneys shall be paid to counties in such manner and for such purposes as provided for in section eleven hundred ninety-seven of this chapter. 3. The provisions of subdivision three of section two hundred twenty-seven, subdivision four-a of section five hundred ten, and subdivision three of section five hundred fourteen of this chapter governing actions which may be taken for failure to pay a fine or penalty shall be applicable to the additional surcharge imposed pursuant to this section. 4. For the purposes of this section, the term conviction means and includes the conviction of a felony or a misdemeanor for a violation of section eleven hundred ninety-two of this chapter for which a youthful offender finding was substituted and upon such a finding there shall be levied an additional surcharge, in addition to any sentence or other surcharge required or permitted by law, to the same extent and in the same manner and amount provided by this section for conviction of the felony or misdemeanor, as the case may be, for which such youthful offender finding was substituted.

2024 New York LawsVAT - Vehicle and TrafficTitle 9 - Penalties and Disposition of Fines and ForfeituresArticle 45 - Penalties and Disposition of Fines and Forfeitures1809-D - Mandatory Surcharge for Violation of Maximum Speed Limits in

Highway Construction or Maintenance Work Areas.

§ 1809-d. Mandatory surcharge for violation of maximum speed limits in highway construction or maintenance work areas. 1. Notwithstanding any other provision of law, whenever proceedings in an administrative tribunal or court result in a finding of liability or conviction for a violation of paragraph two of subdivision (d) or subdivision (f) of section eleven hundred eighty of this chapter or any other statute, local law, ordinance or rule involving the maximum speed limits in highway construction or maintenance work areas, there shall be levied a mandatory surcharge in addition to any other sentence, fine or penalty otherwise permitted or required, in the amount of fifty dollars. Such surcharge shall not be deemed a monetary penalty for the purposes of section two hundred thirty-seven of this chapter or section 19-203 of the administrative code of the city of New York. 2. The mandatory surcharge provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that made the determination of liability. Within the first ten days of the month next succeeding the collection of such surcharge, the collecting authority shall pay such money to the state comptroller to be deposited in the highway construction and maintenance safety education fund established by section ninety-nine-n of the state finance law.

2024 New York LawsVAT - Vehicle and TrafficTitle 9 - Penalties and Disposition of Fines and ForfeituresArticle 45 - Penalties and Disposition of Fines and Forfeitures1809-E - Additional Surcharge Required for Certain Violations.

§ 1809-e. Additional surcharge required for certain violations. 1. a. Notwithstanding any other provision of law, whenever proceedings in a court or an administrative tribunal of this state result in a conviction for an offense under this chapter, except a conviction pursuant to section eleven hundred ninety-two of this chapter, or for a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, except: (i) a traffic infraction involving standing, stopping, or parking or violations by pedestrians or bicyclists; and (ii) an adjudication of liability of an owner for a violation of subdivision (d) of section eleven hundred eleven of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; and (iii) an adjudication of liability of an owner for a violation of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted maximum speed limits through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; and (iv) an adjudication of liability of an owner for a violation of bus lane restrictions as defined by article twenty-four of this chapter imposed pursuant to a bus rapid transit program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus lane restrictions through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; and (v) an adjudication of liability of an owner for a violation of toll collection regulations imposed by certain public authorities pursuant to the law authorizing such public authorities to impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with toll collection regulations of such public authorities through the installation and operation of photo-monitoring systems, in accordance with section two thousand nine hundred eighty-five of the public authorities law or sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty; and (vi) an adjudication of liability of an owner for a violation of section eleven hundred seventy-four of this chapter when meeting a school bus marked and equipped as provided in subdivisions twenty and twenty-one-c of section three hundred seventy-five of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with school bus red visual signals through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; and (vii) an adjudication of liability of an owner for a violation of section three hundred eighty-five of this chapter and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight violations imposed pursuant to a weigh in motion demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such gross vehicle weight and/or axle weight restrictions through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; and (viii) an adjudication of liability of an owner for a violation of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted maximum speed limits within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; and (ix) an adjudication of liability of an owner for a violation of bus operation-related traffic regulations as defined by article twenty-four of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus operation-related traffic regulations through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter, there shall be levied in addition to any sentence, penalty or other surcharge required or permitted by law, an additional surcharge of twenty-eight dollars. b. Notwithstanding any other provision of law, whenever proceedings in a court of this state result in a conviction pursuant to section eleven hundred ninety-two of this chapter or subparagraphs (ii) and (iii) of paragraph (a) of subdivision two or subparagraph (i) of paragraph (a) of subdivision three of section five hundred eleven of this chapter, there shall be levied, in addition to any sentence or other surcharge required or permitted by law, an additional surcharge of one hundred seventy dollars. 2. The additional surcharges provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that rendered the

conviction. Within the first ten days of the month following collection of such surcharges, the collecting authority shall pay such money to the state comptroller to be deposited to the general fund; provided, however, commencing April first, two thousand twenty-four, the surcharge provided for in paragraph b of subdivision one of this section shall be paid to counties in such manner and for such purposes as provided for in section eleven hundred ninety-seven of this chapter. 3. The provisions of subdivision four-a of section five hundred ten, subdivision three of section five hundred fourteen and subdivision three of section two hundred twenty-seven of this chapter governing actions which may be taken for failure to pay a fine or penalty shall be applicable to the additional surcharge imposed pursuant to this section.

2024 New York LawsVAT - Vehicle and TrafficTitle 9 - Penalties and Disposition of Fines and ForfeituresArticle 45 - Penalties and Disposition of Fines and Forfeitures1809 - Mandatory Surcharge and Crime Victim Assistance Fee Required in Certain Cases.

(a) Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a traffic infraction pursuant to article nine of this chapter, there shall be levied a crime victim assistance fee in the amount of five dollars and a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of twenty-five dollars. (b) Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a misdemeanor or felony pursuant to section eleven hundred ninety-two of this chapter, there shall be levied, in addition to any sentence required or permitted by law, a crime victim assistance fee in the amount of twenty-five dollars and a mandatory surcharge in accordance with the following schedule: (i) a person convicted of a felony shall pay a mandatory surcharge of three hundred dollars; (ii) a person convicted of a misdemeanor shall pay a mandatory surcharge of one hundred seventy-five dollars. (c) Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for an offense under this chapter other than a crime pursuant to section eleven hundred ninety-two of this chapter, or a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, other than a traffic infraction involving standing, stopping, or parking or violations by pedestrians or bicyclists and except as otherwise provided by subdivision one-a of this section, there shall be levied a crime victim assistance fee in the amount of five dollars and a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of fifty-five dollars. * NB Effective until September 1, 2025 * 1. Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a crime under this chapter or a traffic infraction under this chapter, or a local law, ordinance, rule or regulation adopted pursuant to this chapter, other than a traffic infraction involving standing, stopping, parking or motor vehicle equipment or violations by pedestrians or bicyclists and except as otherwise provided by subdivision one-a of this section, there shall be levied a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of twenty-five dollars. * NB Effective September 1, 2025 until July 1, 2028 * 1. Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a crime under this chapter or a traffic infraction under this chapter other than a traffic infraction involving standing, stopping, parking or motor vehicle equipment or violations by pedestrians or bicyclists and except as otherwise provided by subdivision one-a of this section, there shall be levied a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of seventeen dollars. * NB Effective July 1, 2028 until July 1, 2025 * 1. Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a crime under this chapter or a traffic infraction under this chapter other than a traffic infraction involving standing, stopping, parking or motor vehicle equipment or violations by pedestrians or bicyclists and except as otherwise provided by subdivision one-a of this section, there shall be levied a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of seventeen dollars. * NB Effective July 1, 2025 until December 1, 2029 * 1. Whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a crime under this chapter or a traffic infraction under this chapter other than a traffic infraction involving standing, stopping, parking or motor vehicle equipment or violations by pedestrians or bicyclists and except as otherwise provided by subdivision one-a of this section, there shall be levied a mandatory surcharge, in addition to any sentence required or permitted by law, in the amount of seventeen dollars. * NB Effective December 1, 2029 1-a. Notwithstanding the provisions of subdivision one of this section, the provisions of subdivision one of this section shall not apply to an adjudication of liability of owners: (a) for violations of subdivision (d) of section eleven hundred eleven of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with traffic-control indications through the installation and operation of traffic-control signal photo violation-monitoring systems, in accordance with article twenty-four of this chapter; or (b) for violations of subdivision (b), (c), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted maximum speed limits through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; or (c) for violations of bus lane restrictions as defined by article twenty-four of this chapter imposed pursuant to a bus rapid transit program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus lane restrictions through the installation and operation of bus lane photo devices, in accordance with article twenty-four of this chapter; or (d) for violations of toll collection regulations imposed by certain public authorities pursuant to the law authorizing such public authorities to impose monetary liability on the owner of a vehicle for failure of an operator thereof to comply with toll collection regulations of such public authorities through the installation and operation of photo-monitoring systems, in accordance with the provisions of section two thousand nine hundred eighty-five of the public authorities law and sections sixteen-a, sixteen-b and sixteen-c of chapter seven hundred seventy-four of the laws of nineteen hundred fifty; or (e) for violations of section eleven hundred seventy-four of this chapter when meeting a school bus marked and equipped as provided in subdivisions

twenty and twenty-one-c of section three hundred seventy-five of this chapter imposed pursuant to a local law or ordinance imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with school bus red visual signals through the installation and operation of school bus photo violation monitoring systems, in accordance with article twenty-nine of this chapter; or (f) for violations of section three hundred eighty-five of this chapter and the rules of the department of transportation of the city of New York in relation to gross vehicle weight and/or axle weight violations imposed pursuant to a weigh in motion demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such gross vehicle weight and/or axle weight restrictions through the installation and operation of weigh in motion violation monitoring systems, in accordance with article ten of this chapter; or (g) for violations of subdivision (b), (d), (f) or (g) of section eleven hundred eighty of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such posted maximum speed limits within a highway construction or maintenance work area through the installation and operation of photo speed violation monitoring systems, in accordance with article thirty of this chapter; or (h) for violations of bus operation-related traffic regulations as defined by article twenty-four of this chapter imposed pursuant to a demonstration program imposing monetary liability on the owner of a vehicle for failure of an operator thereof to comply with such bus operation-related traffic regulations through the installation and operation of bus operation-related photo devices, in accordance with article twenty-four of this chapter. * 2. Where a person is convicted of two or more such crimes or traffic infractions committed through a single act or omission, or through an act or omission which in itself constituted one of the crimes or traffic infractions and also was a material element of the other, the court or administrative tribunal shall impose a crime victim assistance fee and a mandatory surcharge mandated by subdivision one of this section for each such conviction; provided however, that in no event shall the total amount of such crime victim assistance fees and mandatory surcharges imposed pursuant to paragraph (a) or (c) of subdivision one of this section exceed one hundred ninety-six dollars. * NB Effective until September 1, 2025 * 2. Where a person is convicted of two or more such crimes or traffic infractions committed through a single act or omission, or through an act or omission which in itself constituted one of the crimes or traffic infractions and also was a material element of the other, the court or administrative tribunal shall impose only one mandatory surcharge mandated by subdivision one of this section. * NB Effective September 1, 2025 3. The mandatory surcharge provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the mandatory surcharge the collecting authority shall determine the amount of mandatory surcharge collected and, if it is an administrative tribunal or a town or village justice court, it shall pay such money to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the general fund; provided, however, that the comptroller shall deposit such money collected for violations of section eleven hundred seventy-four of this chapter to the credit of the school bus motorist education fund established pursuant to section eighty-nine-j of the state finance law. If such collecting authority is any other court of the unified court system, it shall, within such period, pay such money to the state commissioner of taxation and finance to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law; provided, however, that the state commissioner of taxation and finance shall deposit such money collected for violations of section eleven hundred seventy-four of this chapter to the credit of the school bus motorist education fund established pursuant to section eighty-nine-j of the state finance law. The crime victim assistance fee provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the crime victim assistance fee, the collecting authority shall determine the amount of crime victim assistance fee collected and, if it is an administrative tribunal or a town or village justice court, it shall pay such money to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law. 4. Any person who has paid a mandatory surcharge or crime victim assistance fee under the authority of this section which is ultimately determined not to be required by this section shall be entitled to a refund of such mandatory surcharge or crime victim assistance fee upon application to the state comptroller. The state comptroller shall require such proof as it is necessary in order to determine whether a refund is required by law. 5. When a person who is convicted of a crime or traffic infraction and sentenced to a term of imprisonment has failed to pay the mandatory surcharge or crime victim assistance fee required by this section, the clerk of the court or the administrative tribunal that rendered the conviction shall notify the superintendent or the municipal official of the facility where the person is confined. The superintendent or the municipal official shall cause any amount owing to be collected from such person during his or her term of imprisonment from moneys to the credit of an incarcerated individuals' fund or such moneys as may be earned by a person in a work release program pursuant to section eight hundred sixty of the correction law. Such moneys shall be paid over to the state comptroller to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law, except that any such moneys collected which are surcharges or crime victim assistance fees levied in relation to convictions obtained in a town or village justice court shall be paid within thirty days after the receipt thereof by the superintendent or municipal official of the facility to the justice of the court in which the conviction was obtained. For the purposes of collecting such mandatory surcharge or crime victim assistance fee, the state shall be legally entitled to the money to the credit of an incarcerated individuals' fund or money which is earned by an incarcerated individual in a work release program. For purposes of this subdivision, the term "incarcerated individuals' fund" shall mean moneys in the possession of an incarcerated individual at the time of his admission into such facility, funds earned by him or her as provided for in section one hundred eighty-seven of the correction law and any other funds received by him or her or on his or her behalf and deposited with such superintendent or municipal official. 5-a. The provisions of subdivision four-a of section five hundred ten, subdivision three of

section five hundred fourteen and subdivision three of section two hundred twenty-seven of this chapter governing actions which may be taken for failure to pay a fine or penalty shall be applicable to a mandatory surcharge or crime victim assistance fee imposed pursuant to this section. 6. Notwithstanding any other provision of this section, where a person has made restitution or reparation pursuant to section 60.27 of the penal law, such person shall not be required to pay a mandatory surcharge or crime victim assistance fee. 7. Notwithstanding any other provision of this section, where a mandatory surcharge or crime victim assistance fee is imposed pursuant to the provisions of section 60.35 of the penal law, no mandatory surcharge or crime victim assistance fee shall be imposed pursuant to the provisions of this section. 8. The provisions of this section shall only apply to offenses committed on or before September first, two thousand twenty-five. 9. Notwithstanding the provisions of subdivision one of this section, in the event a proceeding is in a town or village court, the court shall add an additional five dollars to the surcharges imposed by such subdivision one of this section. 10. For the purposes of this section, the term conviction means and includes the conviction of a felony or a misdemeanor for which a youthful offender finding was substituted and upon such a finding there shall be levied a mandatory surcharge and a crime victim assistance fee to the same extent and in the same manner and amount provided by this section for conviction of the felony or misdemeanor, as the case may be, for which such youthful offender finding was substituted.

2024 New York LawsVAT - Vehicle and TrafficTitle 9 - Penalties and Disposition of Fines and ForfeituresArticle 45 - Penalties and Disposition of Fines and Forfeitures1810 - Compensation of Officers Shall Not Depend Upon Apprehension or Arrests.

(b) No county or town shall employ any officer, agent or person, whether such employee be elected or appointed, whose compensation shall in any way depend upon the apprehension or arrest of any person for reckless driving as defined in section twelve hundred twelve of this chapter. If any person be apprehended or arrested or haled before a magistrate for reckless driving as so defined, by any officer, agent or employee of any county or town who is so employed, the fact of such employment at the time shall be a defense to any charge made for reckless driving as defined in section twelve hundred twelve of this chapter.

Title: pen

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle A - General Purposes, Rules of Construction, and DefinitionsArticle 1 - General Purposes1.00 - Short Title.

This chapter shall be known as the "Penal Law. "

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle A - General Purposes, Rules of Construction, and DefinitionsArticle 1 - General Purposes1.05 - General Purposes.

The general purposes of the provisions of this chapter are: 1. To proscribe conduct which unjustifiably and inexcusably causes or threatens substantial harm to individual or public interests; 2. To give fair warning of the nature of the conduct proscribed and of the sentences authorized upon conviction; 3. To define the act or omission and the accompanying mental state which constitute each offense; 4. To differentiate on reasonable grounds between serious and minor offenses and to prescribe proportionate penalties therefor; 5. To provide for an appropriate public response to particular offenses, including consideration of the consequences of the offense for the victim, including the victim's family, and the community; and 6. To insure the public safety by preventing the commission of offenses through the deterrent influence of the sentences authorized, the rehabilitation of those convicted, the promotion of their successful and productive reentry and reintegration into society, and their confinement when required in the interests of public protection.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle A - General Purposes, Rules of Construction, and DefinitionsArticle 10 - Definitions10.00 - Definitions of Terms of General Use in This Chapter.

Except where different meanings are expressly specified in subsequent provisions of this chapter, the following terms have the following meanings: 1. "Offense" means conduct for which a sentence to a term of imprisonment or to a fine is provided by any law of this state or by any law, local law or ordinance of a political subdivision of this state, or by any order, rule or regulation of any governmental instrumentality authorized by law to adopt the same. 2. "Traffic infraction" means any offense defined as "traffic infraction" by section one hundred fifty-five of the vehicle and traffic law. 3. "Violation" means an offense, other than a "traffic infraction," for which a sentence to a term of imprisonment in excess of fifteen days cannot be imposed. 4. "Misdemeanor" means an offense, other than a "traffic infraction," for which a sentence to a term of imprisonment in excess of fifteen days may be imposed, but for which a sentence to a term of imprisonment in excess of one year cannot be imposed. 5. "Felony" means an offense for which a sentence to a term of imprisonment in excess of one year may be imposed. 6. "Crime" means a misdemeanor or a felony. 7. "Person" means a human being, and where appropriate, a public or private corporation, an unincorporated association, a partnership, a government or a governmental instrumentality. 8. "Possess" means to have physical possession or otherwise to exercise dominion or control over tangible property. 9. "Physical injury" means impairment of physical condition or substantial pain. 10. "Serious physical injury" means physical injury which creates a substantial risk of death, or which causes death or serious and protracted disfigurement, protracted impairment of health or protracted loss or impairment of the function of any bodily organ. 11. "Deadly physical force" means physical force which, under the circumstances in which it is used, is readily capable of causing death or other serious physical injury. 12. "Deadly weapon" means any loaded weapon from which a shot, readily capable of

producing death or other serious physical injury, may be discharged, or a switchblade knife, pilum ballistic knife, metal knuckle knife, dagger, billy, blackjack, plastic knuckles, or metal knuckles. 13. "Dangerous instrument" means any instrument, article or substance, including a "vehicle" as that term is defined in this section, which, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or other serious physical injury. 14. "Vehicle" means a "motor vehicle", "trailer" or "semi-trailer," as defined in the vehicle and traffic law, any snowmobile as defined in the parks and recreation law, any aircraft, or any vessel equipped for propulsion by mechanical means or by sail. 15. "Public servant" means (a) any public officer or employee of the state or of any political subdivision thereof or of any governmental instrumentality within the state, or (b) any person exercising the functions of any such public officer or employee. The term public servant includes a person who has been elected or designated to become a public servant. 16. "Juror" means any person who is a member of any jury, including a grand jury, impaneled by any court in this state or by any public servant authorized by law to impanel a jury. The term juror also includes a person who has been drawn or summoned to attend as a prospective juror. 17. "Benefit" means any gain or advantage to the beneficiary and includes any gain or advantage to a third person pursuant to the desire or consent of the beneficiary. 18. "Juvenile offender" means (1) a person thirteen years old who is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 of this chapter or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; and(2) a person fourteen or fifteen years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); paragraphs (a) and (b) of subdivision one, paragraphs (a) and (b) of subdivision two, and paragraphs (a) and (b) of subdivision three of section 130.35 (rape in the first degree); former subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of the former section 130.50; 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of this chapter; or section 265.03 of this chapter, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of this chapter; or defined in this chapter as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of this chapter.19. For the purposes of section 260.30 and 120.01 of this chapter the term "child day care provider" shall be defined as provided for in section three hundred ninety of the social services law.20. For purposes of sections 120.13, 120.18, 125.11, 125.21 and 125.22 of this chapter, the term "peace officer" means a peace officer as defined in subdivision one, two, three, four, six, twelve, thirteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-three, twenty-three-a, twenty-four, twenty-five, twenty-six, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-four, thirty-five, thirty-six, forty-three, forty-five, forty-seven, forty-eight, forty-nine, fifty-one, fifty-two, fifty-eight, sixty-one, as added by chapter two hundred fifty-seven of the laws of nineteen hundred ninety-two, sixty-one, as added by chapter three hundred twenty-one of the laws of nineteen hundred ninety-two, sixty-two, as added by chapter two hundred four of the laws of nineteen hundred ninety-three, sixty-two, as added by chapter six hundred eighty-seven of the laws of nineteen hundred ninety-three, sixty-three, as amended by chapter six hundred thirty-eight of the laws of two thousand three, sixty-four, sixty-five, sixty-eight, as added by chapter one hundred sixty-eight of the laws of two thousand, sixty-eight, as added by chapter three hundred eighty-one of the laws of two thousand, seventy, seventy-one, seventy-four, as added by chapter five hundred forty-eight of the laws of two thousand one, seventy-five, as added by chapter three hundred twenty-one of the laws of two thousand two, seventy-five, as added by chapter six hundred twenty-three of the laws of two thousand two, seventy-seven, as added by chapter three hundred sixty-seven of the laws of two thousand four, seventy-eight or seventy-nine, as added by chapter two hundred forty-one of the laws of two thousand four, of section 2.10 of the criminal procedure law, as well as any federal law enforcement officer defined in section 2.15 of the criminal procedure law.21. "Drug trafficking felony" means any of the following offenses defined in article two hundred twenty of this chapter: violation of use of a child to commit a controlled substance offense as defined in section 220.28; criminal sale of a controlled substance in the fourth degree as defined in section 220.34; criminal sale of a controlled substance in the third degree as defined in section 220.39; criminal sale of a controlled substance in the second degree as defined in section 220.41; criminal sale of a controlled substance in the first degree as defined in section 220.43; criminal sale of a controlled substance in or near school grounds as defined in section 220.44; unlawful manufacture of methamphetamine in the second degree as defined in section 220.74; unlawful manufacture of methamphetamine in the first degree as defined in section 220.75; or operating as a major trafficker as defined in section 220.77.22. For the purposes of section 20.20 of this part and section 60.27 of this chapter, the term "employee" shall mean any person providing labor or services for remuneration for a private entity or business within New York state, without regard to an individual's immigration status, and shall include part-time workers, independent contractors, apprentices, domestic workers, home care and personal care workers, day laborers, farmworkers, and other temporary and seasonal workers. (2) a person fourteen or fifteen years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); paragraphs (a) and (b) of subdivision one, paragraphs (a) and (b) of subdivision two, and paragraphs (a) and (b) of subdivision three of section 130.35 (rape in the first degree); former subdivisions one and two of section 130.35 (rape in the first

degree); subdivisions one and two of the former section 130.50; 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of this chapter; or section 265.03 of this chapter, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of this chapter; or defined in this chapter as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of this chapter. 19. For the purposes of section 260.30 and 120.01 of this chapter the term "child day care provider" shall be defined as provided for in section three hundred ninety of the social services law. 20. For purposes of sections 120.13, 120.18, 125.11, 125.21 and 125.22 of this chapter, the term "peace officer" means a peace officer as defined in subdivision one, two, three, four, six, twelve, thirteen, fifteen, sixteen, seventeen, eighteen, nineteen, twenty, twenty-one, twenty-three, twenty-three-a, twenty-four, twenty-five, twenty-six, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two, thirty-four, thirty-five, thirty-six, forty-three, forty-five, forty-seven, forty-eight, forty-nine, fifty-one, fifty-two, fifty-eight, sixty-one, as added by chapter two hundred fifty-seven of the laws of nineteen hundred ninety-two, sixty-one, as added by chapter three hundred twenty-one of the laws of nineteen hundred ninety-two, sixty-two, as added by chapter two hundred four of the laws of nineteen hundred ninety-three, sixty-two, as added by chapter six hundred eighty-seven of the laws of nineteen hundred ninety-three, sixty-three, as amended by chapter six hundred thirty-eight of the laws of two thousand three, sixty-four, sixty-five, sixty-eight, as added by chapter one hundred sixty-eight of the laws of two thousand, sixty-eight, as added by chapter three hundred eighty-one of the laws of two thousand, seventy, seventy-one, seventy-four, as added by chapter five hundred forty-eight of the laws of two thousand one, seventy-five, as added by chapter three hundred twenty-one of the laws of two thousand two, seventy-five, as added by chapter six hundred twenty-three of the laws of two thousand two, seventy-seven, as added by chapter three hundred sixty-seven of the laws of two thousand four, seventy-eight or seventy-nine, as added by chapter two hundred forty-one of the laws of two thousand four, of section 2.10 of the criminal procedure law, as well as any federal law enforcement officer defined in section 2.15 of the criminal procedure law. 21. "Drug trafficking felony" means any of the following offenses defined in article two hundred twenty of this chapter: violation of use of a child to commit a controlled substance offense as defined in section 220.28; criminal sale of a controlled substance in the fourth degree as defined in section 220.34; criminal sale of a controlled substance in the third degree as defined in section 220.39; criminal sale of a controlled substance in the second degree as defined in section 220.41; criminal sale of a controlled substance in the first degree as defined in section 220.43; criminal sale of a controlled substance in or near school grounds as defined in section 220.44; unlawful manufacture of methamphetamine in the second degree as defined in section 220.74; unlawful manufacture of methamphetamine in the first degree as defined in section 220.75; or operating as a major trafficker as defined in section 220.77. 22. For the purposes of section 20.20 of this part and section 60.27 of this chapter, the term "employee" shall mean any person providing labor or services for remuneration for a private entity or business within New York state, without regard to an individual's immigration status, and shall include part-time workers, independent contractors, apprentices, domestic workers, home care and personal care workers, day laborers, farmworkers, and other temporary and seasonal workers.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle A - General Purposes, Rules of Construction, and DefinitionsArticle 5 - General Rules of Construction and Application5.00 - Penal Law Not Strictly Construed.

The general rule that a penal statute is to be strictly construed does not apply to this chapter, but the provisions herein must be construed according to the fair import of their terms to promote justice and effect the objects of the law.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle A - General Purposes, Rules of Construction, and DefinitionsArticle 5 - General Rules of Construction and Application5.05 - Application of Chapter to Offenses Committed Before and After Enactment.

enactment. 1. The provisions of this chapter shall govern the construction of and punishment for any offense defined in this chapter and committed after the effective date hereof, as well as the construction and application of any defense to a prosecution for such an offense. 2. Unless otherwise expressly provided, or unless the context otherwise requires, the provisions of this chapter shall govern the construction of and punishment for any offense defined outside of this chapter and committed after the effective date thereof, as well as the construction and application of any defense to a prosecution for such an offense. 3. The provisions of this chapter do not apply to or govern the construction of and punishment for any offense committed prior to the effective date of this chapter, or the construction and application of any defense to a prosecution for such an offense. Such an offense must be construed and punished according to the provisions of law existing at the time of the commission thereof in the same manner as if this chapter had not been enacted.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle A - General Purposes, Rules of Construction, and DefinitionsArticle 5 - General Rules of Construction and Application5.10 - Other Limitations on Applicability of This Chapter.

1. Except as otherwise provided, the procedure governing the accusation, prosecution, conviction and punishment of offenders and offenses is not regulated by this chapter but by the criminal procedure law. 2. This chapter does not affect any power conferred by law upon any court-martial or other military authority or officer to prosecute and punish conduct and offenders violating military codes or laws. 3. This chapter does not bar, suspend, or otherwise affect any right or liability to damages, penalty, forfeiture or other

remedy authorized by law to be recovered or enforced in a civil action, regardless of whether the conduct involved in such civil action constitutes an offense defined in this chapter. 4. Sections 120.45, 120.50, 120.55, 120.60 and 240.25, subdivisions two and three of section 240.26, and sections 240.70 and 240.71 of this chapter (a) do not apply to conduct which is otherwise lawful under the provisions of the National Labor Relations Act as amended, the National Railway Labor Act as amended, or the Federal Employment Labor Management Act as amended, and (b) do not bar any conduct, including, but not limited to, peaceful picketing or other peaceful demonstration, protected from legal prohibition by the federal and state constitutions.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle B - Principles of Criminal LiabilityArticle 15 - Culpability15.00 - Culpability; Definitions of Terms.

The following definitions are applicable to this chapter: 1. "Act" means a bodily movement. 2. "Voluntary act" means a bodily movement performed consciously as a result of effort or determination, and includes the possession of property if the actor was aware of his physical possession or control thereof for a sufficient period to have been able to terminate it. 3. "Omission" means a failure to perform an act as to which a duty of performance is imposed by law. 4. "Conduct" means an act or omission and its accompanying mental state. 5. "To act" means either to perform an act or to omit to perform an act. 6. "Culpable mental state" means "intentionally" or "knowingly" or "recklessly" or with "criminal negligence," as these terms are defined in section 15.05.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle B - Principles of Criminal LiabilityArticle 15 - Culpability15.05 - Culpability; Definitions of Culpable Mental States.

The following definitions are applicable to this chapter: 1. "Intentionally." A person acts intentionally with respect to a result or to conduct described by a statute defining an offense when his conscious objective is to cause such result or to engage in such conduct. 2. "Knowingly." A person acts knowingly with respect to conduct or to a circumstance described by a statute defining an offense when he is aware that his conduct is of such nature or that such circumstance exists. 3. "Recklessly." A person acts recklessly with respect to a result or to a circumstance described by a statute defining an offense when he is aware of and consciously disregards a substantial and unjustifiable risk that such result will occur or that such circumstance exists. The risk must be of such nature and degree that disregard thereof constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation. A person who creates such a risk but is unaware thereof solely by reason of voluntary intoxication also acts recklessly with respect thereto. 4. "Criminal negligence." A person acts with criminal negligence with respect to a result or to a circumstance described by a statute defining an offense when he fails to perceive a substantial and unjustifiable risk that such result will occur or that such circumstance exists. The risk must be of such nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle B - Principles of Criminal LiabilityArticle 15 - Culpability15.10 - Requirements for Criminal Liability in General and for Offenses of Strict Liability and Mental Culpability.

of strict liability and mental culpability. The minimal requirement for criminal liability is the performance by a person of conduct which includes a voluntary act or the omission to perform an act which he is physically capable of performing. If such conduct is all that is required for commission of a particular offense, or if an offense or some material element thereof does not require a culpable mental state on the part of the actor, such offense is one of "strict liability." If a culpable mental state on the part of the actor is required with respect to every material element of an offense, such offense is one of "mental culpability."

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle B - Principles of Criminal LiabilityArticle 15 - Culpability15.15 - Construction of Statutes With Respect to Culpability Requirements.

requirements. 1. When the commission of an offense defined in this chapter, or some element of an offense, requires a particular culpable mental state, such mental state is ordinarily designated in the statute defining the offense by use of the terms "intentionally," "knowingly," "recklessly" or "criminal negligence," or by use of terms, such as "with intent to defraud" and "knowing it to be false," describing a specific kind of intent or knowledge. When one and only one of such terms appears in a statute defining an offense, it is presumed to apply to every element of the offense unless an intent to limit its application clearly appears. 2. Although no culpable mental state is expressly designated in a statute defining an offense, a culpable mental state may nevertheless be required for the commission of such offense, or with respect to some or all of the material elements thereof, if the proscribed conduct necessarily involves such culpable mental state. A statute defining a crime, unless clearly indicating a legislative intent to impose strict liability, should be construed as defining a crime of mental culpability. This subdivision applies to offenses defined both in and outside this chapter.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle B - Principles of Criminal LiabilityArticle 15 - Culpability15.20 - Effect of Ignorance or Mistake Upon Liability.

1. A person is not relieved of criminal liability for conduct because he engages in such conduct under a mistaken belief of fact, unless:(a) Such factual mistake negatives the culpable mental state required for the commission of an offense; or(b) The statute defining the offense or a statute related thereto expressly provides that such factual mistake constitutes a defense or exemption; or(c)

Such factual mistake is of a kind that supports a defense of justification as defined in article thirty-five of this chapter.2. A person is not relieved of criminal liability for conduct because he engages in such conduct under a mistaken belief that it does not, as a matter of law, constitute an offense, unless such mistaken belief is founded upon an official statement of the law contained in (a) a statute or other enactment, or (b) an administrative order or grant of permission, or (c) a judicial decision of a state or federal court, or (d) an interpretation of the statute or law relating to the offense, officially made or issued by a public servant, agency or body legally charged or empowered with the responsibility or privilege of administering, enforcing or interpreting such statute or law.3. Notwithstanding the use of the term "knowingly" in any provision of this chapter defining an offense in which the age of a child is an element thereof, knowledge by the defendant of the age of such child is not an element of any such offense and it is not, unless expressly so provided, a defense to a prosecution therefor that the defendant did not know the age of the child or believed such age to be the same as or greater than that specified in the statute.4. Notwithstanding the use of the term "knowingly" in any provision of this chapter defining an offense in which the aggregate weight of a controlled substance or marihuana is an element, knowledge by the defendant of the aggregate weight of such controlled substance or marihuana is not an element of any such offense and it is not, unless expressly so provided, a defense to a prosecution therefor that the defendant did not know the aggregate weight of the controlled substance or marihuana. (a) Such factual mistake negatives the culpable mental state required for the commission of an offense; or (b) The statute defining the offense or a statute related thereto expressly provides that such factual mistake constitutes a defense or exemption; or (c) Such factual mistake is of a kind that supports a defense of justification as defined in article thirty-five of this chapter. 2. A person is not relieved of criminal liability for conduct because he engages in such conduct under a mistaken belief that it does not, as a matter of law, constitute an offense, unless such mistaken belief is founded upon an official statement of the law contained in (a) a statute or other enactment, or (b) an administrative order or grant of permission, or (c) a judicial decision of a state or federal court, or (d) an interpretation of the statute or law relating to the offense, officially made or issued by a public servant, agency or body legally charged or empowered with the responsibility or privilege of administering, enforcing or interpreting such statute or law. 3. Notwithstanding the use of the term "knowingly" in any provision of this chapter defining an offense in which the age of a child is an element thereof, knowledge by the defendant of the age of such child is not an element of any such offense and it is not, unless expressly so provided, a defense to a prosecution therefor that the defendant did not know the age of the child or believed such age to be the same as or greater than that specified in the statute. 4. Notwithstanding the use of the term "knowingly" in any provision of this chapter defining an offense in which the aggregate weight of a controlled substance or marihuana is an element, knowledge by the defendant of the aggregate weight of such controlled substance or marihuana is not an element of any such offense and it is not, unless expressly so provided, a defense to a prosecution therefor that the defendant did not know the aggregate weight of the controlled substance or marihuana.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle B - Principles of Criminal LiabilityArticle 15 - Culpability15.25 - Effect of Intoxication Upon Liability.

Intoxication is not, as such, a defense to a criminal charge; but in any prosecution for an offense, evidence of intoxication of the defendant may be offered by the defendant whenever it is relevant to negative an element of the crime charged.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle C - DefensesArticle 25 - Defenses in General25.00 - Defenses; Burden of Proof.

1. When a "defense," other than an "affirmative defense," defined by statute is raised at a trial, the people have the burden of disproving such defense beyond a reasonable doubt. 2. When a defense declared by statute to be an "affirmative defense" is raised at a trial, the defendant has the burden of establishing such defense by a preponderance of the evidence.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle C - DefensesArticle 30 - Defense of Infancy30.00 - Infancy.

1. Except as provided in subdivisions two and three of this section, a person less than seventeen, or commencing October first, two thousand nineteen, a person less than eighteen years old is not criminally responsible for conduct. 2. A person thirteen, fourteen or, fifteen years of age is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible or for such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of this chapter; and a person fourteen or, fifteen years of age is criminally responsible for acts constituting the crimes defined in section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); paragraphs (a) and (b) of subdivision one, paragraphs (a) and (b) of subdivision two and paragraphs (a) and (b) of subdivision three of section 130.35 (rape in the first degree); former subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of former section 130.50; 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of this chapter; or section 265.03 of this chapter, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of this chapter; or defined in this chapter as an attempt to commit murder in the second degree or kidnapping in the first degree, or for such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of this chapter. 3. A person sixteen or commencing October first, two thousand nineteen, seventeen years of age is criminally responsible for acts constituting:(a) a felony, as defined in subdivision five of section

10.00 of this chapter;(b) a traffic infraction, as defined in subdivision two of section 10.00 of this chapter;(c) a violation, as defined in subdivision three of section 10.00 of this chapter;(d) a misdemeanor as defined in subdivision four of section 10.00 of this chapter, but only when the charge for such misdemeanor is:(i) accompanied by a felony charge that is shown to have been committed as a part of the same criminal transaction, as defined in subdivision two of section 40.10 of the criminal procedure law;(ii) results from reduction or dismissal in satisfaction of a charge for a felony offense, in accordance with a plea of guilty pursuant to subdivision four of section 220.10 of the criminal procedure law, unless the proceeding is removed to the family court pursuant to paragraph (g-1) of subdivision five of section 220.10 of the criminal procedure law; or(iii) a misdemeanor defined in the vehicle and traffic law.4. In any prosecution for an offense, lack of criminal responsibility by reason of infancy, as defined in this section, is a defense. (a) a felony, as defined in subdivision five of section 10.00 of this chapter; (b) a traffic infraction, as defined in subdivision two of section 10.00 of this chapter; (c) a violation, as defined in subdivision three of section 10.00 of this chapter; (d) a misdemeanor as defined in subdivision four of section 10.00 of this chapter, but only when the charge for such misdemeanor is: (i) accompanied by a felony charge that is shown to have been committed as a part of the same criminal transaction, as defined in subdivision two of section 40.10 of the criminal procedure law; (ii) results from reduction or dismissal in satisfaction of a charge for a felony offense, in accordance with a plea of guilty pursuant to subdivision four of section 220.10 of the criminal procedure law, unless the proceeding is removed to the family court pursuant to paragraph (g-1) of subdivision five of section 220.10 of the criminal procedure law; or (iii) a misdemeanor defined in the vehicle and traffic law. 4. In any prosecution for an offense, lack of criminal responsibility by reason of infancy, as defined in this section, is a defense.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle C - DefensesArticle 35 - Defense of Justification35.00 - Justification; a Defense.

In any prosecution for an offense, justification, as defined in sections 35.05 through 35.30, is a defense.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle C - DefensesArticle 35 - Defense of Justification35.05 - Justification; Generally.

Unless otherwise limited by the ensuing provisions of this article defining justifiable use of physical force, conduct which would otherwise constitute an offense is justifiable and not criminal when: 1. Such conduct is required or authorized by law or by a judicial decree, or is performed by a public servant in the reasonable exercise of his official powers, duties or functions; or 2. Such conduct is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no fault of the actor, and which is of such gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding such injury clearly outweigh the desirability of avoiding the injury sought to be prevented by the statute defining the offense in issue. The necessity and justifiability of such conduct may not rest upon considerations pertaining only to the morality and advisability of the statute, either in its general application or with respect to its application to a particular class of cases arising thereunder. Whenever evidence relating to the defense of justification under this subdivision is offered by the defendant, the court shall rule as a matter of law whether the claimed facts and circumstances would, if established, constitute a defense.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle C - DefensesArticle 35 - Defense of Justification35.10 - Justification; Use of Physical Force Generally.

The use of physical force upon another person which would otherwise constitute an offense is justifiable and not criminal under any of the following circumstances: 1. A parent, guardian or other person entrusted with the care and supervision of a person under the age of twenty-one or an incompetent person, and a teacher or other person entrusted with the care and supervision of a person under the age of twenty-one for a special purpose, may use physical force, but not deadly physical force, upon such person when and to the extent that he reasonably believes it necessary to maintain discipline or to promote the welfare of such person. 2. A warden or other authorized official of a jail, prison or correctional institution may, in order to maintain order and discipline, use such physical force as is authorized by the correction law. 3. A person responsible for the maintenance of order in a common carrier of passengers, or a person acting under his direction, may use physical force when and to the extent that he reasonably believes it necessary to maintain order, but he may use deadly physical force only when he reasonably believes it necessary to prevent death or serious physical injury. 4. A person acting under a reasonable belief that another person is about to commit suicide or to inflict serious physical injury upon himself may use physical force upon such person to the extent that he reasonably believes it necessary to thwart such result. 5. A duly licensed physician, or a person acting under a physician's direction, may use physical force for the purpose of administering a recognized form of treatment which he or she reasonably believes to be adapted to promoting the physical or mental health of the patient if (a) the treatment is administered with the consent of the patient or, if the patient is under the age of eighteen years or an incompetent person, with the consent of the parent, guardian or other person entrusted with the patient's care and supervision, or (b) the treatment is administered in an emergency when the physician reasonably believes that no one competent to consent can be consulted and that a reasonable person, wishing to safeguard the welfare of the patient, would consent. 6. A person may, pursuant to the ensuing provisions of this article, use physical force upon another person in self-defense or defense of a third person, or in defense of premises, or in order to prevent larceny of or criminal mischief to property, or in order to effect an arrest or prevent an escape from custody. Whenever a person is authorized by any such provision to use deadly physical force in any given circumstance, nothing contained in any other such provision may be deemed to negate or qualify such authorization.

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2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle C - DefensesArticle 35 - Defense of Justification35.15 - Justification; Use of Physical Force in Defense of a Person.

1. A person may, subject to the provisions of subdivision two, use physical force upon another person when and to the extent he or she reasonably believes such to be necessary to defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of unlawful physical force by such other person, unless:(a) The latter's conduct was provoked by the actor with intent to cause physical injury to another person; or(b) The actor was the initial aggressor; except that in such case the use of physical force is nevertheless justifiable if the actor has withdrawn from the encounter and effectively communicated such withdrawal to such other person but the latter persists in continuing the incident by the use or threatened imminent use of unlawful physical force; or(c) The physical force involved is the product of a combat by agreement not specifically authorized by law.2. A person may not use deadly physical force upon another person under circumstances specified in subdivision one unless:(a) The actor reasonably believes that such other person is using or about to use deadly physical force. Even in such case, however, the actor may not use deadly physical force if he or she knows that with complete personal safety, to oneself and others he or she may avoid the necessity of so doing by retreating; except that the actor is under no duty to retreat if he or she is:(i) in his or her dwelling and not the initial aggressor; or(ii) a police officer or peace officer or a person assisting a police officer or a peace officer at the latter's direction, acting pursuant to section 35.30; or(b) He or she reasonably believes that such other person is committing or attempting to commit a kidnapping, forcible rape, forcible aggravated sexual abuse, a crime formerly defined in section 130.50 of this chapter by force, or robbery; or(c) He or she reasonably believes that such other person is committing or attempting to commit a burglary, and the circumstances are such that the use of deadly physical force is authorized by subdivision three of section 35.20. (a) The latter's conduct was provoked by the actor with intent to cause physical injury to another person; or (b) The actor was the initial aggressor; except that in such case the use of physical force is nevertheless justifiable if the actor has withdrawn from the encounter and effectively communicated such withdrawal to such other person but the latter persists in continuing the incident by the use or threatened imminent use of unlawful physical force; or (c) The physical force involved is the product of a combat by agreement not specifically authorized by law. 2. A person may not use deadly physical force upon another person under circumstances specified in subdivision one unless: (a) The actor reasonably believes that such other person is using or about to use deadly physical force. Even in such case, however, the actor may not use deadly physical force if he or she knows that with complete personal safety, to oneself and others he or she may avoid the necessity of so doing by retreating; except that the actor is under no duty to retreat if he or she is: (i) in his or her dwelling and not the initial aggressor; or (ii) a police officer or peace officer or a person assisting a police officer or a peace officer at the latter's direction, acting pursuant to section 35.30; or (b) He or she reasonably believes that such other person is committing or attempting to commit a kidnapping, forcible rape, forcible aggravated sexual abuse, a crime formerly defined in section 130.50 of this chapter by force, or robbery; or (c) He or she reasonably believes that such other person is committing or attempting to commit a burglary, and the circumstances are such that the use of deadly physical force is authorized by subdivision three of section 35.20.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle C - DefensesArticle 35 - Defense of Justification35.20 - Justification; Use of Physical Force in Defense of Premises and in Defense of a Person in the Course of Burglary.

in defense of a person in the course of burglary. 1. Any person may use physical force upon another person when he or she reasonably believes such to be necessary to prevent or terminate what he or she reasonably believes to be the commission or attempted commission by such other person of a crime involving damage to premises. Such person may use any degree of physical force, other than deadly physical force, which he or she reasonably believes to be necessary for such purpose, and may use deadly physical force if he or she reasonably believes such to be necessary to prevent or terminate the commission or attempted commission of arson. 2. A person in possession or control of any premises, or a person licensed or privileged to be thereon or therein, may use physical force upon another person when he or she reasonably believes such to be necessary to prevent or terminate what he or she reasonably believes to be the commission or attempted commission by such other person of a criminal trespass upon such premises. Such person may use any degree of physical force, other than deadly physical force, which he or she reasonably believes to be necessary for such purpose, and may use deadly physical force in order to prevent or terminate the commission or attempted commission of arson, as prescribed in subdivision one, or in the course of a burglary or attempted burglary, as prescribed in subdivision three. 3. A person in possession or control of, or licensed or privileged to be in, a dwelling or an occupied building, who reasonably believes that another person is committing or attempting to commit a burglary of such dwelling or building, may use deadly physical force upon such other person when he or she reasonably believes such to be necessary to prevent or terminate the commission or attempted commission of such burglary. 4. As used in this section, the following terms have the following meanings:(a) The terms "premises," "building" and "dwelling" have the meanings prescribed in section 140.00;(b) Persons "licensed or privileged" to be in buildings or upon other premises include, but are not limited to:(i) police officers or peace officers acting in the performance of their duties; and(ii) security personnel or employees of nuclear powered electric generating facilities located within the state who are employed as part of any security plan approved by the federal operating license agencies acting in the performance of their duties at such generating facilities. For purposes of this subparagraph, the term "nuclear powered electric generating facility" shall mean a facility that generates electricity using nuclear power for sale, directly or indirectly, to the public, including the land upon which the facility is located and the safety and security zones as defined under federal regulations. (a) The

terms "premises," "building" and "dwelling" have the meanings prescribed in section 140.00; (b) Persons "licensed or privileged" to be in buildings or upon other premises include, but are not limited to: (i) police officers or peace officers acting in the performance of their duties; and (ii) security personnel or employees of nuclear powered electric generating facilities located within the state who are employed as part of any security plan approved by the federal operating license agencies acting in the performance of their duties at such generating facilities. For purposes of this subparagraph, the term "nuclear powered electric generating facility" shall mean a facility that generates electricity using nuclear power for sale, directly or indirectly, to the public, including the land upon which the facility is located and the safety and security zones as defined under federal regulations.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle C - DefensesArticle 35 - Defense of Justification35.25 - Justification; Use of Physical Force to Prevent or Terminate Larceny or Criminal Mischief.

larceny or criminal mischief. A person may use physical force, other than deadly physical force, upon another person when and to the extent that he or she reasonably believes such to be necessary to prevent or terminate what he or she reasonably believes to be the commission or attempted commission by such other person of larceny or of criminal mischief with respect to property other than premises.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle C - DefensesArticle 35 - Defense of Justification35.27 - Justification; Use of Physical Force in Resisting Arrest Prohibited.

prohibited. A person may not use physical force to resist an arrest, whether authorized or unauthorized, which is being effected or attempted by a police officer or peace officer when it would reasonably appear that the latter is a police officer or peace officer.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle C - DefensesArticle 35 - Defense of Justification35.30 - Justification; Use of Physical Force in Making an Arrest or in Preventing an Escape.

preventing an escape. 1. A police officer or a peace officer, in the course of effecting or attempting to effect an arrest, or of preventing or attempting to prevent the escape from custody, of a person whom he or she reasonably believes to have committed an offense, may use physical force when and to the extent he or she reasonably believes such to be necessary to effect the arrest, or to prevent the escape from custody, or in self-defense or to defend a third person from what he or she reasonably believes to be the use or imminent use of physical force; except that deadly physical force may be used for such purposes only when he or she reasonably believes that:(a) The offense committed by such person was:(i) a felony or an attempt to commit a felony involving the use or attempted use or threatened imminent use of physical force against a person; or(ii) kidnapping, arson, escape in the first degree, burglary in the first degree or any attempt to commit such a crime; or(b) The offense committed or attempted by such person was a felony and that, in the course of resisting arrest therefor or attempting to escape from custody, such person is armed with a firearm or deadly weapon; or(c) Regardless of the particular offense which is the subject of the arrest or attempted escape, the use of deadly physical force is necessary to defend the police officer or peace officer or another person from what the officer reasonably believes to be the use or imminent use of deadly physical force.2. The fact that a police officer or a peace officer is justified in using deadly physical force under circumstances prescribed in paragraphs (a) and (b) of subdivision one does not constitute justification for reckless conduct by such police officer or peace officer amounting to an offense against or with respect to innocent persons whom he or she is not seeking to arrest or retain in custody.3. A person who has been directed by a police officer or a peace officer to assist such police officer or peace officer to effect an arrest or to prevent an escape from custody may use physical force, other than deadly physical force, when and to the extent that he or she reasonably believes such to be necessary to carry out such police officer's or peace officer's direction, unless he or she knows that the arrest or prospective arrest is not or was not authorized and may use deadly physical force under such circumstances when:(a) He or she reasonably believes such to be necessary for self-defense or to defend a third person from what he or she reasonably believes to be the use or imminent use of deadly physical force; or(b) He or she is directed or authorized by such police officer or peace officer to use deadly physical force unless he or she knows that the police officer or peace officer is not authorized to use deadly physical force under the circumstances.4. A private person acting on his or her own account may use physical force, other than deadly physical force, upon another person when and to the extent that he or she reasonably believes such to be necessary to effect an arrest or to prevent the escape from custody of a person whom he or she reasonably believes to have committed an offense and who in fact has committed such offense; and may use deadly physical force for such purpose when he or she reasonably believes such to be necessary to:(a) Defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of deadly physical force; or(b) Effect the arrest of a person who has committed murder, manslaughter in the first degree, robbery, forcible rape or forcible criminal sexual act and who is in immediate flight therefrom.5. A guard, police officer or peace officer who is charged with the duty of guarding prisoners in a detention facility, as that term is defined in section 205.00, or while in transit to or from a detention facility, may use physical force when and to the extent that he or she reasonably believes such to be necessary to prevent the escape of a prisoner from a detention facility or from custody while in transit thereto or therefrom. (a) The offense committed by such person was: (i) a felony or an attempt to commit a felony involving the use or attempted use or threatened imminent use of physical force against a person; or (ii) kidnapping, arson, escape in the first degree, burglary in the first degree or any attempt to commit such a crime; or (b) The offense committed or attempted by such person was a felony and that, in the course of resisting arrest therefor or attempting to escape from custody, such person is armed with a firearm or deadly weapon; or (c) Regardless of the particular offense which is the subject of the arrest or attempted escape, the use of deadly physical force is necessary to defend the police officer or peace officer or another person from

what the officer reasonably believes to be the use or imminent use of deadly physical force. 2. The fact that a police officer or a peace officer is justified in using deadly physical force under circumstances prescribed in paragraphs (a) and (b) of subdivision one does not constitute justification for reckless conduct by such police officer or peace officer amounting to an offense against or with respect to innocent persons whom he or she is not seeking to arrest or retain in custody. 3. A person who has been directed by a police officer or a peace officer to assist such police officer or peace officer to effect an arrest or to prevent an escape from custody may use physical force, other than deadly physical force, when and to the extent that he or she reasonably believes such to be necessary to carry out such police officer's or peace officer's direction, unless he or she knows that the arrest or prospective arrest is not or was not authorized and may use deadly physical force under such circumstances when: (a) He or she reasonably believes such to be necessary for self-defense or to defend a third person from what he or she reasonably believes to be the use or imminent use of deadly physical force; or (b) He or she is directed or authorized by such police officer or peace officer to use deadly physical force unless he or she knows that the police officer or peace officer is not authorized to use deadly physical force under the circumstances. 4. A private person acting on his or her own account may use physical force, other than deadly physical force, upon another person when and to the extent that he or she reasonably believes such to be necessary to effect an arrest or to prevent the escape from custody of a person whom he or she reasonably believes to have committed an offense and who in fact has committed such offense; and may use deadly physical force for such purpose when he or she reasonably believes such to be necessary to: (a) Defend himself, herself or a third person from what he or she reasonably believes to be the use or imminent use of deadly physical force; or (b) Effect the arrest of a person who has committed murder, manslaughter in the first degree, robbery, forcible rape or forcible criminal sexual act and who is in immediate flight therefrom. 5. A guard, police officer or peace officer who is charged with the duty of guarding prisoners in a detention facility, as that term is defined in section 205.00, or while in transit to or from a detention facility, may use physical force when and to the extent that he or she reasonably believes such to be necessary to prevent the escape of a prisoner from a detention facility or from custody while in transit thereto or therefrom.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle C - DefensesArticle 40 - Other Defenses Involving Lack of Culpability40.00 - Duress.

1. In any prosecution for an offense, it is an affirmative defense that the defendant engaged in the proscribed conduct because he was coerced to do so by the use or threatened imminent use of unlawful physical force upon him or a third person, which force or threatened force a person of reasonable firmness in his situation would have been unable to resist. 2. The defense of duress as defined in subdivision one of this section is not available when a person intentionally or recklessly places himself in a situation in which it is probable that he will be subjected to duress.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle C - DefensesArticle 40 - Other Defenses Involving Lack of Culpability40.05 - Entrapment.

In any prosecution for an offense, it is an affirmative defense that the defendant engaged in the proscribed conduct because he was induced or encouraged to do so by a public servant, or by a person acting in cooperation with a public servant, seeking to obtain evidence against him for purpose of criminal prosecution, and when the methods used to obtain such evidence were such as to create a substantial risk that the offense would be committed by a person not otherwise disposed to commit it. Inducement or encouragement to commit an offense means active inducement or encouragement. Conduct merely affording a person an opportunity to commit an offense does not constitute entrapment.

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle C - DefensesArticle 40 - Other Defenses Involving Lack of Culpability40.10 - Renunciation.

1. In any prosecution for an offense, other than an attempt to commit a crime, in which the defendant's guilt depends upon his criminal liability for the conduct of another person pursuant to section 20.00, it is an affirmative defense that, under circumstances manifesting a voluntary and complete renunciation of his criminal purpose, the defendant withdrew from participation in such offense prior to the commission thereof and made a substantial effort to prevent the commission thereof. 2. In any prosecution for criminal facilitation pursuant to article one hundred fifteen, it is an affirmative defense that, prior to the commission of the felony which he facilitated, the defendant made a substantial effort to prevent the commission of such felony. 3. In any prosecution pursuant to section 110.00 for an attempt to commit a crime, it is an affirmative defense that, under circumstances manifesting a voluntary and complete renunciation of his criminal purpose, the defendant avoided the commission of the crime attempted by abandoning his criminal effort and, if mere abandonment was insufficient to accomplish such avoidance, by taking further and affirmative steps which prevented the commission thereof. 4. In any prosecution for criminal solicitation pursuant to article one hundred or for conspiracy pursuant to article one hundred five in which the crime solicited or the crime contemplated by the conspiracy was not in fact committed, it is an affirmative defense that, under circumstances manifesting a voluntary and complete renunciation of his criminal purpose, the defendant prevented the commission of such crime. 5. A renunciation is not "voluntary and complete" within the meaning of this section if it is motivated in whole or in part by (a) a belief that circumstances exist which increase the probability of detection or apprehension of the defendant or another participant in the criminal enterprise, or which render more difficult the accomplishment of the criminal purpose, or (b) a decision to postpone the criminal conduct until another time or to transfer the criminal effort to another victim or another but similar objective.

Title: pen

2024 New York LawsPEN - PenalPart 1 - General ProvisionsTitle C - DefensesArticle 40 - Other Defenses Involving Lack of Culpability40.15 - Mental Disease or Defect.

In any prosecution for an offense, it is an affirmative defense that when the defendant engaged in the proscribed conduct, he lacked criminal responsibility by reason of mental disease or defect. Such lack of criminal responsibility means that at the time of such conduct, as a result of mental disease or defect, he lacked substantial capacity to know or appreciate either: 1. The nature and consequences of such conduct; or 2. That such conduct was wrong.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 55 - Classification and Designation of Offenses55.00 - Applicability of Article.

The provisions of this article govern the classification and designation of every offense, whether defined within or outside of this chapter.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 55 - Classification and Designation of Offenses55.05 - Classifications of Felonies and Misdemeanors.

1. Felonies. Felonies are classified, for the purpose of sentence, into five categories as follows:(a) Class A felonies;(b) Class B felonies;(c) Class C felonies;(d) Class D felonies; and(e) Class E felonies.Class A felonies are subclassified, for the purpose of sentence, into two categories as follows: subclass I and subclass II, to be known as class A-I and class A-II felonies, respectively.2. Misdemeanors. Misdemeanors are classified, for the purpose of sentence, into three categories as follows:(a) Class A misdemeanors;(b) Class B misdemeanors; and(c) Unclassified misdemeanors. (a) Class A felonies; (b) Class B felonies; (c) Class C felonies; (d) Class D felonies; and (e) Class E felonies. Class A felonies are subclassified, for the purpose of sentence, into two categories as follows: subclass I and subclass II, to be known as class A-I and class A-II felonies, respectively. 2. Misdemeanors. Misdemeanors are classified, for the purpose of sentence, into three categories as follows: (a) Class A misdemeanors; (b) Class B misdemeanors; and (c) Unclassified misdemeanors.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 55 - Classification and Designation of Offenses55.10 - Designation of Offenses.

1. Felonies.(a) The particular classification or subclassification of each felony defined in this chapter is expressly designated in the section or article defining it.(b) Any offense defined outside this chapter which is declared by law to be a felony without specification of the classification thereof, or for which a law outside this chapter provides a sentence to a term of imprisonment in excess of one year, shall be deemed a class E felony.2. Misdemeanors.(a) Each misdemeanor defined in this chapter is either a class A misdemeanor or a class B misdemeanor, as expressly designated in the section or article defining it.(b) Any offense defined outside this chapter which is declared by law to be a misdemeanor without specification of the classification thereof or of the sentence therefor shall be deemed a class A misdemeanor.(c) Except as provided in paragraph (b) of subdivision three, where an offense is defined outside this chapter and a sentence to a term of imprisonment in excess of fifteen days but not in excess of one year is provided in the law or ordinance defining it, such offense shall be deemed an unclassified misdemeanor.3. Violations. Every violation defined in this chapter is expressly designated as such. Any offense defined outside this chapter which is not expressly designated a violation shall be deemed a violation if:(a) Notwithstanding any other designation specified in the law or ordinance defining it, a sentence to a term of imprisonment which is not in excess of fifteen days is provided therein, or the only sentence provided therein is a fine; or(b) A sentence to a term of imprisonment in excess of fifteen days is provided for such offense in a law or ordinance enacted prior to the effective date of this chapter but the offense was not a crime prior to that date.4. Traffic infraction. Notwithstanding any other provision of this section, an offense which is defined as a "traffic infraction" shall not be deemed a violation or a misdemeanor by virtue of the sentence prescribed therefor. (a) The particular classification or subclassification of each felony defined in this chapter is expressly designated in the section or article defining it. (b) Any offense defined outside this chapter which is declared by law to be a felony without specification of the classification thereof, or for which a law outside this chapter provides a sentence to a term of imprisonment in excess of one year, shall be deemed a class E felony. 2. Misdemeanors. (a) Each misdemeanor defined in this chapter is either a class A misdemeanor or a class B misdemeanor, as expressly designated in the section or article defining it. (b) Any offense defined outside this chapter which is declared by law to be a misdemeanor without specification of the classification thereof or of the sentence therefor shall be deemed a class A misdemeanor. (c) Except as provided in paragraph (b) of subdivision three, where an offense is defined outside this chapter and a sentence to a term of imprisonment in excess of fifteen days but not in excess of one year is provided in the law or ordinance defining it, such offense shall be deemed an unclassified misdemeanor. 3. Violations. Every violation defined in this chapter is expressly designated as such. Any offense defined outside this chapter which is not expressly designated a violation shall be deemed a violation if: (a) Notwithstanding any other designation specified in the law or ordinance defining it, a sentence to a term of imprisonment which is not in excess of fifteen days is provided therein, or the only sentence provided therein is a fine; or (b) A sentence to a term of imprisonment in excess of fifteen days is provided for such offense in a law or ordinance enacted prior to the effective date of this chapter but the offense was not a crime prior to that date. 4. Traffic infraction. Notwithstanding any other provision of this section, an offense which is defined as a "traffic infraction" shall not be deemed a violation or a misdemeanor by virtue of the sentence prescribed therefor.

Title: pen

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 60 - Authorized Dispositions of Offenders60.00 - Applicability of Provisions.

1. The sentences prescribed by this article shall apply in the case of every offense, whether defined within or outside of this chapter. 2. The sole provision of this article that shall apply in the case of an offense committed by a juvenile offender is section 60.10 of this article and no other provisions of this article shall be deemed or construed to apply in any such case.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 60 - Authorized Dispositions of Offenders60.01 - Authorized Dispositions; Generally.

1. Applicability. Except as otherwise specified in this article, when the court imposes sentence upon a person convicted of an offense, the court must impose a sentence prescribed by this section. 2. Revocable dispositions.(a) The court may impose a revocable sentence as herein specified:(i) the court, where authorized by article sixty-five, may sentence a person to a period of probation or to a period of conditional discharge as provided in that article; or(ii) the court, where authorized by article eighty-five, may sentence a person to a term of intermittent imprisonment as provided in that article.(b) A revocable sentence shall be deemed a tentative one to the extent that it may be altered or revoked in accordance with the provisions of the article under which it was imposed, but for all other purposes shall be deemed to be a final judgment of conviction.(c) In any case where the court imposes a sentence of probation, conditional discharge, or a sentence of intermittent imprisonment, it may also impose a fine authorized by article eighty.(d) In any case where the court imposes a sentence of imprisonment not in excess of sixty days, for a misdemeanor or not in excess of six months for a felony or in the case of a sentence of intermittent imprisonment not in excess of four months, it may also impose a sentence of probation or conditional discharge provided that the term of probation or conditional discharge together with the term of imprisonment shall not exceed the term of probation or conditional discharge authorized by article sixty-five of this chapter. The sentence of imprisonment shall be a condition of and run concurrently with the sentence of probation or conditional discharge.3. Other dispositions. When a person is not sentenced as specified in subdivision two, or when a sentence specified in subdivision two is revoked, the sentence of the court must be as follows:(a) A term of imprisonment; or(b) A fine authorized by article eighty, provided, however, that when the conviction is of a class B felony or of any felony defined in article two hundred twenty, the sentence shall not consist solely of a fine; or(c) Both imprisonment and a fine; or(d) Where authorized by section 65.20, unconditional discharge as provided in that section; or(e) Following revocation of a sentence of conditional discharge imposed pursuant to section 65.05 of this chapter or paragraph (d) of subdivision two of this section, probation as provided in section 65.00 of this chapter or to the sentence of imprisonment and probation as provided for in paragraph (d) of subdivision two of this section.4. In any case where a person has been sentenced to a period of probation imposed pursuant to section 65.00 of this chapter, if the part of the sentence that provides for probation is revoked, the court must sentence such person to imprisonment or to the sentence of imprisonment and probation as provided for in paragraph (d) of subdivision two of this section. (a) The court may impose a revocable sentence as herein specified: (i) the court, where authorized by article sixty-five, may sentence a person to a period of probation or to a period of conditional discharge as provided in that article; or (ii) the court, where authorized by article eighty-five, may sentence a person to a term of intermittent imprisonment as provided in that article. (b) A revocable sentence shall be deemed a tentative one to the extent that it may be altered or revoked in accordance with the provisions of the article under which it was imposed, but for all other purposes shall be deemed to be a final judgment of conviction. (c) In any case where the court imposes a sentence of probation, conditional discharge, or a sentence of intermittent imprisonment, it may also impose a fine authorized by article eighty. (d) In any case where the court imposes a sentence of imprisonment not in excess of sixty days, for a misdemeanor or not in excess of six months for a felony or in the case of a sentence of intermittent imprisonment not in excess of four months, it may also impose a sentence of probation or conditional discharge provided that the term of probation or conditional discharge together with the term of imprisonment shall not exceed the term of probation or conditional discharge authorized by article sixty-five of this chapter. The sentence of imprisonment shall be a condition of and run concurrently with the sentence of probation or conditional discharge. 3. Other dispositions. When a person is not sentenced as specified in subdivision two, or when a sentence specified in subdivision two is revoked, the sentence of the court must be as follows: (a) A term of imprisonment; or (b) A fine authorized by article eighty, provided, however, that when the conviction is of a class B felony or of any felony defined in article two hundred twenty, the sentence shall not consist solely of a fine; or (c) Both imprisonment and a fine; or (d) Where authorized by section 65.20, unconditional discharge as provided in that section; or (e) Following revocation of a sentence of conditional discharge imposed pursuant to section 65.05 of this chapter or paragraph (d) of subdivision two of this section, probation as provided in section 65.00 of this chapter or to the sentence of imprisonment and probation as provided for in paragraph (d) of subdivision two of this section. 4. In any case where a person has been sentenced to a period of probation imposed pursuant to section 65.00 of this chapter, if the part of the sentence that provides for probation is revoked, the court must sentence such person to imprisonment or to the sentence of imprisonment and probation as provided for in paragraph (d) of subdivision two of this section.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 60 - Authorized Dispositions of Offenders60.02 - Authorized Disposition; Youthful Offender.

When a person is to be sentenced upon a youthful offender finding, the court must impose a sentence as follows:(1) If the sentence

is to be imposed upon a youthful offender finding which has been substituted for a conviction of an offense other than a felony, the court must impose a sentence authorized for the offense for which the youthful offender finding was substituted, except that if the youthful offender finding was entered pursuant to paragraph (b) of subdivision one of section 720.20 of the criminal procedure law, the court must not impose a definite or intermittent sentence of imprisonment with a term of more than six months; or(2) If the sentence is to be imposed upon a youthful offender finding which has been substituted for a conviction for any felony, the court must impose a sentence authorized to be imposed upon a person convicted of a class E felony provided, however, that the court must not impose a sentence of conditional discharge or unconditional discharge if the youthful offender finding was substituted for a conviction of a felony defined in article two hundred twenty of this chapter.(4) Notwithstanding any other provision of law in this section, if the sentence is to be imposed upon a youthful offender finding which has been substituted for a conviction of prostitution or loitering for the purposes of prostitution provided that the person does not stand charged with loitering for the purpose of patronizing a prostitute, and such offense occurred when the person was sixteen or seventeen years of age, the court must impose a sentence authorized to be imposed upon a person convicted of a violation as defined in subdivision three of section 10.00 of the penal law and where the court imposes a revocable sentence authorized for a violation may order any of the specialized services enumerated in title eight-A of article six of the social services law or other appropriate services made available to persons in need of supervision in accordance with article seven of the family court act. (1) If the sentence is to be imposed upon a youthful offender finding which has been substituted for a conviction of an offense other than a felony, the court must impose a sentence authorized for the offense for which the youthful offender finding was substituted, except that if the youthful offender finding was entered pursuant to paragraph (b) of subdivision one of section 720.20 of the criminal procedure law, the court must not impose a definite or intermittent sentence of imprisonment with a term of more than six months; or (2) If the sentence is to be imposed upon a youthful offender finding which has been substituted for a conviction for any felony, the court must impose a sentence authorized to be imposed upon a person convicted of a class E felony provided, however, that the court must not impose a sentence of conditional discharge or unconditional discharge if the youthful offender finding was substituted for a conviction of a felony defined in article two hundred twenty of this chapter. (4) Notwithstanding any other provision of law in this section, if the sentence is to be imposed upon a youthful offender finding which has been substituted for a conviction of prostitution or loitering for the purposes of prostitution provided that the person does not stand charged with loitering for the purpose of patronizing a prostitute, and such offense occurred when the person was sixteen or seventeen years of age, the court must impose a sentence authorized to be imposed upon a person convicted of a violation as defined in subdivision three of section 10.00 of the penal law and where the court imposes a revocable sentence authorized for a violation may order any of the specialized services enumerated in title eight-A of article six of the social services law or other appropriate services made available to persons in need of supervision in accordance with article seven of the family court act.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 60 - Authorized Dispositions of Offenders60.04 - Authorized Disposition; Controlled Substances and Marihuana Felony Offenses.

felony offenses. 1. Applicability. Notwithstanding the provisions of any law, this section shall govern the dispositions authorized when a person is to be sentenced upon a conviction of a felony offense defined in article two hundred twenty or two hundred twenty-one of this chapter or when a person is to be sentenced upon a conviction of such a felony as a multiple felony offender as defined in subdivision five of this section. 2. Class A felony. Every person convicted of a class A felony must be sentenced to imprisonment in accordance with section 70.71 of this title, unless such person is convicted of a class A-II felony and is sentenced to probation for life in accordance with section 65.00 of this title. 3. Class B felonies. Every person convicted of a class B felony must be sentenced to imprisonment in accordance with the applicable provisions of section 70.70 of this chapter, a definite sentence of imprisonment with a term of one year or less or probation in accordance with section 65.00 of this chapter provided, however, a person convicted of criminal sale of a controlled substance to a child as defined in section 220.48 of this chapter must be sentenced to a determinate sentence of imprisonment in accordance with the applicable provisions of section 70.70 of this chapter or to a sentence of probation in accordance with the opening paragraph of paragraph (b) of subdivision one of section 65.00 of this chapter. 4. Alternative sentence. Where a sentence of imprisonment or a sentence of probation as an alternative to imprisonment is not required to be imposed pursuant to subdivision two, three or five of this section, the court may impose any other sentence authorized by section 60.01 of this article, provided that when the court imposes a sentence of imprisonment, such sentence must be in accordance with section 70.70 of this title. Where the court imposes a sentence of imprisonment in accordance with this section, the court may also impose a fine authorized by article eighty of this title and in such case the sentence shall be both imprisonment and a fine. 5. Multiple felony offender. Where the court imposes a sentence pursuant to subdivision three of section 70.70 of this chapter upon a second felony drug offender, as defined in paragraph (b) of subdivision one of section 70.70 of this chapter, it must sentence such offender to imprisonment in accordance with the applicable provisions of section 70.70 of this chapter, a definite sentence of imprisonment with a term of one year or less, or probation in accordance with section 65.00 of this chapter, provided, however, that where the court imposes a sentence upon a class B second felony drug offender, it must sentence such offender to a determinate sentence of imprisonment in accordance with the applicable provisions of section 70.70 of this chapter or to a sentence of probation in accordance with the opening paragraph of paragraph (b) of subdivision one of section 65.00 of this chapter. When the court imposes sentence on a second felony drug offender pursuant to subdivision four of section 70.70 of this chapter, it must impose a determinate sentence of imprisonment in accordance with such subdivision. 6. Substance abuse treatment. When the court imposes a sentence of imprisonment which requires a commitment to the state department of corrections and community supervision upon a

person who stands convicted of a controlled substance or marihuana offense, the court may, upon motion of the defendant in its discretion, issue an order directing that the department of corrections and community supervision enroll the defendant in the comprehensive alcohol and substance abuse treatment program in an alcohol and substance abuse correctional annex as defined in subdivision eighteen of section two of the correction law, provided that the defendant will satisfy the statutory eligibility criteria for participation in such program. Notwithstanding the foregoing provisions of this subdivision, any defendant to be enrolled in such program pursuant to this subdivision shall be governed by the same rules and regulations promulgated by the department of corrections and community supervision, including without limitation those rules and regulations establishing requirements for completion and those rules and regulations governing discipline and removal from the program. No such period of court ordered corrections based drug abuse treatment pursuant to this subdivision shall be required to extend beyond the defendant's conditional release date. 7. a. Shock incarceration participation. When the court imposes a sentence of imprisonment which requires a commitment to the department of corrections and community supervision upon a person who stands convicted of a controlled substance or marihuana offense, upon motion of the defendant, the court may issue an order directing that the department of corrections and community supervision enroll the defendant in the shock incarceration program as defined in article twenty-six-A of the correction law, provided that the defendant is an eligible incarcerated individual, as described in subdivision one of section eight hundred sixty-five of the correction law. Notwithstanding the foregoing provisions of this subdivision, any defendant to be enrolled in such program pursuant to this subdivision shall be governed by the same rules and regulations promulgated by the department of corrections and community supervision, including without limitation those rules and regulations establishing requirements for completion and such rules and regulations governing discipline and removal from the program. b. (i) In the event that an incarcerated individual designated by court order for enrollment in the shock incarceration program requires a degree of medical care or mental health care that cannot be provided at a shock incarceration facility, the department, in writing, shall notify the incarcerated individual, provide a proposal describing a proposed alternative-to-shock-incarceration program, and notify him or her that he or she may object in writing to placement in such alternative-to-shock-incarceration program. If the incarcerated individual objects in writing to placement in such alternative-to-shock-incarceration program, the department of corrections and community supervision shall notify the sentencing court, provide such proposal to the court, and arrange for the incarcerated individual's prompt appearance before the court. The court shall provide the proposal and notice of a court appearance to the people, the incarcerated individual and the appropriate defense attorney. After considering the proposal and any submissions by the parties, and after a reasonable opportunity for the people, the incarcerated individual and counsel to be heard, the court may modify its sentencing order accordingly, notwithstanding the provisions of section 430.10 of the criminal procedure law.(ii) An incarcerated individual who successfully completes an alternative-to-shock-incarceration program within the department of corrections and community supervision shall be treated in the same manner as a person who has successfully completed the shock incarceration program, as set forth in subdivision four of section eight hundred sixty-seven of the correction law. (ii) An incarcerated individual who successfully completes an alternative-to-shock-incarceration program within the department of corrections and community supervision shall be treated in the same manner as a person who has successfully completed the shock incarceration program, as set forth in subdivision four of section eight hundred sixty-seven of the correction law.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 60 - Authorized Dispositions of Offenders60.05 - Authorized Dispositions; Other Class A, B, Certain C and D Felonies and Multiple Felony Offenders.

felonies and multiple felony offenders. 1. Applicability. Except as provided in section 60.04 of this article governing the authorized dispositions applicable to felony offenses defined in article two hundred twenty or two hundred twenty-one of this chapter or in section 60.13 of this article governing the authorized dispositions applicable to felony sex offenses defined in paragraph (a) of subdivision one of section 70.80 of this title, this section shall govern the dispositions authorized when a person is to be sentenced upon a conviction of a class A felony, a class B felony or a class C, class D or class E felony specified herein, or when a person is to be sentenced upon a conviction of a felony as a multiple felony offender. 2. Class A felony. Except as provided in subdivisions three and four of section 70.06 of this chapter, every person convicted of a class A felony must be sentenced to imprisonment in accordance with section 70.00 of this title, unless such person is convicted of murder in the first degree and is sentenced in accordance with section 60.06 of this article. 3. Class B felony. Except as provided in subdivision six of this section, every person convicted of a class B violent felony offense as defined in subdivision one of section 70.02 of this title, must be sentenced to imprisonment in accordance with such section 70.02; and, except as provided in subdivision six of this section, every person convicted of any other class B felony must be sentenced to imprisonment in accordance with section 70.00 of this title. 4. Certain class C felonies. Except as provided in subdivision six, every person convicted of a class C violent felony offense as defined in subdivision one of section 70.02 of this title, must be sentenced to imprisonment in accordance with section 70.02 of this title; and, except as provided in subdivision six of this section, every person convicted of the class C felonies of: attempt to commit any of the class B felonies of bribery in the first degree as defined in section 200.04, bribe receiving in the first degree as defined in section 200.12, conspiracy in the second degree as defined in section 105.15 and criminal mischief in the first degree as defined in section 145.12; criminal usury in the first degree as defined in section 190.42, rewarding official misconduct in the first degree as defined in section 200.22, receiving reward for official misconduct in the first degree as defined in section 200.27, attempt to promote prostitution in the first degree as defined in section 230.32, promoting prostitution in the second degree as defined in section 230.30, arson in the third degree as defined in section 150.10 of this chapter, must be sentenced to imprisonment in accordance with section 70.00 of this title. 5. Certain class D felonies. Except as provided in subdivision six of this section, every person convicted of the

class D felonies of assault in the second degree as defined in section 120.05, strangulation in the second degree as defined in section 121.12 or attempt to commit a class C felony as defined in section 230.30 of this chapter, must be sentenced in accordance with section 70.00 or 85.00 of this title. 6. Multiple felony offender. When the court imposes sentence upon a second violent felony offender, as defined in section 70.04, or a second felony offender, as defined in section 70.06, the court must impose a sentence of imprisonment in accordance with section 70.04 or 70.06, as the case may be, unless it imposes a sentence of imprisonment in accordance with section 70.08 or 70.10. 7. Fines. Where the court imposes a sentence of imprisonment in accordance with this section, the court also may impose a fine authorized by article eighty and in such case the sentence shall be both imprisonment and a fine. 8. Shock incarceration participation. (a) When the court imposes a determinate sentence of imprisonment pursuant to subdivision three of section 70.02 of this chapter or subdivision six of section 70.06 of this chapter upon a person who stands convicted either of burglary in the second degree as defined in subdivision two of section 140.25 of this chapter or robbery in the second degree as defined in subdivision one of section 160.10 of this chapter, or an attempt thereof, upon motion of the defendant, the court may issue an order directing that the department of corrections and community supervision enroll the defendant in the shock incarceration program as defined in article twenty-six-A of the correction law, provided that the defendant is an eligible incarcerated individual, as described in subdivision one of section eight hundred sixty-five of the correction law. Notwithstanding the foregoing provisions of this subdivision, any defendant to be enrolled in such program pursuant to this subdivision shall be governed by the same rules and regulations promulgated by the department of corrections and community supervision, including without limitation those rules and regulations establishing requirements for completion and such rules and regulations governing discipline and removal from the program.(b) Paragraph b of subdivision seven of section 60.04 of this article shall apply in the event an incarcerated individual designated by court order for enrollment in the shock incarceration program requires a degree of medical care or mental health care that cannot be provided at a shock incarceration facility. (b) Paragraph b of subdivision seven of section 60.04 of this article shall apply in the event an incarcerated individual designated by court order for enrollment in the shock incarceration program requires a degree of medical care or mental health care that cannot be provided at a shock incarceration facility.

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aggravated murder offenders; certain murder in the second degree offenders; certain terrorism offenders; criminal possession of a chemical weapon or biological weapon offenders; criminal use of a chemical weapon or biological weapon offenders. When a defendant is convicted of murder in the first degree as defined in section 125.27 of this chapter, the court shall, in accordance with the provisions of section 400.27 of the criminal procedure law, sentence the defendant to death, to life imprisonment without parole in accordance with subdivision five of section 70.00 of this title, or to a term of imprisonment for a class A-I felony other than a sentence of life imprisonment without parole, in accordance with subdivisions one through three of section 70.00 of this title. When a person is convicted of murder in the second degree as defined in subdivision five of section 125.25 of this chapter or of the crime of aggravated murder as defined in subdivision one of section 125.26 of this chapter, the court shall sentence the defendant to life imprisonment without parole in accordance with subdivision five of section 70.00 of this title. When a defendant is convicted of the crime of terrorism as defined in section 490.25 of this chapter, and the specified offense the defendant committed is a class A-I felony offense, or when a defendant is convicted of the crime of criminal possession of a chemical weapon or biological weapon in the first degree as defined in section 490.45 of this chapter, or when a defendant is convicted of the crime of criminal use of a chemical weapon or biological weapon in the first degree as defined in section 490.55 of this chapter, the court shall sentence the defendant to life imprisonment without parole in accordance with subdivision five of section 70.00 of this title; provided, however, that nothing in this section shall preclude or prevent a sentence of death when the defendant is also convicted of murder in the first degree as defined in section 125.27 of this chapter. When a defendant is convicted of aggravated murder as defined in subdivision two of section 125.26 of this chapter, the court shall sentence the defendant to life imprisonment without parole or to a term of imprisonment for a class A-I felony other than a sentence of life imprisonment without parole, in accordance with subdivisions one through three of section 70.00 of this title.

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vehicles. 1. Notwithstanding any other provision of law to the contrary, when a court has found, pursuant to the provisions of section 200.61 of the criminal procedure law, both that a person has been convicted of a specified offense as defined in subdivision two of this section and the victim of such offense was operating a for-hire vehicle in the course of providing for-hire vehicle services at the time of the commission of such offense, the sentence of imprisonment imposed upon conviction for such offense shall be the sentence authorized by the applicable provisions of article seventy of this chapter, provided, however, that the minimum term of an indeterminate sentence or minimum determinate sentence shall be not less than three years nor more than five years greater than the minimum term or sentence otherwise required to be imposed pursuant to such provisions. The provisions of this subdivision shall not apply where the court, having regard to the nature and circumstances of the crime and the history and character of the defendant, finds on the record that such additional term or sentence would be unduly harsh and that not imposing such additional term or sentence would be consistent with the public safety and would not deprecate the seriousness of the crime. 2. For purposes of this

section:(a) the term "specified offense" shall mean an attempt to commit murder in the second degree as defined in section 125.25 of this chapter, gang assault in the first degree as defined in section 120.07 of this chapter, gang assault in the second degree as defined in section 120.06 of this chapter, assault in the first degree as defined in section 120.10 of this chapter, manslaughter in the first degree as defined in section 125.20 of this chapter, manslaughter in the second degree as defined in section 125.15 of this chapter, robbery in the first degree as defined in section 160.15 of this chapter, robbery in the second degree as defined in section 160.10 of this chapter, or the attempted commission of any of the following offenses: gang assault in the first degree as defined in section 120.07, assault in the first degree as defined in section 120.10, manslaughter in the first degree as defined in section 125.20 or robbery in the first degree as defined in section 160.15;(b) the term "for-hire vehicle" shall mean a vehicle designed to carry not more than five passengers for compensation and such vehicle is a taxicab, as defined in section one hundred forty-eight-a of the vehicle and traffic law, a livery, as such term is defined in section one hundred twenty-one-e of the vehicle and traffic law, or a "black car", as such term is defined in paragraph (g) of this subdivision;(c) the term "livery car base" shall mean a central facility, wherever located, that dispatches a livery operator to both pick-up and discharge passengers in the state;(d) "for-hire vehicle services" shall mean:(i) with respect to a taxicab, the transport of passengers pursuant to a license or permit issued by a local authority by a person duly authorized to operate such taxicab;(ii) with respect to a livery, the transport of passengers by a livery operator while affiliated with a livery car base; or(iii) with respect to a "black car", the transport of passengers by a "black car operator" pursuant to dispatches from or by a central dispatch facility regardless of where the pick-up and discharge occurs, and, with respect to dispatches from or by a central dispatch facility located outside the state, all dispatches involving a pick-up in the state, regardless of where the discharge occurs.(e) "livery operator" shall mean the registered owner of a livery, as such term is defined in section one hundred twenty-one-e of the vehicle and traffic law, or a driver designated by such registered owner to operate the registered owner's livery as the registered owner's authorized designee, where such registered owner or driver provides services while affiliated with a livery car base;(f) "black car operator" shall mean the registered owner of a "black car" or a driver designated by such registered owner to operate the registered owner's black car as the registered owner's authorized designee; and(g) "black car" shall mean a for-hire vehicle dispatched from a central facility, which has certified to the satisfaction of the department of state pursuant to article six-F of the executive law that more than ninety percent of the central facility's for-hire business is on a payment basis other than direct cash payment by a passenger. (a) the term "specified offense" shall mean an attempt to commit murder in the second degree as defined in section 125.25 of this chapter, gang assault in the first degree as defined in section 120.07 of this chapter, gang assault in the second degree as defined in section 120.06 of this chapter, assault in the first degree as defined in section 120.10 of this chapter, manslaughter in the first degree as defined in section 125.20 of this chapter, manslaughter in the second degree as defined in section 125.15 of this chapter, robbery in the first degree as defined in section 160.15 of this chapter, robbery in the second degree as defined in section 160.10 of this chapter, or the attempted commission of any of the following offenses: gang assault in the first degree as defined in section 120.07, assault in the first degree as defined in section 120.10, manslaughter in the first degree as defined in section 125.20 or robbery in the first degree as defined in section 160.15; (b) the term "for-hire vehicle" shall mean a vehicle designed to carry not more than five passengers for compensation and such vehicle is a taxicab, as defined in section one hundred forty-eight-a of the vehicle and traffic law, a livery, as such term is defined in section one hundred twenty-one-e of the vehicle and traffic law, or a "black car", as such term is defined in paragraph (g) of this subdivision; (c) the term "livery car base" shall mean a central facility, wherever located, that dispatches a livery operator to both pick-up and discharge passengers in the state; (d) "for-hire vehicle services" shall mean: (i) with respect to a taxicab, the transport of passengers pursuant to a license or permit issued by a local authority by a person duly authorized to operate such taxicab; (ii) with respect to a livery, the transport of passengers by a livery operator while affiliated with a livery car base; or (iii) with respect to a "black car", the transport of passengers by a "black car operator" pursuant to dispatches from or by a central dispatch facility regardless of where the pick-up and discharge occurs, and, with respect to dispatches from or by a central dispatch facility located outside the state, all dispatches involving a pick-up in the state, regardless of where the discharge occurs. (e) "livery operator" shall mean the registered owner of a livery, as such term is defined in section one hundred twenty-one-e of the vehicle and traffic law, or a driver designated by such registered owner to operate the registered owner's livery as the registered owner's authorized designee, where such registered owner or driver provides services while affiliated with a livery car base; (f) "black car operator" shall mean the registered owner of a "black car" or a driver designated by such registered owner to operate the registered owner's black car as the registered owner's authorized designee; and (g) "black car" shall mean a for-hire vehicle dispatched from a central facility, which has certified to the satisfaction of the department of state pursuant to article six-F of the executive law that more than ninety percent of the central facility's for-hire business is on a payment basis other than direct cash payment by a passenger.

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substance offenders. Any person convicted of an offense and sentenced to prison for an indeterminate sentence, the minimum of which was at least one year and the maximum of which was life imprisonment, which sentence was imposed pursuant to chapter two hundred seventy-six, two hundred seventy-seven, two hundred seventy-eight, or ten hundred fifty-one of the laws of nineteen hundred seventy-three, and for which such sentence was imposed upon conviction of the crime of criminal possession of a controlled substance in the first degree, criminal possession of a controlled substance in the second degree, criminal possession of a controlled substance in the third degree, criminal sale of a controlled substance in the first degree, criminal sale of a controlled substance in the second degree, or criminal sale of a controlled substance in the third degree, and the sole controlled substance

involved was methadone, may apply, upon notice to the appropriate district attorney, for resentencing in the court which originally imposed sentence. Such resentencing shall, unless substantial justice dictates otherwise, be pursuant to the current provisions of the penal law, and shall include credit for any jail time incurred upon the subject conviction as well as credit for any period of incarceration incurred pursuant to the sentence originally imposed. In cases where the proof before the court is not available or is not sufficiently reliable to determine the amount of methadone present in any preparation, compound, mixture or substance containing methadone, there shall exist a rebuttable presumption that each ounce of the preparation, compound, mixture or substance contained sixty milligrams of methadone.

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convicted of specified controlled substance offenses. a. Any person convicted of an offense as defined in section 115.05, 220.16, 220.18, 220.39 or 220.41 of this chapter or of an attempt thereof, for an act committed on or after September first, nineteen hundred seventy-three but prior to the date on which the provisions of this section become effective, may, upon notice to the appropriate district attorney, apply for resentencing in the court which originally imposed sentence. Such resentencing shall be in accordance with the provisions of subdivision (b) of this section and shall include credit for any jail time incurred upon the subject conviction as well as credit for any period of incarceration incurred pursuant to the sentence originally imposed. b. A court, upon an application specified in subdivision (a) of this section may resentence a person as follows:(i) if the conviction was for a class A-III offense the court may impose a new maximum term which shall be no less than three times the amount of the minimum term imposed in the original sentence and no more than twenty-five years;(ii) if the conviction was for a class A-II offense the court may impose a new minimum term which shall be no less than three years imprisonment and no more than eight and one-third years;(iii) upon resentence of a person as specified in paragraph (i) of this subdivision the court shall resentence the person to the same minimum term previously imposed;(iv) upon resentence of a person as specified in paragraph (ii) of this subdivision the court shall impose a maximum term of life imprisonment;(v) if the conviction was for an offense as specified in section 115.05 of this chapter and the offense which was the object of the criminal facilitation was a class A-III felony then the court shall set aside the conviction and substitute it with a conviction for violation of section 115.01 or 115.00 of this chapter, whichever is appropriate under the facts of the case, and impose a sentence in accordance with those provisions.c. Upon resentence as provided in this section the court may not impose a sentence greater than the sentence previously imposed. (i) if the conviction was for a class A-III offense the court may impose a new maximum term which shall be no less than three times the amount of the minimum term imposed in the original sentence and no more than twenty-five years; (ii) if the conviction was for a class A-II offense the court may impose a new minimum term which shall be no less than three years imprisonment and no more than eight and one-third years; (iii) upon resentence of a person as specified in paragraph (i) of this subdivision the court shall resentence the person to the same minimum term previously imposed; (iv) upon resentence of a person as specified in paragraph (ii) of this subdivision the court shall impose a maximum term of life imprisonment; (v) if the conviction was for an offense as specified in section 115.05 of this chapter and the offense which was the object of the criminal facilitation was a class A-III felony then the court shall set aside the conviction and substitute it with a conviction for violation of section 115.01 or 115.00 of this chapter, whichever is appropriate under the facts of the case, and impose a sentence in accordance with those provisions. c. Upon resentence as provided in this section the court may not impose a sentence greater than the sentence previously imposed.

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When an adolescent offender is convicted of an offense, the court shall sentence the defendant to any sentence authorized to be imposed on a person who committed such offense at age eighteen or older. When a sentence is imposed, the court shall consider the age of the defendant in exercising its discretion at sentencing.

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1. When a juvenile offender is convicted of a crime, the court shall sentence the defendant to imprisonment in accordance with section 70.05 or sentence him upon a youthful offender finding in accordance with section 60.02 of this chapter. 2. Subdivision one of this section shall apply when sentencing a juvenile offender notwithstanding the provisions of any other law that deals with the authorized sentence for persons who are not juvenile offenders. Provided, however, that the limitation prescribed by this section shall not be deemed or construed to bar use of a conviction of a juvenile offender, other than a juvenile offender who has been adjudicated a youthful offender pursuant to section 720.20 of the criminal procedure law, as a previous or predicate felony offender under section 70.04, 70.06, 70.08 or 70.10, when sentencing a person who commits a felony after he has reached the age of sixteen.

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weapon in the third degree offenders. When a person is to be sentenced upon conviction of the crime of criminal possession of a weapon in the third degree as defined in subdivision ten of section 265.02 of this chapter, the court must sentence such defendant to

a determinate sentence as provided in subparagraph (ii) of paragraph (c) of subdivision three of section 70.02 of this chapter, unless a greater minimum sentence is otherwise required by another provision of this chapter.

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fourth degree. When a person is to be sentenced upon a conviction of the crime of criminal possession of a weapon in the fourth degree as defined in subdivision one of section 265.01 as a result of a plea of guilty entered in satisfaction of an indictment or count thereof charging the defendant with the class D violent felony offense of criminal possession of a weapon in the third degree as defined in subdivision four of section 265.02, the court must sentence the defendant in accordance with the provisions of section 70.15.

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cases. 1. Notwithstanding any other provision of law, where a court is imposing sentence upon a person pursuant to section 70.00, 70.02, 70.06 or subdivision two or three of section 70.71 of this title, other than for an offense defined in section 125.26, 125.27, subdivision five of section 125.25, or article 490 of this chapter, or for an offense which would require such person to register as a sex offender pursuant to article six-C of the correction law, an attempt or conspiracy to commit any such offense, and is authorized or required pursuant to sections 70.00, 70.02, 70.06 or subdivision two or three of section 70.71 of this title to impose a sentence of imprisonment, the court, upon a determination following a hearing that (a) at the time of the instant offense, the defendant was a victim of domestic violence subjected to substantial physical, sexual or psychological abuse inflicted by a member of the same family or household as the defendant as such term is defined in subdivision one of section 530.11 of the criminal procedure law; (b) such abuse was a significant contributing factor to the defendant's criminal behavior; (c) having regard for the nature and circumstances of the crime and the history, character and condition of the defendant, that a sentence of imprisonment pursuant to section 70.00, 70.02, 70.06 or subdivision two or three of section 70.71 of this title would be unduly harsh may instead impose a sentence in accordance with this section. A court may determine that such abuse constitutes a significant contributing factor pursuant to paragraph (b) of this subdivision regardless of whether the defendant raised a defense pursuant to article thirty-five, article forty, or subdivision one of section 125.25 of this chapter. At the hearing to determine whether the defendant should be sentenced pursuant to this section, the court shall consider oral and written arguments, take testimony from witnesses offered by either party, and consider relevant evidence to assist in making its determination. Reliable hearsay shall be admissible at such hearings. 2. Where a court would otherwise be required to impose a sentence pursuant to section 70.02 of this title, the court may impose a definite sentence of imprisonment of one year or less, or probation in accordance with the provisions of section 65.00 of this title, or may fix a determinate term of imprisonment as follows:(a) For a class B felony, the term must be at least one year and must not exceed five years;(b) For a class C felony, the term must be at least one year and must not exceed three and one-half years;(c) For a class D felony, the term must be at least one year and must not exceed two years; and(d) For a class E felony, the term must be one year and must not exceed one and one-half years.3. Where a court would otherwise be required to impose a sentence for a class A felony offense pursuant to section 70.00 of this title, the court may fix a determinate term of imprisonment of at least five years and not to exceed fifteen years.4. Where a court would otherwise be required to impose a sentence for a class A felony offense pursuant to subparagraph (i) of paragraph (b) of subdivision two of section 70.71 of this title, the court may fix a determinate term of imprisonment of at least five years and not to exceed eight years.5. Where a court would otherwise be required to impose a sentence for a class A felony offense pursuant to subparagraph (i) of paragraph (b) of subdivision three of section 70.71 of this title, the court may fix a determinate term of imprisonment of at least five years and not to exceed twelve years.6. Where a court would otherwise be required to impose a sentence for a class A felony offense pursuant to subparagraph (ii) of paragraph (b) of subdivision two of section 70.71 of this title, the court may fix a determinate term of imprisonment of at least one year and not to exceed three years.7. Where a court would otherwise be required to impose a sentence for a class A felony offense pursuant to subparagraph (ii) of paragraph (b) of subdivision three of section 70.71 of this title, the court may fix a determinate term of imprisonment of at least three years and not to exceed six years.8. Where a court would otherwise be required to impose a sentence pursuant to subdivision six of section 70.06 of this title, the court may fix a term of imprisonment as follows:(a) For a class B felony, the term must be at least three years and must not exceed eight years;(b) For a class C felony, the term must be at least two and one-half years and must not exceed five years;(c) For a class D felony, the term must be at least two years and must not exceed three years;(d) For a class E felony, the term must be at least one and one-half years and must not exceed two years.9. Where a court would otherwise be required to impose a sentence for a class B, C, D or E felony offense pursuant to section 70.00 of this title, the court may impose a sentence in accordance with the provisions of subdivision two of section 70.70 of this title.10. Except as provided in subdivision seven of this section, where a court would otherwise be required to impose a sentence pursuant to subdivision three of section 70.06 of this title, the court may impose a sentence in accordance with the provisions of subdivision three of section 70.70 of this title.11. Where a court would otherwise be required to impose a sentence pursuant to subdivision three of section 70.06 of this title, where the prior felony conviction was for a felony offense defined in section 70.02 of this title, the court may impose a sentence in accordance with the provisions of subdivision four of section 70.70 of this title. (a) For a class B felony, the term must be at least one year and must not exceed five years; (b) For a class C felony, the term must be at least one year and must not exceed three and one-half years; (c) For a class D felony, the term must be at least one year and must not exceed two

years; and (d) For a class E felony, the term must be one year and must not exceed one and one-half years. 3. Where a court would otherwise be required to impose a sentence for a class A felony offense pursuant to section 70.00 of this title, the court may fix a determinate term of imprisonment of at least five years and not to exceed fifteen years. 4. Where a court would otherwise be required to impose a sentence for a class A felony offense pursuant to subparagraph (i) of paragraph (b) of subdivision two of section 70.71 of this title, the court may fix a determinate term of imprisonment of at least five years and not to exceed eight years. 5. Where a court would otherwise be required to impose a sentence for a class A felony offense pursuant to subparagraph (i) of paragraph (b) of subdivision three of section 70.71 of this title, the court may fix a determinate term of imprisonment of at least five years and not to exceed twelve years. 6. Where a court would otherwise be required to impose a sentence for a class A felony offense pursuant to subparagraph (ii) of paragraph (b) of subdivision two of section 70.71 of this title, the court may fix a determinate term of imprisonment of at least one year and not to exceed three years. 7. Where a court would otherwise be required to impose a sentence for a class A felony offense pursuant to subparagraph (ii) of paragraph (b) of subdivision three of section 70.71 of this title, the court may fix a determinate term of imprisonment of at least three years and not to exceed six years. 8. Where a court would otherwise be required to impose a sentence pursuant to subdivision six of section 70.06 of this title, the court may fix a term of imprisonment as follows: (a) For a class B felony, the term must be at least three years and must not exceed eight years; (b) For a class C felony, the term must be at least two and one-half years and must not exceed five years; (c) For a class D felony, the term must be at least two years and must not exceed three years; (d) For a class E felony, the term must be at least one and one-half years and must not exceed two years. 9. Where a court would otherwise be required to impose a sentence for a class B, C, D or E felony offense pursuant to section 70.00 of this title, the court may impose a sentence in accordance with the provisions of subdivision two of section 70.70 of this title. 10. Except as provided in subdivision seven of this section, where a court would otherwise be required to impose a sentence pursuant to subdivision three of section 70.06 of this title, the court may impose a sentence in accordance with the provisions of subdivision three of section 70.70 of this title. 11. Where a court would otherwise be required to impose a sentence pursuant to subdivision three of section 70.06 of this title, where the prior felony conviction was for a felony offense defined in section 70.02 of this title, the court may impose a sentence in accordance with the provisions of subdivision four of section 70.70 of this title.

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When a person is to be sentenced upon a conviction for any felony defined in article one hundred thirty of this chapter, including a sexually motivated felony, or patronizing a person for prostitution in the first degree as defined in section 230.06 of this chapter, aggravated patronizing a minor for prostitution in the third degree as defined in section 230.11 of this chapter, aggravated patronizing a minor for prostitution in the second degree as defined in section 230.12 of this chapter, aggravated patronizing a minor for prostitution in the first degree as defined in section 230.13 of this chapter, incest in the second degree as defined in section 255.26 of this chapter, or incest in the first degree as defined in section 255.27 of this chapter, or a felony attempt or conspiracy to commit any of these crimes, the court must sentence the defendant in accordance with the provisions of section 70.80 of this title.

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1. When a person is convicted of a traffic infraction, the sentence of the court shall be as follows:(a) A period of conditional discharge, as provided in article sixty-five; or(b) Unconditional discharge as provided in section 65.20; or(c) A fine or a sentence to a term of imprisonment, or both, as prescribed in and authorized by the provision that defines the infraction; or(d) A sentence of intermittent imprisonment, as provided in article eighty-five.2. Where a sentence of conditional discharge is imposed for a traffic infraction, all incidents of the sentence shall be the same as would be applicable if the sentence were for a violation. (a) A period of conditional discharge, as provided in article sixty-five; or (b) Unconditional discharge as provided in section 65.20; or (c) A fine or a sentence to a term of imprisonment, or both, as prescribed in and authorized by the provision that defines the infraction; or (d) A sentence of intermittent imprisonment, as provided in article eighty-five. 2. Where a sentence of conditional discharge is imposed for a traffic infraction, all incidents of the sentence shall be the same as would be applicable if the sentence were for a violation.

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driving while intoxicated. Notwithstanding paragraph (d) of subdivision two of section 60.01 of this article, when a person is to be sentenced upon a conviction for a violation of subdivision two, two-a or three of section eleven hundred ninety-two of the vehicle and traffic law, the court may sentence such person to a period of imprisonment authorized by article seventy of this title and shall sentence such person to a period of probation or conditional discharge in accordance with the provisions of section 65.00 of this title and shall order the installation and maintenance of a functioning ignition interlock device. Such period of probation or conditional discharge shall run consecutively to any period of imprisonment and shall commence immediately upon such person's release from imprisonment.

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When a corporation is convicted of an offense, the sentence of the court shall be as follows:(a) A fine authorized by section 80.10; or(b) Where authorized by section 65.05, a period of conditional discharge as provided in that section; or(c) Where authorized by section 65.20, unconditional discharge as provided in that section.In any case where a corporation has been sentenced to a period of conditional discharge and such sentence is revoked, the court shall sentence the corporation to pay a fine. (a) A fine authorized by section 80.10; or (b) Where authorized by section 65.05, a period of conditional discharge as provided in that section; or (c) Where authorized by section 65.20, unconditional discharge as provided in that section. In any case where a corporation has been sentenced to a period of conditional discharge and such sentence is revoked, the court shall sentence the corporation to pay a fine.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 60 - Authorized Dispositions of Offenders60.27 - Restitution and Reparation.

1. In addition to any of the dispositions authorized by this article, the court shall consider restitution or reparation to the victim of the crime and may require restitution or reparation as part of the sentence imposed upon a person convicted of an offense, and after providing the district attorney with an opportunity to be heard in accordance with the provisions of this subdivision, require the defendant to make restitution of the fruits of his or her offense or reparation for the actual out-of-pocket loss caused thereby and, in the case of a violation of section 190.78, 190.79, 190.80, 190.82 or 190.83 of this chapter, any costs or losses incurred due to any adverse action taken against the victim. The district attorney shall where appropriate, advise the court at or before the time of sentencing that the victim seeks restitution or reparation, the extent of injury or economic loss or damage of the victim, and the amount of restitution or reparation sought by the victim in accordance with his or her responsibilities under subdivision two of section 390.50 of the criminal procedure law and article twenty-three of the executive law. The court shall hear and consider the information presented by the district attorney in this regard. In that event, or when the victim impact statement reports that the victim seeks restitution or reparation, the court shall require, unless the interests of justice dictate otherwise, in addition to any of the dispositions authorized by this article that the defendant make restitution of the fruits of the offense and reparation for the actual out-of-pocket loss and, in the case of a violation of section 190.78, 190.79, 190.80, 190.82 or 190.83 of this chapter, any costs or losses incurred due to any adverse action, caused thereby to the victim. In the event that restitution or reparation are not ordered, the court shall clearly state its reasons on the record. Adverse action as used in this subdivision shall mean and include actual loss incurred by the victim, including an amount equal to the value of the time reasonably spent by the victim attempting to remediate the harm incurred by the victim from the offense, and the consequential financial losses from such action. 2. Whenever the court requires restitution or reparation to be made, the court must make a finding as to the dollar amount of the fruits of the offense and the actual out-of-pocket loss to the victim caused by the offense. In making this finding, the court must consider any victim impact statement provided to the court. If the record does not contain sufficient evidence to support such finding or upon request by the defendant, the court must conduct a hearing upon the issue in accordance with the procedure set forth in section 400.30 of the criminal procedure law. 3. The provisions of sections 420.10, 420.20 and 420.30 of the criminal procedure law shall apply in the collection and remission of restitution and reparation. 4. For purposes of the imposition, determination and collection of restitution or reparation, the following definitions shall apply:(a) the term "offense" shall include the offense for which a defendant was convicted, as well as any other offense that is part of the same criminal transaction or that is contained in any other accusatory instrument disposed of by any plea of guilty by the defendant to an offense.(b) the term "victim" shall include the victim of the offense, the representative of a crime victim as defined in subdivision six of section six hundred twenty-one of the executive law, an individual whose identity was assumed or whose personal identifying information was used in violation of section 190.78, 190.79 or 190.80 of this chapter, or any person who has suffered a financial loss as a direct result of the acts of a defendant in violation of section 190.78, 190.79, 190.80, 190.82 or 190.83 of this chapter, a good samaritan as defined in section six hundred twenty-one of the executive law and the office of victim services or other governmental agency that has received an application for or has provided financial assistance or compensation to the victim. A victim shall also mean any owner or lawful producer of a master recording, or a trade association that represents such owner or lawful producer, that has suffered injury as a result of an offense as defined in article two hundred seventy-five of this chapter.5. (a) Except upon consent of the defendant or as provided in paragraph (b) of this subdivision, or as a condition of probation or conditional discharge as provided in paragraph (g) of subdivision two of section 65.10 of this chapter, the amount of restitution or reparation required by the court shall not exceed fifteen thousand dollars in the case of a conviction for a felony, or ten thousand dollars in the case of a conviction for any offense other than a felony. Notwithstanding the provisions of this subdivision, if an officer of a school district is convicted of violating any section of article one hundred fifty-five of this chapter where the victim of such crime is such officer's school district, the court may require an amount of restitution up to the full amount of the fruits of the offense or reparation up to the full amount of the actual out-of-pocket loss suffered by the victim, provided further that in such case the provisions of paragraph (b) of this subdivision shall not apply.(b) The court in its discretion may impose restitution or reparation in excess of the amounts specified in paragraph (a) of this subdivision, provided however that the amount in excess must be limited to the return of the victim's property, including money, or the equivalent value thereof; and reimbursement for medical expenses actually incurred by the victim prior to sentencing as a result of the offense committed by the defendant.(c) If a corporation is found guilty of an offense involving the death or serious physical injury of an employee in violation of subparagraph (iv) of paragraph (c) of subdivision two of section 20.20 of this chapter, the court may order restitution or reparation in excess of the amounts specified in paragraphs (a) and (b) of this subdivision.6. Any payment made as restitution or reparation pursuant to this section shall not limit, preclude or impair any liability for damages in any civil action or proceeding for an amount in excess of such payment.7. In the event that the court requires restitution or reparation to be made to a person and that

person dies prior to the completion of said restitution or reparation, the remaining payments shall be made to the estate of the deceased.8. The court shall in all cases where restitution or reparation is imposed direct as part of the disposition that the defendant pay a designated surcharge of five percent of the entire amount of a restitution or reparation payment to the official or organization designated pursuant to subdivision eight of section 420.10 of the criminal procedure law. The designated surcharge shall not exceed five percent of the amount actually collected. Upon the filing of an affidavit of the official or organization designated pursuant to subdivision eight of section 420.10 of the criminal procedure law demonstrating that the actual cost of the collection and administration of restitution or reparation in a particular case exceeds five percent of the entire amount of the payment or the amount actually collected, as the case may be, the court shall direct that the defendant pay an additional surcharge of not more than five percent of the entire amount of a restitution or reparation payment to such official or organization, or the actual cost of collection or administration, whichever is less unless, upon application of the defendant, the court determines that imposition of such additional surcharge would cause undue hardship to the defendant, or any other person who is financially supported by the defendant, or would otherwise not be in the interest of justice. Such additional surcharge, when added to the initial five percent surcharge, shall not exceed ten percent of the amount actually collected.9. If the offense of which a person is convicted is a class A, class B, class C, or class D felony involving the sale of a controlled substance, as defined in article two hundred twenty of this chapter, and no other victim who is a person is seeking restitution in the case, the term "victim" as used in this section, in addition to its ordinary meaning, shall mean any law enforcement agency of the state of New York or of any subdivision thereof which has expended funds in the purchase of any controlled substance from such person or his agent as part of the investigation leading to such conviction. Any restitution which may be required to be made to a law enforcement agency pursuant to this section shall be limited to the amount of funds expended in the actual purchase of such controlled substance by such law enforcement agency, less the amount of any funds which have been or will be recovered from any other source, and shall not include a designated surcharge pursuant to subdivision eight of this section. Any law enforcement agency seeking restitution pursuant to this section shall file with the court and the district attorney an affidavit stating that funds expended in the actual purchase of a controlled substance for which restitution is being sought have not been and will not be recovered from any other source or in any other civil or criminal proceeding. Any law enforcement agency receiving restitution pursuant to this section shall promptly transmit to the commissioner of the division of criminal justice services a report stating the dollar amount of the restitution received.10. If the offense of which a person is convicted is defined in section 150.10, 150.15 or 150.20 of this chapter, and no other victim who is a person is seeking restitution in the case, the term "victim" as used in this section, in addition to its ordinary meaning, shall mean any municipality or volunteer fire company which has expended funds or will expend funds for the purpose of restoration, rehabilitation or clean-up of the site of the arson. Any restitution which may be required to be made to a municipality or volunteer fire company pursuant to this section shall be limited to the amount of funds reasonably expended or to be expended for the purpose of restoration, rehabilitation or clean-up of the site of the arson, less the amount of any funds which have been or will be recovered from any other source, and shall not include a designated surcharge pursuant to subdivision eight of this section. Any municipality or volunteer fire company seeking restitution pursuant to this section shall file with the court, district attorney and defense counsel an affidavit stating that the funds reasonably expended or to be expended for which restitution is being sought have not been and will not be recovered from any other source or in any other civil or criminal proceeding. For the purposes of this subdivision, "volunteer fire company" means a fire company as defined in paragraph a of subdivision two of section one hundred of the general municipal law.11. Notwithstanding any other provision of this section to the contrary, when a person is convicted of harming an animal trained to aid a person with a disability in the second degree as defined in section 195.11 of this chapter, or harming an animal trained to aid a person with a disability in the first degree as defined in section 195.12 of this chapter, the court, in addition to any other sentence, shall order the payment of restitution to the person with a disability who was aided by such animal.12. If the offense of which a person is convicted is defined in section 155.25, 155.30, 155.35, 155.40 or 155.42 of this chapter, and the property taken is timber, the court may upon conviction, in addition to any other sentence, direct the defendant to pay the rightful owner of such timber an amount equal to treble the stumpage value of the timber stolen as defined in section 71-0703 of the environmental conservation law and for any permanent and substantial damage caused to the land or the improvements thereon as a result of such violation. Such reparations shall be of such kind, nature and extent as will reasonably restore the lands affected by the violation to their condition immediately before the violation and may be made by physical restoration of such lands and/or by the assessment of monetary payment to make such restoration.13. If the offense of which a person is convicted is defined in section 240.50, subdivision one or two of section 240.55, section 240.60, section 240.61, section 240.62 or section 240.63 of this chapter, and no other victim who is a person is seeking restitution in the case, the term "victim" as used in this subdivision, in addition to the ordinary meaning, shall mean any school, municipality, fire district, fire company, fire corporation, ambulance association, ambulance corporation, or other legal or public entity engaged in providing emergency services which has expended funds for the purpose of responding to a false report of an incident or false bomb as defined in section 240.50, subdivision one or two of section 240.55, section 240.60, section 240.61, section 240.62, or section 240.63 of this chapter. Any restitution which may be required to be made to a victim pursuant to this subdivision shall be limited to the amount of funds reasonably expended for the purpose of responding to such false report of incident or false bomb, less the amount of any funds which have been or will be recovered from any other source and shall not include a designated surcharge pursuant to subdivision eight of this section. Any victim seeking restitution pursuant to this subdivision shall file with the court, district attorney and defense counsel an affidavit stating that the funds reasonably expended for which restitution is being sought have not been and will not be recovered from any other source or in any other civil or criminal proceeding, except as provided for by section 3-112 of the general obligations law.14. Where a transfer of probation has occurred

pursuant to section 410.80 of the criminal procedure law and the probationer is subject to a restitution condition, the department of probation in the county in which the order of restitution was imposed shall notify the appropriate district attorney. Upon notification by the department of probation, such district attorney shall file a certified copy of the judgment with the clerk of the county in the receiving jurisdiction for purposes of establishing a first lien and to permit institution of civil proceedings pursuant to the provisions of subdivision six of section 420.10 of the criminal procedure law. (a) the term "offense" shall include the offense for which a defendant was convicted, as well as any other offense that is part of the same criminal transaction or that is contained in any other accusatory instrument disposed of by any plea of guilty by the defendant to an offense. (b) the term "victim" shall include the victim of the offense, the representative of a crime victim as defined in subdivision six of section six hundred twenty-one of the executive law, an individual whose identity was assumed or whose personal identifying information was used in violation of section 190.78, 190.79 or 190.80 of this chapter, or any person who has suffered a financial loss as a direct result of the acts of a defendant in violation of section 190.78, 190.79, 190.80, 190.82 or 190.83 of this chapter, a good samaritan as defined in section six hundred twenty-one of the executive law and the office of victim services or other governmental agency that has received an application for or has provided financial assistance or compensation to the victim. A victim shall also mean any owner or lawful producer of a master recording, or a trade association that represents such owner or lawful producer, that has suffered injury as a result of an offense as defined in article two hundred seventy-five of this chapter. 5. (a) Except upon consent of the defendant or as provided in paragraph (b) of this subdivision, or as a condition of probation or conditional discharge as provided in paragraph (g) of subdivision two of section 65.10 of this chapter, the amount of restitution or reparation required by the court shall not exceed fifteen thousand dollars in the case of a conviction for a felony, or ten thousand dollars in the case of a conviction for any offense other than a felony. Notwithstanding the provisions of this subdivision, if an officer of a school district is convicted of violating any section of article one hundred fifty-five of this chapter where the victim of such crime is such officer's school district, the court may require an amount of restitution up to the full amount of the fruits of the offense or reparation up to the full amount of the actual out-of-pocket loss suffered by the victim, provided further that in such case the provisions of paragraph (b) of this subdivision shall not apply. (b) The court in its discretion may impose restitution or reparation in excess of the amounts specified in paragraph (a) of this subdivision, provided however that the amount in excess must be limited to the return of the victim's property, including money, or the equivalent value thereof; and reimbursement for medical expenses actually incurred by the victim prior to sentencing as a result of the offense committed by the defendant. (c) If a corporation is found guilty of an offense involving the death or serious physical injury of an employee in violation of subparagraph (iv) of paragraph (c) of subdivision two of section 20.20 of this chapter, the court may order restitution or reparation in excess of the amounts specified in paragraphs (a) and (b) of this subdivision. 6. Any payment made as restitution or reparation pursuant to this section shall not limit, preclude or impair any liability for damages in any civil action or proceeding for an amount in excess of such payment. 7. In the event that the court requires restitution or reparation to be made to a person and that person dies prior to the completion of said restitution or reparation, the remaining payments shall be made to the estate of the deceased. 8. The court shall in all cases where restitution or reparation is imposed direct as part of the disposition that the defendant pay a designated surcharge of five percent of the entire amount of a restitution or reparation payment to the official or organization designated pursuant to subdivision eight of section 420.10 of the criminal procedure law. The designated surcharge shall not exceed five percent of the amount actually collected. Upon the filing of an affidavit of the official or organization designated pursuant to subdivision eight of section 420.10 of the criminal procedure law demonstrating that the actual cost of the collection and administration of restitution or reparation in a particular case exceeds five percent of the entire amount of the payment or the amount actually collected, as the case may be, the court shall direct that the defendant pay an additional surcharge of not more than five percent of the entire amount of a restitution or reparation payment to such official or organization, or the actual cost of collection or administration, whichever is less unless, upon application of the defendant, the court determines that imposition of such additional surcharge would cause undue hardship to the defendant, or any other person who is financially supported by the defendant, or would otherwise not be in the interest of justice. Such additional surcharge, when added to the initial five percent surcharge, shall not exceed ten percent of the amount actually collected. 9. If the offense of which a person is convicted is a class A, class B, class C, or class D felony involving the sale of a controlled substance, as defined in article two hundred twenty of this chapter, and no other victim who is a person is seeking restitution in the case, the term "victim" as used in this section, in addition to its ordinary meaning, shall mean any law enforcement agency of the state of New York or of any subdivision thereof which has expended funds in the purchase of any controlled substance from such person or his agent as part of the investigation leading to such conviction. Any restitution which may be required to be made to a law enforcement agency pursuant to this section shall be limited to the amount of funds expended in the actual purchase of such controlled substance by such law enforcement agency, less the amount of any funds which have been or will be recovered from any other source, and shall not include a designated surcharge pursuant to subdivision eight of this section. Any law enforcement agency seeking restitution pursuant to this section shall file with the court and the district attorney an affidavit stating that funds expended in the actual purchase of a controlled substance for which restitution is being sought have not been and will not be recovered from any other source or in any other civil or criminal proceeding. Any law enforcement agency receiving restitution pursuant to this section shall promptly transmit to the commissioner of the division of criminal justice services a report stating the dollar amount of the restitution received. 10. If the offense of which a person is convicted is defined in section 150.10, 150.15 or 150.20 of this chapter, and no other victim who is a person is seeking restitution in the case, the term "victim" as used in this section, in addition to its ordinary meaning, shall mean any municipality or volunteer fire company which has expended funds or will expend funds for the purpose of restoration, rehabilitation or clean-up of the site of the arson. Any restitution which may be required to be made to a municipality or volunteer fire company pursuant to this

section shall be limited to the amount of funds reasonably expended or to be expended for the purpose of restoration, rehabilitation or clean-up of the site of the arson, less the amount of any funds which have been or will be recovered from any other source, and shall not include a designated surcharge pursuant to subdivision eight of this section. Any municipality or volunteer fire company seeking restitution pursuant to this section shall file with the court, district attorney and defense counsel an affidavit stating that the funds reasonably expended or to be expended for which restitution is being sought have not been and will not be recovered from any other source or in any other civil or criminal proceeding. For the purposes of this subdivision, "volunteer fire company" means a fire company as defined in paragraph a of subdivision two of section one hundred of the general municipal law. 11. Notwithstanding any other provision of this section to the contrary, when a person is convicted of harming an animal trained to aid a person with a disability in the second degree as defined in section 195.11 of this chapter, or harming an animal trained to aid a person with a disability in the first degree as defined in section 195.12 of this chapter, the court, in addition to any other sentence, shall order the payment of restitution to the person with a disability who was aided by such animal. 12. If the offense of which a person is convicted is defined in section 155.25, 155.30, 155.35, 155.40 or 155.42 of this chapter, and the property taken is timber, the court may upon conviction, in addition to any other sentence, direct the defendant to pay the rightful owner of such timber an amount equal to treble the stumpage value of the timber stolen as defined in section 71-0703 of the environmental conservation law and for any permanent and substantial damage caused to the land or the improvements thereon as a result of such violation. Such reparations shall be of such kind, nature and extent as will reasonably restore the lands affected by the violation to their condition immediately before the violation and may be made by physical restoration of such lands and/or by the assessment of monetary payment to make such restoration. 13. If the offense of which a person is convicted is defined in section 240.50, subdivision one or two of section 240.55, section 240.60, section 240.61, section 240.62 or section 240.63 of this chapter, and no other victim who is a person is seeking restitution in the case, the term "victim" as used in this subdivision, in addition to the ordinary meaning, shall mean any school, municipality, fire district, fire company, fire corporation, ambulance association, ambulance corporation, or other legal or public entity engaged in providing emergency services which has expended funds for the purpose of responding to a false report of an incident or false bomb as defined in section 240.50, subdivision one or two of section 240.55, section 240.60, section 240.61, section 240.62, or section 240.63 of this chapter. Any restitution which may be required to be made to a victim pursuant to this subdivision shall be limited to the amount of funds reasonably expended for the purpose of responding to such false report of incident or false bomb, less the amount of any funds which have been or will be recovered from any other source and shall not include a designated surcharge pursuant to subdivision eight of this section. Any victim seeking restitution pursuant to this subdivision shall file with the court, district attorney and defense counsel an affidavit stating that the funds reasonably expended for which restitution is being sought have not been and will not be recovered from any other source or in any other civil or criminal proceeding, except as provided for by section 3-112 of the general obligations law. 14. Where a transfer of probation has occurred pursuant to section 410.80 of the criminal procedure law and the probationer is subject to a restitution condition, the department of probation in the county in which the order of restitution was imposed shall notify the appropriate district attorney. Upon notification by the department of probation, such district attorney shall file a certified copy of the judgment with the clerk of the county in the receiving jurisdiction for purposes of establishing a first lien and to permit institution of civil proceedings pursuant to the provisions of subdivision six of section 420.10 of the criminal procedure law.

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graffiti instruments. When a person is convicted of an offense defined in section 145.60 or 145.65 of this chapter, or of an attempt to commit such offense, and the sentence imposed by the court for such conviction includes a sentence of probation or conditional discharge, the court shall, where appropriate, include as a condition of such sentence the defendant's successful participation in a graffiti removal program pursuant to paragraph (h) of subdivision two of section 65.10 of this chapter.

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When a person is convicted of an offense defined in section 145.22 or 145.23 of this chapter or of an attempt to commit such an offense, and the sentence imposed by the court for such conviction includes a sentence of probation or conditional discharge, such sentence shall, where appropriate, be in accordance with paragraph (h) of subdivision two of section 65.10 of this article as such section relates to cemetery crime.

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This article does not deprive the court of any authority conferred by law to decree a forfeiture of property, suspend or cancel a license, remove a person from office, or impose any other civil penalty and any appropriate order exercising such authority may be included as part of the judgment of conviction.

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fee, supplemental sex offender victim fee and crime victim assistance fee required in certain cases. 1. (a) Except as provided in section eighteen hundred nine of the vehicle and traffic law and section 27.12 of the parks, recreation and historic preservation law, whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a felony, a misdemeanor, or a violation, as these terms are defined in section 10.00 of this chapter, there shall be levied at sentencing a mandatory surcharge, sex offender registration fee, DNA databank fee and a crime victim assistance fee in addition to any sentence required or permitted by law, in accordance with the following schedule:(i) a person convicted of a felony shall pay a mandatory surcharge of three hundred dollars and a crime victim assistance fee of twenty-five dollars;(ii) a person convicted of a misdemeanor shall pay a mandatory surcharge of one hundred seventy-five dollars and a crime victim assistance fee of twenty-five dollars;(iii) a person convicted of a violation shall pay a mandatory surcharge of ninety-five dollars and a crime victim assistance fee of twenty-five dollars;(iv) a person convicted of a sex offense as defined by subdivision two of section one hundred sixty-eight-a of the correction law or a sexually violent offense as defined by subdivision three of section one hundred sixty-eight-a of the correction law shall, in addition to a mandatory surcharge and crime victim assistance fee, pay a sex offender registration fee of fifty dollars.(v) a person convicted of a designated offense as defined by subdivision seven of section nine hundred ninety-five of the executive law shall, in addition to a mandatory surcharge and crime victim assistance fee, pay a DNA databank fee of fifty dollars.(b) When the felony or misdemeanor conviction in subparagraphs (i), (ii) or (iv) of paragraph (a) of this subdivision results from an offense contained in article one hundred thirty of this chapter, incest in the third, second or first degree as defined in sections 255.25, 255.26 and 255.27 of this chapter or an offense contained in article two hundred sixty-three of this chapter, the person convicted shall pay a supplemental sex offender victim fee of one thousand dollars in addition to the mandatory surcharge and any other fee.2. Where a person is convicted of two or more crimes or violations committed through a single act or omission, or through an act or omission which in itself constituted one of the crimes or violations and also was a material element of the other, the court shall impose a mandatory surcharge and a crime victim assistance fee, and where appropriate a supplemental sex offender victim fee, in accordance with the provisions of this section for the crime or violation which carries the highest classification, and no other sentence to pay a mandatory surcharge, crime victim assistance fee or supplemental sex offender victim fee required by this section shall be imposed. Where a person is convicted of two or more sex offenses or sexually violent offenses, as defined by subdivisions two and three of section one hundred sixty-eight-a of the correction law, committed through a single act or omission, or through an act or omission which in itself constituted one of the offenses and also was a material element of the other, the court shall impose only one sex offender registration fee. Where a person is convicted of two or more designated offenses, as defined by subdivision seven of section nine hundred ninety-five of the executive law, committed through a single act or omission, or through an act or omission which in itself constituted one of the offenses and also was a material element of the other, the court shall impose only one DNA databank fee.3. The mandatory surcharge, sex offender registration fee, DNA databank fee, crime victim assistance fee, and supplemental sex offender victim fee provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the mandatory surcharge, crime victim assistance fee, and supplemental sex offender victim fee, the collecting authority shall determine the amount of mandatory surcharge, crime victim assistance fee, and supplemental sex offender victim fee collected and, if it is an administrative tribunal, or a town or village justice court, it shall then pay such money to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law. Within the first ten days of the month following collection of the sex offender registration fee and DNA databank fee, the collecting authority shall determine the amount of the sex offender registration fee and DNA databank fee collected and, if it is an administrative tribunal, or a town or village justice court, it shall then pay such money to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the general fund. If such collecting authority is any other court of the unified court system, it shall, within such period, pay such money attributable to the mandatory surcharge or crime victim assistance fee to the state commissioner of taxation and finance to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law. If such collecting authority is any other court of the unified court system, it shall, within such period, pay such money attributable to the sex offender registration fee and the DNA databank fee to the state commissioner of taxation and finance to the credit of the general fund.4. Any person who has paid a mandatory surcharge, sex offender registration fee, DNA databank fee, a crime victim assistance fee or a supplemental sex offender victim fee under the authority of this section based upon a conviction that is subsequently reversed or who paid a mandatory surcharge, sex offender registration fee, DNA databank fee, a crime victim assistance fee or supplemental sex offender victim fee under the authority of this section which is ultimately determined not to be required by this section shall be entitled to a refund of such mandatory surcharge, sex offender registration fee, DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee upon application, in the case of a town or village court, to the state comptroller. The state comptroller shall require such proof as is necessary in order to determine whether a refund is required by law. In all other cases, such application shall be made to the department, agency or court that collected such surcharge or fee. Such department, agency or court shall initiate the refund process and the state comptroller shall pay the refund pursuant to subdivision fifteen of section eight of the state finance law.5. When a person who is convicted of a crime or violation and sentenced to a term of imprisonment has failed to pay the mandatory surcharge, sex offender registration fee, DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee required by this section, the clerk of the court that rendered the conviction shall notify the superintendent or the municipal official of the facility where the person is confined. The superintendent or the municipal official shall cause any amount owing to be collected from such

person during his or her term of imprisonment from moneys to the credit of an incarcerated individuals' fund or such moneys as may be earned by a person in a work release program pursuant to section eight hundred sixty of the correction law. Such moneys attributable to the mandatory surcharge or crime victim assistance fee shall be paid over to the state comptroller to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law and such moneys attributable to the sex offender registration fee or DNA databank fee shall be paid over to the state comptroller to the credit of the general fund, except that any such moneys collected which are surcharges, sex offender registration fees, DNA databank fees, crime victim assistance fees or supplemental sex offender victim fees levied in relation to convictions obtained in a town or village justice court shall be paid within thirty days after the receipt thereof by the superintendent or municipal official of the facility to the justice of the court in which the conviction was obtained. For the purposes of collecting such mandatory surcharge, sex offender registration fee, DNA databank fee, crime victim assistance fee and supplemental sex offender victim fee, the state shall be legally entitled to the money to the credit of an incarcerated individuals' fund or money which is earned by an incarcerated individual in a work release program. For purposes of this subdivision, the term "incarcerated individuals' fund" shall mean moneys in the possession of an incarcerated individual at the time of his or her admission into such facility, funds earned by him or her as provided for in section one hundred eighty-seven of the correction law and any other funds received by him or her or on his or her behalf and deposited with such superintendent or municipal official.6. Notwithstanding any other provision of this section, where a person has made restitution or reparation pursuant to section 60.27 of this article, such person shall not be required to pay a mandatory surcharge or a crime victim assistance fee.7. Notwithstanding the provisions of subdivision one of section 60.00 of this article, the provisions of subdivision one of this section shall not apply to a violation under any law other than this chapter.8. Subdivision one of section 130.10 of the criminal procedure law notwithstanding, at the time that the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee is imposed a town or village court may, and all other courts shall, issue and cause to be served upon the person required to pay the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee, a summons directing that such person appear before the court regarding the payment of the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee, if after sixty days from the date it was imposed it remains unpaid. The designated date of appearance on the summons shall be set for the first day court is in session falling after the sixtieth day from the imposition of the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee. The summons shall contain the information required by subdivision two of section 130.10 of the criminal procedure law except that in substitution for the requirement of paragraph (c) of such subdivision the summons shall state that the person served must appear at a date, time and specific location specified in the summons if after sixty days from the date of issuance the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee remains unpaid. The court shall not issue a summons under this subdivision to a person who is being sentenced to a term of confinement in excess of sixty days in jail or in the department of corrections and community supervision. The mandatory surcharges, sex offender registration fee and DNA databank fees, crime victim assistance fees and supplemental sex offender victim fees for those persons shall be governed by the provisions of section 60.30 of this article.9. Notwithstanding the provisions of subdivision one of this section, in the event a proceeding is in a town or village court, such court shall add an additional five dollars to the surcharges imposed by such subdivision one. (i) a person convicted of a felony shall pay a mandatory surcharge of three hundred dollars and a crime victim assistance fee of twenty-five dollars; (ii) a person convicted of a misdemeanor shall pay a mandatory surcharge of one hundred seventy-five dollars and a crime victim assistance fee of twenty-five dollars; (iii) a person convicted of a violation shall pay a mandatory surcharge of ninety-five dollars and a crime victim assistance fee of twenty-five dollars; (iv) a person convicted of a sex offense as defined by subdivision two of section one hundred sixty-eight-a of the correction law or a sexually violent offense as defined by subdivision three of section one hundred sixty-eight-a of the correction law shall, in addition to a mandatory surcharge and crime victim assistance fee, pay a sex offender registration fee of fifty dollars. (v) a person convicted of a designated offense as defined by subdivision seven of section nine hundred ninety-five of the executive law shall, in addition to a mandatory surcharge and crime victim assistance fee, pay a DNA databank fee of fifty dollars. (b) When the felony or misdemeanor conviction in subparagraphs (i), (ii) or (iv) of paragraph (a) of this subdivision results from an offense contained in article one hundred thirty of this chapter, incest in the third, second or first degree as defined in sections 255.25, 255.26 and 255.27 of this chapter or an offense contained in article two hundred sixty-three of this chapter, the person convicted shall pay a supplemental sex offender victim fee of one thousand dollars in addition to the mandatory surcharge and any other fee. 2. Where a person is convicted of two or more crimes or violations committed through a single act or omission, or through an act or omission which in itself constituted one of the crimes or violations and also was a material element of the other, the court shall impose a mandatory surcharge and a crime victim assistance fee, and where appropriate a supplemental sex offender victim fee, in accordance with the provisions of this section for the crime or violation which carries the highest classification, and no other sentence to pay a mandatory surcharge, crime victim assistance fee or supplemental sex offender victim fee required by this section shall be imposed. Where a person is convicted of two or more sex offenses or sexually violent offenses, as defined by subdivisions two and three of section one hundred sixty-eight-a of the correction law, committed through a single act or omission, or through an act or omission which in itself constituted one of the offenses and also was a material element of the other, the court shall impose only one sex offender registration fee. Where a person is convicted of two or more designated offenses, as defined by subdivision seven of section nine hundred ninety-five of the executive law, committed through a single act or omission, or through an act or omission which in itself constituted one of the offenses and also was a material element of the other, the court shall impose

only one DNA databank fee. 3. The mandatory surcharge, sex offender registration fee, DNA databank fee, crime victim assistance fee, and supplemental sex offender victim fee provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the mandatory surcharge, crime victim assistance fee, and supplemental sex offender victim fee, the collecting authority shall determine the amount of mandatory surcharge, crime victim assistance fee, and supplemental sex offender victim fee collected and, if it is an administrative tribunal, or a town or village justice court, it shall then pay such money to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law. Within the first ten days of the month following collection of the sex offender registration fee and DNA databank fee, the collecting authority shall determine the amount of the sex offender registration fee and DNA databank fee collected and, if it is an administrative tribunal, or a town or village justice court, it shall then pay such money to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the general fund. If such collecting authority is any other court of the unified court system, it shall, within such period, pay such money attributable to the mandatory surcharge or crime victim assistance fee to the state commissioner of taxation and finance to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law. If such collecting authority is any other court of the unified court system, it shall, within such period, pay such money attributable to the sex offender registration fee and the DNA databank fee to the state commissioner of taxation and finance to the credit of the general fund. 4. Any person who has paid a mandatory surcharge, sex offender registration fee, DNA databank fee, a crime victim assistance fee or a supplemental sex offender victim fee under the authority of this section based upon a conviction that is subsequently reversed or who paid a mandatory surcharge, sex offender registration fee, DNA databank fee, a crime victim assistance fee or supplemental sex offender victim fee under the authority of this section which is ultimately determined not to be required by this section shall be entitled to a refund of such mandatory surcharge, sex offender registration fee, DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee upon application, in the case of a town or village court, to the state comptroller. The state comptroller shall require such proof as is necessary in order to determine whether a refund is required by law. In all other cases, such application shall be made to the department, agency or court that collected such surcharge or fee. Such department, agency or court shall initiate the refund process and the state comptroller shall pay the refund pursuant to subdivision fifteen of section eight of the state finance law. 5. When a person who is convicted of a crime or violation and sentenced to a term of imprisonment has failed to pay the mandatory surcharge, sex offender registration fee, DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee required by this section, the clerk of the court that rendered the conviction shall notify the superintendent or the municipal official of the facility where the person is confined. The superintendent or the municipal official shall cause any amount owing to be collected from such person during his or her term of imprisonment from moneys to the credit of an incarcerated individuals' fund or such moneys as may be earned by a person in a work release program pursuant to section eight hundred sixty of the correction law. Such moneys attributable to the mandatory surcharge or crime victim assistance fee shall be paid over to the state comptroller to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law and such moneys attributable to the sex offender registration fee or DNA databank fee shall be paid over to the state comptroller to the credit of the general fund, except that any such moneys collected which are surcharges, sex offender registration fees, DNA databank fees, crime victim assistance fees or supplemental sex offender victim fees levied in relation to convictions obtained in a town or village justice court shall be paid within thirty days after the receipt thereof by the superintendent or municipal official of the facility to the justice of the court in which the conviction was obtained. For the purposes of collecting such mandatory surcharge, sex offender registration fee, DNA databank fee, crime victim assistance fee and supplemental sex offender victim fee, the state shall be legally entitled to the money to the credit of an incarcerated individuals' fund or money which is earned by an incarcerated individual in a work release program. For purposes of this subdivision, the term "incarcerated individuals' fund" shall mean moneys in the possession of an incarcerated individual at the time of his or her admission into such facility, funds earned by him or her as provided for in section one hundred eighty-seven of the correction law and any other funds received by him or her or on his or her behalf and deposited with such superintendent or municipal official. 6. Notwithstanding any other provision of this section, where a person has made restitution or reparation pursuant to section 60.27 of this article, such person shall not be required to pay a mandatory surcharge or a crime victim assistance fee. 7. Notwithstanding the provisions of subdivision one of section 60.00 of this article, the provisions of subdivision one of this section shall not apply to a violation under any law other than this chapter. 8. Subdivision one of section 130.10 of the criminal procedure law notwithstanding, at the time that the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee is imposed a town or village court may, and all other courts shall, issue and cause to be served upon the person required to pay the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee, a summons directing that such person appear before the court regarding the payment of the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee, if after sixty days from the date it was imposed it remains unpaid. The designated date of appearance on the summons shall be set for the first day court is in session falling after the sixtieth day from the imposition of the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee. The summons shall contain the information required by subdivision two of section 130.10 of the criminal procedure law except that in substitution for the requirement of paragraph (c) of such subdivision the summons shall state that the person served must appear at a date, time and specific location specified in the summons if after sixty

days from the date of issuance the mandatory surcharge, sex offender registration fee or DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee remains unpaid. The court shall not issue a summons under this subdivision to a person who is being sentenced to a term of confinement in excess of sixty days in jail or in the department of corrections and community supervision. The mandatory surcharges, sex offender registration fee and DNA databank fees, crime victim assistance fees and supplemental sex offender victim fees for those persons shall be governed by the provisions of section 60.30 of this article. 9. Notwithstanding the provisions of subdivision one of this section, in the event a proceeding is in a town or village court, such court shall add an additional five dollars to the surcharges imposed by such subdivision one.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 60 - Authorized Dispositions of Offenders60.36 - Authorized Dispositions; Driving While Intoxicated Offenses.

Where a court is imposing a sentence for a violation of subdivision two, two-a, or three of section eleven hundred ninety-two of the vehicle and traffic law pursuant to sections 65.00 or 65.05 of this title and, as a condition of such sentence, orders the installation and maintenance of an ignition interlock device, the court may impose any other penalty authorized pursuant to section eleven hundred ninety-three of the vehicle and traffic law.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 60 - Authorized Dispositions of Offenders60.37 - Authorized Disposition; Certain Offenses.

When a person has been charged with an offense and the elements of such offense meet the criteria of an "eligible offense" and such person qualifies as an "eligible person" as such terms are defined in section four hundred fifty-eight-l of the social services law, the court may, as a condition of adjournment in contemplation of dismissal in accordance with section 170.55 of the criminal procedure law, or a condition of probation or a conditional discharge, direct that the defendant participate in an education reform program pursuant to subdivision two of section four hundred fifty-eight-l of the social services law.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 65 - Sentences of Probation, Conditional Discharge and Unconditional Discharge65.00 - Sentence of Probation.

1. Criteria. (a) Except as otherwise required by section 60.04 or 60.05 of this title, and except as provided by paragraph (b) hereof, the court may sentence a person to a period of probation upon conviction of any crime if the court, having regard to the nature and circumstances of the crime and to the history, character and condition of the defendant, is of the opinion that:(i) Institutional confinement for the term authorized by law of the defendant is or may not be necessary for the protection of the public;(ii) the defendant is in need of guidance, training or other assistance which, in his case, can be effectively administered through probation supervision; and(iii) such disposition is not inconsistent with the ends of justice.(b) The court, with the concurrence of either the administrative judge of the court or of the judicial district within which the court is situated or such administrative judge as the presiding justice of the appropriate appellate division shall designate, may sentence a person to a period of probation upon conviction of a class A-II felony defined in article two hundred twenty, the class B felony defined in section 220.48 of this chapter or any other class B felony defined in article two hundred twenty of this chapter where the person is a second felony drug offender as defined in paragraph (b) of subdivision one of section 70.70 of this chapter, if the prosecutor either orally on the record or in a writing filed with the indictment recommends that the court sentence such person to a period of probation upon the ground that such person has or is providing material assistance in the investigation, apprehension or prosecution of any person for a felony defined in article two hundred twenty or the attempt or the conspiracy to commit any such felony, and if the court, having regard to the nature and circumstances of the crime and to the history, character and condition of the defendant is of the opinion that:(i) Institutional confinement of the defendant is not necessary for the protection of the public;(ii) The defendant is in need of guidance, training or other assistance which, in his case, can be effectively administered through probation supervision;(iii) The defendant has or is providing material assistance in the investigation, apprehension or prosecution of a person for a felony defined in article two hundred twenty or the attempt or conspiracy to commit any such felony; and(iv) Such disposition is not inconsistent with the ends of justice.* Provided, however, that the court shall not, except to the extent authorized by paragraph (d) of subdivision two of section 60.01 of this chapter, impose a sentence of probation in any case where it sentences a defendant for more than one crime and imposes a sentence of imprisonment for any one of the crimes, or where the defendant is subject to an undischarged indeterminate or determinate sentence of imprisonment which was imposed at a previous time by a court of this state and has more than one year to run.* NB Effective until September 1, 2025* Provided, however, that the court shall not, except to the extent authorized by paragraph (d) of subdivision two of section 60.01 of this chapter, impose a sentence of probation in any case where it sentences a defendant for more than one crime and imposes a sentence of imprisonment for any one of the crimes, or where the defendant is subject to an undischarged indeterminate or reformatory sentence of imprisonment which was imposed at a previous time by a court of this state and has more than one year to run.* NB Effective September 1, 20252. Sentence. When a person is sentenced to a period of probation the court shall, except to the extent authorized by paragraph (d) of subdivision two of section 60.01 of this chapter, impose the period authorized by subdivision three of this section and shall specify, in accordance with section 65.10, the conditions to be complied with. The court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of probation.3. Periods of probation. Unless terminated sooner in accordance with the criminal procedure law, the period of probation shall be as follows:(a) (i) For a felony, other than a class A-II felony defined in article two hundred twenty of this chapter or the class B felony defined in

section 220.48 of this chapter, or any other class B felony defined in article two hundred twenty of this chapter committed by a second felony drug offender, or a sexual assault, the period of probation shall be a term of three, four or five years;(ii) For a class A-II felony drug offender as defined in paragraph (a) of subdivision one of section 70.71 of this chapter as described in paragraph (b) of subdivision one of this section, or a class B felony committed by a second felony drug offender described in paragraph (b) of subdivision one of this section, the period of probation shall be life and for a class B felony defined in section 220.48 of this chapter, the period of probation shall be twenty-five years;(iii) For a felony sexual assault, the period of probation shall be ten years.(b) (i) For a class A misdemeanor, other than a sexual assault, the period of probation shall be a term of two or three years;(ii) For a class A misdemeanor sexual assault, the period of probation shall be six years.(c) For a class B misdemeanor, the period of probation shall be one year, except the period of probation shall be no less than one year and no more than three years for the class B misdemeanor of public lewdness as defined in section 245.00 of this chapter;(d) For an unclassified misdemeanor, the period of probation shall be a term of two or three years if the authorized sentence of imprisonment is in excess of three months, otherwise the period of probation shall be one year.For the purposes of this section, the term "sexual assault" means an offense defined in article one hundred thirty or two hundred sixty-three, or in section 255.25, 255.26 or 255.27 of this chapter, or an attempt to commit any of the foregoing offenses.4. If during the periods of probation referenced in subparagraph (i) of paragraph (a), subparagraph (i) of paragraph (b) and paragraph (d) of subdivision three of this section an alleged violation is sustained following a hearing pursuant to section 410.70 of the criminal procedure law and the court continues or modifies the sentence, the court may extend the remaining period of probation up to the maximum term authorized by this section. Provided, however, a defendant shall receive credit for the time during which he or she was supervised under the original probation sentence prior to any declaration of delinquency and for any time spent in custody pursuant to this article for an alleged violation of probation.5. In any case where a court pursuant to its authority under subdivision four of section 60.01 of this chapter revokes probation and sentences such person to imprisonment and probation, as provided in paragraph (d) of subdivision two of section 60.01 of this chapter, the period of probation shall be the remaining period of the original probation sentence or one year whichever is greater. (i) Institutional confinement for the term authorized by law of the defendant is or may not be necessary for the protection of the public; (ii) the defendant is in need of guidance, training or other assistance which, in his case, can be effectively administered through probation supervision; and (iii) such disposition is not inconsistent with the ends of justice. (b) The court, with the concurrence of either the administrative judge of the court or of the judicial district within which the court is situated or such administrative judge as the presiding justice of the appropriate appellate division shall designate, may sentence a person to a period of probation upon conviction of a class A-II felony defined in article two hundred twenty, the class B felony defined in section 220.48 of this chapter or any other class B felony defined in article two hundred twenty of this chapter where the person is a second felony drug offender as defined in paragraph (b) of subdivision one of section 70.70 of this chapter, if the prosecutor either orally on the record or in a writing filed with the indictment recommends that the court sentence such person to a period of probation upon the ground that such person has or is providing material assistance in the investigation, apprehension or prosecution of any person for a felony defined in article two hundred twenty or the attempt or the conspiracy to commit any such felony, and if the court, having regard to the nature and circumstances of the crime and to the history, character and condition of the defendant is of the opinion that: (i) Institutional confinement of the defendant is not necessary for the protection of the public; (ii) The defendant is in need of guidance, training or other assistance which, in his case, can be effectively administered through probation supervision; (iii) The defendant has or is providing material assistance in the investigation, apprehension or prosecution of a person for a felony defined in article two hundred twenty or the attempt or conspiracy to commit any such felony; and (iv) Such disposition is not inconsistent with the ends of justice. * Provided, however, that the court shall not, except to the extent authorized by paragraph (d) of subdivision two of section 60.01 of this chapter, impose a sentence of probation in any case where it sentences a defendant for more than one crime and imposes a sentence of imprisonment for any one of the crimes, or where the defendant is subject to an undischarged indeterminate or determinate sentence of imprisonment which was imposed at a previous time by a court of this state and has more than one year to run. * NB Effective until September 1, 2025 * Provided, however, that the court shall not, except to the extent authorized by paragraph (d) of subdivision two of section 60.01 of this chapter, impose a sentence of probation in any case where it sentences a defendant for more than one crime and imposes a sentence of imprisonment for any one of the crimes, or where the defendant is subject to an undischarged indeterminate or reformatory sentence of imprisonment which was imposed at a previous time by a court of this state and has more than one year to run. * NB Effective September 1, 2025 2. Sentence. When a person is sentenced to a period of probation the court shall, except to the extent authorized by paragraph (d) of subdivision two of section 60.01 of this chapter, impose the period authorized by subdivision three of this section and shall specify, in accordance with section 65.10, the conditions to be complied with. The court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of probation. 3. Periods of probation. Unless terminated sooner in accordance with the criminal procedure law, the period of probation shall be as follows: (a) (i) For a felony, other than a class A-II felony defined in article two hundred twenty of this chapter or the class B felony defined in section 220.48 of this chapter, or any other class B felony defined in article two hundred twenty of this chapter committed by a second felony drug offender, or a sexual assault, the period of probation shall be a term of three, four or five years; (ii) For a class A-II felony drug offender as defined in paragraph (a) of subdivision one of section 70.71 of this chapter as described in paragraph (b) of subdivision one of this section, or a class B felony committed by a second felony drug offender described in paragraph (b) of subdivision one of this section, the period of probation shall be life and for a class B felony defined in section 220.48 of this chapter, the period of probation shall be twenty-five years; (iii) For a felony sexual assault, the period of probation shall be ten years. (b) (i)

For a class A misdemeanor, other than a sexual assault, the period of probation shall be a term of two or three years; (ii) For a class A misdemeanor sexual assault, the period of probation shall be six years. (c) For a class B misdemeanor, the period of probation shall be one year, except the period of probation shall be no less than one year and no more than three years for the class B misdemeanor of public lewdness as defined in section 245.00 of this chapter; (d) For an unclassified misdemeanor, the period of probation shall be a term of two or three years if the authorized sentence of imprisonment is in excess of three months, otherwise the period of probation shall be one year. For the purposes of this section, the term "sexual assault" means an offense defined in article one hundred thirty or two hundred sixty-three, or in section 255.25, 255.26 or 255.27 of this chapter, or an attempt to commit any of the foregoing offenses. 4. If during the periods of probation referenced in subparagraph (i) of paragraph (a), subparagraph (i) of paragraph (b) and paragraph (d) of subdivision three of this section an alleged violation is sustained following a hearing pursuant to section 410.70 of the criminal procedure law and the court continues or modifies the sentence, the court may extend the remaining period of probation up to the maximum term authorized by this section. Provided, however, a defendant shall receive credit for the time during which he or she was supervised under the original probation sentence prior to any declaration of delinquency and for any time spent in custody pursuant to this article for an alleged violation of probation. 5. In any case where a court pursuant to its authority under subdivision four of section 60.01 of this chapter revokes probation and sentences such person to imprisonment and probation, as provided in paragraph (d) of subdivision two of section 60.01 of this chapter, the period of probation shall be the remaining period of the original probation sentence or one year whichever is greater.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 65 - Sentences of Probation, Conditional Discharge and Unconditional Discharge65.05 - Sentence of Conditional Discharge.

1. Criteria. (a) Except as otherwise required by section 60.05, the court may impose a sentence of conditional discharge for an offense if the court, having regard to the nature and circumstances of the offense and to the history, character and condition of the defendant, is of the opinion that neither the public interest nor the ends of justice would be served by a sentence of imprisonment and that probation supervision is not appropriate.(b) When a sentence of conditional discharge is imposed for a felony, the court shall set forth in the record the reasons for its action.2. Sentence. Except to the extent authorized by paragraph (d) of subdivision two of section 60.01 of this chapter, when the court imposes a sentence of conditional discharge the defendant shall be released with respect to the conviction for which the sentence is imposed without imprisonment or probation supervision but subject, during the period of conditional discharge, to such conditions as the court may determine. The court shall impose the period of conditional discharge authorized by subdivision three of this section and shall specify, in accordance with section 65.10, the conditions to be complied with. If a defendant is sentenced pursuant to paragraph (e) of subdivision two of section 65.10 of this chapter, the court shall require the administrator of the program to provide written notice to the court of any violation of program participation by the defendant. The court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of conditional discharge.3. Periods of conditional discharge. Unless terminated sooner in accordance with the criminal procedure law, the period of conditional discharge shall be as follows:(a) Three years in the case of a felony; and(b) One year in the case of a misdemeanor or a violation.Where the court has required, as a condition of the sentence, that the defendant make restitution of the fruits of his or her offense or make reparation for the loss caused thereby and such condition has not been satisfied, the court, at any time prior to the expiration or termination of the period of conditional discharge, may impose an additional period. The length of the additional period shall be fixed by the court at the time it is imposed and shall not be more than two years. All of the incidents of the original sentence, including the authority of the court to modify or enlarge the conditions, shall continue to apply during such additional period. (b) When a sentence of conditional discharge is imposed for a felony, the court shall set forth in the record the reasons for its action. 2. Sentence. Except to the extent authorized by paragraph (d) of subdivision two of section 60.01 of this chapter, when the court imposes a sentence of conditional discharge the defendant shall be released with respect to the conviction for which the sentence is imposed without imprisonment or probation supervision but subject, during the period of conditional discharge, to such conditions as the court may determine. The court shall impose the period of conditional discharge authorized by subdivision three of this section and shall specify, in accordance with section 65.10, the conditions to be complied with. If a defendant is sentenced pursuant to paragraph (e) of subdivision two of section 65.10 of this chapter, the court shall require the administrator of the program to provide written notice to the court of any violation of program participation by the defendant. The court may modify or enlarge the conditions or, if the defendant commits an additional offense or violates a condition, revoke the sentence at any time prior to the expiration or termination of the period of conditional discharge. 3. Periods of conditional discharge. Unless terminated sooner in accordance with the criminal procedure law, the period of conditional discharge shall be as follows: (a) Three years in the case of a felony; and (b) One year in the case of a misdemeanor or a violation. Where the court has required, as a condition of the sentence, that the defendant make restitution of the fruits of his or her offense or make reparation for the loss caused thereby and such condition has not been satisfied, the court, at any time prior to the expiration or termination of the period of conditional discharge, may impose an additional period. The length of the additional period shall be fixed by the court at the time it is imposed and shall not be more than two years. All of the incidents of the original sentence, including the authority of the court to modify or enlarge the conditions, shall continue to apply during such additional period.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 65 - Sentences of Probation, Conditional Discharge and Unconditional Discharge65.10 - Conditions of Probation and of Conditional Discharge.

1. In general. The conditions of probation and of conditional discharge shall be such as the court, in its discretion, deems reasonably necessary to insure that the defendant will lead a law-abiding life or to assist him to do so. 2. Conditions relating to conduct and rehabilitation. When imposing a sentence of probation or of conditional discharge, the court shall, as a condition of the sentence, consider restitution or reparation and may, as a condition of the sentence, require that the defendant:(a) Avoid injurious or vicious habits;(b) Refrain from frequenting unlawful or disreputable places or consorting with disreputable persons;(c) Work faithfully at a suitable employment or faithfully pursue a course of study or of vocational training that will equip him for suitable employment;(d) Undergo available medical or psychiatric treatment and remain in a specified institution, when required for that purpose;(e) Participate in an alcohol or substance abuse program or an intervention program approved by the court after consultation with the local probation department having jurisdiction, or such other public or private agency as the court determines to be appropriate;(e-1) Participate in a motor vehicle accident prevention course. The court may require such condition where a person has been convicted of a traffic infraction for a violation of article twenty-six of the vehicle and traffic law where the commission of such violation caused the serious physical injury or death of another person. For purposes of this paragraph, the term "motor vehicle accident prevention course" shall mean a motor vehicle accident prevention course approved by the department of motor vehicles pursuant to article twelve-B of the vehicle and traffic law;(f) Support his dependents and meet other family responsibilities;(g) Make restitution of the fruits of his or her offense or make reparation, in an amount he can afford to pay, for the actual out-of-pocket loss caused thereby. When restitution or reparation is a condition of the sentence, the court shall fix the amount thereof, the manner of performance, specifically state the date when restitution is to be paid in full prior to the expiration of the sentence of probation and may establish provisions for the early termination of a sentence of probation or conditional discharge pursuant to the provisions of subdivision three of section 410.90 of the criminal procedure law after the restitution and reparation part of a sentence of probation or conditional discharge has been satisfied. The court shall provide that in the event the person to whom restitution or reparation is to be made dies prior to the completion of said restitution or reparation, the remaining payments shall be made to the estate of the deceased.(h) Perform services for a public or not-for-profit corporation, association, institution or agency, including but not limited to services for the division of substance abuse services, services in an appropriate community program for removal of graffiti from public or private property, including any property damaged in the underlying offense, or services for the maintenance and repair of real or personal property maintained as a cemetery plot, grave, burial place or other place of interment of human remains. Provided however, that the performance of any such services shall not result in the displacement of employed workers or in the impairment of existing contracts for services, nor shall the performance of any such services be required or permitted in any establishment involved in any labor strike or lockout. The court may establish provisions for the early termination of a sentence of probation or conditional discharge pursuant to the provisions of subdivision three of section 410.90 of the criminal procedure law after such services have been completed. Such sentence may only be imposed upon conviction of a misdemeanor, violation, or class D or class E felony, or a youthful offender finding replacing any such conviction, where the defendant has consented to the amount and conditions of such service;(i) If a person under the age of twenty-one years, (i) resides with his parents or in a suitable foster home or hostel as referred to in section two hundred forty-four of the executive law, (ii) attends school, (iii) spends such part of the period of the sentence as the court may direct, but not exceeding two years, in a facility made available by the division for youth pursuant to article nineteen-G of the executive law, provided that admission to such facility may be made only with the prior consent of the division for youth, (iv) attend a non-residential program for such hours and pursuant to a schedule prescribed by the court as suitable for a program of rehabilitation of youth, (v) contribute to his own support in any home, foster home or hostel;(j) Post a bond or other security for the performance of any or all conditions imposed;(k) Observe certain specified conditions of conduct as set forth in an order of protection issued pursuant to section 530.12 or 530.13 of the criminal procedure law.(k-1) Install and maintain a functioning ignition interlock device, as that term is defined in section one hundred nineteen-a of the vehicle and traffic law, in any vehicle owned or operated by the defendant if the court in its discretion determines that such a condition is necessary to ensure the public safety. The court may require such condition only where a person has been convicted of a violation of subdivision two, two-a or three of section eleven hundred ninety-two of the vehicle and traffic law, or any crime defined by the vehicle and traffic law or this chapter of which an alcohol-related violation of any provision of section eleven hundred ninety-two of the vehicle and traffic law is an essential element. The offender shall be required to install and operate the ignition interlock device only in accordance with section eleven hundred ninety-eight of the vehicle and traffic law.(k-2) (i) Refrain, upon sentencing for a crime involving unlawful sexual conduct committed against a metropolitan transportation authority passenger, customer, or employee or a crime involving assault against a metropolitan transportation authority employee, committed in or on any facility or conveyance of the metropolitan transportation authority or a subsidiary thereof or the New York city transit authority or a subsidiary thereof, from using or entering any of such authority's subways, trains, buses or other conveyances or facilities specified by the court for a period of up to three years, or a specified period of such probation or conditional discharge, whichever is less. For purposes of this section, a crime involving assault shall mean an offense described in article one hundred twenty of this chapter which has as an element the causing of physical injury or serious physical injury to another as well as the attempt thereof.(ii) The court may, in its discretion, suspend, modify or cancel a condition imposed under this paragraph in the interest of justice at any time. If the person depends on the authority's subways, trains, buses, or other conveyances or facilities for trips of necessity, including, but not limited to, travel to or from medical or legal appointments, school or training classes or places of employment, obtaining food, clothing or necessary household items, or rendering care to family members, the court may modify such condition to allow for a trip or trips as in its discretion are necessary.(iii) A person at liberty and subject to a condition under this paragraph who applies, within thirty days after the date such condition becomes effective, for a refund of any prepaid fare amounts rendered unusable in whole or in part by such

condition including, but not limited to, a monthly pass, shall be issued a refund of the amounts so prepaid.(l) Satisfy any other conditions reasonably related to his rehabilitation.3. Conditions relating to supervision. When imposing a sentence of probation the court, in addition to any conditions imposed pursuant to subdivision two of this section, shall require as conditions of the sentence, that the defendant:(a) Report to a probation officer as directed by the court or the probation officer and permit the probation officer to visit him at his place of abode or elsewhere;(b) Remain within the jurisdiction of the court unless granted permission to leave by the court or the probation officer. Where a defendant is granted permission to move or travel outside the jurisdiction of the court, the defendant shall sign a written waiver of extradition agreeing to waive extradition proceedings where such proceedings are the result of the issuance of a warrant by the court pursuant to subdivision two of section 410.40 of the criminal procedure law based on an alleged violation of probation. Where any county or the city of New York incurs costs associated with the return of any probationer based on the issuance of a warrant by the court pursuant to subdivision two of section 410.40 of the criminal procedure law, the jurisdiction may collect the reasonable and necessary expenses involved in connection with his or her transport, from the probationer; provided that where the sentence of probation is not revoked pursuant to section 410.70 of the criminal procedure law no such expenses may be collected.(c) Answer all reasonable inquiries by the probation officer and notify the probation officer prior to any change in address or employment.4. Electronic monitoring. When imposing a sentence of probation the court may, in addition to any conditions imposed pursuant to subdivisions two and three of this section, require the defendant to submit to the use of an electronic monitoring device and/or to follow a schedule that governs the defendant's daily movement. Such condition may be imposed only where the court, in its discretion, determines that requiring the defendant to comply with such condition will advance public safety, probationer control or probationer surveillance. Electronic monitoring shall be used in accordance with uniform procedures developed by the office of probation and correctional alternatives.4-a. Mandatory conditions for sex offenders. (a) When imposing a sentence of probation or conditional discharge upon a person convicted of an offense defined in article one hundred thirty, two hundred thirty-five or two hundred sixty-three of this chapter, or section 255.25, 255.26 or 255.27 of this chapter, and the victim of such offense was under the age of eighteen at the time of such offense or such person has been designated a level three sex offender pursuant to subdivision six of section 168-l of the correction law, the court shall require, as a mandatory condition of such sentence, that such sentenced offender shall refrain from knowingly entering into or upon any school grounds, as that term is defined in subdivision fourteen of section 220.00 of this chapter, or any other facility or institution primarily used for the care or treatment of persons under the age of eighteen while one or more of such persons under the age of eighteen are present, provided however, that when such sentenced offender is a registered student or participant or an employee of such facility or institution or entity contracting therewith or has a family member enrolled in such facility or institution, such sentenced offender may, with the written authorization of his or her probation officer or the court and the superintendent or chief administrator of such facility, institution or grounds, enter such facility, institution or upon such grounds for the limited purposes authorized by the probation officer or the court and superintendent or chief officer. Nothing in this subdivision shall be construed as restricting any lawful condition of supervision that may be imposed on such sentenced offender.(b) When imposing a sentence of probation or conditional discharge upon a person convicted of an offense for which registration as a sex offender is required pursuant to subdivision two or three of section one hundred sixty-eight-a of the correction law, and the victim of such offense was under the age of eighteen at the time of such offense or such person has been designated a level three sex offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law or the internet was used to facilitate the commission of the crime, the court shall require, as mandatory conditions of such sentence, that such sentenced offender be prohibited from using the internet to access pornographic material, access a commercial social networking website, communicate with other individuals or groups for the purpose of promoting sexual relations with persons under the age of eighteen, and communicate with a person under the age of eighteen when such offender is over the age of eighteen, provided that the court may permit an offender to use the internet to communicate with a person under the age of eighteen when such offender is the parent of a minor child and is not otherwise prohibited from communicating with such child. Nothing in this subdivision shall be construed as restricting any other lawful condition of supervision that may be imposed on such sentenced offender. As used in this subdivision, a "commercial social networking website" shall mean any business, organization or other entity operating a website that permits persons under eighteen years of age to be registered users for the purpose of establishing personal relationships with other users, where such persons under eighteen years of age may: (i) create web pages or profiles that provide information about themselves where such web pages or profiles are available to the public or to other users; (ii) engage in direct or real time communication with other users, such as a chat room or instant messenger; and (iii) communicate with persons over eighteen years of age; provided, however, that, for purposes of this subdivision, a commercial social networking website shall not include a website that permits users to engage in such other activities as are not enumerated herein.5. Other conditions. When imposing a sentence of probation the court may, in addition to any conditions imposed pursuant to subdivisions two, three and four of this section, require that the defendant comply with any other reasonable condition as the court shall determine to be necessary or appropriate to ameliorate the conduct which gave rise to the offense or to prevent the incarceration of the defendant.5-a. Other conditions for sex offenders. When imposing a sentence of probation upon a person convicted of an offense for which registration as a sex offender is required pursuant to subdivision two or three of section one hundred sixty-eight-a of the correction law, in addition to any conditions required under subdivisions two, three, four, four-a and five of this section, the court may require that the defendant comply with a reasonable limitation on his or her use of the internet that the court determines to be necessary or appropriate to ameliorate the conduct which gave rise to the offense or to protect public safety, provided that the court shall not prohibit such sentenced offender from using the internet in connection with education, lawful employment or search for lawful employment. (a) Avoid injurious or vicious habits; (b) Refrain from frequenting unlawful or disreputable places or consorting

with disreputable persons; (c) Work faithfully at a suitable employment or faithfully pursue a course of study or of vocational training that will equip him for suitable employment; (d) Undergo available medical or psychiatric treatment and remain in a specified institution, when required for that purpose; (e) Participate in an alcohol or substance abuse program or an intervention program approved by the court after consultation with the local probation department having jurisdiction, or such other public or private agency as the court determines to be appropriate; (e-1) Participate in a motor vehicle accident prevention course. The court may require such condition where a person has been convicted of a traffic infraction for a violation of article twenty-six of the vehicle and traffic law where the commission of such violation caused the serious physical injury or death of another person. For purposes of this paragraph, the term "motor vehicle accident prevention course" shall mean a motor vehicle accident prevention course approved by the department of motor vehicles pursuant to article twelve-B of the vehicle and traffic law; (f) Support his dependents and meet other family responsibilities; (g) Make restitution of the fruits of his or her offense or make reparation, in an amount he can afford to pay, for the actual out-of-pocket loss caused thereby. When restitution or reparation is a condition of the sentence, the court shall fix the amount thereof, the manner of performance, specifically state the date when restitution is to be paid in full prior to the expiration of the sentence of probation and may establish provisions for the early termination of a sentence of probation or conditional discharge pursuant to the provisions of subdivision three of section 410.90 of the criminal procedure law after the restitution and reparation part of a sentence of probation or conditional discharge has been satisfied. The court shall provide that in the event the person to whom restitution or reparation is to be made dies prior to the completion of said restitution or reparation, the remaining payments shall be made to the estate of the deceased. (h) Perform services for a public or not-for-profit corporation, association, institution or agency, including but not limited to services for the division of substance abuse services, services in an appropriate community program for removal of graffiti from public or private property, including any property damaged in the underlying offense, or services for the maintenance and repair of real or personal property maintained as a cemetery plot, grave, burial place or other place of interment of human remains. Provided however, that the performance of any such services shall not result in the displacement of employed workers or in the impairment of existing contracts for services, nor shall the performance of any such services be required or permitted in any establishment involved in any labor strike or lockout. The court may establish provisions for the early termination of a sentence of probation or conditional discharge pursuant to the provisions of subdivision three of section 410.90 of the criminal procedure law after such services have been completed. Such sentence may only be imposed upon conviction of a misdemeanor, violation, or class D or class E felony, or a youthful offender finding replacing any such conviction, where the defendant has consented to the amount and conditions of such service; (i) If a person under the age of twenty-one years, (i) resides with his parents or in a suitable foster home or hostel as referred to in section two hundred forty-four of the executive law, (ii) attends school, (iii) spends such part of the period of the sentence as the court may direct, but not exceeding two years, in a facility made available by the division for youth pursuant to article nineteen-G of the executive law, provided that admission to such facility may be made only with the prior consent of the division for youth, (iv) attend a non-residential program for such hours and pursuant to a schedule prescribed by the court as suitable for a program of rehabilitation of youth, (v) contribute to his own support in any home, foster home or hostel; (j) Post a bond or other security for the performance of any or all conditions imposed; (k) Observe certain specified conditions of conduct as set forth in an order of protection issued pursuant to section 530.12 or 530.13 of the criminal procedure law. (k-1) Install and maintain a functioning ignition interlock device, as that term is defined in section one hundred nineteen-a of the vehicle and traffic law, in any vehicle owned or operated by the defendant if the court in its discretion determines that such a condition is necessary to ensure the public safety. The court may require such condition only where a person has been convicted of a violation of subdivision two, two-a or three of section eleven hundred ninety-two of the vehicle and traffic law, or any crime defined by the vehicle and traffic law or this chapter of which an alcohol-related violation of any provision of section eleven hundred ninety-two of the vehicle and traffic law is an essential element. The offender shall be required to install and operate the ignition interlock device only in accordance with section eleven hundred ninety-eight of the vehicle and traffic law. (k-2) (i) Refrain, upon sentencing for a crime involving unlawful sexual conduct committed against a metropolitan transportation authority passenger, customer, or employee or a crime involving assault against a metropolitan transportation authority employee, committed in or on any facility or conveyance of the metropolitan transportation authority or a subsidiary thereof or the New York city transit authority or a subsidiary thereof, from using or entering any of such authority's subways, trains, buses or other conveyances or facilities specified by the court for a period of up to three years, or a specified period of such probation or conditional discharge, whichever is less. For purposes of this section, a crime involving assault shall mean an offense described in article one hundred twenty of this chapter which has as an element the causing of physical injury or serious physical injury to another as well as the attempt thereof. (ii) The court may, in its discretion, suspend, modify or cancel a condition imposed under this paragraph in the interest of justice at any time. If the person depends on the authority's subways, trains, buses, or other conveyances or facilities for trips of necessity, including, but not limited to, travel to or from medical or legal appointments, school or training classes or places of employment, obtaining food, clothing or necessary household items, or rendering care to family members, the court may modify such condition to allow for a trip or trips as in its discretion are necessary. (iii) A person at liberty and subject to a condition under this paragraph who applies, within thirty days after the date such condition becomes effective, for a refund of any prepaid fare amounts rendered unusable in whole or in part by such condition including, but not limited to, a monthly pass, shall be issued a refund of the amounts so prepaid. (l) Satisfy any other conditions reasonably related to his rehabilitation. 3. Conditions relating to supervision. When imposing a sentence of probation the court, in addition to any conditions imposed pursuant to subdivision two of this section, shall require as conditions of the sentence, that the defendant: (a) Report to a probation officer as directed by the court or the probation officer and permit the probation officer to visit him at his place of abode or elsewhere; (b)

Remain within the jurisdiction of the court unless granted permission to leave by the court or the probation officer. Where a defendant is granted permission to move or travel outside the jurisdiction of the court, the defendant shall sign a written waiver of extradition agreeing to waive extradition proceedings where such proceedings are the result of the issuance of a warrant by the court pursuant to subdivision two of section 410.40 of the criminal procedure law based on an alleged violation of probation. Where any county or the city of New York incurs costs associated with the return of any probationer based on the issuance of a warrant by the court pursuant to subdivision two of section 410.40 of the criminal procedure law, the jurisdiction may collect the reasonable and necessary expenses involved in connection with his or her transport, from the probationer; provided that where the sentence of probation is not revoked pursuant to section 410.70 of the criminal procedure law no such expenses may be collected. (c) Answer all reasonable inquiries by the probation officer and notify the probation officer prior to any change in address or employment. 4. Electronic monitoring. When imposing a sentence of probation the court may, in addition to any conditions imposed pursuant to subdivisions two and three of this section, require the defendant to submit to the use of an electronic monitoring device and/or to follow a schedule that governs the defendant's daily movement. Such condition may be imposed only where the court, in its discretion, determines that requiring the defendant to comply with such condition will advance public safety, probationer control or probationer surveillance. Electronic monitoring shall be used in accordance with uniform procedures developed by the office of probation and correctional alternatives. 4-a. Mandatory conditions for sex offenders. (a) When imposing a sentence of probation or conditional discharge upon a person convicted of an offense defined in article one hundred thirty, two hundred thirty-five or two hundred sixty-three of this chapter, or section 255.25, 255.26 or 255.27 of this chapter, and the victim of such offense was under the age of eighteen at the time of such offense or such person has been designated a level three sex offender pursuant to subdivision six of section 168-l of the correction law, the court shall require, as a mandatory condition of such sentence, that such sentenced offender shall refrain from knowingly entering into or upon any school grounds, as that term is defined in subdivision fourteen of section 220.00 of this chapter, or any other facility or institution primarily used for the care or treatment of persons under the age of eighteen while one or more of such persons under the age of eighteen are present, provided however, that when such sentenced offender is a registered student or participant or an employee of such facility or institution or entity contracting therewith or has a family member enrolled in such facility or institution, such sentenced offender may, with the written authorization of his or her probation officer or the court and the superintendent or chief administrator of such facility, institution or grounds, enter such facility, institution or upon such grounds for the limited purposes authorized by the probation officer or the court and superintendent or chief officer. Nothing in this subdivision shall be construed as restricting any lawful condition of supervision that may be imposed on such sentenced offender. (b) When imposing a sentence of probation or conditional discharge upon a person convicted of an offense for which registration as a sex offender is required pursuant to subdivision two or three of section one hundred sixty-eight-a of the correction law, and the victim of such offense was under the age of eighteen at the time of such offense or such person has been designated a level three sex offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law or the internet was used to facilitate the commission of the crime, the court shall require, as mandatory conditions of such sentence, that such sentenced offender be prohibited from using the internet to access pornographic material, access a commercial social networking website, communicate with other individuals or groups for the purpose of promoting sexual relations with persons under the age of eighteen, and communicate with a person under the age of eighteen when such offender is over the age of eighteen, provided that the court may permit an offender to use the internet to communicate with a person under the age of eighteen when such offender is the parent of a minor child and is not otherwise prohibited from communicating with such child. Nothing in this subdivision shall be construed as restricting any other lawful condition of supervision that may be imposed on such sentenced offender. As used in this subdivision, a "commercial social networking website" shall mean any business, organization or other entity operating a website that permits persons under eighteen years of age to be registered users for the purpose of establishing personal relationships with other users, where such persons under eighteen years of age may: (i) create web pages or profiles that provide information about themselves where such web pages or profiles are available to the public or to other users; (ii) engage in direct or real time communication with other users, such as a chat room or instant messenger; and (iii) communicate with persons over eighteen years of age; provided, however, that, for purposes of this subdivision, a commercial social networking website shall not include a website that permits users to engage in such other activities as are not enumerated herein. 5. Other conditions. When imposing a sentence of probation the court may, in addition to any conditions imposed pursuant to subdivisions two, three and four of this section, require that the defendant comply with any other reasonable condition as the court shall determine to be necessary or appropriate to ameliorate the conduct which gave rise to the offense or to prevent the incarceration of the defendant. 5-a. Other conditions for sex offenders. When imposing a sentence of probation upon a person convicted of an offense for which registration as a sex offender is required pursuant to subdivision two or three of section one hundred sixty-eight-a of the correction law, in addition to any conditions required under subdivisions two, three, four, four-a and five of this section, the court may require that the defendant comply with a reasonable limitation on his or her use of the internet that the court determines to be necessary or appropriate to ameliorate the conduct which gave rise to the offense or to protect public safety, provided that the court shall not prohibit such sentenced offender from using the internet in connection with education, lawful employment or search for lawful employment.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 65 - Sentences of Probation, Conditional Discharge and Unconditional Discharge65.15 - Calculation of Periods of Probation and of Conditional Discharge.

discharge. 1. A period of probation or a period or additional period of conditional discharge commences on the day it is imposed.

Multiple periods, whether imposed at the same or at different times, shall run concurrently. 2. When a person has violated the conditions of his or her probation or conditional discharge and is declared delinquent by the court, the declaration of delinquency shall interrupt the period of the sentence as of the date of the delinquency and such interruption shall continue until a final determination as to the delinquency has been made by the court pursuant to a hearing held in accordance with the provisions of the criminal procedure law. Any order for the installation and maintenance of a functioning ignition interlock device imposed pursuant to section 60.21 of this title shall remain in effect throughout the delinquency and the court may extend the period of such installation and maintenance by the period of the delinquency; provided, however, that the defendant shall get credit for any period where the device was installed and maintained during the delinquency. * 3. In any case where a person who is under a sentence of probation or of conditional discharge is also under an indeterminate or determinate sentence of imprisonment, imposed for some other offense by a court of this state the service of the sentence of imprisonment shall satisfy the sentence of probation or of conditional discharge unless the sentence of probation or of conditional discharge is revoked prior to the next to occur of parole or conditional release under, or satisfaction of, the sentence of imprisonment. Provided, however, that the service of an indeterminate or determinate sentence of imprisonment shall not satisfy a sentence of probation if the sentence of probation was imposed at a time when the sentence of imprisonment had one year or less to run. * NB Effective until September 1, 2025 * 3. In any case where a person who is under a sentence of probation or of conditional discharge is also under an indeterminate sentence of imprisonment, or a reformatory sentence of imprisonment authorized by section 75.00, imposed for some other offense by a court of this state the service of the sentence of imprisonment shall satisfy the sentence of probation or of conditional discharge unless the sentence of probation or of conditional discharge is revoked prior to the next to occur of parole or conditional release under, or satisfaction of, the sentence of imprisonment. Provided, however, that the service of an indeterminate or a reformatory sentence of imprisonment shall not satisfy a sentence of probation if the sentence of probation was imposed at a time when the sentence of imprisonment had one year or less to run. * NB Effective September 1, 2025

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 65 - Sentences of Probation, Conditional Discharge and Unconditional Discharge65.20 - Sentence of Unconditional Discharge.

1. Criteria. The court may impose a sentence of unconditional discharge in any case where it is authorized to impose a sentence of conditional discharge under section 65.05 if the court is of the opinion that no proper purpose would be served by imposing any condition upon the defendant's release. When a sentence of unconditional discharge is imposed for a felony, the court shall set forth in the record the reasons for its action. 2. Sentence. When the court imposes a sentence of unconditional discharge, the defendant shall be released with respect to the conviction for which the sentence is imposed without imprisonment, fine or probation supervision. A sentence of unconditional discharge is for all purposes a final judgment of conviction.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 70 - Sentences of Imprisonment70.02 - Sentence of Imprisonment for a Violent Felony Offense.

1. Definition of a violent felony offense. A violent felony offense is a class B violent felony offense, a class C violent felony offense, a class D violent felony offense, or a class E violent felony offense, defined as follows:(a) Class B violent felony offenses: an attempt to commit the class A-I felonies of murder in the second degree as defined in section 125.25, kidnapping in the first degree as defined in section 135.25, and arson in the first degree as defined in section 150.20; manslaughter in the first degree as defined in section 125.20, aggravated manslaughter in the first degree as defined in section 125.22, rape in the first degree as defined in section 130.35, a crime formerly defined in section 130.50, aggravated sexual abuse in the first degree as defined in section 130.70, course of sexual conduct against a child in the first degree as defined in section 130.75, assault in the first degree as defined in section 120.10, kidnapping in the second degree as defined in section 135.20, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, robbery in the first degree as defined in section 160.15, sex trafficking as defined in paragraphs (a) and (b) of subdivision five of section 230.34, sex trafficking of a child as defined in section 230.34-a, incest in the first degree as defined in section 255.27, criminal possession of a weapon in the first degree as defined in section 265.04, criminal use of a firearm in the first degree as defined in section 265.09, criminal sale of a firearm in the first degree as defined in section 265.13, aggravated assault upon a police officer or a peace officer as defined in section 120.11, gang assault in the first degree as defined in section 120.07, intimidating a victim or witness in the first degree as defined in section 215.17, hindering prosecution of terrorism in the first degree as defined in section 490.35, criminal possession of a chemical weapon or biological weapon in the second degree as defined in section 490.40, and criminal use of a chemical weapon or biological weapon in the third degree as defined in section 490.47.(b) Class C violent felony offenses: an attempt to commit any of the class B felonies set forth in paragraph (a) of this subdivision; aggravated criminally negligent homicide as defined in section 125.11, aggravated manslaughter in the second degree as defined in section 125.21, aggravated sexual abuse in the second degree as defined in section 130.67, assault on a peace officer, police officer, firefighter or emergency medical services professional as defined in section 120.08, assault on a judge as defined in section 120.09, gang assault in the second degree as defined in section 120.06, strangulation in the first degree as defined in section 121.13, aggravated strangulation as defined in section 121.13-a, burglary in the second degree as defined in section 140.25, robbery in the second degree as defined in section 160.10, criminal possession of a weapon in the second degree as defined in section 265.03, criminal use of a firearm in the second degree as defined in section 265.08, criminal sale of a firearm in the second degree as defined in section 265.12, criminal sale of a firearm with the aid of a minor as defined in section 265.14, aggravated criminal possession of a weapon as defined in section 265.19, soliciting or providing support for an act

of terrorism in the first degree as defined in section 490.15, hindering prosecution of terrorism in the second degree as defined in section 490.30, and criminal possession of a chemical weapon or biological weapon in the third degree as defined in section 490.37.(c) Class D violent felony offenses: an attempt to commit any of the class C felonies set forth in paragraph (b); reckless assault of a child as defined in section 120.02, assault in the second degree as defined in section 120.05, menacing a police officer or peace officer as defined in section 120.18, stalking in the first degree, as defined in subdivision one of section 120.60, strangulation in the second degree as defined in section 121.12, rape in the second degree as defined in section 130.30, a crime formerly defined in section 130.45, sexual abuse in the first degree as defined in section 130.65, course of sexual conduct against a child in the second degree as defined in section 130.80, aggravated sexual abuse in the third degree as defined in section 130.66, facilitating a sex offense with a controlled substance as defined in section 130.90, labor trafficking as defined in paragraphs (a) and (b) of subdivision three of section 135.35, criminal possession of a weapon in the third degree as defined in subdivision five, six, seven, eight, nine or ten of section 265.02, criminal sale of a firearm in the third degree as defined in section 265.11, intimidating a victim or witness in the second degree as defined in section 215.16, soliciting or providing support for an act of terrorism in the second degree as defined in section 490.10, and making a terroristic threat as defined in section 490.20, falsely reporting an incident in the first degree as defined in section 240.60, placing a false bomb or hazardous substance in the first degree as defined in section 240.62, placing a false bomb or hazardous substance in a sports stadium or arena, mass transportation facility or enclosed shopping mall as defined in section 240.63, aggravated unpermitted use of indoor pyrotechnics in the first degree as defined in section 405.18, and criminal manufacture, sale, or transport of an undetectable firearm, rifle or shotgun as defined in section 265.50.(d) Class E violent felony offenses: an attempt to commit any of the felonies of criminal possession of a weapon in the third degree as defined in subdivision five, six, seven or eight of section 265.02 as a lesser included offense of that section as defined in section 220.20 of the criminal procedure law, persistent sexual abuse as defined in section 130.53, aggravated sexual abuse in the fourth degree as defined in section 130.65-a, falsely reporting an incident in the second degree as defined in section 240.55 and placing a false bomb or hazardous substance in the second degree as defined in section 240.61.2. Authorized sentence.* (a) Except as provided in subdivision six of section 60.05, the sentence imposed upon a person who stands convicted of a class B or class C violent felony offense must be a determinate sentence of imprisonment which shall be in whole or half years. The term of such sentence must be in accordance with the provisions of subdivision three of this section.* NB Effective until September 1, 2025* (a) The sentence imposed upon a person who stands convicted of a class B or class C violent felony offense must be an indeterminate sentence of imprisonment. Except as provided in subdivision five of section 60.05, the maximum term of such sentence must be in accordance with the provisions of subdivision three of this section and the minimum period of imprisonment under such sentence must be in accordance with subdivision four of this section.* NB Effective September 1, 2025(b) Except as provided in paragraph (b-1) of this subdivision, subdivision six of section 60.05 and subdivision four of this section, the sentence imposed upon a person who stands convicted of a class D violent felony offense, other than the offense of criminal possession of a weapon in the third degree as defined in subdivision five, seven or eight of section 265.02 or criminal sale of a firearm in the third degree as defined in section 265.11, must be in accordance with the applicable provisions of this chapter relating to sentencing for class D felonies provided, however, that where a sentence of imprisonment is imposed which requires a commitment to the state department of corrections and community supervision, such sentence shall be a determinate sentence in accordance with paragraph (c) of subdivision three of this section.(b-1) Except as provided in subdivision six of section 60.05, the sentence imposed upon a person who stands convicted of the class D violent felony offense of menacing a police officer or peace officer as defined in section 120.18 of this chapter must be a determinate sentence of imprisonment.(c) Except as provided in subdivision six of section 60.05, the sentence imposed upon a person who stands convicted of the class D violent felony offenses of criminal possession of a weapon in the third degree as defined in subdivision five, seven, eight or nine of section 265.02, criminal sale of a firearm in the third degree as defined in section 265.11, the class E violent felonies of attempted criminal possession of a weapon in the third degree as defined in subdivision five, seven, eight or nine of section 265.02, or criminal manufacture, sale, or transport of an undetectable firearm, rifle or shotgun as defined in section 265.50 must be a sentence to a determinate period of imprisonment, or, in the alternative, a definite sentence of imprisonment for a period of no less than one year, except that:(i) the court may impose any other sentence authorized by law upon a person who has not been previously convicted in the five years immediately preceding the commission of the offense for a class A misdemeanor defined in this chapter, if the court having regard to the nature and circumstances of the crime and to the history and character of the defendant, finds on the record that such sentence would be unduly harsh and that the alternative sentence would be consistent with public safety and does not deprecate the seriousness of the crime; and(ii) the court may apply the provisions of paragraphs (b) and (c) of subdivision four of this section when imposing a sentence upon a person who has previously been convicted of a class A misdemeanor defined in this chapter in the five years immediately preceding the commission of the offense.3. Term of sentence. The term of a determinate sentence for a violent felony offense must be fixed by the court as follows:(a) For a class B felony, the term must be at least five years and must not exceed twenty-five years, provided, however, that the term must be:(i) at least ten years and must not exceed thirty years where the sentence is for the crime of aggravated assault upon a police officer or peace officer as defined in section 120.11 of this chapter; and (ii) at least ten years and must not exceed thirty years where the sentence is for the crime of aggravated manslaughter in the first degree as defined in section 125.22 of this chapter;(b) For a class C felony, the term must be at least three and one-half years and must not exceed fifteen years, provided, however, that the term must be: (i) at least seven years and must not exceed twenty years where the sentence is for the crime of aggravated manslaughter in the second degree as defined in section 125.21 of this chapter; (ii) at least seven years and must not exceed twenty years where the sentence is for the crime of attempted aggravated assault upon a police officer or peace officer as defined in section 120.11 of this

chapter; (iii) at least three and one-half years and must not exceed twenty years where the sentence is for the crime of aggravated criminally negligent homicide as defined in section 125.11 of this chapter; and (iv) at least five years and must not exceed fifteen years where the sentence is imposed for the crime of aggravated criminal possession of a weapon as defined in section 265.19 of this chapter;(c) For a class D felony, the term must be at least two years and must not exceed seven years, provided, however, that the term must be: (i) at least two years and must not exceed eight years where the sentence is for the crime of menacing a police officer or peace officer as defined in section 120.18 of this chapter; and (ii) at least three and one-half years and must not exceed seven years where the sentence is imposed for the crime of criminal possession of a weapon in the third degree as defined in subdivision ten of section 265.02 of this chapter;(d) For a class E felony, the term must be at least one and one-half years and must not exceed four years.4. (a) Except as provided in paragraph (b) of this subdivision, where a plea of guilty to a class D violent felony offense is entered pursuant to section 220.10 or 220.30 of the criminal procedure law in satisfaction of an indictment charging the defendant with an armed felony, as defined in subdivision forty-one of section 1.20 of the criminal procedure law, the court must impose a determinate sentence of imprisonment.(b) In any case in which the provisions of paragraph (a) of this subdivision or the provisions of subparagraph (ii) of paragraph (c) of subdivision two of this section apply, the court may impose a sentence other than a determinate sentence of imprisonment, or a definite sentence of imprisonment for a period of no less than one year, if it finds that the alternate sentence is consistent with public safety and does not deprecate the seriousness of the crime and that one or more of the following factors exist:(i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or(ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or(iii) possible deficiencies in proof of the defendant's commission of an armed felony.(c) The defendant and the district attorney shall have an opportunity to present relevant information to assist the court in making a determination pursuant to paragraph (b) of this subdivision, and the court may, in its discretion, conduct a hearing with respect to any issue bearing upon such determination. If the court determines that a determinate sentence of imprisonment should not be imposed pursuant to the provisions of such paragraph (b), it shall make a statement on the record of the facts and circumstances upon which such determination is based. A transcript of the court's statement, which shall set forth the recommendation of the district attorney, shall be forwarded to the state division of criminal justice services along with a copy of the accusatory instrument. (a) Class B violent felony offenses: an attempt to commit the class A-I felonies of murder in the second degree as defined in section 125.25, kidnapping in the first degree as defined in section 135.25, and arson in the first degree as defined in section 150.20; manslaughter in the first degree as defined in section 125.20, aggravated manslaughter in the first degree as defined in section 125.22, rape in the first degree as defined in section 130.35, a crime formerly defined in section 130.50, aggravated sexual abuse in the first degree as defined in section 130.70, course of sexual conduct against a child in the first degree as defined in section 130.75, assault in the first degree as defined in section 120.10, kidnapping in the second degree as defined in section 135.20, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, robbery in the first degree as defined in section 160.15, sex trafficking as defined in paragraphs (a) and (b) of subdivision five of section 230.34, sex trafficking of a child as defined in section 230.34-a, incest in the first degree as defined in section 255.27, criminal possession of a weapon in the first degree as defined in section 265.04, criminal use of a firearm in the first degree as defined in section 265.09, criminal sale of a firearm in the first degree as defined in section 265.13, aggravated assault upon a police officer or a peace officer as defined in section 120.11, gang assault in the first degree as defined in section 120.07, intimidating a victim or witness in the first degree as defined in section 215.17, hindering prosecution of terrorism in the first degree as defined in section 490.35, criminal possession of a chemical weapon or biological weapon in the second degree as defined in section 490.40, and criminal use of a chemical weapon or biological weapon in the third degree as defined in section 490.47. (b) Class C violent felony offenses: an attempt to commit any of the class B felonies set forth in paragraph (a) of this subdivision; aggravated criminally negligent homicide as defined in section 125.11, aggravated manslaughter in the second degree as defined in section 125.21, aggravated sexual abuse in the second degree as defined in section 130.67, assault on a peace officer, police officer, firefighter or emergency medical services professional as defined in section 120.08, assault on a judge as defined in section 120.09, gang assault in the second degree as defined in section 120.06, strangulation in the first degree as defined in section 121.13, aggravated strangulation as defined in section 121.13-a, burglary in the second degree as defined in section 140.25, robbery in the second degree as defined in section 160.10, criminal possession of a weapon in the second degree as defined in section 265.03, criminal use of a firearm in the second degree as defined in section 265.08, criminal sale of a firearm in the second degree as defined in section 265.12, criminal sale of a firearm with the aid of a minor as defined in section 265.14, aggravated criminal possession of a weapon as defined in section 265.19, soliciting or providing support for an act of terrorism in the first degree as defined in section 490.15, hindering prosecution of terrorism in the second degree as defined in section 490.30, and criminal possession of a chemical weapon or biological weapon in the third degree as defined in section 490.37. (c) Class D violent felony offenses: an attempt to commit any of the class C felonies set forth in paragraph (b); reckless assault of a child as defined in section 120.02, assault in the second degree as defined in section 120.05, menacing a police officer or peace officer as defined in section 120.18, stalking in the first degree, as defined in subdivision one of section 120.60, strangulation in the second degree as defined in section 121.12, rape in the second degree as defined in section 130.30, a crime formerly defined in section 130.45, sexual abuse in the first degree as defined in section 130.65, course of sexual conduct against a child in the second degree as defined in section 130.80, aggravated sexual abuse in the third degree as defined in section 130.66, facilitating a sex offense with a controlled substance as defined in section 130.90, labor trafficking as defined in paragraphs (a) and (b) of subdivision three of section 135.35, criminal possession of a weapon in the third degree as defined in subdivision five, six, seven, eight, nine or ten of section 265.02, criminal sale of a firearm in the third degree as

defined in section 265.11, intimidating a victim or witness in the second degree as defined in section 215.16, soliciting or providing support for an act of terrorism in the second degree as defined in section 490.10, and making a terroristic threat as defined in section 490.20, falsely reporting an incident in the first degree as defined in section 240.60, placing a false bomb or hazardous substance in the first degree as defined in section 240.62, placing a false bomb or hazardous substance in a sports stadium or arena, mass transportation facility or enclosed shopping mall as defined in section 240.63, aggravated unpermitted use of indoor pyrotechnics in the first degree as defined in section 405.18, and criminal manufacture, sale, or transport of an undetectable firearm, rifle or shotgun as defined in section 265.50. (d) Class E violent felony offenses: an attempt to commit any of the felonies of criminal possession of a weapon in the third degree as defined in subdivision five, six, seven or eight of section 265.02 as a lesser included offense of that section as defined in section 220.20 of the criminal procedure law, persistent sexual abuse as defined in section 130.53, aggravated sexual abuse in the fourth degree as defined in section 130.65-a, falsely reporting an incident in the second degree as defined in section 240.55 and placing a false bomb or hazardous substance in the second degree as defined in section 240.61. 2. Authorized sentence. * (a) Except as provided in subdivision six of section 60.05, the sentence imposed upon a person who stands convicted of a class B or class C violent felony offense must be a determinate sentence of imprisonment which shall be in whole or half years. The term of such sentence must be in accordance with the provisions of subdivision three of this section. * NB Effective until September 1, 2025 * (a) The sentence imposed upon a person who stands convicted of a class B or class C violent felony offense must be an indeterminate sentence of imprisonment. Except as provided in subdivision five of section 60.05, the maximum term of such sentence must be in accordance with the provisions of subdivision three of this section and the minimum period of imprisonment under such sentence must be in accordance with subdivision four of this section. * NB Effective September 1, 2025 (b) Except as provided in paragraph (b-1) of this subdivision, subdivision six of section 60.05 and subdivision four of this section, the sentence imposed upon a person who stands convicted of a class D violent felony offense, other than the offense of criminal possession of a weapon in the third degree as defined in subdivision five, seven or eight of section 265.02 or criminal sale of a firearm in the third degree as defined in section 265.11, must be in accordance with the applicable provisions of this chapter relating to sentencing for class D felonies provided, however, that where a sentence of imprisonment is imposed which requires a commitment to the state department of corrections and community supervision, such sentence shall be a determinate sentence in accordance with paragraph (c) of subdivision three of this section. (b-1) Except as provided in subdivision six of section 60.05, the sentence imposed upon a person who stands convicted of the class D violent felony offense of menacing a police officer or peace officer as defined in section 120.18 of this chapter must be a determinate sentence of imprisonment. (c) Except as provided in subdivision six of section 60.05, the sentence imposed upon a person who stands convicted of the class D violent felony offenses of criminal possession of a weapon in the third degree as defined in subdivision five, seven, eight or nine of section 265.02, criminal sale of a firearm in the third degree as defined in section 265.11, the class E violent felonies of attempted criminal possession of a weapon in the third degree as defined in subdivision five, seven, eight or nine of section 265.02, or criminal manufacture, sale, or transport of an undetectable firearm, rifle or shotgun as defined in section 265.50 must be a sentence to a determinate period of imprisonment, or, in the alternative, a definite sentence of imprisonment for a period of no less than one year, except that: (i) the court may impose any other sentence authorized by law upon a person who has not been previously convicted in the five years immediately preceding the commission of the offense for a class A misdemeanor defined in this chapter, if the court having regard to the nature and circumstances of the crime and to the history and character of the defendant, finds on the record that such sentence would be unduly harsh and that the alternative sentence would be consistent with public safety and does not deprecate the seriousness of the crime; and (ii) the court may apply the provisions of paragraphs (b) and (c) of subdivision four of this section when imposing a sentence upon a person who has previously been convicted of a class A misdemeanor defined in this chapter in the five years immediately preceding the commission of the offense. 3. Term of sentence. The term of a determinate sentence for a violent felony offense must be fixed by the court as follows: (a) For a class B felony, the term must be at least five years and must not exceed twenty-five years, provided, however, that the term must be: (i) at least ten years and must not exceed thirty years where the sentence is for the crime of aggravated assault upon a police officer or peace officer as defined in section 120.11 of this chapter; and (ii) at least ten years and must not exceed thirty years where the sentence is for the crime of aggravated manslaughter in the first degree as defined in section 125.22 of this chapter; (b) For a class C felony, the term must be at least three and one-half years and must not exceed fifteen years, provided, however, that the term must be: (i) at least seven years and must not exceed twenty years where the sentence is for the crime of aggravated manslaughter in the second degree as defined in section 125.21 of this chapter; (ii) at least seven years and must not exceed twenty years where the sentence is for the crime of attempted aggravated assault upon a police officer or peace officer as defined in section 120.11 of this chapter; (iii) at least three and one-half years and must not exceed twenty years where the sentence is for the crime of aggravated criminally negligent homicide as defined in section 125.11 of this chapter; and (iv) at least five years and must not exceed fifteen years where the sentence is imposed for the crime of aggravated criminal possession of a weapon as defined in section 265.19 of this chapter; (c) For a class D felony, the term must be at least two years and must not exceed seven years, provided, however, that the term must be: (i) at least two years and must not exceed eight years where the sentence is for the crime of menacing a police officer or peace officer as defined in section 120.18 of this chapter; and (ii) at least three and one-half years and must not exceed seven years where the sentence is imposed for the crime of criminal possession of a weapon in the third degree as defined in subdivision ten of section 265.02 of this chapter; (d) For a class E felony, the term must be at least one and one-half years and must not exceed four years. 4. (a) Except as provided in paragraph (b) of this subdivision, where a plea of guilty to a class D violent felony offense is entered pursuant to section 220.10 or 220.30 of the criminal procedure law in satisfaction of an indictment charging the defendant with an armed felony, as defined in subdivision forty-one of

section 1.20 of the criminal procedure law, the court must impose a determinate sentence of imprisonment. (b) In any case in which the provisions of paragraph (a) of this subdivision or the provisions of subparagraph (ii) of paragraph (c) of subdivision two of this section apply, the court may impose a sentence other than a determinate sentence of imprisonment, or a definite sentence of imprisonment for a period of no less than one year, if it finds that the alternate sentence is consistent with public safety and does not deprecate the seriousness of the crime and that one or more of the following factors exist: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in proof of the defendant's commission of an armed felony. (c) The defendant and the district attorney shall have an opportunity to present relevant information to assist the court in making a determination pursuant to paragraph (b) of this subdivision, and the court may, in its discretion, conduct a hearing with respect to any issue bearing upon such determination. If the court determines that a determinate sentence of imprisonment should not be imposed pursuant to the provisions of such paragraph (b), it shall make a statement on the record of the facts and circumstances upon which such determination is based. A transcript of the court's statement, which shall set forth the recommendation of the district attorney, shall be forwarded to the state division of criminal justice services along with a copy of the accusatory instrument.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 70 - Sentences of Imprisonment70.04 - Sentence of Imprisonment for Second Violent Felony Offender.

1. Definition of second violent felony offender.(a) A second violent felony offender is a person who stands convicted of a violent felony offense as defined in subdivision one of section 70.02 after having previously been subjected to a predicate violent felony conviction as defined in paragraph (b) of this subdivision.(b) For the purpose of determining whether a prior conviction is a predicate violent felony conviction the following criteria shall apply:(i) The conviction must have been in this state of a class A felony (other than one defined in article two hundred twenty) or of a violent felony offense as defined in subdivision one of section 70.02, or of an offense defined by the penal law in effect prior to September first, nineteen hundred sixty-seven, which includes all of the essential elements of any such felony, or in any other jurisdiction of an offense which includes all of the essential elements of any such felony for which a sentence to a term of imprisonment in excess of one year or a sentence of death was authorized and is authorized in this state irrespective of whether such sentence was imposed;(ii) Sentence upon such prior conviction must have been imposed before commission of the present felony;(iii) Suspended sentence, suspended execution of sentence, a sentence of probation, a sentence of conditional discharge or of unconditional discharge, and a sentence of certification to the care and custody of the division of substance abuse services, shall be deemed to be a sentence;(iv) Except as provided in subparagraph (v) of this paragraph, sentence must have been imposed not more than ten years before commission of the felony of which the defendant presently stands convicted;(v) In calculating the ten year period under subparagraph (iv), any period of time during which the person was incarcerated for any reason between the time of commission of the previous felony and the time of commission of the present felony shall be excluded and such ten year period shall be extended by a period or periods equal to the time served under such incarceration;(vi) An offense for which the defendant has been pardoned on the ground of innocence shall not be deemed a predicate violent felony conviction.* 2. Authorized sentence. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a second violent felony offender the court must impose a determinate sentence of imprisonment which shall be in whole or half years. Except where sentence is imposed in accordance with the provisions of section 70.10, the term of such sentence must be in accordance with the provisions of subdivision three of this section.* NB Effective until September 1, 2025* 2. Authorized sentence. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a second violent felony offender the court must impose an indeterminate sentence of imprisonment. Except where sentence is imposed in accordance with the provisions of section 70.10, the maximum term of such sentence must be in accordance with the provisions of subdivision three of this section and the minimum period of imprisonment under such sentence must be in accordance with subdivision four of this section.* NB Effective September 1, 2025* 3. Term of sentence. The term of a determinate sentence for a second violent felony offender must be fixed by the court as follows:(a) For a class B felony, the term must be at least ten years and must not exceed twenty-five years;(b) For a class C felony, the term must be at least seven years and must not exceed fifteen years; and(c) For a class D felony, the term must be at least five years and must not exceed seven years.(d) For a class E felony, the term must be at least three years and must not exceed four years.* NB Effective until September 1, 2025* 3. Maximum term of sentence. The maximum term of an indeterminate sentence for a second violent felony offender must be fixed by the court as follows:(a) For a class B felony, the term must be at least twelve years and must not exceed twenty-five years;(b) For a class C felony, the term must be at least eight years and must not exceed fifteen years; and(c) For a class D felony, the term must be at least five years and must not exceed seven years.(d) For a class E felony, the term must be at least four years.* NB Effective September 1, 2025* 4. Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate sentence for a second violent felony offender must be fixed by the court at one-half of the maximum term imposed and must be specified in the sentence.* NB Effective September 1, 2025 (a) A second violent felony offender is a person who stands convicted of a violent felony offense as defined in subdivision one of section 70.02 after having previously been subjected to a predicate violent felony conviction as defined in paragraph (b) of this subdivision. (b) For the purpose of determining whether a prior conviction is a predicate violent felony conviction the following criteria shall apply: (i) The conviction must have been in this state of a class A felony (other than one defined in article two hundred twenty) or of a violent felony offense as defined in subdivision one of section 70.02, or of an offense defined by the penal law in effect prior to September first, nineteen hundred sixty-seven, which includes all of the essential elements

of any such felony, or in any other jurisdiction of an offense which includes all of the essential elements of any such felony for which a sentence to a term of imprisonment in excess of one year or a sentence of death was authorized and is authorized in this state irrespective of whether such sentence was imposed; (ii) Sentence upon such prior conviction must have been imposed before commission of the present felony; (iii) Suspended sentence, suspended execution of sentence, a sentence of probation, a sentence of conditional discharge or of unconditional discharge, and a sentence of certification to the care and custody of the division of substance abuse services, shall be deemed to be a sentence; (iv) Except as provided in subparagraph (v) of this paragraph, sentence must have been imposed not more than ten years before commission of the felony of which the defendant presently stands convicted; (v) In calculating the ten year period under subparagraph (iv), any period of time during which the person was incarcerated for any reason between the time of commission of the previous felony and the time of commission of the present felony shall be excluded and such ten year period shall be extended by a period or periods equal to the time served under such incarceration; (vi) An offense for which the defendant has been pardoned on the ground of innocence shall not be deemed a predicate violent felony conviction. * 2. Authorized sentence. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a second violent felony offender the court must impose a determinate sentence of imprisonment which shall be in whole or half years. Except where sentence is imposed in accordance with the provisions of section 70.10, the term of such sentence must be in accordance with the provisions of subdivision three of this section. * NB Effective until September 1, 2025 * 2. Authorized sentence. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a second violent felony offender the court must impose an indeterminate sentence of imprisonment. Except where sentence is imposed in accordance with the provisions of section 70.10, the maximum term of such sentence must be in accordance with the provisions of subdivision three of this section and the minimum period of imprisonment under such sentence must be in accordance with subdivision four of this section. * NB Effective September 1, 2025 * 3. Term of sentence. The term of a determinate sentence for a second violent felony offender must be fixed by the court as follows: (a) For a class B felony, the term must be at least ten years and must not exceed twenty-five years; (b) For a class C felony, the term must be at least seven years and must not exceed fifteen years; and (c) For a class D felony, the term must be at least five years and must not exceed seven years. (d) For a class E felony, the term must be at least three years and must not exceed four years. * NB Effective until September 1, 2025 * 3. Maximum term of sentence. The maximum term of an indeterminate sentence for a second violent felony offender must be fixed by the court as follows: (a) For a class B felony, the term must be at least twelve years and must not exceed twenty-five years; (b) For a class C felony, the term must be at least eight years and must not exceed fifteen years; and (c) For a class D felony, the term must be at least five years and must not exceed seven years. (d) For a class E felony, the term must be at least four years. * NB Effective September 1, 2025 * 4. Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate sentence for a second violent felony offender must be fixed by the court at one-half of the maximum term imposed and must be specified in the sentence. * NB Effective September 1, 2025

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 70 - Sentences of Imprisonment70.05 - Sentence of Imprisonment for Juvenile Offender.

1. Indeterminate sentence. A sentence of imprisonment for a felony committed by a juvenile offender shall be an indeterminate sentence. When such a sentence is imposed, the court shall impose a maximum term in accordance with the provisions of subdivision two of this section and the minimum period of imprisonment shall be as provided in subdivision three of this section. The court shall further provide that where a juvenile offender is under placement pursuant to article three of the family court act, any sentence imposed pursuant to this section which is to be served consecutively with such placement shall be served in a facility designated pursuant to subdivision four of section 70.20 of this article prior to service of the placement in any previously designated facility. 2. Maximum term of sentence. The maximum term of an indeterminate sentence for a juvenile offender shall be at least three years and the term shall be fixed as follows:(a) For the class A felony of murder in the second degree, the term shall be life imprisonment;(b) For the class A felony of arson in the first degree, or for the class A felony of kidnapping in the first degree the term shall be fixed by the court, and shall be at least twelve years but shall not exceed fifteen years;(c) For a class B felony, the term shall be fixed by the court, and shall not exceed ten years;(d) For a class C felony, the term shall be fixed by the court, and shall not exceed seven years; and(e) For a class D felony, the term shall be fixed by the court and shall not exceed four years.3. Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate sentence for a juvenile offender shall be specified in the sentence as follows:(a) For the class A felony of murder in the second degree, the minimum period of imprisonment shall be fixed by the court and shall be not less than five years but shall not exceed nine years provided, however, that where the sentence is for an offense specified in subdivision one or two of section 125.25 of this chapter and the defendant was fourteen or fifteen years old at the time of such offense, the minimum period of imprisonment shall be not less than seven and one-half years but shall not exceed fifteen years;(b) For the class A felony of arson in the first degree, or for the class A felony of kidnapping in the first degree, the minimum period of imprisonment shall be fixed by the court and shall be not less than four years but shall not exceed six years; and(c) For a class B, C or D felony, the minimum period of imprisonment shall be fixed by the court at one-third of the maximum term imposed. (a) For the class A felony of murder in the second degree, the term shall be life imprisonment; (b) For the class A felony of arson in the first degree, or for the class A felony of kidnapping in the first degree the term shall be fixed by the court, and shall be at least twelve years but shall not exceed fifteen years; (c) For a class B felony, the term shall be fixed by the court, and shall not exceed ten years; (d) For a class C felony, the term shall be fixed by the court, and shall not exceed seven years; and (e) For a class D felony, the term shall be fixed by the court and shall not exceed four years. 3. Minimum period of

imprisonment. The minimum period of imprisonment under an indeterminate sentence for a juvenile offender shall be specified in the sentence as follows: (a) For the class A felony of murder in the second degree, the minimum period of imprisonment shall be fixed by the court and shall be not less than five years but shall not exceed nine years provided, however, that where the sentence is for an offense specified in subdivision one or two of section 125.25 of this chapter and the defendant was fourteen or fifteen years old at the time of such offense, the minimum period of imprisonment shall be not less than seven and one-half years but shall not exceed fifteen years; (b) For the class A felony of arson in the first degree, or for the class A felony of kidnapping in the first degree, the minimum period of imprisonment shall be fixed by the court and shall be not less than four years but shall not exceed six years; and (c) For a class B, C or D felony, the minimum period of imprisonment shall be fixed by the court at one-third of the maximum term imposed.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 70 - Sentences of Imprisonment70.07 - Sentence of Imprisonment for Second Child Sexual Assault Felony Offender.

offender. 1. A person who stands convicted of a felony offense for a sexual assault against a child, having been subjected to a predicate felony conviction for a sexual assault against a child, must be sentenced in accordance with the provisions of subdivision four or five of this section. 2. A "sexual assault against a child" means a felony offense, other than persistent sexual abuse as defined in section 130.53 of this chapter, (a) the essential elements of which include the commission or attempted commission of sexual conduct, as defined in subdivision ten of section 130.00 of this chapter, (b) committed or attempted to be committed against a child less than fifteen years old. 3. For purposes of determining whether a person has been subjected to a predicate felony conviction under this section, the criteria set forth in paragraph (b) of subdivision one of section 70.06 shall apply provided however that for purposes of this subdivision, the terms "ten year" or "ten years", as provided in subparagraphs (iv) and (v) of paragraph (b) of subdivision one of such section 70.06, shall be "fifteen year" or "fifteen years". The provisions of section 400.19 of the criminal procedure law shall govern the procedures that must be followed to determine whether a person who stands convicted of a sexual assault against a child has been previously subjected to a predicate felony conviction for such a sexual assault and whether such offender was eighteen years of age or older at the time of the commission of the predicate felony. 4. Where the court has found pursuant to subdivision three of this section that a person who stands convicted of a felony offense defined in article one hundred thirty of this chapter for the commission or attempted commission of a sexual assault against a child has been subjected to a predicate felony conviction for a sexual assault against a child, the court shall sentence the defendant as follows:(a) where the defendant stands convicted of such sexual assault against a child and such conviction is for a class A-II or class B felony offense, and the predicate conviction for such sexual assault against a child is for a class A-II, class B or class C felony offense, the court shall impose an indeterminate sentence of imprisonment, the maximum term of which shall be life and the minimum period of which shall be at least fifteen years and no more than twenty-five years;(b) where the defendant stands convicted of such sexual assault against a child and the conviction is for a class C felony offense, and the predicate conviction for such sexual assault against a child is for a class A-II, class B or class C felony offense, the court shall impose a determinate sentence of imprisonment, the term of which must be at least twelve years and must not exceed thirty years; provided however, that if the court determines that a longer sentence is warranted, the court shall set forth on the record the reasons for such determination and, in lieu of imposing such sentence of imprisonment, may impose an indeterminate sentence of imprisonment, the maximum term of which shall be life and the minimum period of which shall be at least fifteen years and no more than twenty-five years;(c) where the defendant stands convicted of such sexual assault against a child and the conviction is for a class B felony offense, and the predicate conviction for such sexual assault against a child is for a class D or class E felony offense, the court shall impose a determinate sentence of imprisonment, the term of which must be at least twelve years and must not exceed thirty years;(d) where the defendant stands convicted of such sexual assault against a child and the conviction is for a class C felony offense, and the predicate conviction for such sexual assault against a child is for a class D or class E felony offense, the court shall impose a determinate sentence of imprisonment, the term of which must be at least ten years and must not exceed twenty-five years;(e) where the defendant stands convicted of such sexual assault against a child and the conviction is for a class D felony offense, and the predicate conviction for such sexual assault against a child is for a felony offense, the court shall impose a determinate sentence of imprisonment, the term of which must be at least five years and must not exceed fifteen years; and(f) where the defendant stands convicted of such sexual assault against a child and the conviction is for a class E felony offense, and the predicate conviction for such sexual assault against a child is for a felony offense, the court shall impose a determinate sentence of imprisonment, the term of which must be at least four years and must not exceed twelve years.5. Notwithstanding subdivision four of this section, where the court has found pursuant to subdivision three of this section that a person: (a) stands convicted of a felony offense defined in article one hundred thirty of this chapter for the commission or attempted commission of a sexual assault against a child; and (b) has been subjected to a predicate felony conviction for sexual assault against a child as defined in subdivision two of this section; and (c) who was under the age of eighteen years at the time of the commission of such predicate felony offense, then the court may, in lieu of the sentence authorized by subdivision four of this section, sentence the defendant to a term of imprisonment in accordance with the sentence authorized for the instant felony offense pursuant to subdivision three of section 70.04 of this article. The court shall set forth on the record the reasons for such determination. (a) where the defendant stands convicted of such sexual assault against a child and such conviction is for a class A-II or class B felony offense, and the predicate conviction for such sexual assault against a child is for a class A-II, class B or class C felony offense, the court shall impose an indeterminate sentence of imprisonment, the maximum term of which shall be life and the minimum period of which shall be at least fifteen years and no more than twenty-five years; (b) where the defendant stands

convicted of such sexual assault against a child and the conviction is for a class C felony offense, and the predicate conviction for such sexual assault against a child is for a class A-II, class B or class C felony offense, the court shall impose a determinate sentence of imprisonment, the term of which must be at least twelve years and must not exceed thirty years; provided however, that if the court determines that a longer sentence is warranted, the court shall set forth on the record the reasons for such determination and, in lieu of imposing such sentence of imprisonment, may impose an indeterminate sentence of imprisonment, the maximum term of which shall be life and the minimum period of which shall be at least fifteen years and no more than twenty-five years; (c) where the defendant stands convicted of such sexual assault against a child and the conviction is for a class B felony offense, and the predicate conviction for such sexual assault against a child is for a class D or class E felony offense, the court shall impose a determinate sentence of imprisonment, the term of which must be at least twelve years and must not exceed thirty years; (d) where the defendant stands convicted of such sexual assault against a child and the conviction is for a class C felony offense, and the predicate conviction for such sexual assault against a child is for a class D or class E felony offense, the court shall impose a determinate sentence of imprisonment, the term of which must be at least ten years and must not exceed twenty-five years; (e) where the defendant stands convicted of such sexual assault against a child and the conviction is for a class D felony offense, and the predicate conviction for such sexual assault against a child is for a felony offense, the court shall impose a determinate sentence of imprisonment, the term of which must be at least five years and must not exceed fifteen years; and (f) where the defendant stands convicted of such sexual assault against a child and the conviction is for a class E felony offense, and the predicate conviction for such sexual assault against a child is for a felony offense, the court shall impose a determinate sentence of imprisonment, the term of which must be at least four years and must not exceed twelve years. 5. Notwithstanding subdivision four of this section, where the court has found pursuant to subdivision three of this section that a person: (a) stands convicted of a felony offense defined in article one hundred thirty of this chapter for the commission or attempted commission of a sexual assault against a child; and (b) has been subjected to a predicate felony conviction for sexual assault against a child as defined in subdivision two of this section; and (c) who was under the age of eighteen years at the time of the commission of such predicate felony offense, then the court may, in lieu of the sentence authorized by subdivision four of this section, sentence the defendant to a term of imprisonment in accordance with the sentence authorized for the instant felony offense pursuant to subdivision three of section 70.04 of this article. The court shall set forth on the record the reasons for such determination.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 70 - Sentences of Imprisonment70.08 - Sentence of Imprisonment for Persistent Violent Felony Offender; Criteria.

criteria. 1. Definition of persistent violent felony offender.(a) A persistent violent felony offender is a person who stands convicted of a violent felony offense as defined in subdivision one of section 70.02 or the offense of predatory sexual assault as defined in section 130.95 of this chapter or the offense of predatory sexual assault against a child as defined in section 130.96 of this chapter, after having previously been subjected to two or more predicate violent felony convictions as defined in paragraph (b) of subdivision one of section 70.04 of this article.(b) For the purpose of determining whether a person has two or more predicate violent felony convictions, the criteria set forth in paragraph (b) of subdivision one of section 70.04 shall apply.2. Authorized sentence. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a persistent violent felony offender the court must impose an indeterminate sentence of imprisonment, the maximum term of which shall be life imprisonment. The minimum period of imprisonment under such sentence must be in accordance with subdivision three of this section.* 3. Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate life sentence for a persistent violent felony offender must be fixed by the court as follows:(a) For the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter or the class A-II felony of predatory sexual assault against a child as defined in section 130.96 of this chapter, the minimum period must be twenty-five years;(a-1) For a class B felony, the minimum period must be at least twenty years and must not exceed twenty-five years;(b) For a class C felony, the minimum period must be at least sixteen years and must not exceed twenty-five years;(c) For a class D felony, the minimum period must be at least twelve years and must not exceed twenty-five years.* NB Effective until September 1, 2025* 3. Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate life sentence for a persistent violent felony offender must be fixed by the court as follows:(a) For the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter or the class A-II felony of predatory sexual assault against a child as defined in section 130.96 of this chapter, the minimum period must be twenty-five years;(a-1) For a class B felony, the minimum period must be at least ten years and must not exceed twenty-five years;(b) For a class C felony, the minimum period must be at least eight years and must not exceed twenty-five years;(c) For a class D felony, the minimum period must be at least six years and must not exceed twenty-five years.* NB Effective September 1, 2025 (a) A persistent violent felony offender is a person who stands convicted of a violent felony offense as defined in subdivision one of section 70.02 or the offense of predatory sexual assault as defined in section 130.95 of this chapter or the offense of predatory sexual assault against a child as defined in section 130.96 of this chapter, after having previously been subjected to two or more predicate violent felony convictions as defined in paragraph (b) of subdivision one of section 70.04 of this article. (b) For the purpose of determining whether a person has two or more predicate violent felony convictions, the criteria set forth in paragraph (b) of subdivision one of section 70.04 shall apply. 2. Authorized sentence. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a persistent violent felony offender the court must impose an indeterminate sentence of imprisonment, the maximum term of which shall be life imprisonment. The minimum period of imprisonment under such sentence must be in accordance with subdivision three of this section. * 3. Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate life sentence

for a persistent violent felony offender must be fixed by the court as follows: (a) For the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter or the class A-II felony of predatory sexual assault against a child as defined in section 130.96 of this chapter, the minimum period must be twenty-five years; (a-1) For a class B felony, the minimum period must be at least twenty years and must not exceed twenty-five years; (b) For a class C felony, the minimum period must be at least sixteen years and must not exceed twenty-five years; (c) For a class D felony, the minimum period must be at least twelve years and must not exceed twenty-five years. * NB Effective until September 1, 2025 * 3. Minimum period of imprisonment. The minimum period of imprisonment under an indeterminate life sentence for a persistent violent felony offender must be fixed by the court as follows: (a) For the class A-II felony of predatory sexual assault as defined in section 130.95 of this chapter or the class A-II felony of predatory sexual assault against a child as defined in section 130.96 of this chapter, the minimum period must be twenty-five years; (a-1) For a class B felony, the minimum period must be at least ten years and must not exceed twenty-five years; (b) For a class C felony, the minimum period must be at least eight years and must not exceed twenty-five years; (c) For a class D felony, the minimum period must be at least six years and must not exceed twenty-five years. * NB Effective September 1, 2025

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 70 - Sentences of Imprisonment70.10 - Sentence of Imprisonment for Persistent Felony Offender.

1. Definition of persistent felony offender.(a) A persistent felony offender is a person, other than a persistent violent felony offender as defined in section 70.08, who stands convicted of a felony after having previously been convicted of two or more felonies, as provided in paragraphs (b) and (c) of this subdivision.(b) A previous felony conviction within the meaning of paragraph (a) of this subdivision is a conviction of a felony in this state, or of a crime in any other jurisdiction, provided:(i) that a sentence to a term of imprisonment in excess of one year, or a sentence to death, was imposed therefor; and(ii) that the defendant was imprisoned under sentence for such conviction prior to the commission of the present felony; and(iii) that the defendant was not pardoned on the ground of innocence; and(iv) that such conviction was for a felony offense other than persistent sexual abuse, as defined in section 130.53 of this chapter; grand larceny in the fourth degree as defined in subdivision twelve of section 155.30 of this chapter; grand larceny in the third degree as defined in subdivision three of section 155.35 of this chapter; grand larceny in the second degree as defined in subdivision three of section 155.40 of this chapter; or grand larceny in the first degree as defined in subdivision two of section 155.42 of this chapter.(c) For the purpose of determining whether a person has two or more previous felony convictions, two or more convictions of crimes that were committed prior to the time the defendant was imprisoned under sentence for any of such convictions shall be deemed to be only one conviction.2. Authorized sentence. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a persistent felony offender, and when it is of the opinion that the history and character of the defendant and the nature and circumstances of his criminal conduct indicate that extended incarceration and life-time supervision will best serve the public interest, the court, in lieu of imposing the sentence of imprisonment authorized by section 70.00, 70.02, 70.04, 70.06 or subdivision five of section 70.80 for the crime of which such person presently stands convicted, may impose the sentence of imprisonment authorized by that section for a class A-I felony. In such event the reasons for the court's opinion shall be set forth in the record. (a) A persistent felony offender is a person, other than a persistent violent felony offender as defined in section 70.08, who stands convicted of a felony after having previously been convicted of two or more felonies, as provided in paragraphs (b) and (c) of this subdivision. (b) A previous felony conviction within the meaning of paragraph (a) of this subdivision is a conviction of a felony in this state, or of a crime in any other jurisdiction, provided: (i) that a sentence to a term of imprisonment in excess of one year, or a sentence to death, was imposed therefor; and (ii) that the defendant was imprisoned under sentence for such conviction prior to the commission of the present felony; and (iii) that the defendant was not pardoned on the ground of innocence; and (iv) that such conviction was for a felony offense other than persistent sexual abuse, as defined in section 130.53 of this chapter; grand larceny in the fourth degree as defined in subdivision twelve of section 155.30 of this chapter; grand larceny in the third degree as defined in subdivision three of section 155.35 of this chapter; grand larceny in the second degree as defined in subdivision three of section 155.40 of this chapter; or grand larceny in the first degree as defined in subdivision two of section 155.42 of this chapter. (c) For the purpose of determining whether a person has two or more previous felony convictions, two or more convictions of crimes that were committed prior to the time the defendant was imprisoned under sentence for any of such convictions shall be deemed to be only one conviction. 2. Authorized sentence. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a persistent felony offender, and when it is of the opinion that the history and character of the defendant and the nature and circumstances of his criminal conduct indicate that extended incarceration and life-time supervision will best serve the public interest, the court, in lieu of imposing the sentence of imprisonment authorized by section 70.00, 70.02, 70.04, 70.06 or subdivision five of section 70.80 for the crime of which such person presently stands convicted, may impose the sentence of imprisonment authorized by that section for a class A-I felony. In such event the reasons for the court's opinion shall be set forth in the record.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 70 - Sentences of Imprisonment70.15 - Sentences of Imprisonment for Misdemeanors and Violation.

1. Class A misdemeanor. A sentence of imprisonment for a class A misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed three hundred sixty-four days. 1-a. (a) Notwithstanding the provisions of any other law, whenever the phrase "one year" or "three hundred sixty-five days" or "365 days" or any similar phrase appears in any provision of this chapter or any other law in reference to the definite sentence or maximum definite sentence of

imprisonment that is imposed, or has been imposed, or may be imposed after enactment of this subdivision, for a misdemeanor conviction in this state, such phrase shall mean, be interpreted and be applied as three hundred sixty-four days.(b) The amendatory provisions of this subdivision are ameliorative and shall apply to all persons who are sentenced before, on or after the effective date of this subdivision, for a crime committed before, on or after the effective date of this subdivision.(c) Any sentence for a misdemeanor conviction imposed prior to the effective date of this subdivision that is a definite sentence of imprisonment of one year, or three hundred sixty-five days, shall, by operation of law, be changed to, mean and be interpreted and applied as a sentence of three hundred sixty-four days. In addition to any other right of a person to obtain a record of a proceeding against him or her, a person so sentenced prior to the effective date of this subdivision shall be entitled to obtain, from the criminal court or the clerk thereof, a certificate of conviction, as described in subdivision one of section 60.60 of the criminal procedure law, setting forth such sentence as the sentence specified in this paragraph.(d) Any sentence for a misdemeanor conviction imposed prior to the effective date of this subdivision that is other than a definite sentence of imprisonment of one year may be set aside, upon motion of the defendant under section 440.20 of the criminal procedure law based on a showing that the judgment and sentence under the law in effect at the time of conviction imposed prior to the effective date of this subdivision is likely to result in collateral consequences, in order to permit the court to resentence the defendant in accordance with the amendatory provisions of this subdivision.(e) Resentence by operation of law is without prejudice to an individual seeking further relief pursuant to paragraph (j) of subdivision one of section 440.10 of the criminal procedure law. Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the individual.2. Class B misdemeanor. A sentence of imprisonment for a class B misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed three months.3. Unclassified misdemeanor. A sentence of imprisonment for an unclassified misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall be in accordance with the sentence specified in the law or ordinance that defines the crime but, in any event, it shall not exceed three hundred sixty-four days.4. Violation. A sentence of imprisonment for a violation shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed fifteen days.In the case of a violation defined outside this chapter, if the sentence is expressly specified in the law or ordinance that defines the offense and consists solely of a fine, no term of imprisonment shall be imposed. (b) The amendatory provisions of this subdivision are ameliorative and shall apply to all persons who are sentenced before, on or after the effective date of this subdivision, for a crime committed before, on or after the effective date of this subdivision. (c) Any sentence for a misdemeanor conviction imposed prior to the effective date of this subdivision that is a definite sentence of imprisonment of one year, or three hundred sixty-five days, shall, by operation of law, be changed to, mean and be interpreted and applied as a sentence of three hundred sixty-four days. In addition to any other right of a person to obtain a record of a proceeding against him or her, a person so sentenced prior to the effective date of this subdivision shall be entitled to obtain, from the criminal court or the clerk thereof, a certificate of conviction, as described in subdivision one of section 60.60 of the criminal procedure law, setting forth such sentence as the sentence specified in this paragraph. (d) Any sentence for a misdemeanor conviction imposed prior to the effective date of this subdivision that is other than a definite sentence of imprisonment of one year may be set aside, upon motion of the defendant under section 440.20 of the criminal procedure law based on a showing that the judgment and sentence under the law in effect at the time of conviction imposed prior to the effective date of this subdivision is likely to result in collateral consequences, in order to permit the court to resentence the defendant in accordance with the amendatory provisions of this subdivision. (e) Resentence by operation of law is without prejudice to an individual seeking further relief pursuant to paragraph (j) of subdivision one of section 440.10 of the criminal procedure law. Nothing in this section is intended to diminish or abrogate any rights or remedies otherwise available to the individual. 2. Class B misdemeanor. A sentence of imprisonment for a class B misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed three months. 3. Unclassified misdemeanor. A sentence of imprisonment for an unclassified misdemeanor shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall be in accordance with the sentence specified in the law or ordinance that defines the crime but, in any event, it shall not exceed three hundred sixty-four days. 4. Violation. A sentence of imprisonment for a violation shall be a definite sentence. When such a sentence is imposed the term shall be fixed by the court, and shall not exceed fifteen days. In the case of a violation defined outside this chapter, if the sentence is expressly specified in the law or ordinance that defines the offense and consists solely of a fine, no term of imprisonment shall be imposed.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 70 - Sentences of Imprisonment70.20 - Place of Imprisonment.

* 1. (a) Indeterminate or determinate sentence. Except as provided in subdivision four of this section, when an indeterminate or determinate sentence of imprisonment is imposed, the court shall commit the defendant to the custody of the state department of corrections and community supervision for the term of his or her sentence and until released in accordance with the law; provided, however, that a defendant sentenced pursuant to subdivision seven of section 70.06 shall be committed to the custody of the state department of corrections and community supervision for immediate delivery to a reception center operated by the department.(b) The court in committing a defendant who is not yet eighteen years of age to the department of corrections and community supervision shall inquire as to whether the parents or legal guardian of the defendant, if present, will grant to the minor the capacity to consent to routine medical, dental and mental health services and treatment.(c) Notwithstanding paragraph (b) of this subdivision, where the court commits a defendant who is not yet eighteen years of age to the custody of the department of corrections and community supervision in accordance with this section and no medical consent has been obtained prior to said commitment, the

commitment order shall be deemed to grant the capacity to consent to routine medical, dental and mental health services and treatment to the person so committed.(d) Nothing in this subdivision shall preclude a parent or legal guardian of an incarcerated individual who is not yet eighteen years of age from making a motion on notice to the department of corrections and community supervision pursuant to article twenty-two of the civil practice law and rules and section one hundred forty of the correction law, objecting to routine medical, dental or mental health services and treatment being provided to such incarcerated individual under the provisions of paragraph (b) of this subdivision.(e) Nothing in this section shall require that consent be obtained from the parent or legal guardian, where no consent is necessary or where the defendant is authorized by law to consent on his or her own behalf to any medical, dental, and mental health service or treatment.* NB Effective until September 1, 2025* 1. (a) Indeterminate sentence. Except as provided in subdivision four of this section, when an indeterminate sentence of imprisonment is imposed, the court shall commit the defendant to the custody of the state department of corrections and community supervision for the term of his or her sentence and until released in accordance with the law.(b) The court in committing a defendant who is not yet eighteen years of age to the department of corrections and community supervision shall inquire as to whether the parents or legal guardian of the defendant, if present, will grant to the minor the capacity to consent to routine medical, dental and mental health services and treatment.(c) Notwithstanding paragraph (b) of this subdivision, where the court commits a defendant who is not yet eighteen years of age to the custody of the department of corrections and community supervision in accordance with this section and no medical consent has been obtained prior to said commitment, the commitment order shall be deemed to grant the capacity to consent to routine medical, dental and mental health services and treatment to the person so committed.(d) Nothing in this subdivision shall preclude a parent or legal guardian of an incarcerated individual who is not yet eighteen years of age from making a motion on notice to the department of corrections and community supervision pursuant to article twenty-two of the civil practice law and rules and section one hundred forty of the correction law, objecting to routine medical, dental or mental health services and treatment being provided to such incarcerated individual under the provisions of paragraph (b) of this subdivision.(e) Nothing in this section shall require that consent be obtained from the parent or legal guardian, where no consent is necessary or where the defendant is authorized by law to consent on his or her own behalf to any medical, dental, and mental health service or treatment.* NB Effective September 1, 20252. Definite sentence. Except as provided in subdivision four of this section, when a definite sentence of imprisonment is imposed, the court shall commit the defendant to the county or regional correctional institution for the term of his sentence and until released in accordance with the law.2-a. Sentence of life imprisonment without parole. When a sentence of life imprisonment without parole is imposed, the court shall commit the defendant to the custody of the state department of corrections and community supervision for the remainder of the life of the defendant.* 3. Undischarged imprisonment in other jurisdiction. When a defendant who is subject to an undischarged term of imprisonment, imposed at a previous time by a court of another jurisdiction, is sentenced to an additional term or terms of imprisonment by a court of this state to run concurrently with such undischarged term, as provided in subdivision four of section 70.25, the return of the defendant to the custody of the appropriate official of the other jurisdiction shall be deemed a commitment for such portion of the term or terms of the sentence imposed by the court of this state as shall not exceed the said undischarged term. The defendant shall be committed to the custody of the state department of corrections and community supervision if the additional term or terms are indeterminate or determinate or to the appropriate county or regional correctional institution if the said term or terms are definite for such portion of the term or terms of the sentence imposed as shall exceed such undischarged term or until released in accordance with law. If such additional term or terms imposed shall run consecutively to the said undischarged term, the defendant shall be committed as provided in subdivisions one and two of this section.* NB Effective until September 1, 2025* 3. Undischarged imprisonment in other jurisdiction. When a defendant who is subject to an undischarged term of imprisonment, imposed at a previous time by a court of another jurisdiction, is sentenced to an additional term or terms of imprisonment by a court of this state to run concurrently with such undischarged term, as provided in subdivision four of section 70.25, the return of the defendant to the custody of the appropriate official of the other jurisdiction shall be deemed a commitment for such portion of the term or terms of the sentence imposed by the court of this state as shall not exceed the said undischarged term. The defendant shall be committed to the custody of the state department of corrections and community supervision if the additional term or terms are indeterminate or to the appropriate county or regional correctional institution if the said term or terms are definite for such portion of the term or terms of the sentence imposed as shall exceed such undischarged term or until released in accordance with law. If such additional term or terms imposed shall run consecutively to the said undischarged term, the defendant shall be committed as provided in subdivisions one and two of this section.* NB Effective September 1, 20254. (a) Notwithstanding any other provision of law to the contrary, a juvenile offender, adolescent offender, or a juvenile offender or adolescent offender who is adjudicated a youthful offender, who is given an indeterminate, determinate or a definite sentence, and who is under the age of twenty-one at the time of sentencing, shall be committed to the custody of the commissioner of the office of children and family services who shall arrange for the confinement of such offender in secure facilities of the office; provided, however if an adolescent offender who committed a crime on or after the youth's sixteenth birthday receives a definite sentence not exceeding one year, the judge may order that the adolescent offender serve such sentence in a specialized secure juvenile detention facility for older youth certified by the office of children and family services in conjunction with the state commission of correction and operated pursuant to section two hundred eighteen-a of the county law. The release or transfer of such juvenile offenders or adolescent offenders from the office of children and family services shall be governed by section five hundred eight of the executive law.(a-2) Notwithstanding any other provision of law to the contrary, a person sixteen years of age who commits a vehicle and traffic law offense that does not constitute an adolescent offender offense on or after October first, two thousand eighteen and a person seventeen years of age who commits such an offense on or after October first, two

thousand nineteen who is sentenced to a term of imprisonment who is under the age of twenty-one at the time he or she is sentenced shall be committed to a specialized secure detention facility for older youth certified by the office of children and family services in conjunction with the state commission of correction.(b) The court in committing a juvenile offender and youthful offender to the custody of the office of children and family services shall inquire as to whether the parents or legal guardian of the youth, if present, will consent for the office of children and family services to provide routine medical, dental and mental health services and treatment.(c) Notwithstanding paragraph (b) of this subdivision, where the court commits an offender to the custody of the office of children and family services in accordance with this section and no medical consent has been obtained prior to said commitment, the commitment order shall be deemed to grant consent for the office of children and family services to provide for routine medical, dental and mental health services and treatment to the offender so committed.(d) Nothing in this subdivision shall preclude a parent or legal guardian of an offender who is not yet eighteen years of age from making a motion on notice to the office of children and family services pursuant to article twenty-two of the civil practice law and rules objecting to routine medical, dental or mental health services and treatment being provided to such offender under the provisions of paragraph (b) of this subdivision.(e) Nothing in this section shall require that consent be obtained from the parent or legal guardian, where no consent is necessary or where the offender is authorized by law to consent on his or her own behalf to any medical, dental and mental health service or treatment.5. Subject to regulations of the department of health, routine medical, dental and mental health services and treatment is defined for the purposes of this section to mean any routine diagnosis or treatment, including without limitation the administration of medications or nutrition, the extraction of bodily fluids for analysis, and dental care performed with a local anesthetic. Routine mental health treatment shall not include psychiatric administration of medication unless it is part of an ongoing mental health plan or unless it is otherwise authorized by law. (b) The court in committing a defendant who is not yet eighteen years of age to the department of corrections and community supervision shall inquire as to whether the parents or legal guardian of the defendant, if present, will grant to the minor the capacity to consent to routine medical, dental and mental health services and treatment. (c) Notwithstanding paragraph (b) of this subdivision, where the court commits a defendant who is not yet eighteen years of age to the custody of the department of corrections and community supervision in accordance with this section and no medical consent has been obtained prior to said commitment, the commitment order shall be deemed to grant the capacity to consent to routine medical, dental and mental health services and treatment to the person so committed. (d) Nothing in this subdivision shall preclude a parent or legal guardian of an incarcerated individual who is not yet eighteen years of age from making a motion on notice to the department of corrections and community supervision pursuant to article twenty-two of the civil practice law and rules and section one hundred forty of the correction law, objecting to routine medical, dental or mental health services and treatment being provided to such incarcerated individual under the provisions of paragraph (b) of this subdivision. (e) Nothing in this section shall require that consent be obtained from the parent or legal guardian, where no consent is necessary or where the defendant is authorized by law to consent on his or her own behalf to any medical, dental, and mental health service or treatment. * NB Effective until September 1, 2025 * 1. (a) Indeterminate sentence. Except as provided in subdivision four of this section, when an indeterminate sentence of imprisonment is imposed, the court shall commit the defendant to the custody of the state department of corrections and community supervision for the term of his or her sentence and until released in accordance with the law. (b) The court in committing a defendant who is not yet eighteen years of age to the department of corrections and community supervision shall inquire as to whether the parents or legal guardian of the defendant, if present, will grant to the minor the capacity to consent to routine medical, dental and mental health services and treatment. (c) Notwithstanding paragraph (b) of this subdivision, where the court commits a defendant who is not yet eighteen years of age to the custody of the department of corrections and community supervision in accordance with this section and no medical consent has been obtained prior to said commitment, the commitment order shall be deemed to grant the capacity to consent to routine medical, dental and mental health services and treatment to the person so committed. (d) Nothing in this subdivision shall preclude a parent or legal guardian of an incarcerated individual who is not yet eighteen years of age from making a motion on notice to the department of corrections and community supervision pursuant to article twenty-two of the civil practice law and rules and section one hundred forty of the correction law, objecting to routine medical, dental or mental health services and treatment being provided to such incarcerated individual under the provisions of paragraph (b) of this subdivision. (e) Nothing in this section shall require that consent be obtained from the parent or legal guardian, where no consent is necessary or where the defendant is authorized by law to consent on his or her own behalf to any medical, dental, and mental health service or treatment. * NB Effective September 1, 2025 2. Definite sentence. Except as provided in subdivision four of this section, when a definite sentence of imprisonment is imposed, the court shall commit the defendant to the county or regional correctional institution for the term of his sentence and until released in accordance with the law. 2-a. Sentence of life imprisonment without parole. When a sentence of life imprisonment without parole is imposed, the court shall commit the defendant to the custody of the state department of corrections and community supervision for the remainder of the life of the defendant. * 3. Undischarged imprisonment in other jurisdiction. When a defendant who is subject to an undischarged term of imprisonment, imposed at a previous time by a court of another jurisdiction, is sentenced to an additional term or terms of imprisonment by a court of this state to run concurrently with such undischarged term, as provided in subdivision four of section 70.25, the return of the defendant to the custody of the appropriate official of the other jurisdiction shall be deemed a commitment for such portion of the term or terms of the sentence imposed by the court of this state as shall not exceed the said undischarged term. The defendant shall be committed to the custody of the state department of corrections and community supervision if the additional term or terms are indeterminate or determinate or to the appropriate county or regional correctional institution if the said term or terms are definite for such portion of the term or terms of the sentence imposed as shall exceed such undischarged term or

until released in accordance with law. If such additional term or terms imposed shall run consecutively to the said undischarged term, the defendant shall be committed as provided in subdivisions one and two of this section. * NB Effective until September 1, 2025 * 3. Undischarged imprisonment in other jurisdiction. When a defendant who is subject to an undischarged term of imprisonment, imposed at a previous time by a court of another jurisdiction, is sentenced to an additional term or terms of imprisonment by a court of this state to run concurrently with such undischarged term, as provided in subdivision four of section 70.25, the return of the defendant to the custody of the appropriate official of the other jurisdiction shall be deemed a commitment for such portion of the term or terms of the sentence imposed by the court of this state as shall not exceed the said undischarged term. The defendant shall be committed to the custody of the state department of corrections and community supervision if the additional term or terms are indeterminate or to the appropriate county or regional correctional institution if the said term or terms are definite for such portion of the term or terms of the sentence imposed as shall exceed such undischarged term or until released in accordance with law. If such additional term or terms imposed shall run consecutively to the said undischarged term, the defendant shall be committed as provided in subdivisions one and two of this section. * NB Effective September 1, 2025 4. (a) Notwithstanding any other provision of law to the contrary, a juvenile offender, adolescent offender, or a juvenile offender or adolescent offender who is adjudicated a youthful offender, who is given an indeterminate, determinate or a definite sentence, and who is under the age of twenty-one at the time of sentencing, shall be committed to the custody of the commissioner of the office of children and family services who shall arrange for the confinement of such offender in secure facilities of the office; provided, however if an adolescent offender who committed a crime on or after the youth's sixteenth birthday receives a definite sentence not exceeding one year, the judge may order that the adolescent offender serve such sentence in a specialized secure juvenile detention facility for older youth certified by the office of children and family services in conjunction with the state commission of correction and operated pursuant to section two hundred eighteen-a of the county law. The release or transfer of such juvenile offenders or adolescent offenders from the office of children and family services shall be governed by section five hundred eight of the executive law. (a-2) Notwithstanding any other provision of law to the contrary, a person sixteen years of age who commits a vehicle and traffic law offense that does not constitute an adolescent offender offense on or after October first, two thousand eighteen and a person seventeen years of age who commits such an offense on or after October first, two thousand nineteen who is sentenced to a term of imprisonment who is under the age of twenty-one at the time he or she is sentenced shall be committed to a specialized secure detention facility for older youth certified by the office of children and family services in conjunction with the state commission of correction. (b) The court in committing a juvenile offender and youthful offender to the custody of the office of children and family services shall inquire as to whether the parents or legal guardian of the youth, if present, will consent for the office of children and family services to provide routine medical, dental and mental health services and treatment. (c) Notwithstanding paragraph (b) of this subdivision, where the court commits an offender to the custody of the office of children and family services in accordance with this section and no medical consent has been obtained prior to said commitment, the commitment order shall be deemed to grant consent for the office of children and family services to provide for routine medical, dental and mental health services and treatment to the offender so committed. (d) Nothing in this subdivision shall preclude a parent or legal guardian of an offender who is not yet eighteen years of age from making a motion on notice to the office of children and family services pursuant to article twenty-two of the civil practice law and rules objecting to routine medical, dental or mental health services and treatment being provided to such offender under the provisions of paragraph (b) of this subdivision. (e) Nothing in this section shall require that consent be obtained from the parent or legal guardian, where no consent is necessary or where the offender is authorized by law to consent on his or her own behalf to any medical, dental and mental health service or treatment. 5. Subject to regulations of the department of health, routine medical, dental and mental health services and treatment is defined for the purposes of this section to mean any routine diagnosis or treatment, including without limitation the administration of medications or nutrition, the extraction of bodily fluids for analysis, and dental care performed with a local anesthetic. Routine mental health treatment shall not include psychiatric administration of medication unless it is part of an ongoing mental health plan or unless it is otherwise authorized by law.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 70 - Sentences of Imprisonment70.25 - Concurrent and Consecutive Terms of Imprisonment.

1. Except as provided in subdivisions two, two-a and five of this section, when multiple sentences of imprisonment are imposed on a person at the same time, or when a person who is subject to any undischarged term of imprisonment imposed at a previous time by a court of this state is sentenced to an additional term of imprisonment, the sentence or sentences imposed by the court shall run either concurrently or consecutively with respect to each other and the undischarged term or terms in such manner as the court directs at the time of sentence. If the court does not specify the manner in which a sentence imposed by it is to run, the sentence shall run as follows: * (a) An indeterminate or determinate sentence shall run concurrently with all other terms; and * NB Effective until September 1, 2025 * (a) An indeterminate sentence shall run concurrently with all other terms; and * NB Effective September 1, 2025(b) A definite sentence shall run concurrently with any sentence imposed at the same time and shall be consecutive to any other term.2. When more than one sentence of imprisonment is imposed on a person for two or more offenses committed through a single act or omission, or through an act or omission which in itself constituted one of the offenses and also was a material element of the other, the sentences, except if one or more of such sentences is for a violation of section 270.20 of this chapter, must run concurrently.* 2-a. When an indeterminate or determinate sentence of imprisonment is imposed pursuant to section 70.04, 70.06, 70.07, 70.08, 70.10, subdivision three or four of section 70.70, subdivision three or four of section 70.71 or subdivision five of

section 70.80 of this article, or is imposed for a class A-I felony pursuant to section 70.00 of this article, and such person is subject to an undischarged indeterminate or determinate sentence of imprisonment imposed prior to the date on which the present crime was committed, the court must impose a sentence to run consecutively with respect to such undischarged sentence.* NB Effective until September 1, 2025* 2-a. When an indeterminate or determinate sentence of imprisonment is imposed pursuant to section 70.04, 70.06, 70.07, 70.08, 70.10, subdivision three or four of section 70.70, subdivision three or four of section 70.71 or subdivision five of section 70.80 of this article, or is imposed for a class A-I felony pursuant to section 70.00 of this article, and such person is subject to an undischarged indeterminate sentence of imprisonment imposed prior to the date on which the present crime was committed, the court must impose a sentence to run consecutively with respect to such undischarged sentence.* NB Effective September 1, 2025* 2-b. When a person is convicted of a violent felony offense committed after arraignment and while released on recognizance or bail, but committed prior to the imposition of sentence on a pending felony charge, and if an indeterminate or determinate sentence of imprisonment is imposed in each case, such sentences shall run consecutively. Provided, however, that the court may, in the interest of justice, order a sentence to run concurrently in a situation where consecutive sentences are required by this subdivision if it finds either mitigating circumstances that bear directly upon the manner in which the crime was committed or, where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution. The defendant and the district attorney shall have an opportunity to present relevant information to assist the court in making this determination and the court may, in its discretion, conduct a hearing with respect to any issue bearing upon such determination. If the court determines that consecutive sentences should not be ordered, it shall make a statement on the record of the facts and circumstances upon which such determination is based.* NB Effective until September 1, 2025* 2-b. When a person is convicted of a violent felony offense committed after arraignment and while released on recognizance or bail, but committed prior to the imposition of sentence on a pending felony charge, and if an indeterminate sentence of imprisonment is imposed in each case, such sentences shall run consecutively. Provided, however, that the court may, in the interest of justice, order a sentence to run concurrently in a situation where consecutive sentences are required by this subdivision if it finds either mitigating circumstances that bear directly upon the manner in which the crime was committed or, where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution. The defendant and the district attorney shall have an opportunity to present relevant information to assist the court in making this determination and the court may, in its discretion, conduct a hearing with respect to any issue bearing upon such determination. If the court determines that consecutive sentences should not be ordered, it shall make a statement on the record of the facts and circumstances upon which such determination is based.* NB Effective September 1, 20252-c. When a person is convicted of bail jumping in the second degree as defined in section 215.56 or bail jumping in the first degree as defined in section 215.57 committed after arraignment and while released on recognizance or bail in connection with a pending indictment or information charging one or more felonies, at least one of which he is subsequently convicted, and if an indeterminate sentence of imprisonment is imposed in each case, such sentences shall run consecutively. Provided, however, that the court may, in the interest of justice, order a sentence to run concurrently in a situation where consecutive sentences are required by this subdivision if it finds mitigating circumstances that bear directly upon the manner in which the crime was committed. The defendant and the district attorney shall have an opportunity to present relevant information to assist the court in making this determination and the court may, in its discretion, conduct a hearing with respect to any issue bearing upon such determination. If the court determines that consecutive sentences should not be ordered, it shall make a statement on the record of the facts and circumstances upon which such determination is based.2-d. When a person is convicted of escape in the second degree as defined in section 205.10 or escape in the first degree as defined in section 205.15 committed after issuance of a securing order, as defined in subdivision five of section 500.10 of the criminal procedure law, in connection with a pending indictment or information charging one or more felonies, at least one of which he is subsequently convicted, and if an indeterminate sentence of imprisonment is imposed in each case, such sentences shall run consecutively. Provided, however, that the court may, in the interest of justice, order a sentence to run concurrently in a situation where consecutive sentences are required by this subdivision if it finds mitigating circumstances that bear directly upon the manner in which the crime was committed. The defendant and the district attorney shall have an opportunity to present relevant information to assist the court in making this determination and the court may, in its discretion, conduct a hearing with respect to any issue bearing upon such determination. If the court determines that consecutive sentences should not be ordered, it shall make a statement on the record of the facts and circumstances upon which such determination is based.2-e. Whenever a person is convicted of course of sexual conduct against a child in the first degree as defined in section 130.75 or course of sexual conduct against a child in the second degree as defined in section 130.80 and any other crime under article one hundred thirty committed against the same child and within the period charged under section 130.75 or 130.80, the sentences must run concurrently.2-f. Whenever a person is convicted of facilitating a sex offense with a controlled substance as defined in section 130.90 of this chapter, the sentence imposed by the court for such offense may be ordered to run consecutively to any sentence imposed upon conviction of an offense defined in article one hundred thirty of this chapter arising from the same criminal transaction.2-g. Whenever a person is convicted of unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of this chapter, unlawful manufacture of methamphetamine in the second degree as defined in section 220.74 of this chapter, or unlawful manufacture of methamphetamine in the first degree as defined in section 220.75 of this chapter, or any attempt to commit any of such offenses, and such person is also convicted, with respect to such unlawful methamphetamine laboratory, of unlawful disposal of methamphetamine laboratory material as defined in section 220.76 of this chapter, the sentences must run concurrently.3. Where consecutive definite sentences of imprisonment are not prohibited by subdivision two of this section

and are imposed on a person for offenses which were committed as parts of a single incident or transaction, the aggregate of the terms of such sentences shall not exceed one year.4. When a person, who is subject to any undischarged term of imprisonment imposed at a previous time by a court of another jurisdiction, is sentenced to an additional term or terms of imprisonment by a court of this state, the sentence or sentences imposed by the court of this state, subject to the provisions of subdivisions one, two and three of this section, shall run either concurrently or consecutively with respect to such undischarged term in such manner as the court directs at the time of sentence. If the court of this state does not specify the manner in which a sentence imposed by it is to run, the sentence or sentences shall run consecutively.5. * (a) Except as provided in paragraph (c) of this subdivision, when a person is convicted of assault in the second degree, as defined in subdivision seven of section 120.05 of this chapter, any definite, indeterminate or determinate term of imprisonment which may be imposed as a sentence upon such conviction shall run consecutively to any undischarged term of imprisonment to which the defendant was subject and for which he was confined at the time of the assault.* NB Effective until September 1, 2025* (a) Except as provided in paragraph (c) of this subdivision, when a person is convicted of assault in the second degree, as defined in subdivision seven of section 120.05 of this chapter, any definite or indeterminate term of imprisonment which may be imposed as a sentence upon such conviction shall run consecutively to any undischarged term of imprisonment to which the defendant was subject and for which he was confined at the time of the assault.* NB Effective September 1, 2025* (b) Except as provided in paragraph (c) of this subdivision, when a person is convicted of assault in the second degree, as defined in subdivision seven of section 120.05 of this chapter, any definite, indeterminate or determinate term of imprisonment which may be imposed as a sentence upon such conviction shall run consecutively to any term of imprisonment which was previously imposed or which may be prospectively imposed where the person was confined within a detention facility at the time of the assault upon a charge which culminated in such sentence of imprisonment.* NB Effective until September 1, 2025* (b) Except as provided in paragraph (c) of this subdivision, when a person is convicted of assault in the second degree, as defined in subdivision seven of section 120.05 of this chapter, any definite or indeterminate term of imprisonment which may be imposed as a sentence upon such conviction shall run consecutively to any term of imprisonment which was previously imposed or which may be prospectively imposed where the person was confined within a detention facility at the time of the assault upon a charge which culminated in such sentence of imprisonment.* NB Effective September 1, 2025(c) Notwithstanding the provisions of paragraphs (a) and (b) of this subdivision, a term of imprisonment imposed upon a conviction to assault in the second degree as defined in subdivision seven of section 120.05 of this chapter may run concurrently to any other term of imprisonment, in the interest of justice, provided the court sets forth in the record its reasons for imposing a concurrent sentence. Nothing in this section shall require the imposition of a sentence of imprisonment where it is not otherwise required by law. (b) A definite sentence shall run concurrently with any sentence imposed at the same time and shall be consecutive to any other term. 2. When more than one sentence of imprisonment is imposed on a person for two or more offenses committed through a single act or omission, or through an act or omission which in itself constituted one of the offenses and also was a material element of the other, the sentences, except if one or more of such sentences is for a violation of section 270.20 of this chapter, must run concurrently. * 2-a. When an indeterminate or determinate sentence of imprisonment is imposed pursuant to section 70.04, 70.06, 70.07, 70.08, 70.10, subdivision three or four of section 70.70, subdivision three or four of section 70.71 or subdivision five of section 70.80 of this article, or is imposed for a class A-I felony pursuant to section 70.00 of this article, and such person is subject to an undischarged indeterminate or determinate sentence of imprisonment imposed prior to the date on which the present crime was committed, the court must impose a sentence to run consecutively with respect to such undischarged sentence. * NB Effective until September 1, 2025 * 2-a. When an indeterminate or determinate sentence of imprisonment is imposed pursuant to section 70.04, 70.06, 70.07, 70.08, 70.10, subdivision three or four of section 70.70, subdivision three or four of section 70.71 or subdivision five of section 70.80 of this article, or is imposed for a class A-I felony pursuant to section 70.00 of this article, and such person is subject to an undischarged indeterminate sentence of imprisonment imposed prior to the date on which the present crime was committed, the court must impose a sentence to run consecutively with respect to such undischarged sentence. * NB Effective September 1, 2025 * 2-b. When a person is convicted of a violent felony offense committed after arraignment and while released on recognizance or bail, but committed prior to the imposition of sentence on a pending felony charge, and if an indeterminate or determinate sentence of imprisonment is imposed in each case, such sentences shall run consecutively. Provided, however, that the court may, in the interest of justice, order a sentence to run concurrently in a situation where consecutive sentences are required by this subdivision if it finds either mitigating circumstances that bear directly upon the manner in which the crime was committed or, where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution. The defendant and the district attorney shall have an opportunity to present relevant information to assist the court in making this determination and the court may, in its discretion, conduct a hearing with respect to any issue bearing upon such determination. If the court determines that consecutive sentences should not be ordered, it shall make a statement on the record of the facts and circumstances upon which such determination is based. * NB Effective until September 1, 2025 * 2-b. When a person is convicted of a violent felony offense committed after arraignment and while released on recognizance or bail, but committed prior to the imposition of sentence on a pending felony charge, and if an indeterminate sentence of imprisonment is imposed in each case, such sentences shall run consecutively. Provided, however, that the court may, in the interest of justice, order a sentence to run concurrently in a situation where consecutive sentences are required by this subdivision if it finds either mitigating circumstances that bear directly upon the manner in which the crime was committed or, where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution. The defendant and the district attorney shall have an opportunity to present relevant information to assist the court in making this

determination and the court may, in its discretion, conduct a hearing with respect to any issue bearing upon such determination. If the court determines that consecutive sentences should not be ordered, it shall make a statement on the record of the facts and circumstances upon which such determination is based. * NB Effective September 1, 2025 2-c. When a person is convicted of bail jumping in the second degree as defined in section 215.56 or bail jumping in the first degree as defined in section 215.57 committed after arraignment and while released on recognizance or bail in connection with a pending indictment or information charging one or more felonies, at least one of which he is subsequently convicted, and if an indeterminate sentence of imprisonment is imposed in each case, such sentences shall run consecutively. Provided, however, that the court may, in the interest of justice, order a sentence to run concurrently in a situation where consecutive sentences are required by this subdivision if it finds mitigating circumstances that bear directly upon the manner in which the crime was committed. The defendant and the district attorney shall have an opportunity to present relevant information to assist the court in making this determination and the court may, in its discretion, conduct a hearing with respect to any issue bearing upon such determination. If the court determines that consecutive sentences should not be ordered, it shall make a statement on the record of the facts and circumstances upon which such determination is based. 2-d. When a person is convicted of escape in the second degree as defined in section 205.10 or escape in the first degree as defined in section 205.15 committed after issuance of a securing order, as defined in subdivision five of section 500.10 of the criminal procedure law, in connection with a pending indictment or information charging one or more felonies, at least one of which he is subsequently convicted, and if an indeterminate sentence of imprisonment is imposed in each case, such sentences shall run consecutively. Provided, however, that the court may, in the interest of justice, order a sentence to run concurrently in a situation where consecutive sentences are required by this subdivision if it finds mitigating circumstances that bear directly upon the manner in which the crime was committed. The defendant and the district attorney shall have an opportunity to present relevant information to assist the court in making this determination and the court may, in its discretion, conduct a hearing with respect to any issue bearing upon such determination. If the court determines that consecutive sentences should not be ordered, it shall make a statement on the record of the facts and circumstances upon which such determination is based. 2-e. Whenever a person is convicted of course of sexual conduct against a child in the first degree as defined in section 130.75 or course of sexual conduct against a child in the second degree as defined in section 130.80 and any other crime under article one hundred thirty committed against the same child and within the period charged under section 130.75 or 130.80, the sentences must run concurrently. 2-f. Whenever a person is convicted of facilitating a sex offense with a controlled substance as defined in section 130.90 of this chapter, the sentence imposed by the court for such offense may be ordered to run consecutively to any sentence imposed upon conviction of an offense defined in article one hundred thirty of this chapter arising from the same criminal transaction. 2-g. Whenever a person is convicted of unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of this chapter, unlawful manufacture of methamphetamine in the second degree as defined in section 220.74 of this chapter, or unlawful manufacture of methamphetamine in the first degree as defined in section 220.75 of this chapter, or any attempt to commit any of such offenses, and such person is also convicted, with respect to such unlawful methamphetamine laboratory, of unlawful disposal of methamphetamine laboratory material as defined in section 220.76 of this chapter, the sentences must run concurrently. 3. Where consecutive definite sentences of imprisonment are not prohibited by subdivision two of this section and are imposed on a person for offenses which were committed as parts of a single incident or transaction, the aggregate of the terms of such sentences shall not exceed one year. 4. When a person, who is subject to any undischarged term of imprisonment imposed at a previous time by a court of another jurisdiction, is sentenced to an additional term or terms of imprisonment by a court of this state, the sentence or sentences imposed by the court of this state, subject to the provisions of subdivisions one, two and three of this section, shall run either concurrently or consecutively with respect to such undischarged term in such manner as the court directs at the time of sentence. If the court of this state does not specify the manner in which a sentence imposed by it is to run, the sentence or sentences shall run consecutively. 5. * (a) Except as provided in paragraph (c) of this subdivision, when a person is convicted of assault in the second degree, as defined in subdivision seven of section 120.05 of this chapter, any definite, indeterminate or determinate term of imprisonment which may be imposed as a sentence upon such conviction shall run consecutively to any undischarged term of imprisonment to which the defendant was subject and for which he was confined at the time of the assault. * NB Effective until September 1, 2025 * (a) Except as provided in paragraph (c) of this subdivision, when a person is convicted of assault in the second degree, as defined in subdivision seven of section 120.05 of this chapter, any definite or indeterminate term of imprisonment which may be imposed as a sentence upon such conviction shall run consecutively to any undischarged term of imprisonment to which the defendant was subject and for which he was confined at the time of the assault. * NB Effective September 1, 2025 * (b) Except as provided in paragraph (c) of this subdivision, when a person is convicted of assault in the second degree, as defined in subdivision seven of section 120.05 of this chapter, any definite, indeterminate or determinate term of imprisonment which may be imposed as a sentence upon such conviction shall run consecutively to any term of imprisonment which was previously imposed or which may be prospectively imposed where the person was confined within a detention facility at the time of the assault upon a charge which culminated in such sentence of imprisonment. * NB Effective until September 1, 2025 * (b) Except as provided in paragraph (c) of this subdivision, when a person is convicted of assault in the second degree, as defined in subdivision seven of section 120.05 of this chapter, any definite or indeterminate term of imprisonment which may be imposed as a sentence upon such conviction shall run consecutively to any term of imprisonment which was previously imposed or which may be prospectively imposed where the person was confined within a detention facility at the time of the assault upon a charge which culminated in such sentence of imprisonment. * NB Effective September 1, 2025 (c) Notwithstanding the provisions of paragraphs (a) and (b) of this subdivision, a term of imprisonment imposed upon a conviction to assault in the second degree as defined in subdivision seven of section 120.05 of this chapter may run

concurrently to any other term of imprisonment, in the interest of justice, provided the court sets forth in the record its reasons for imposing a concurrent sentence. Nothing in this section shall require the imposition of a sentence of imprisonment where it is not otherwise required by law.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 70 - Sentences of Imprisonment70.30 - Calculation of Terms of Imprisonment.

1. * Indeterminate or determinate sentences. * NB Effective until September 1, 2025 * Indeterminate sentences. * NB Effective September 1, 2025 * An indeterminate or determinate sentence of imprisonment commences when the prisoner is received in an institution under the jurisdiction of the state department of corrections and community supervision. Where a person is under more than one indeterminate or determinate sentence, the sentences shall be calculated as follows: * NB Effective until September 1, 2025 * An indeterminate sentence of imprisonment commences when the prisoner is received in an institution under the jurisdiction of the state department of corrections and community supervision. Where a person is under more than one indeterminate sentence, the sentences shall be calculated as follows: * NB Effective September 1, 2025 * (a) If the sentences run concurrently, the time served under imprisonment on any of the sentences shall be credited against the minimum periods of all the concurrent indeterminate sentences and against the terms of all the concurrent determinate sentences. The maximum term or terms of the indeterminate sentences and the term or terms of the determinate sentences shall merge in and be satisfied by discharge of the term which has the longest unexpired time to run; * NB Effective until September 1, 2025 * (a) If the sentences run concurrently, the time served under imprisonment on any of the sentences shall be credited against the minimum periods of all the concurrent sentences, and the maximum terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; * NB Effective September 1, 2025 * (b) If the defendant is serving two or more indeterminate sentences which run consecutively, the minimum periods of imprisonment are added to arrive at an aggregate minimum period of imprisonment equal to the sum of all the minimum periods, and the maximum terms are added to arrive at an aggregate maximum term equal to the sum of all the maximum terms, provided, however, that both the aggregate maximum term and the aggregate minimum period of imprisonment shall be subject to the limitations set forth in paragraphs (e) and (f) of this subdivision, where applicable; * NB Effective until September 1, 2025 * (b) If the sentences run consecutively, the minimum periods of imprisonment are added to arrive at an aggregate minimum period of imprisonment equal to the sum of all the minimum periods, and the maximum terms are added to arrive at an aggregate maximum term equal to the sum of all the maximum terms, provided, however, that both the aggregate maximum term and the aggregate minimum period of imprisonment shall be subject to the limitations set forth in paragraphs (c) and (d) of this subdivision, where applicable; * NB Effective September 1, 2025 * (c) If the defendant is serving two or more determinate sentences of imprisonment which run consecutively, the terms of the determinate sentences are added to arrive at an aggregate maximum term of imprisonment, provided, however, that the aggregate maximum term of imprisonment shall be subject to the limitations set forth in paragraphs (e) and (f) of this subdivision, where applicable. * NB Effective until September 1, 2025 * (c) (i) Except as provided in subparagraph (ii) or (iii) of this paragraph, the aggregate maximum term of consecutive sentences imposed for two or more crimes, other than two or more crimes that include a class A felony, committed prior to the time the person was imprisoned under any of such sentences shall, if it exceeds twenty years, be deemed to be twenty years, unless one of the sentences was imposed for a class B felony, in which case the aggregate maximum term shall, if it exceeds thirty years, be deemed to be thirty years. Where the aggregate maximum term of two or more consecutive sentences is reduced by calculation made pursuant to this paragraph, the aggregate minimum period of imprisonment, if it exceeds one-half of the aggregate maximum term as so reduced, shall be deemed to be one-half of the aggregate maximum term as so reduced;(ii) Notwithstanding subparagraph (i) of this paragraph, the aggregate maximum term of consecutive sentences imposed for the conviction of two violent felony offenses committed prior to the time the person was imprisoned under any of such sentences and one of which is a class B violent felony offense, shall, if it exceeds forty years, be deemed to be forty years;(iii) Notwithstanding subparagraphs (i) and (ii) of this paragraph, the aggregate maximum term of consecutive sentences imposed for the conviction of three or more violent felony offenses committed prior to the time the person was imprisoned under any of such sentences and one of which is a class B violent felony offense, shall, if it exceeds fifty years, be deemed to be fifty years;* NB Effective September 1, 2025* (d) If the defendant is serving one or more indeterminate sentences of imprisonment and one or more determinate sentence of imprisonment which run consecutively, the minimum term or terms of the indeterminate sentence or sentences and the term or terms of the determinate sentence or sentences are added to arrive at an aggregate maximum term of imprisonment, provided, however, (i) that in no event shall the aggregate maximum so calculated be less than the term or maximum term of imprisonment of the sentence which has the longest unexpired time to run; and (ii) that the aggregate maximum term of imprisonment shall be subject to the limitations set forth in paragraphs (e) and (f) of this subdivision, where applicable.* NB Effective until September 1, 2025* (d) The aggregate maximum term of consecutive sentences imposed upon a juvenile offender for two or more crimes, not including a class A felony, committed before he has reached the age of sixteen, shall, if it exceeds ten years, be deemed to be ten years. If consecutive indeterminate sentences imposed upon a juvenile offender include a sentence for the class A felony of arson in the first degree or for the class A felony of kidnapping in the first degree, then the aggregate maximum term of such sentences shall, if it exceeds fifteen years, be deemed to be fifteen years. Where the aggregate maximum term of two or more consecutive sentences is reduced by a calculation made pursuant to this paragraph, the aggregate minimum period of imprisonment, if it exceeds one-half of the aggregate maximum term as so reduced, shall be deemed to be one-half of the aggregate maximum term as so reduced.* NB Effective September 1, 2025* (e) (i) Except as provided in subparagraph (ii), (iii), (iv), (v), (vi) or (vii) of this paragraph, the aggregate maximum term of consecutive sentences, all of which

are indeterminate sentences or all of which are determinate sentences, imposed for two or more crimes, other than two or more crimes that include a class A felony, committed prior to the time the person was imprisoned under any of such sentences shall, if it exceeds twenty years, be deemed to be twenty years, unless one of the sentences was imposed for a class B felony, in which case the aggregate maximum term shall, if it exceeds thirty years, be deemed to be thirty years. Where the aggregate maximum term of two or more indeterminate consecutive sentences is reduced by calculation made pursuant to this paragraph, the aggregate minimum period of imprisonment, if it exceeds one-half of the aggregate maximum term as so reduced, shall be deemed to be one-half of the aggregate maximum term as so reduced;(ii) Where the aggregate maximum term of two or more consecutive sentences, one or more of which is a determinate sentence and one or more of which is an indeterminate sentence, imposed for two or more crimes, other than two or more crimes that include a class A felony, committed prior to the time the person was imprisoned under any of such sentences, exceeds twenty years, and none of the sentences was imposed for a class B felony, the following rules shall apply:(A) if the aggregate maximum term of the determinate sentence or sentences exceeds twenty years, the defendant shall be deemed to be serving to a determinate sentence of twenty years.(B) if the aggregate maximum term of the determinate sentence or sentences is less than twenty years, the defendant shall be deemed to be serving an indeterminate sentence the maximum term of which shall be deemed to be twenty years. In such instances, the minimum sentence shall be deemed to be ten years or six-sevenths of the term or aggregate maximum term of the determinate sentence or sentences, whichever is greater.(iii) Where the aggregate maximum term of two or more consecutive sentences, one or more of which is a determinate sentence and one or more of which is an indeterminate sentence, imposed for two or more crimes, other than two or more crimes that include a class A felony, commmitted prior to the time the person was imprisoned under any of such sentences, exceeds thirty years, and one of the sentences was imposed for a class B felony, the following rules shall apply:(A) if the aggregate maximum term of the determinate sentence or sentences exceeds thirty years, the defendant shall be deemed to be serving a determinate sentence of thirty years;(B) if the aggregate maximum term of the determinate sentence or sentences is less than thirty years, the defendant shall be deemed to be serving an indeterminate sentence the maximum term of which shall be deemed to be thirty years. In such instances, the minimum sentence shall be deemed to be fifteen years or six-sevenths of the term or aggregate maximum term of the determinate sentence or sentences, whichever is greater.(iv) Notwithstanding subparagraph (i) of this paragraph, the aggregate maximum term of consecutive sentences, all of which are indeterminate sentences or all of which are determinate sentences, imposed for the conviction of two violent felony offenses committed prior to the time the person was imprisoned under any of such sentences and one of which is a class B violent felony offense, shall, if it exceeds forty years, be deemed to be forty years;(v) Notwithstanding subparagraphs (ii) and (iii) of this paragraph, where the aggregate maximum term of two or more consecutive sentences, one or more of which is a determinate sentence and one or more of which is an indeterminate sentence, and where such sentences are imposed for the conviction of two violent felony offenses committed prior to the time the person was imprisoned under any such sentences and where one of which is a class B violent felony offense, the following rules shall apply:(A) if the aggregate maximum term of the determinate sentence or sentences exceeds forty years, the defendant shall be deemed to be serving a determinate sentence of forty years;(B) if the aggregate maximum term of the determinate sentence or sentences is less than forty years, the defendant shall be deemed to be serving an indeterminate sentence the maximum term of which shall be deemed to be forty years. In such instances, the minimum sentence shall be deemed to be twenty years or six-sevenths of the term or aggregate maximum term of the determinate sentence or sentences, whichever is greater.(vi) Notwithstanding subparagraphs (i) and (iv) of this paragraph, the aggregate maximum term of consecutive sentences, all of which are indeterminate or all of which are determinate sentences, imposed for the conviction of three or more violent felony offenses committed prior to the time the person was imprisoned under any of such sentences and one of which is a class B violent felony offense, shall, if it exceeds fifty years, be deemed to be fifty years;(vii) Notwithstanding subparagraphs (ii), (iii) and (v) of this paragraph, where the aggregate maximum term of two or more consecutive sentences, one or more of which is a determinate sentence and one or more of which is an indeterminate sentence, and where such sentences are imposed for the conviction of three or more violent felony offenses committed prior to the time the person was imprisoned under any such sentences and one of which is a class B violent felony offense, the following rules shall apply:(A) if the aggregate maximum term of the determinate sentence or sentences exceeds fifty years, the defendant shall be deemed to be serving a determinate sentence of fifty years.(B) if the aggregate maximum term of the determinate sentence or sentences is less than fifty years, the defendant shall be deemed to be serving an indeterminate sentence the maximum term of which shall be deemed to be fifty years. In such instances, the minimum sentence shall be deemed to be twenty-five years or six-sevenths of the term or aggregate maximum term of the determinate sentence or sentences, whichever is greater.(viii) Notwithstanding any provision of this subdivision to the contrary where a person is serving two or more consecutive sentences, one or more of which is an indeterminate sentence and one or more of which is a determinate sentence, and if he would be eligible for a reduction provision pursuant to this subdivision if the maximum term or aggregate maximum term of the indeterminate sentence or sentences were added to the term or aggregate maximum term of the determinate sentence or sentences, the person shall be deemed to be eligible for the applicable reduction provision and the rules set forth in this subdivision shall apply.* NB Effective until September 1, 2025* (f) The aggregate maximum term of consecutive sentences imposed upon a juvenile offender for two or more crimes, not including a class A felony, committed before he has reached the age of sixteen, shall, if it exceeds ten years, be deemed to be ten years. If consecutive indeterminate sentences imposed upon a juvenile offender include a sentence for the class A felony of arson in the first degree or for the class A felony of kidnapping in the first degree, then the aggregate maximum term of such sentences shall, if it exceeds fifteen years, be deemed to be fifteen years. Where the aggregate maximum term of two or more consecutive sentences is reduced by a calculation made pursuant to this paragraph, the aggregate minimum period of imprisonment, if it exceeds one-half of the aggregate maximum term as so reduced,

shall be deemed to be one-half of the aggregate maximum term as so reduced.* NB Effective until September 1, 20252. Definite sentences. A definite sentence of imprisonment commences when the prisoner is received in the institution named in the commitment. Where a person is under more than one definite sentence, the sentences shall be calculated as follows:(a) If the sentences run concurrently and are to be served in a single institution, the terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run;(b) If the sentences run consecutively and are to be served in a single institution, the terms are added to arrive at an aggregate term and are satisfied by discharge of such aggregate term, or by service of two years imprisonment plus any term imposed for an offense committed while the person is under the sentences, whichever is less;(c) If the sentences run concurrently and are to be served in more than one institution, the term of each such sentence shall be credited with the portion of any concurrent term served after that sentence was imposed;(d) If the sentences run consecutively and are to be served in more than one institution, the aggregate of the time served in all of the institutions shall not exceed two years plus any term imposed for an offense committed while the person is under the sentences.2-a. Undischarged imprisonment in other jurisdiction. Where a person who is subject to an undischarged term of imprisonment imposed at a previous time by a court of another jurisdiction is sentenced to an additional term or terms of imprisonment by a court of this state, to run concurrently with such undischarged term, such additional term or terms shall be deemed to commence when the said person is returned to the custody of the appropriate official of such other jurisdiction where the undischarged term of imprisonment is being served. If the additional term or terms imposed shall run consecutively to the said undischarged term, such additional term or terms shall commence when the prisoner is received in the appropriate institution as provided in subdivisions one and two of this section. The term or terms of such imprisonment shall be calculated and such other pertinent provisions of this section applied in the same manner as where a person is under more than one sentence in this state as provided in this section.* 3. Jail time. The term of a definite sentence, a determinate sentence, or the maximum term of an indeterminate sentence imposed on a person shall be credited with and diminished by the amount of time the person spent in custody prior to the commencement of such sentence as a result of the charge that culminated in the sentence. In the case of an indeterminate sentence, if the minimum period of imprisonment has been fixed by the court or by the board of parole, the credit shall also be applied against the minimum period. The credit herein provided shall be calculated from the date custody under the charge commenced to the date the sentence commences and shall not include any time that is credited against the term or maximum term of any previously imposed sentence or period of post-release supervision to which the person is subject. Where the charge or charges culminate in more than one sentence, the credit shall be applied as follows:(a) If the sentences run concurrently, the credit shall be applied against each such sentence;(b) If the sentences run consecutively, the credit shall be applied against the aggregate term or aggregate maximum term of the sentences and against the aggregate minimum period of imprisonment.In any case where a person has been in custody due to a charge that culminated in a dismissal or an acquittal, the amount of time that would have been credited against a sentence for such charge, had one been imposed, shall be credited against any sentence that is based on a charge for which a warrant or commitment was lodged during the pendency of such custody.* NB Effective until September 1, 2025* 3. Jail time. The term of a definite sentence or the maximum term of an indeterminate sentence imposed on a person shall be credited with and diminished by the amount of time the person spent in custody prior to the commencement of such sentence as a result of the charge that culminated in the sentence. In the case of an indeterminate sentence, if the minimum period of imprisonment has been fixed by the court or by the board of parole, the credit shall also be applied against the minimum period. The credit herein provided shall be calculated from the date custody under the charge commenced to the date the sentence commences and shall not include any time that is credited against the term or maximum term of any previously imposed sentence or period of post-release supervision to which the person is subject. Where the charge or charges culminate in more than one sentence, the credit shall be applied as follows:(a) If the sentences run concurrently, the credit shall be applied against each such sentence;(b) If the sentences run consecutively, the credit shall be applied against the aggregate term or aggregate maximum term of the sentences and against the aggregate minimum period of imprisonment.In any case where a person has been in custody due to a charge that culminated in a dismissal or an acquittal, the amount of time that would have been credited against a sentence for such charge, had one been imposed, shall be credited against any sentence that is based on a charge for which a warrant or commitment was lodged during the pendency of such custody.* NB Effective September 1, 2025* 4. Good behavior time. Time allowances earned for good behavior, pursuant to the provisions of the correction law, shall be computed and applied as follows:(a) In the case of a person serving an indeterminate or determinate sentence, the total of such allowances shall be calculated as provided in section eight hundred three of the correction law and the allowances shall be applied as provided in paragraph (b) of subdivision one of section 70.40;(b) In the case of a person serving a definite sentence, the total of such allowances shall not exceed one-third of his term or aggregate term and the allowances shall be applied as a credit against such term.* NB Effective until September 1, 2025* 4. Good behavior time. Time allowances earned for good behavior, pursuant to the provisions of the correction law, shall be computed and applied as follows:(a) In the case of a person serving an indeterminate sentence, the total of such allowances shall not exceed one-third of his maximum or aggregate maximum term and the allowances shall be applied as provided in subdivision one (b) of section 70.40;(b) In the case of a person serving a definite sentence, the total of such allowances shall not exceed one-third of his term or aggregate term and the allowances shall be applied as a credit against such term.* NB Effective September 1, 20255. Time served under vacated sentence. When a sentence of imprisonment that has been imposed on a person is vacated and a new sentence is imposed on such person for the same offense, or for an offense based upon the same act, the new sentence shall be calculated as if it had commenced at the time the vacated sentence commenced, and all time credited against the vacated sentence shall be credited against the new sentence. In any case where a vacated sentence also includes a period of post-release supervision, all time credited against the period of post-release supervision shall be credited against the period of

post-release supervision included with the new sentence. In the event a period of post-release supervision is not included with the new sentence, such period shall be credited against the new sentence.6. Escape. When a person who is serving a sentence of imprisonment escapes from custody, the escape shall interrupt the sentence and such interruption shall continue until the return of the person to the institution in which the sentence was being served or, if the sentence was being served in an institution under the jurisdiction of the state department of corrections and community supervision, to an institution under the jurisdiction of that department. Any time spent by such person in custody from the date of escape to the date the sentence resumes shall be credited against the term or maximum term of the interrupted sentence, provided:(a) That such custody was due to an arrest or surrender based upon the escape; or(b) That such custody arose from an arrest on another charge which culminated in a dismissal or an acquittal; or(c) That such custody arose from an arrest on another charge which culminated in a conviction, but in such case, if a sentence of imprisonment was imposed, the credit allowed shall be limited to the portion of the time spent in custody that exceeds the period, term or maximum term of imprisonment imposed for such conviction.* 7. Absconding from temporary release or furlough program. When a person who is serving a sentence of imprisonment is permitted to leave an institution to participate in a program of work release or furlough program as such term is defined in section six hundred thirty-one of the correction law, or in the case of an institution under the jurisdiction of the state department of corrections and community supervision or a facility under the jurisdiction of the state office of children and family services to participate in a program of temporary release, fails to return to the institution or facility at or before the time prescribed for his or her return, such failure shall interrupt the sentence and such interruption shall continue until the return of the person to the institution in which the sentence was being served or, if the sentence was being served in an institution under the jurisdiction of the state department of corrections and community supervision or a facility under the jurisdiction of the state office of children and family services to an institution under the jurisdiction of that department or a facility under the jurisdiction of that office. Any time spent by such person in an institution from the date of his or her failure to return to the date his or her sentence resumes shall be credited against the term or maximum term of the interrupted sentence, provided:(a) That such incarceration was due to an arrest or surrender based upon the failure to return; or(b) That such incarceration arose from an arrest on another charge which culminated in a dismissal or an acquittal; or(c) That such custody arose from an arrest on another charge which culminated in a conviction, but in such case, if a sentence of imprisonment was imposed, the credit allowed shall be limited to the portion of the time spent in custody that exceeds the period, term or maximum term of imprisonment imposed for such conviction.* NB Expires September 1, 2025 (ii) Notwithstanding subparagraph (i) of this paragraph, the aggregate maximum term of consecutive sentences imposed for the conviction of two violent felony offenses committed prior to the time the person was imprisoned under any of such sentences and one of which is a class B violent felony offense, shall, if it exceeds forty years, be deemed to be forty years; (iii) Notwithstanding subparagraphs (i) and (ii) of this paragraph, the aggregate maximum term of consecutive sentences imposed for the conviction of three or more violent felony offenses committed prior to the time the person was imprisoned under any of such sentences and one of which is a class B violent felony offense, shall, if it exceeds fifty years, be deemed to be fifty years; * NB Effective September 1, 2025 * (d) If the defendant is serving one or more indeterminate sentences of imprisonment and one or more determinate sentence of imprisonment which run consecutively, the minimum term or terms of the indeterminate sentence or sentences and the term or terms of the determinate sentence or sentences are added to arrive at an aggregate maximum term of imprisonment, provided, however, (i) that in no event shall the aggregate maximum so calculated be less than the term or maximum term of imprisonment of the sentence which has the longest unexpired time to run; and (ii) that the aggregate maximum term of imprisonment shall be subject to the limitations set forth in paragraphs (e) and (f) of this subdivision, where applicable. * NB Effective until September 1, 2025 * (d) The aggregate maximum term of consecutive sentences imposed upon a juvenile offender for two or more crimes, not including a class A felony, committed before he has reached the age of sixteen, shall, if it exceeds ten years, be deemed to be ten years. If consecutive indeterminate sentences imposed upon a juvenile offender include a sentence for the class A felony of arson in the first degree or for the class A felony of kidnapping in the first degree, then the aggregate maximum term of such sentences shall, if it exceeds fifteen years, be deemed to be fifteen years. Where the aggregate maximum term of two or more consecutive sentences is reduced by a calculation made pursuant to this paragraph, the aggregate minimum period of imprisonment, if it exceeds one-half of the aggregate maximum term as so reduced, shall be deemed to be one-half of the aggregate maximum term as so reduced. * NB Effective September 1, 2025 * (e) (i) Except as provided in subparagraph (ii), (iii), (iv), (v), (vi) or (vii) of this paragraph, the aggregate maximum term of consecutive sentences, all of which are indeterminate sentences or all of which are determinate sentences, imposed for two or more crimes, other than two or more crimes that include a class A felony, committed prior to the time the person was imprisoned under any of such sentences shall, if it exceeds twenty years, be deemed to be twenty years, unless one of the sentences was imposed for a class B felony, in which case the aggregate maximum term shall, if it exceeds thirty years, be deemed to be thirty years. Where the aggregate maximum term of two or more indeterminate consecutive sentences is reduced by calculation made pursuant to this paragraph, the aggregate minimum period of imprisonment, if it exceeds one-half of the aggregate maximum term as so reduced, shall be deemed to be one-half of the aggregate maximum term as so reduced; (ii) Where the aggregate maximum term of two or more consecutive sentences, one or more of which is a determinate sentence and one or more of which is an indeterminate sentence, imposed for two or more crimes, other than two or more crimes that include a class A felony, committed prior to the time the person was imprisoned under any of such sentences, exceeds twenty years, and none of the sentences was imposed for a class B felony, the following rules shall apply: (A) if the aggregate maximum term of the determinate sentence or sentences exceeds twenty years, the defendant shall be deemed to be serving to a determinate sentence of twenty years. (B) if the aggregate maximum term of the determinate sentence or sentences is less than twenty years, the defendant shall be deemed to be serving an indeterminate sentence

the maximum term of which shall be deemed to be twenty years. In such instances, the minimum sentence shall be deemed to be ten years or six-sevenths of the term or aggregate maximum term of the determinate sentence or sentences, whichever is greater. (iii) Where the aggregate maximum term of two or more consecutive sentences, one or more of which is a determinate sentence and one or more of which is an indeterminate sentence, imposed for two or more crimes, other than two or more crimes that include a class A felony, commmitted prior to the time the person was imprisoned under any of such sentences, exceeds thirty years, and one of the sentences was imposed for a class B felony, the following rules shall apply: (A) if the aggregate maximum term of the determinate sentence or sentences exceeds thirty years, the defendant shall be deemed to be serving a determinate sentence of thirty years; (B) if the aggregate maximum term of the determinate sentence or sentences is less than thirty years, the defendant shall be deemed to be serving an indeterminate sentence the maximum term of which shall be deemed to be thirty years. In such instances, the minimum sentence shall be deemed to be fifteen years or six-sevenths of the term or aggregate maximum term of the determinate sentence or sentences, whichever is greater. (iv) Notwithstanding subparagraph (i) of this paragraph, the aggregate maximum term of consecutive sentences, all of which are indeterminate sentences or all of which are determinate sentences, imposed for the conviction of two violent felony offenses committed prior to the time the person was imprisoned under any of such sentences and one of which is a class B violent felony offense, shall, if it exceeds forty years, be deemed to be forty years; (v) Notwithstanding subparagraphs (ii) and (iii) of this paragraph, where the aggregate maximum term of two or more consecutive sentences, one or more of which is a determinate sentence and one or more of which is an indeterminate sentence, and where such sentences are imposed for the conviction of two violent felony offenses committed prior to the time the person was imprisoned under any such sentences and where one of which is a class B violent felony offense, the following rules shall apply: (A) if the aggregate maximum term of the determinate sentence or sentences exceeds forty years, the defendant shall be deemed to be serving a determinate sentence of forty years; (B) if the aggregate maximum term of the determinate sentence or sentences is less than forty years, the defendant shall be deemed to be serving an indeterminate sentence the maximum term of which shall be deemed to be forty years. In such instances, the minimum sentence shall be deemed to be twenty years or six-sevenths of the term or aggregate maximum term of the determinate sentence or sentences, whichever is greater. (vi) Notwithstanding subparagraphs (i) and (iv) of this paragraph, the aggregate maximum term of consecutive sentences, all of which are indeterminate or all of which are determinate sentences, imposed for the conviction of three or more violent felony offenses committed prior to the time the person was imprisoned under any of such sentences and one of which is a class B violent felony offense, shall, if it exceeds fifty years, be deemed to be fifty years; (vii) Notwithstanding subparagraphs (ii), (iii) and (v) of this paragraph, where the aggregate maximum term of two or more consecutive sentences, one or more of which is a determinate sentence and one or more of which is an indeterminate sentence, and where such sentences are imposed for the conviction of three or more violent felony offenses committed prior to the time the person was imprisoned under any such sentences and one of which is a class B violent felony offense, the following rules shall apply: (A) if the aggregate maximum term of the determinate sentence or sentences exceeds fifty years, the defendant shall be deemed to be serving a determinate sentence of fifty years. (B) if the aggregate maximum term of the determinate sentence or sentences is less than fifty years, the defendant shall be deemed to be serving an indeterminate sentence the maximum term of which shall be deemed to be fifty years. In such instances, the minimum sentence shall be deemed to be twenty-five years or six-sevenths of the term or aggregate maximum term of the determinate sentence or sentences, whichever is greater. (viii) Notwithstanding any provision of this subdivision to the contrary where a person is serving two or more consecutive sentences, one or more of which is an indeterminate sentence and one or more of which is a determinate sentence, and if he would be eligible for a reduction provision pursuant to this subdivision if the maximum term or aggregate maximum term of the indeterminate sentence or sentences were added to the term or aggregate maximum term of the determinate sentence or sentences, the person shall be deemed to be eligible for the applicable reduction provision and the rules set forth in this subdivision shall apply. * NB Effective until September 1, 2025 * (f) The aggregate maximum term of consecutive sentences imposed upon a juvenile offender for two or more crimes, not including a class A felony, committed before he has reached the age of sixteen, shall, if it exceeds ten years, be deemed to be ten years. If consecutive indeterminate sentences imposed upon a juvenile offender include a sentence for the class A felony of arson in the first degree or for the class A felony of kidnapping in the first degree, then the aggregate maximum term of such sentences shall, if it exceeds fifteen years, be deemed to be fifteen years. Where the aggregate maximum term of two or more consecutive sentences is reduced by a calculation made pursuant to this paragraph, the aggregate minimum period of imprisonment, if it exceeds one-half of the aggregate maximum term as so reduced, shall be deemed to be one-half of the aggregate maximum term as so reduced. * NB Effective until September 1, 2025 2. Definite sentences. A definite sentence of imprisonment commences when the prisoner is received in the institution named in the commitment. Where a person is under more than one definite sentence, the sentences shall be calculated as follows: (a) If the sentences run concurrently and are to be served in a single institution, the terms merge in and are satisfied by discharge of the term which has the longest unexpired time to run; (b) If the sentences run consecutively and are to be served in a single institution, the terms are added to arrive at an aggregate term and are satisfied by discharge of such aggregate term, or by service of two years imprisonment plus any term imposed for an offense committed while the person is under the sentences, whichever is less; (c) If the sentences run concurrently and are to be served in more than one institution, the term of each such sentence shall be credited with the portion of any concurrent term served after that sentence was imposed; (d) If the sentences run consecutively and are to be served in more than one institution, the aggregate of the time served in all of the institutions shall not exceed two years plus any term imposed for an offense committed while the person is under the sentences. 2-a. Undischarged imprisonment in other jurisdiction. Where a person who is subject to an undischarged term of imprisonment imposed at a previous time by a court of another jurisdiction is sentenced to an additional term or terms of imprisonment by a court of this state, to run

concurrently with such undischarged term, such additional term or terms shall be deemed to commence when the said person is returned to the custody of the appropriate official of such other jurisdiction where the undischarged term of imprisonment is being served. If the additional term or terms imposed shall run consecutively to the said undischarged term, such additional term or terms shall commence when the prisoner is received in the appropriate institution as provided in subdivisions one and two of this section. The term or terms of such imprisonment shall be calculated and such other pertinent provisions of this section applied in the same manner as where a person is under more than one sentence in this state as provided in this section. * 3. Jail time. The term of a definite sentence, a determinate sentence, or the maximum term of an indeterminate sentence imposed on a person shall be credited with and diminished by the amount of time the person spent in custody prior to the commencement of such sentence as a result of the charge that culminated in the sentence. In the case of an indeterminate sentence, if the minimum period of imprisonment has been fixed by the court or by the board of parole, the credit shall also be applied against the minimum period. The credit herein provided shall be calculated from the date custody under the charge commenced to the date the sentence commences and shall not include any time that is credited against the term or maximum term of any previously imposed sentence or period of post-release supervision to which the person is subject. Where the charge or charges culminate in more than one sentence, the credit shall be applied as follows: (a) If the sentences run concurrently, the credit shall be applied against each such sentence; (b) If the sentences run consecutively, the credit shall be applied against the aggregate term or aggregate maximum term of the sentences and against the aggregate minimum period of imprisonment. In any case where a person has been in custody due to a charge that culminated in a dismissal or an acquittal, the amount of time that would have been credited against a sentence for such charge, had one been imposed, shall be credited against any sentence that is based on a charge for which a warrant or commitment was lodged during the pendency of such custody. * NB Effective until September 1, 2025 * 3. Jail time. The term of a definite sentence or the maximum term of an indeterminate sentence imposed on a person shall be credited with and diminished by the amount of time the person spent in custody prior to the commencement of such sentence as a result of the charge that culminated in the sentence. In the case of an indeterminate sentence, if the minimum period of imprisonment has been fixed by the court or by the board of parole, the credit shall also be applied against the minimum period. The credit herein provided shall be calculated from the date custody under the charge commenced to the date the sentence commences and shall not include any time that is credited against the term or maximum term of any previously imposed sentence or period of post-release supervision to which the person is subject. Where the charge or charges culminate in more than one sentence, the credit shall be applied as follows: (a) If the sentences run concurrently, the credit shall be applied against each such sentence; (b) If the sentences run consecutively, the credit shall be applied against the aggregate term or aggregate maximum term of the sentences and against the aggregate minimum period of imprisonment. In any case where a person has been in custody due to a charge that culminated in a dismissal or an acquittal, the amount of time that would have been credited against a sentence for such charge, had one been imposed, shall be credited against any sentence that is based on a charge for which a warrant or commitment was lodged during the pendency of such custody. * NB Effective September 1, 2025 * 4. Good behavior time. Time allowances earned for good behavior, pursuant to the provisions of the correction law, shall be computed and applied as follows: (a) In the case of a person serving an indeterminate or determinate sentence, the total of such allowances shall be calculated as provided in section eight hundred three of the correction law and the allowances shall be applied as provided in paragraph (b) of subdivision one of section 70.40; (b) In the case of a person serving a definite sentence, the total of such allowances shall not exceed one-third of his term or aggregate term and the allowances shall be applied as a credit against such term. * NB Effective until September 1, 2025 * 4. Good behavior time. Time allowances earned for good behavior, pursuant to the provisions of the correction law, shall be computed and applied as follows: (a) In the case of a person serving an indeterminate sentence, the total of such allowances shall not exceed one-third of his maximum or aggregate maximum term and the allowances shall be applied as provided in subdivision one (b) of section 70.40; (b) In the case of a person serving a definite sentence, the total of such allowances shall not exceed one-third of his term or aggregate term and the allowances shall be applied as a credit against such term. * NB Effective September 1, 2025 5. Time served under vacated sentence. When a sentence of imprisonment that has been imposed on a person is vacated and a new sentence is imposed on such person for the same offense, or for an offense based upon the same act, the new sentence shall be calculated as if it had commenced at the time the vacated sentence commenced, and all time credited against the vacated sentence shall be credited against the new sentence. In any case where a vacated sentence also includes a period of post-release supervision, all time credited against the period of post-release supervision shall be credited against the period of post-release supervision included with the new sentence. In the event a period of post-release supervision is not included with the new sentence, such period shall be credited against the new sentence. 6. Escape. When a person who is serving a sentence of imprisonment escapes from custody, the escape shall interrupt the sentence and such interruption shall continue until the return of the person to the institution in which the sentence was being served or, if the sentence was being served in an institution under the jurisdiction of the state department of corrections and community supervision, to an institution under the jurisdiction of that department. Any time spent by such person in custody from the date of escape to the date the sentence resumes shall be credited against the term or maximum term of the interrupted sentence, provided: (a) That such custody was due to an arrest or surrender based upon the escape; or (b) That such custody arose from an arrest on another charge which culminated in a dismissal or an acquittal; or (c) That such custody arose from an arrest on another charge which culminated in a conviction, but in such case, if a sentence of imprisonment was imposed, the credit allowed shall be limited to the portion of the time spent in custody that exceeds the period, term or maximum term of imprisonment imposed for such conviction. * 7. Absconding from temporary release or furlough program. When a person who is serving a sentence of imprisonment is permitted to leave an institution to participate in a program of work release or furlough program as such term is defined in section six hundred thirty-one of the correction law, or in

the case of an institution under the jurisdiction of the state department of corrections and community supervision or a facility under the jurisdiction of the state office of children and family services to participate in a program of temporary release, fails to return to the institution or facility at or before the time prescribed for his or her return, such failure shall interrupt the sentence and such interruption shall continue until the return of the person to the institution in which the sentence was being served or, if the sentence was being served in an institution under the jurisdiction of the state department of corrections and community supervision or a facility under the jurisdiction of the state office of children and family services to an institution under the jurisdiction of that department or a facility under the jurisdiction of that office. Any time spent by such person in an institution from the date of his or her failure to return to the date his or her sentence resumes shall be credited against the term or maximum term of the interrupted sentence, provided: (a) That such incarceration was due to an arrest or surrender based upon the failure to return; or (b) That such incarceration arose from an arrest on another charge which culminated in a dismissal or an acquittal; or (c) That such custody arose from an arrest on another charge which culminated in a conviction, but in such case, if a sentence of imprisonment was imposed, the credit allowed shall be limited to the portion of the time spent in custody that exceeds the period, term or maximum term of imprisonment imposed for such conviction. * NB Expires September 1, 2025

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 70 - Sentences of Imprisonment70.35 - Merger of Certain Definite and Indeterminate or Determinate Sentences.

sentences. The service of an indeterminate or determinate sentence of imprisonment shall satisfy any definite sentence of imprisonment imposed on a person for an offense committed prior to the time the indeterminate or determinate sentence was imposed, except as provided in paragraph (b) of subdivision five of section 70.25 of this article. A person who is serving a definite sentence at the time an indeterminate or determinate sentence is imposed shall be delivered to the custody of the state department of corrections and community supervision to commence service of the indeterminate or determinate sentence immediately unless the person is serving a definite sentence pursuant to paragraph (b) of subdivision five of section 70.25 of this article. In any case where the indeterminate or determinate sentence is revoked or vacated, the person shall receive credit against the definite sentence for each day spent in the custody of the state department of corrections and community supervision. * NB Effective until September 1, 2025 * § 70.35 Merger of certain definite and indeterminate sentences. The service of an indeterminate sentence of imprisonment shall satisfy any definite sentence of imprisonment imposed on a person for an offense committed prior to the time the indeterminate sentence was imposed, except as provided in paragraph (b) of subdivision five of section 70.25 of this article. A person who is serving a definite sentence at the time an indeterminate sentence is imposed shall be delivered to the custody of the state department of corrections and community supervision to commence service of the indeterminate sentence immediately unless the person is serving a definite sentence pursuant to paragraph (b) of subdivision five of section 70.25 of this article. In any case where the indeterminate sentence is revoked or vacated, the person shall receive credit against the definite sentence for each day spent in the custody of the state department of corrections and community supervision. * NB Effective September 1, 2025

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 70 - Sentences of Imprisonment70.45 - Determinate Sentence; Post-Release Supervision.

1. In general. When a court imposes a determinate sentence it shall in each case state not only the term of imprisonment, but also an additional period of post-release supervision as determined pursuant to this article. Such period shall commence as provided in subdivision five of this section and a violation of any condition of supervision occurring at any time during such period of post-release supervision shall subject the defendant to a further period of imprisonment up to the balance of the remaining period of post-release supervision, not to exceed five years; provided, however, that a defendant serving a term of post-release supervision for a conviction of a felony sex offense, as defined in section 70.80 of this article, may be subject to a further period of imprisonment up to the balance of the remaining period of post-release supervision. Such maximum limits shall not preclude a longer period of further imprisonment for a violation where the defendant is subject to indeterminate and determinate sentences. 1-a. When, following a final hearing, a time assessment has been imposed upon a person convicted of a felony sex offense who owes three years or more on a period of post-release supervision, imposed pursuant to subdivision two-a of this section, such defendant, after serving three years of the time assessment, shall be reviewed by the board of parole and may be re-released to post-release supervision only upon a determination by the board of parole made in accordance with subdivision two of section two hundred fifty-nine-i of the executive law. If re-release is not granted, the board shall specify a date not more than twenty-four months from such determination for reconsideration, and the procedures to be followed upon reconsideration shall be the same. If a time assessment of less than three years is imposed upon such a defendant, the defendant shall be released upon the expiration of such time assessment, unless he or she is subject to further imprisonment or confinement under any provision of law. 2. Period of post-release supervision for other than felony sex offenses. The period of post-release supervision for a determinate sentence, other than a determinate sentence imposed for a felony sex offense as defined in paragraph (a) of subdivision one of section 70.80 of this article, shall be five years except that:(a) such period shall be one year whenever a determinate sentence of imprisonment is imposed pursuant to subdivision two of section 70.70 of this article or subdivision nine of section 60.12 of this title upon a conviction of a class D or class E felony offense;(b) such period shall be not less than one year nor more than two years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision two of section 70.70 of this article or subdivision nine of section 60.12 of this title upon a conviction of a class B or class C felony offense;(c) such period shall be not less than one year nor more than two years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision three or four of section 70.70 of this article upon

conviction of a class D or class E felony offense or subdivision ten of section 60.12 of this title;(d) such period shall be not less than one and one-half years nor more than three years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision three or four of section 70.70 of this article upon conviction of a class B felony or class C felony offense or subdivision eleven of section 60.12 of this title;(e) such period shall be not less than one and one-half years nor more than three years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision three of section 70.02 of this article or subdivision two or eight of section 60.12 of this title upon a conviction of a class D or class E violent felony offense or subdivision four, five, six, or seven of section 60.12 of this title;(f) such period shall be not less than two and one-half years nor more than five years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision three of section 70.02 of this article or subdivision two or eight of section 60.12 of this title upon a conviction of a class B or class C violent felony offense.2-a. Periods of post-release supervision for felony sex offenses. The period of post-release supervision for a determinate sentence imposed for a felony sex offense as defined in paragraph (a) of subdivision one of section 70.80 of this article shall be as follows:(a) not less than three years nor more than ten years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision four of section 70.80 of this article upon a conviction of a class D or class E felony sex offense;(b) not less than five years nor more than fifteen years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision four of section 70.80 of this article upon a conviction of a class C felony sex offense;(c) not less than five years nor more than twenty years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision four of section 70.80 of this article upon a conviction of a class B felony sex offense;(d) not less than three years nor more than ten years whenever a determinate sentence is imposed pursuant to subdivision three of section 70.02 of this article upon a conviction of a class D or class E violent felony sex offense as defined in paragraph (b) of subdivision one of section 70.80 of this article;(e) not less than five years nor more than fifteen years whenever a determinate sentence is imposed pursuant to subdivision three of section 70.02 of this article upon a conviction of a class C violent felony sex offense as defined in section 70.80 of this article;(f) not less than five years nor more than twenty years whenever a determinate sentence is imposed pursuant to subdivision three of section 70.02 of this article upon a conviction of a class B violent felony sex offense as defined in section 70.80 of this article;(g) not less than five years nor more than fifteen years whenever a determinate sentence of imprisonment is imposed pursuant to either section 70.04, section 70.06, or subdivision five of section 70.80 of this article upon a conviction of a class D or class E violent or non-violent felony sex offense as defined in section 70.80 of this article;(h) not less than seven years nor more than twenty years whenever a determinate sentence of imprisonment is imposed pursuant to either section 70.04, section 70.06, or subdivision five of section 70.80 of this article upon a conviction of a class C violent or non-violent felony sex offense as defined in section 70.80 of this article;(i) such period shall be not less than ten years nor more than twenty-five years whenever a determinate sentence of imprisonment is imposed pursuant to either section 70.04, section 70.06, or subdivision five of section 70.80 of this article upon a conviction of a class B violent or non-violent felony sex offense as defined in section 70.80 of this article; and(j) such period shall be not less than ten years nor more than twenty years whenever any determinate sentence of imprisonment is imposed pursuant to subdivision four of section 70.07 of this article.3. Conditions of post-release supervision. The board of parole shall establish and impose conditions of post-release supervision in the same manner and to the same extent as it may establish and impose conditions in accordance with the executive law upon persons who are granted parole or conditional release; provided that, notwithstanding any other provision of law, the board of parole may impose as a condition of post-release supervision that for a period not exceeding six months immediately following release from the underlying term of imprisonment the person be transferred to and participate in the programs of a residential treatment facility as that term is defined in subdivision six of section two of the correction law. Upon release from the underlying term of imprisonment, the person shall be furnished with a written statement setting forth the conditions of post-release supervision in sufficient detail to provide for the person's conduct and supervision.4. Revocation of post-release supervision. An alleged violation of any condition of post-release supervision shall be initiated, heard and determined in accordance with the provisions of subdivisions three and four of section two hundred fifty-nine-i of the executive law.5. Calculation of service of period of post-release supervision. A period or periods of post-release supervision shall be calculated and served as follows:(a) A period of post-release supervision shall commence upon the person's release from imprisonment to supervision by the department of corrections and community supervision and shall interrupt the running of the determinate sentence or sentences of imprisonment and the indeterminate sentence or sentences of imprisonment, if any. The remaining portion of any maximum or aggregate maximum term shall then be held in abeyance until the successful completion of the period of post-release supervision or the person's return to the custody of the department of corrections and community supervision, whichever occurs first.(b) Upon the completion of the period of post-release supervision, the running of such sentence or sentences of imprisonment shall resume and only then shall the remaining portion of any maximum or aggregate maximum term previously held in abeyance be credited with and diminished by such period of post-release supervision. The person shall then be under the jurisdiction of the department of corrections and community supervision for the remaining portion of such maximum or aggregate maximum term.(c) When a person is subject to two or more periods of post-release supervision, such periods shall merge with and be satisfied by discharge of the period of post-release supervision having the longest unexpired time to run; provided, however, any time served upon one period of post-release supervision shall not be credited to any other period of post-release supervision except as provided in subdivision five of section 70.30 of this article.(d) When a person is alleged to have violated a condition of post-release supervision by absconding and the department of corrections and community supervision has declared such person to be delinquent: (i) the declaration of delinquency shall interrupt the period of post-release supervision; (ii) such interruption shall continue until the person is restored to post-release supervision; (iii) if the person is restored to post-release supervision without being returned to the department of corrections and community supervision, any time spent in custody from the

date of delinquency until restoration to post-release supervision shall first be credited to the maximum or aggregate maximum term of the sentence or sentences of imprisonment, but only to the extent authorized by subdivision three of section 70.40 of this article. Any time spent in custody solely pursuant to such delinquency after completion of the maximum or aggregate maximum term of the sentence or sentences of imprisonment shall be credited to the period of post-release supervision, if any; and (iv) if the person is ordered returned to the department of corrections and community supervision, the person shall be required to serve the time assessment before being re-released to post-release supervision. If the person is detained pursuant to paragraph (a) of subdivision three of section two hundred fifty-nine-i of the executive law pending a preliminary or final revocation hearing, the time assessment imposed following such hearing shall commence upon the execution of the warrant. If a warrant was executed pursuant to paragraph (a) of subdivision three of section two hundred fifty-nine-i of the executive law but a court released the person pending a preliminary or final revocation hearing, the time assessment shall commence upon the issuance of a determination after a final hearing that the person has violated one or more conditions of community supervision in an important respect, and shall include the time period between execution of the warrant and release of the person pending a preliminary or final revocation hearing. If a releasee is committed to the custody of the sheriff pursuant to article five hundred thirty of the criminal procedure law, the time assessment, if any, shall include any time the releasee spent in such custody. If a notice of violation was issued pursuant to subdivision three of section two hundred fifty-nine-i of the executive law, the time assessment shall commence upon the issuance of a determination after a final hearing that the person has violated one or more conditions of supervision. While serving such assessment, the person shall not receive any good behavior allowance pursuant to section eight hundred three of the correction law. Any time spent in custody from the date of delinquency until return to the department of corrections and community supervision shall first be credited to the maximum or aggregate maximum term of the sentence or sentences of imprisonment, but only to the extent authorized by subdivision three of section 70.40 of this article. The maximum or aggregate maximum term of the sentence or sentences of imprisonment shall run while the person is serving such time assessment in the custody of the department of corrections and community supervision. Any time spent in custody solely pursuant to such delinquency after completion of the maximum or aggregate maximum term of the sentence or sentences of imprisonment shall be credited to the period of post-release supervision, if any.(e) Notwithstanding paragraph (d) of this subdivision, in the event a person is sentenced to one or more additional indeterminate or determinate term or terms of imprisonment prior to the completion of the period of post-release supervision, such period of post-release supervision shall be held in abeyance and the person shall be committed to the custody of the department of corrections and community supervision in accordance with the requirements of the prior and additional terms of imprisonment.(f) When a person serving a period of post-release supervision is returned to the department of corrections and community supervision pursuant to an additional consecutive sentence of imprisonment and without a declaration of delinquency, such period of post-release supervision shall be held in abeyance while the person is in the custody of the department of corrections and community supervision. Such period of post-release supervision shall resume running upon the person's re-release. (a) such period shall be one year whenever a determinate sentence of imprisonment is imposed pursuant to subdivision two of section 70.70 of this article or subdivision nine of section 60.12 of this title upon a conviction of a class D or class E felony offense; (b) such period shall be not less than one year nor more than two years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision two of section 70.70 of this article or subdivision nine of section 60.12 of this title upon a conviction of a class B or class C felony offense; (c) such period shall be not less than one year nor more than two years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision three or four of section 70.70 of this article upon conviction of a class D or class E felony offense or subdivision ten of section 60.12 of this title; (d) such period shall be not less than one and one-half years nor more than three years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision three or four of section 70.70 of this article upon conviction of a class B felony or class C felony offense or subdivision eleven of section 60.12 of this title; (e) such period shall be not less than one and one-half years nor more than three years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision three of section 70.02 of this article or subdivision two or eight of section 60.12 of this title upon a conviction of a class D or class E violent felony offense or subdivision four, five, six, or seven of section 60.12 of this title; (f) such period shall be not less than two and one-half years nor more than five years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision three of section 70.02 of this article or subdivision two or eight of section 60.12 of this title upon a conviction of a class B or class C violent felony offense. 2-a. Periods of post-release supervision for felony sex offenses. The period of post-release supervision for a determinate sentence imposed for a felony sex offense as defined in paragraph (a) of subdivision one of section 70.80 of this article shall be as follows: (a) not less than three years nor more than ten years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision four of section 70.80 of this article upon a conviction of a class D or class E felony sex offense; (b) not less than five years nor more than fifteen years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision four of section 70.80 of this article upon a conviction of a class C felony sex offense; (c) not less than five years nor more than twenty years whenever a determinate sentence of imprisonment is imposed pursuant to subdivision four of section 70.80 of this article upon a conviction of a class B felony sex offense; (d) not less than three years nor more than ten years whenever a determinate sentence is imposed pursuant to subdivision three of section 70.02 of this article upon a conviction of a class D or class E violent felony sex offense as defined in paragraph (b) of subdivision one of section 70.80 of this article; (e) not less than five years nor more than fifteen years whenever a determinate sentence is imposed pursuant to subdivision three of section 70.02 of this article upon a conviction of a class C violent felony sex offense as defined in section 70.80 of this article; (f) not less than five years nor more than twenty years whenever a determinate sentence is imposed pursuant to subdivision three of section 70.02 of this article upon a conviction of a class B violent felony sex offense as defined in section 70.80 of this article; (g) not less

than five years nor more than fifteen years whenever a determinate sentence of imprisonment is imposed pursuant to either section 70.04, section 70.06, or subdivision five of section 70.80 of this article upon a conviction of a class D or class E violent or non-violent felony sex offense as defined in section 70.80 of this article; (h) not less than seven years nor more than twenty years whenever a determinate sentence of imprisonment is imposed pursuant to either section 70.04, section 70.06, or subdivision five of section 70.80 of this article upon a conviction of a class C violent or non-violent felony sex offense as defined in section 70.80 of this article; (i) such period shall be not less than ten years nor more than twenty-five years whenever a determinate sentence of imprisonment is imposed pursuant to either section 70.04, section 70.06, or subdivision five of section 70.80 of this article upon a conviction of a class B violent or non-violent felony sex offense as defined in section 70.80 of this article; and (j) such period shall be not less than ten years nor more than twenty years whenever any determinate sentence of imprisonment is imposed pursuant to subdivision four of section 70.07 of this article. 3. Conditions of post-release supervision. The board of parole shall establish and impose conditions of post-release supervision in the same manner and to the same extent as it may establish and impose conditions in accordance with the executive law upon persons who are granted parole or conditional release; provided that, notwithstanding any other provision of law, the board of parole may impose as a condition of post-release supervision that for a period not exceeding six months immediately following release from the underlying term of imprisonment the person be transferred to and participate in the programs of a residential treatment facility as that term is defined in subdivision six of section two of the correction law. Upon release from the underlying term of imprisonment, the person shall be furnished with a written statement setting forth the conditions of post-release supervision in sufficient detail to provide for the person's conduct and supervision. 4. Revocation of post-release supervision. An alleged violation of any condition of post-release supervision shall be initiated, heard and determined in accordance with the provisions of subdivisions three and four of section two hundred fifty-nine-i of the executive law. 5. Calculation of service of period of post-release supervision. A period or periods of post-release supervision shall be calculated and served as follows: (a) A period of post-release supervision shall commence upon the person's release from imprisonment to supervision by the department of corrections and community supervision and shall interrupt the running of the determinate sentence or sentences of imprisonment and the indeterminate sentence or sentences of imprisonment, if any. The remaining portion of any maximum or aggregate maximum term shall then be held in abeyance until the successful completion of the period of post-release supervision or the person's return to the custody of the department of corrections and community supervision, whichever occurs first. (b) Upon the completion of the period of post-release supervision, the running of such sentence or sentences of imprisonment shall resume and only then shall the remaining portion of any maximum or aggregate maximum term previously held in abeyance be credited with and diminished by such period of post-release supervision. The person shall then be under the jurisdiction of the department of corrections and community supervision for the remaining portion of such maximum or aggregate maximum term. (c) When a person is subject to two or more periods of post-release supervision, such periods shall merge with and be satisfied by discharge of the period of post-release supervision having the longest unexpired time to run; provided, however, any time served upon one period of post-release supervision shall not be credited to any other period of post-release supervision except as provided in subdivision five of section 70.30 of this article. (d) When a person is alleged to have violated a condition of post-release supervision by absconding and the department of corrections and community supervision has declared such person to be delinquent: (i) the declaration of delinquency shall interrupt the period of post-release supervision; (ii) such interruption shall continue until the person is restored to post-release supervision; (iii) if the person is restored to post-release supervision without being returned to the department of corrections and community supervision, any time spent in custody from the date of delinquency until restoration to post-release supervision shall first be credited to the maximum or aggregate maximum term of the sentence or sentences of imprisonment, but only to the extent authorized by subdivision three of section 70.40 of this article. Any time spent in custody solely pursuant to such delinquency after completion of the maximum or aggregate maximum term of the sentence or sentences of imprisonment shall be credited to the period of post-release supervision, if any; and (iv) if the person is ordered returned to the department of corrections and community supervision, the person shall be required to serve the time assessment before being re-released to post-release supervision. If the person is detained pursuant to paragraph (a) of subdivision three of section two hundred fifty-nine-i of the executive law pending a preliminary or final revocation hearing, the time assessment imposed following such hearing shall commence upon the execution of the warrant. If a warrant was executed pursuant to paragraph (a) of subdivision three of section two hundred fifty-nine-i of the executive law but a court released the person pending a preliminary or final revocation hearing, the time assessment shall commence upon the issuance of a determination after a final hearing that the person has violated one or more conditions of community supervision in an important respect, and shall include the time period between execution of the warrant and release of the person pending a preliminary or final revocation hearing. If a releasee is committed to the custody of the sheriff pursuant to article five hundred thirty of the criminal procedure law, the time assessment, if any, shall include any time the releasee spent in such custody. If a notice of violation was issued pursuant to subdivision three of section two hundred fifty-nine-i of the executive law, the time assessment shall commence upon the issuance of a determination after a final hearing that the person has violated one or more conditions of supervision. While serving such assessment, the person shall not receive any good behavior allowance pursuant to section eight hundred three of the correction law. Any time spent in custody from the date of delinquency until return to the department of corrections and community supervision shall first be credited to the maximum or aggregate maximum term of the sentence or sentences of imprisonment, but only to the extent authorized by subdivision three of section 70.40 of this article. The maximum or aggregate maximum term of the sentence or sentences of imprisonment shall run while the person is serving such time assessment in the custody of the department of corrections and community supervision. Any time spent in custody solely pursuant to such delinquency after completion of the maximum or aggregate maximum term of the sentence or sentences of

imprisonment shall be credited to the period of post-release supervision, if any. (e) Notwithstanding paragraph (d) of this subdivision, in the event a person is sentenced to one or more additional indeterminate or determinate term or terms of imprisonment prior to the completion of the period of post-release supervision, such period of post-release supervision shall be held in abeyance and the person shall be committed to the custody of the department of corrections and community supervision in accordance with the requirements of the prior and additional terms of imprisonment. (f) When a person serving a period of post-release supervision is returned to the department of corrections and community supervision pursuant to an additional consecutive sentence of imprisonment and without a declaration of delinquency, such period of post-release supervision shall be held in abeyance while the person is in the custody of the department of corrections and community supervision. Such period of post-release supervision shall resume running upon the person's re-release.

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class A felony. 1. For the purposes of this section, the following terms shall mean:(a) "Felony drug offender" means a defendant who stands convicted of any felony, defined in article two hundred twenty or two hundred twenty-two of this chapter other than a class A felony.(b) "Second felony drug offender" means a second felony offender as that term is defined in subdivision one of section 70.06 of this article, who stands convicted of any felony, defined in article two hundred twenty or two hundred twenty-two of this chapter other than a class A felony.(c) "Violent felony" shall have the same meaning as that term is defined in subdivision one of section 70.02 of this article.2. Except as provided in subdivision three or four of this section, a sentence of imprisonment for a felony drug offender shall be a determinate sentence as provided in paragraph (a) of this subdivision.(a) Term of determinate sentence. Except as provided in paragraph (b) or (c) of this subdivision, the court shall impose a determinate term of imprisonment upon a felony drug offender which shall be imposed by the court in whole or half years, which shall include as a part thereof a period of post-release supervision in accordance with section 70.45 of this article. The terms of imprisonment authorized for such determinate sentences are as follows:(i) for a class B felony, the term shall be at least one year and shall not exceed nine years, except that for the class B felony of criminal sale of a controlled substance in or near school grounds as defined in subdivision two of section 220.44 of this chapter or on a school bus as defined in subdivision seventeen of section 220.00 of this chapter or criminal sale of a controlled substance to a child as defined in section 220.48 of this chapter, the term shall be at least two years and shall not exceed nine years;(ii) for a class C felony, the term shall be at least one year and shall not exceed five and one-half years;(iii) for a class D felony, the term shall be at least one year and shall not exceed two and one-half years; and(iv) for a class E felony, the term shall be at least one year and shall not exceed one and one-half years.(b) Probation. Notwithstanding any other provision of law, the court may sentence a defendant convicted of a class B, class C, class D or class E felony offense defined in article two hundred twenty or two hundred twenty-two of this chapter to probation in accordance with the provisions of sections 60.04 and 65.00 of this chapter.(c) Alternative definite sentence for class B, class C, class D, and class E felonies. If the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose a determinate sentence upon a person convicted of a class C, class D or class E felony offense defined in article two hundred twenty or two hundred twenty-two of this chapter, or a class B felony defined in article two hundred twenty of this chapter, other than the class B felony defined in section 220.48 of this chapter, as added by a chapter of the laws of two thousand nine the court may impose a definite sentence of imprisonment and fix a term of one year or less.(d) The court may direct that a determinate sentence imposed on a defendant convicted of a class B felony, other than the class B felony defined in section 220.48 of this chapter, pursuant to this subdivision be executed as a sentence of parole supervision in accordance with section 410.91 of the criminal procedure law.3. Sentence of imprisonment for second felony drug offender.(a) Applicability. This subdivision shall apply to a second felony drug offender whose prior felony conviction was not a violent felony.(b) Except as provided in paragraphs (c), (d) and (e) of this subdivision, when the court has found pursuant to the provisions of section 400.21 of the criminal procedure law that a defendant is a second felony drug offender who stands convicted of a class B, class C, class D or class E felony offense defined in article two hundred twenty or two hundred twenty-two of this chapter the court shall impose a determinate sentence of imprisonment. Such determinate sentence shall include as a part thereof a period of post-release supervision in accordance with section 70.45 of this article. The terms of such determinate sentence shall be imposed by the court in whole or half years as follows:(i) for a class B felony, the term shall be at least two years and shall not exceed twelve years;(ii) for a class C felony, the term shall be at least one and one-half years and shall not exceed eight years;(iii) for a class D felony, the term shall be at least one and one-half years and shall not exceed four years; and(iv) for a class E felony, the term shall be at least one and one-half years and shall not exceed two years.(c) Probation. Notwithstanding any other provision of law, the court may sentence a second felony drug offender convicted of a class B felony to lifetime probation in accordance with the provisions of section 65.00 of this chapter and may sentence a second felony drug offender convicted of a class C, class D or class E felony to probation in accordance with the provisions of section 65.00 of this chapter.(d) Sentence of parole supervision. In the case of a person sentenced for a specified offense or offenses as defined in subdivision five of section 410.91 of the criminal procedure law, who stands convicted of no other felony offense, who has not previously been convicted of either a violent felony offense as defined in section 70.02 of this article, a class A felony offense or a class B felony offense, and is not under the jurisdiction of or awaiting delivery to the department of corrections and community supervision, the court may direct that a determinate sentence imposed pursuant to this subdivision shall be executed as a parole supervision sentence as defined in and pursuant to the procedures prescribed in section 410.91 of the criminal procedure law.(e) Alternate definite sentence for class C, class D and class E felonies. If

the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose a determinate sentence upon a person convicted of a class C, class D or class E felony offense defined in article two hundred twenty or two hundred twenty-two of this chapter, the court may impose a definite sentence of imprisonment and fix a term of one year or less.4. Sentence of imprisonment for second felony drug offender previously convicted of a violent felony.(a) Applicability. This subdivision shall apply to a second felony drug offender whose prior felony conviction was a violent felony.(b) Authorized sentence. When the court has found pursuant to the provisions of section 400.21 of the criminal procedure law that a defendant is a second felony drug offender whose prior felony conviction was a violent felony, who stands convicted of a class B, class C, class D or class E felony offense defined in article two hundred twenty or two hundred twenty-two of this chapter, the court shall impose a determinate sentence of imprisonment. Such determinate sentence shall include as a part thereof a period of post-release supervision in accordance with section 70.45 of this article. The terms of such determinate sentence shall be imposed by the court in whole or half years as follows:(i) for a class B felony, the term shall be at least six years and shall not exceed fifteen years;(ii) for a class C felony, the term shall be at least three and one-half years and shall not exceed nine years;(iii) for a class D felony, the term shall be at least two and one-half years and shall not exceed four and one-half years; and(iv) for a class E felony, the term shall be at least two years and shall not exceed two and one-half years. (a) "Felony drug offender" means a defendant who stands convicted of any felony, defined in article two hundred twenty or two hundred twenty-two of this chapter other than a class A felony. (b) "Second felony drug offender" means a second felony offender as that term is defined in subdivision one of section 70.06 of this article, who stands convicted of any felony, defined in article two hundred twenty or two hundred twenty-two of this chapter other than a class A felony. (c) "Violent felony" shall have the same meaning as that term is defined in subdivision one of section 70.02 of this article. 2. Except as provided in subdivision three or four of this section, a sentence of imprisonment for a felony drug offender shall be a determinate sentence as provided in paragraph (a) of this subdivision. (a) Term of determinate sentence. Except as provided in paragraph (b) or (c) of this subdivision, the court shall impose a determinate term of imprisonment upon a felony drug offender which shall be imposed by the court in whole or half years, which shall include as a part thereof a period of post-release supervision in accordance with section 70.45 of this article. The terms of imprisonment authorized for such determinate sentences are as follows: (i) for a class B felony, the term shall be at least one year and shall not exceed nine years, except that for the class B felony of criminal sale of a controlled substance in or near school grounds as defined in subdivision two of section 220.44 of this chapter or on a school bus as defined in subdivision seventeen of section 220.00 of this chapter or criminal sale of a controlled substance to a child as defined in section 220.48 of this chapter, the term shall be at least two years and shall not exceed nine years; (ii) for a class C felony, the term shall be at least one year and shall not exceed five and one-half years; (iii) for a class D felony, the term shall be at least one year and shall not exceed two and one-half years; and (iv) for a class E felony, the term shall be at least one year and shall not exceed one and one-half years. (b) Probation. Notwithstanding any other provision of law, the court may sentence a defendant convicted of a class B, class C, class D or class E felony offense defined in article two hundred twenty or two hundred twenty-two of this chapter to probation in accordance with the provisions of sections 60.04 and 65.00 of this chapter. (c) Alternative definite sentence for class B, class C, class D, and class E felonies. If the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose a determinate sentence upon a person convicted of a class C, class D or class E felony offense defined in article two hundred twenty or two hundred twenty-two of this chapter, or a class B felony defined in article two hundred twenty of this chapter, other than the class B felony defined in section 220.48 of this chapter, as added by a chapter of the laws of two thousand nine the court may impose a definite sentence of imprisonment and fix a term of one year or less. (d) The court may direct that a determinate sentence imposed on a defendant convicted of a class B felony, other than the class B felony defined in section 220.48 of this chapter, pursuant to this subdivision be executed as a sentence of parole supervision in accordance with section 410.91 of the criminal procedure law. 3. Sentence of imprisonment for second felony drug offender. (a) Applicability. This subdivision shall apply to a second felony drug offender whose prior felony conviction was not a violent felony. (b) Except as provided in paragraphs (c), (d) and (e) of this subdivision, when the court has found pursuant to the provisions of section 400.21 of the criminal procedure law that a defendant is a second felony drug offender who stands convicted of a class B, class C, class D or class E felony offense defined in article two hundred twenty or two hundred twenty-two of this chapter the court shall impose a determinate sentence of imprisonment. Such determinate sentence shall include as a part thereof a period of post-release supervision in accordance with section 70.45 of this article. The terms of such determinate sentence shall be imposed by the court in whole or half years as follows: (i) for a class B felony, the term shall be at least two years and shall not exceed twelve years; (ii) for a class C felony, the term shall be at least one and one-half years and shall not exceed eight years; (iii) for a class D felony, the term shall be at least one and one-half years and shall not exceed four years; and (iv) for a class E felony, the term shall be at least one and one-half years and shall not exceed two years. (c) Probation. Notwithstanding any other provision of law, the court may sentence a second felony drug offender convicted of a class B felony to lifetime probation in accordance with the provisions of section 65.00 of this chapter and may sentence a second felony drug offender convicted of a class C, class D or class E felony to probation in accordance with the provisions of section 65.00 of this chapter. (d) Sentence of parole supervision. In the case of a person sentenced for a specified offense or offenses as defined in subdivision five of section 410.91 of the criminal procedure law, who stands convicted of no other felony offense, who has not previously been convicted of either a violent felony offense as defined in section 70.02 of this article, a class A felony offense or a class B felony offense, and is not under the jurisdiction of or awaiting delivery to the department of corrections and community supervision, the court may direct that a determinate sentence imposed pursuant to this

subdivision shall be executed as a parole supervision sentence as defined in and pursuant to the procedures prescribed in section 410.91 of the criminal procedure law. (e) Alternate definite sentence for class C, class D and class E felonies. If the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose a determinate sentence upon a person convicted of a class C, class D or class E felony offense defined in article two hundred twenty or two hundred twenty-two of this chapter, the court may impose a definite sentence of imprisonment and fix a term of one year or less. 4. Sentence of imprisonment for second felony drug offender previously convicted of a violent felony. (a) Applicability. This subdivision shall apply to a second felony drug offender whose prior felony conviction was a violent felony. (b) Authorized sentence. When the court has found pursuant to the provisions of section 400.21 of the criminal procedure law that a defendant is a second felony drug offender whose prior felony conviction was a violent felony, who stands convicted of a class B, class C, class D or class E felony offense defined in article two hundred twenty or two hundred twenty-two of this chapter, the court shall impose a determinate sentence of imprisonment. Such determinate sentence shall include as a part thereof a period of post-release supervision in accordance with section 70.45 of this article. The terms of such determinate sentence shall be imposed by the court in whole or half years as follows: (i) for a class B felony, the term shall be at least six years and shall not exceed fifteen years; (ii) for a class C felony, the term shall be at least three and one-half years and shall not exceed nine years; (iii) for a class D felony, the term shall be at least two and one-half years and shall not exceed four and one-half years; and (iv) for a class E felony, the term shall be at least two years and shall not exceed two and one-half years.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 70 - Sentences of Imprisonment70.71 - Sentence of Imprisonment for a Class a Felony Drug Offender.

1. For the purposes of this section, the following terms shall mean:(a) "Felony drug offender" means a defendant who stands convicted of any class A felony as defined in article two hundred twenty of this chapter.(b) "Second felony drug offender" means a second felony offender as that term is defined in subdivision one of section 70.06 of this article, who stands convicted of and is to be sentenced for any class A felony as defined in article two hundred twenty of this chapter.(c) "Violent felony offense" shall have the same meaning as that term is defined in subdivision one of section 70.02 of this article.2. Sentence of imprisonment for a first felony drug offender.(a) Applicability. Except as provided in subdivision three, four or five of this section, this subdivision shall apply to a person convicted of a class A felony as defined in article two hundred twenty of this chapter.(b) Authorized sentence. The court shall impose a determinate term of imprisonment which shall be imposed by the court in whole or half years and which shall include as a part thereof a period of post-release supervision in accordance with section 70.45 of this article. The terms authorized for such determinate sentences are as follows:(i) for a class A-I felony, the term shall be at least eight years and shall not exceed twenty years;(ii) for a class A-II felony, the term shall be at least three years and shall not exceed ten years.(c) Lifetime probation. Notwithstanding any other provision of law, the court may sentence a defendant convicted of a class A-II felony defined in article two hundred twenty of this chapter to lifetime probation in accordance with the provisions of section 65.00 of this chapter.3. Sentence of imprisonment for a second felony drug offender.(a) Applicability. This subdivision shall apply to a second felony drug offender whose prior felony conviction or convictions did not include one or more violent felony offenses.(b) Authorized sentence. When the court has found pursuant to the provisions of section 400.21 of the criminal procedure law that a defendant is a second felony drug offender who stands convicted of a class A felony as defined in article two hundred twenty or two hundred twenty-one of this chapter, the court shall impose a determinate sentence of imprisonment. Such determinate sentence shall include as a part thereof a period of post-release supervision in accordance with section 70.45 of this article. Such determinate sentence shall be imposed by the court in whole or half years as follows:(i) for a class A-I felony, the term shall be at least twelve years and shall not exceed twenty-four years;(ii) for a class A-II felony, the term shall be at least six years and shall not exceed fourteen years.(c) Lifetime probation. Notwithstanding any other provision of law, the court may sentence a defendant convicted of a class A-II felony defined in article two hundred twenty of this chapter to lifetime probation in accordance with the provisions of section 65.00 of this chapter.4. Sentence of imprisonment for a second felony drug offender previously convicted of a violent felony offense.(a) Applicability. This subdivision shall apply to a second felony drug offender whose prior felony conviction was a violent felony.(b) Authorized sentence. When the court has found pursuant to the provisions of section 400.21 of the criminal procedure law that a defendant is a second felony drug offender whose prior felony conviction was a violent felony, who stands convicted of a class A felony as defined in article two hundred twenty or two hundred twenty-one of this chapter, the court shall impose a determinate sentence of imprisonment. Such determinate sentence shall include as a part thereof a period of post-release supervision in accordance with section 70.45 of this article. Such determinate sentence shall be imposed by the court in whole or half years as follows:(i) for a class A-I felony, the term shall be at least fifteen years and shall not exceed thirty years;(ii) for a class A-II felony, the term shall be at least eight years and shall not exceed seventeen years.5. Sentence of imprisonment for operating as a major trafficker.(a) Applicability. This subdivision shall apply to a person convicted of the class A-I felony of operating as a major trafficker as defined in section 220.77 of this chapter.(b) Authorized sentence. Except as provided in paragraph (c) of this subdivision, the court shall impose an indeterminate term of imprisonment for an A-I felony, in accordance with the provisions of section 70.00 of this article.(c) Alternative determinate sentence. If a defendant stands convicted of violating section 220.77 of this chapter, and if the court, having regard to the nature and circumstances of the crime and the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose the indeterminate sentence for a class A-I felony specified under section 70.00 of this article, the court may instead impose the determinate sentence of

imprisonment authorized by clause (i) of subparagraph (b) of subdivision two of this section for a class A-I drug felony; in such case, the reasons for the court's opinion shall be set forth on the record. (a) "Felony drug offender" means a defendant who stands convicted of any class A felony as defined in article two hundred twenty of this chapter. (b) "Second felony drug offender" means a second felony offender as that term is defined in subdivision one of section 70.06 of this article, who stands convicted of and is to be sentenced for any class A felony as defined in article two hundred twenty of this chapter. (c) "Violent felony offense" shall have the same meaning as that term is defined in subdivision one of section 70.02 of this article. 2. Sentence of imprisonment for a first felony drug offender. (a) Applicability. Except as provided in subdivision three, four or five of this section, this subdivision shall apply to a person convicted of a class A felony as defined in article two hundred twenty of this chapter. (b) Authorized sentence. The court shall impose a determinate term of imprisonment which shall be imposed by the court in whole or half years and which shall include as a part thereof a period of post-release supervision in accordance with section 70.45 of this article. The terms authorized for such determinate sentences are as follows: (i) for a class A-I felony, the term shall be at least eight years and shall not exceed twenty years; (ii) for a class A-II felony, the term shall be at least three years and shall not exceed ten years. (c) Lifetime probation. Notwithstanding any other provision of law, the court may sentence a defendant convicted of a class A-II felony defined in article two hundred twenty of this chapter to lifetime probation in accordance with the provisions of section 65.00 of this chapter. 3. Sentence of imprisonment for a second felony drug offender. (a) Applicability. This subdivision shall apply to a second felony drug offender whose prior felony conviction or convictions did not include one or more violent felony offenses. (b) Authorized sentence. When the court has found pursuant to the provisions of section 400.21 of the criminal procedure law that a defendant is a second felony drug offender who stands convicted of a class A felony as defined in article two hundred twenty or two hundred twenty-one of this chapter, the court shall impose a determinate sentence of imprisonment. Such determinate sentence shall include as a part thereof a period of post-release supervision in accordance with section 70.45 of this article. Such determinate sentence shall be imposed by the court in whole or half years as follows: (i) for a class A-I felony, the term shall be at least twelve years and shall not exceed twenty-four years; (ii) for a class A-II felony, the term shall be at least six years and shall not exceed fourteen years. (c) Lifetime probation. Notwithstanding any other provision of law, the court may sentence a defendant convicted of a class A-II felony defined in article two hundred twenty of this chapter to lifetime probation in accordance with the provisions of section 65.00 of this chapter. 4. Sentence of imprisonment for a second felony drug offender previously convicted of a violent felony offense. (a) Applicability. This subdivision shall apply to a second felony drug offender whose prior felony conviction was a violent felony. (b) Authorized sentence. When the court has found pursuant to the provisions of section 400.21 of the criminal procedure law that a defendant is a second felony drug offender whose prior felony conviction was a violent felony, who stands convicted of a class A felony as defined in article two hundred twenty or two hundred twenty-one of this chapter, the court shall impose a determinate sentence of imprisonment. Such determinate sentence shall include as a part thereof a period of post-release supervision in accordance with section 70.45 of this article. Such determinate sentence shall be imposed by the court in whole or half years as follows: (i) for a class A-I felony, the term shall be at least fifteen years and shall not exceed thirty years; (ii) for a class A-II felony, the term shall be at least eight years and shall not exceed seventeen years. 5. Sentence of imprisonment for operating as a major trafficker. (a) Applicability. This subdivision shall apply to a person convicted of the class A-I felony of operating as a major trafficker as defined in section 220.77 of this chapter. (b) Authorized sentence. Except as provided in paragraph (c) of this subdivision, the court shall impose an indeterminate term of imprisonment for an A-I felony, in accordance with the provisions of section 70.00 of this article. (c) Alternative determinate sentence. If a defendant stands convicted of violating section 220.77 of this chapter, and if the court, having regard to the nature and circumstances of the crime and the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose the indeterminate sentence for a class A-I felony specified under section 70.00 of this article, the court may instead impose the determinate sentence of imprisonment authorized by clause (i) of subparagraph (b) of subdivision two of this section for a class A-I drug felony; in such case, the reasons for the court's opinion shall be set forth on the record.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 70 - Sentences of Imprisonment70.80 - Sentences of Imprisonment for Conviction of a Felony Sex Offense.

offense. 1. Definitions. (a) For the purposes of this section, a "felony sex offense" means a conviction of any felony defined in article one hundred thirty of this chapter, including a sexually motivated felony, or patronizing a person for prostitution in the first degree as defined in section 230.06 of this chapter, patronizing a person for prostitution in the second degree as defined in section 230.05 of this chapter, aggravated patronizing a minor for prostitution in the third degree as defined in section 230.11 of this chapter, aggravated patronizing a minor for prostitution in the second degree as defined in section 230.12 of this chapter, aggravated patronizing a minor for prostitution in the first degree as defined in section 230.13 of this chapter, incest in the second degree as defined in section 255.26 of this chapter, or incest in the first degree as defined in section 255.27 of this chapter, or a felony attempt or conspiracy to commit any of the above.(b) A felony sex offense shall be deemed a "violent felony sex offense" if it is for an offense defined as a violent felony offense in section 70.02 of this article, or for a sexually motivated felony as defined in section 130.91 of this chapter where the specified offense is a violent felony offense as defined in section 70.02 of this article.(c) For the purposes of this section, a "predicate felony sex offender" means a person who stands convicted of any felony sex offense as defined in paragraph (a) of this subdivision, other than a class A-I felony, after having previously been subjected to one or more predicate felony convictions as defined in subdivision one of section 70.06 or subdivision one of section 70.04 of this article.(d) For purposes of this section, a "violent felony offense" is any felony defined in subdivision one of section 70.02 of this article, and a "non-violent

felony offense" is any felony not defined therein.2. In imposing a sentence within the authorized statutory range for any felony sex offense, the court may consider all relevant factors set forth in section 1.05 of this chapter, and in particular, may consider the defendant's criminal history, if any, including any history of sex offenses; any mental illness or mental abnormality from which the defendant may suffer; the defendant's ability or inability to control his sexual behavior; and, if the defendant has difficulty controlling such behavior, the extent to which that difficulty may pose a threat to society.3. Except as provided by subdivision four, five, six, seven or eight of this section, or when a defendant is being sentenced for a conviction of the class A-II felonies of predatory sexual assault and predatory sexual assault against a child as defined in sections 130.95 and 130.96 of this chapter, or for any class A-I sexually motivated felony for which a life sentence or a life without parole sentence must be imposed, a sentence imposed upon a defendant convicted of a felony sex offense shall be a determinate sentence. The determinate sentence shall be imposed by the court in whole or half years, and shall include as a part thereof a period of post-release supervision in accordance with subdivision two-a of section 70.45 of this article. Persons eligible for sentencing under section 70.07 of this article governing second child sexual assault felonies shall be sentenced under such section and paragraph (j) of subdivision two-a of section 70.45 of this article.4. (a) Sentences of imprisonment for felony sex offenses. Except as provided in subdivision five, six, seven, or eight of this section, the term of the determinate sentence must be fixed by the court as follows:(i) for a class B felony, the term must be at least five years and must not exceed twenty-five years;(ii) for a class C felony, the term must be at least three and one-half years and must not exceed fifteen years;(iii) for a class D felony, the term must be at least two years and must not exceed seven years; and(iv) for a class E felony, the term must be at least one and one-half years and must not exceed four years.(b) Probation. The court may sentence a defendant convicted of a class D or class E felony sex offense to probation in accordance with the provisions of section 65.00 of this title.(c) Alternative definite sentences for class D and class E felony sex offenses. If the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose a determinate sentence upon a person convicted of a class D or class E felony sex offense, the court may impose a definite sentence of imprisonment and fix a term of one year or less.5. Sentence of imprisonment for a predicate felony sex offender. (a) Applicability. This subdivision shall apply to a predicate felony sex offender who stands convicted of a non-violent felony sex offense and who was previously convicted of one or more felonies.(b) Non-violent predicate felony offense. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a predicate felony sex offender, and the person's predicate conviction was for a non-violent felony offense, the court must impose a determinate sentence of imprisonment, the term of which must be fixed by the court as follows:(i) for a class B felony, the term must be at least eight years and must not exceed twenty-five years;(ii) for a class C felony, the term must be at least five years and must not exceed fifteen years;(iii) for a class D felony, the term must be at least three years and must not exceed seven years; and(iv) for a class E felony, the term must be at least two years and must not exceed four years.(c) Violent predicate felony offense. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a predicate felony sex offender, and the person's predicate conviction was for a violent felony offense, the court must impose a determinate sentence of imprisonment, the term of which must be fixed by the court as follows:(i) for a class B felony, the term must be at least nine years and must not exceed twenty-five years;(ii) for a class C felony, the term must be at least six years and must not exceed fifteen years;(iii) for a class D felony, the term must be at least four years and must not exceed seven years; and(iv) for a class E felony, the term must be at least two and one-half years and must not exceed four years.(d) A defendant who stands convicted of a non-violent felony sex offense, other than a class A-I or class A-II felony, who is adjudicated a persistent felony offender under section 70.10 of this article, shall be sentenced pursuant to the provisions of section 70.10 or pursuant to this subdivision.6. Sentence of imprisonment for a violent felony sex offense. Except as provided in subdivisions seven and eight of this section, a defendant who stands convicted of a violent felony sex offense must be sentenced pursuant to the provisions of section 70.02, section 70.04, subdivision six of section 70.06, section 70.08, or section 70.10 of this article, as applicable.7. Sentence for a class A felony sex offense. When a person stands convicted of a sexually motivated felony pursuant to section 130.91 of this chapter and the specified offense is a class A felony, the court must sentence the defendant in accordance with the provisions of:(a) section 60.06 of this chapter and section 70.00 of this article, as applicable, if such offense is a class A-I felony; and(b) section 70.00, 70.06 or 70.08 of this article, as applicable, if such offense is a class A-II felony.8. Whenever a juvenile offender stands convicted of a felony sex offense, he or she must be sentenced pursuant to the provisions of sections 60.10 and 70.05 of this chapter.9. Every determinate sentence for a felony sex offense, as defined in paragraph (a) of subdivision one of this section, imposed pursuant to any section of this article, shall include as a part thereof a period of post-release supervision in accordance with subdivision two-a of section 70.45 of this article. (b) A felony sex offense shall be deemed a "violent felony sex offense" if it is for an offense defined as a violent felony offense in section 70.02 of this article, or for a sexually motivated felony as defined in section 130.91 of this chapter where the specified offense is a violent felony offense as defined in section 70.02 of this article. (c) For the purposes of this section, a "predicate felony sex offender" means a person who stands convicted of any felony sex offense as defined in paragraph (a) of this subdivision, other than a class A-I felony, after having previously been subjected to one or more predicate felony convictions as defined in subdivision one of section 70.06 or subdivision one of section 70.04 of this article. (d) For purposes of this section, a "violent felony offense" is any felony defined in subdivision one of section 70.02 of this article, and a "non-violent felony offense" is any felony not defined therein. 2. In imposing a sentence within the authorized statutory range for any felony sex offense, the court may consider all relevant factors set forth in section 1.05 of this chapter, and in particular, may consider the defendant's criminal history, if any, including any history of sex offenses; any mental illness or mental abnormality from which the defendant may suffer; the defendant's ability or inability to control his sexual behavior; and, if the defendant has difficulty controlling such

behavior, the extent to which that difficulty may pose a threat to society. 3. Except as provided by subdivision four, five, six, seven or eight of this section, or when a defendant is being sentenced for a conviction of the class A-II felonies of predatory sexual assault and predatory sexual assault against a child as defined in sections 130.95 and 130.96 of this chapter, or for any class A-I sexually motivated felony for which a life sentence or a life without parole sentence must be imposed, a sentence imposed upon a defendant convicted of a felony sex offense shall be a determinate sentence. The determinate sentence shall be imposed by the court in whole or half years, and shall include as a part thereof a period of post-release supervision in accordance with subdivision two-a of section 70.45 of this article. Persons eligible for sentencing under section 70.07 of this article governing second child sexual assault felonies shall be sentenced under such section and paragraph (j) of subdivision two-a of section 70.45 of this article. 4. (a) Sentences of imprisonment for felony sex offenses. Except as provided in subdivision five, six, seven, or eight of this section, the term of the determinate sentence must be fixed by the court as follows: (i) for a class B felony, the term must be at least five years and must not exceed twenty-five years; (ii) for a class C felony, the term must be at least three and one-half years and must not exceed fifteen years; (iii) for a class D felony, the term must be at least two years and must not exceed seven years; and (iv) for a class E felony, the term must be at least one and one-half years and must not exceed four years. (b) Probation. The court may sentence a defendant convicted of a class D or class E felony sex offense to probation in accordance with the provisions of section 65.00 of this title. (c) Alternative definite sentences for class D and class E felony sex offenses. If the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, is of the opinion that a sentence of imprisonment is necessary but that it would be unduly harsh to impose a determinate sentence upon a person convicted of a class D or class E felony sex offense, the court may impose a definite sentence of imprisonment and fix a term of one year or less. 5. Sentence of imprisonment for a predicate felony sex offender. (a) Applicability. This subdivision shall apply to a predicate felony sex offender who stands convicted of a non-violent felony sex offense and who was previously convicted of one or more felonies. (b) Non-violent predicate felony offense. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a predicate felony sex offender, and the person's predicate conviction was for a non-violent felony offense, the court must impose a determinate sentence of imprisonment, the term of which must be fixed by the court as follows: (i) for a class B felony, the term must be at least eight years and must not exceed twenty-five years; (ii) for a class C felony, the term must be at least five years and must not exceed fifteen years; (iii) for a class D felony, the term must be at least three years and must not exceed seven years; and (iv) for a class E felony, the term must be at least two years and must not exceed four years. (c) Violent predicate felony offense. When the court has found, pursuant to the provisions of the criminal procedure law, that a person is a predicate felony sex offender, and the person's predicate conviction was for a violent felony offense, the court must impose a determinate sentence of imprisonment, the term of which must be fixed by the court as follows: (i) for a class B felony, the term must be at least nine years and must not exceed twenty-five years; (ii) for a class C felony, the term must be at least six years and must not exceed fifteen years; (iii) for a class D felony, the term must be at least four years and must not exceed seven years; and (iv) for a class E felony, the term must be at least two and one-half years and must not exceed four years. (d) A defendant who stands convicted of a non-violent felony sex offense, other than a class A-I or class A-II felony, who is adjudicated a persistent felony offender under section 70.10 of this article, shall be sentenced pursuant to the provisions of section 70.10 or pursuant to this subdivision. 6. Sentence of imprisonment for a violent felony sex offense. Except as provided in subdivisions seven and eight of this section, a defendant who stands convicted of a violent felony sex offense must be sentenced pursuant to the provisions of section 70.02, section 70.04, subdivision six of section 70.06, section 70.08, or section 70.10 of this article, as applicable. 7. Sentence for a class A felony sex offense. When a person stands convicted of a sexually motivated felony pursuant to section 130.91 of this chapter and the specified offense is a class A felony, the court must sentence the defendant in accordance with the provisions of: (a) section 60.06 of this chapter and section 70.00 of this article, as applicable, if such offense is a class A-I felony; and (b) section 70.00, 70.06 or 70.08 of this article, as applicable, if such offense is a class A-II felony. 8. Whenever a juvenile offender stands convicted of a felony sex offense, he or she must be sentenced pursuant to the provisions of sections 60.10 and 70.05 of this chapter. 9. Every determinate sentence for a felony sex offense, as defined in paragraph (a) of subdivision one of this section, imposed pursuant to any section of this article, shall include as a part thereof a period of post-release supervision in accordance with subdivision two-a of section 70.45 of this article.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 70 - Sentences of Imprisonment70.85 - Transitional Exception to Determinate Sentencing Laws.

This section shall apply only to cases in which a determinate sentence was imposed between September first, nineteen hundred ninety-eight, and the effective date of this section, and was required by law to include a term of post-release supervision, but the court did not explicitly state such a term when pronouncing sentence. When such a case is again before the court pursuant to section six hundred one-d of the correction law or otherwise, for consideration of whether to resentence, the court may, notwithstanding any other provision of law but only on consent of the district attorney, re-impose the originally imposed determinate sentence of imprisonment without any term of post-release supervision, which then shall be deemed a lawful sentence.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 80 - Fines80.00 - Fine for Felony.

1. A sentence to pay a fine for a felony shall be a sentence to pay an amount, fixed by the court, not exceeding the higher of a. five thousand dollars; or b. double the amount of the defendant's gain from the commission of the crime or, if the defendant is convicted of a crime defined in article four hundred ninety-six of this chapter, any higher amount not exceeding three times the amount of the defendant's gain from the commission of such offense; or c. if the conviction is for any felony defined in article two hundred twenty

or two hundred twenty-one of this chapter, according to the following schedule:(i) for A-I felonies, one hundred thousand dollars;(ii) for A-II felonies, fifty thousand dollars;(iii) for B felonies, thirty thousand dollars;(iv) for C felonies, fifteen thousand dollars. When imposing a fine pursuant to the provisions of this paragraph, the court shall consider the profit gained by defendant's conduct, whether the amount of the fine is disproportionate to the conduct in which defendant engaged, its impact on any victims, and defendant's economic circumstances, including the defendant's ability to pay, the effect of the fine upon his or her immediate family or any other persons to whom the defendant owes an obligation of support.2. As used in this section the term "gain" means the amount of money or the value of property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority prior to the time sentence is imposed.3. When the court imposes a fine for a felony pursuant to paragraph b of subdivision one of this section, the court shall make a finding as to the amount of the defendant's gain from the crime. If the record does not contain sufficient evidence to support such a finding or to permit adequate consideration of the matters specified in paragraph c of subdivision one of this section, the court may conduct a hearing upon such issues.4. Exception. The provisions of this section shall not apply to a corporation.5. All moneys in excess of five thousand dollars received or collected in payment of a fine imposed pursuant to paragraph c of subdivision one of this section are the property of the state and the state comptroller shall deposit all such fines to the rehabilitative alcohol and substance treatment fund established pursuant to section ninety-seven-cc of the state finance law.6. Notwithstanding any inconsistent provision of subdivision one of this section a sentence to pay a fine for a felony set forth in the vehicle and traffic law shall be a sentence to pay an amount fixed by the court in accordance with the provisions of the law that defines the crime.7. When the court imposes a fine pursuant to section 145.22 or 145.23 of this chapter, the court shall direct that no less than ten percent of such fine be credited to the state cemetery vandalism restoration and administration fund created pursuant to section ninety-seven-r of the state finance law. (i) for A-I felonies, one hundred thousand dollars; (ii) for A-II felonies, fifty thousand dollars; (iii) for B felonies, thirty thousand dollars; (iv) for C felonies, fifteen thousand dollars. When imposing a fine pursuant to the provisions of this paragraph, the court shall consider the profit gained by defendant's conduct, whether the amount of the fine is disproportionate to the conduct in which defendant engaged, its impact on any victims, and defendant's economic circumstances, including the defendant's ability to pay, the effect of the fine upon his or her immediate family or any other persons to whom the defendant owes an obligation of support. 2. As used in this section the term "gain" means the amount of money or the value of property derived from the commission of the crime, less the amount of money or the value of property returned to the victim of the crime or seized by or surrendered to lawful authority prior to the time sentence is imposed. 3. When the court imposes a fine for a felony pursuant to paragraph b of subdivision one of this section, the court shall make a finding as to the amount of the defendant's gain from the crime. If the record does not contain sufficient evidence to support such a finding or to permit adequate consideration of the matters specified in paragraph c of subdivision one of this section, the court may conduct a hearing upon such issues. 4. Exception. The provisions of this section shall not apply to a corporation. 5. All moneys in excess of five thousand dollars received or collected in payment of a fine imposed pursuant to paragraph c of subdivision one of this section are the property of the state and the state comptroller shall deposit all such fines to the rehabilitative alcohol and substance treatment fund established pursuant to section ninety-seven-cc of the state finance law. 6. Notwithstanding any inconsistent provision of subdivision one of this section a sentence to pay a fine for a felony set forth in the vehicle and traffic law shall be a sentence to pay an amount fixed by the court in accordance with the provisions of the law that defines the crime. 7. When the court imposes a fine pursuant to section 145.22 or 145.23 of this chapter, the court shall direct that no less than ten percent of such fine be credited to the state cemetery vandalism restoration and administration fund created pursuant to section ninety-seven-r of the state finance law.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 80 - Fines80.05 - Fines for Misdemeanors and Violation.

1. Class A misdemeanor. A sentence to pay a fine for a class A misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding one thousand dollars, provided, however, that a sentence imposed for a violation of section 215.80 of this chapter may include a fine in an amount equivalent to double the value of the property unlawfully disposed of in the commission of the crime. 2. Class B misdemeanor. A sentence to pay a fine for a class B misdemeanor shall be a sentence to pay an amount, fixed by the court, not exceeding five hundred dollars. 3. Unclassified misdemeanor. A sentence to pay a fine for an unclassified misdemeanor shall be a sentence to pay an amount, fixed by the court, in accordance with the provisions of the law or ordinance that defines the crime. 4. Violation. A sentence to pay a fine for a violation shall be a sentence to pay an amount, fixed by the court, not exceeding two hundred fifty dollars. In the case of a violation defined outside this chapter, if the amount of the fine is expressly specified in the law or ordinance that defines the offense, the amount of the fine shall be fixed in accordance with that law or ordinance. 5. Alternative sentence. If a person has gained money or property through the commission of any misdemeanor or violation then upon conviction thereof, the court, in lieu of imposing the fine authorized for the offense under one of the above subdivisions, may sentence the defendant to pay an amount, fixed by the court, not exceeding double the amount of the defendant's gain from the commission of the offense; provided, however, that the amount fixed by the court pursuant to this subdivision upon a conviction under section 11-1904 of the environmental conservation law shall not exceed five thousand dollars. In such event the provisions of subdivisions two and three of section 80.00 shall be applicable to the sentence. 6. Exception. The provisions of this section shall not apply to a corporation.

Title: pen

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 80 - Fines80.10 - Fines for Corporations.

1. In general. A sentence to pay a fine, when imposed on a corporation for an offense defined in this chapter or for an offense defined outside this chapter for which no special corporate fine is specified, shall be a sentence to pay an amount, fixed by the court, not exceeding:(a) Ten thousand dollars, when the conviction is of a felony; provided, however, that when the conviction is pursuant to subparagraph (iv) of paragraph (c) of subdivision two of section 20.20 of this chapter, such fine shall be fixed by the court and shall be no more than five hundred thousand dollars;(b) Five thousand dollars, when the conviction is of a class A misdemeanor or of an unclassified misdemeanor for which a term of imprisonment in excess of three months is authorized; provided, however, that when the conviction is pursuant to subparagraph (iv) of paragraph (c) of subdivision two of section 20.20 of this chapter, such fine shall be fixed by the court and shall be no more than three hundred thousand dollars;(c) Two thousand dollars, when the conviction is of a class B misdemeanor or of an unclassified misdemeanor for which the authorized term of imprisonment is not in excess of three months;(d) Five hundred dollars, when the conviction is of a violation;(e) Any higher amount not exceeding double the amount of the corporation's gain from the commission of the offense or, if the corporation is convicted of a crime defined in article four hundred ninety-six of this chapter, any higher amount not exceeding three times the amount of the corporation's gain from the commission of such offense.2. Exception. In the case of an offense defined outside this chapter, if a special fine for a corporation is expressly specified in the law or ordinance that defines the offense, the fine fixed by the court shall be as follows:(a) An amount within the limits specified in the law or ordinance that defines the offense; or(b) Any higher amount not exceeding double the amount of the corporation's gain from the commission of the offense.3. Determination of amount or value. When the court imposes the fine authorized by paragraph (e) of subdivision one or paragraph (b) of subdivision two for any offense the provisions of subdivision three of section 80.00 shall be applicable to the sentence. (a) Ten thousand dollars, when the conviction is of a felony; provided, however, that when the conviction is pursuant to subparagraph (iv) of paragraph (c) of subdivision two of section 20.20 of this chapter, such fine shall be fixed by the court and shall be no more than five hundred thousand dollars; (b) Five thousand dollars, when the conviction is of a class A misdemeanor or of an unclassified misdemeanor for which a term of imprisonment in excess of three months is authorized; provided, however, that when the conviction is pursuant to subparagraph (iv) of paragraph (c) of subdivision two of section 20.20 of this chapter, such fine shall be fixed by the court and shall be no more than three hundred thousand dollars; (c) Two thousand dollars, when the conviction is of a class B misdemeanor or of an unclassified misdemeanor for which the authorized term of imprisonment is not in excess of three months; (d) Five hundred dollars, when the conviction is of a violation; (e) Any higher amount not exceeding double the amount of the corporation's gain from the commission of the offense or, if the corporation is convicted of a crime defined in article four hundred ninety-six of this chapter, any higher amount not exceeding three times the amount of the corporation's gain from the commission of such offense. 2. Exception. In the case of an offense defined outside this chapter, if a special fine for a corporation is expressly specified in the law or ordinance that defines the offense, the fine fixed by the court shall be as follows: (a) An amount within the limits specified in the law or ordinance that defines the offense; or (b) Any higher amount not exceeding double the amount of the corporation's gain from the commission of the offense. 3. Determination of amount or value. When the court imposes the fine authorized by paragraph (e) of subdivision one or paragraph (b) of subdivision two for any offense the provisions of subdivision three of section 80.00 shall be applicable to the sentence.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 80 - Fines80.15 - Multiple Offenses.

Where a person is convicted of two or more offenses committed through a single act or omission, or through an act or omission which in itself constituted one of the offenses and also was a material element of the other, and the court imposes a sentence of imprisonment or a fine or both for one of the offenses, a fine shall not be imposed for the other. The provisions of this section shall not apply to any offense or offenses set forth in the vehicle and traffic law.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 85 - Sentence of Intermittent Imprisonment85.00 - Sentence of Intermittent Imprisonment.

1. Definition. A sentence of intermittent imprisonment is a revocable sentence of imprisonment to be served on days or during certain periods of days, or both, specified by the court as part of the sentence. A person who receives a sentence of intermittent imprisonment shall be incarcerated in the institution to which he is committed at such times as are specified by the court in the sentence. 2. Authorization for use of sentence. The court may impose a sentence of intermittent imprisonment in any case where:(a) the court is imposing sentence, upon a person other than a second or persistent felony offender, for a class D or class E felony or for any offense that is not a felony; and(b) the court is not imposing any other sentence of imprisonment upon the defendant at the same time; and(c) the defendant is not under any other sentence of imprisonment with a term in excess of fifteen days imposed by any other court; and3. Duration of sentence. A sentence of intermittent imprisonment may be for any term that could be imposed as a definite sentence of imprisonment for the offense for which such sentence is imposed. The term of the sentence shall commence on the day it is imposed and shall be calculated upon the basis of the duration of its term, rather than upon the basis of the days spent in confinement, so that no person shall be subject to any such sentence for a period that is longer than a period that commences on the date the sentence is imposed and ends on the date the term of the longest definite sentence for the offense would have expired, after deducting the credit that would have been applicable to a definite sentence for jail time but without regard to any credit authorized to be allowed against the term of a definite sentence for good behavior. The provisions of section five hundred-l of the correction law

shall not be applicable to a sentence of intermittent imprisonment.4. Imposition of sentence. (a) When the court imposes a sentence of intermittent imprisonment the court shall specify in the sentence:(i) that the court is imposing a sentence of intermittent imprisonment;(ii) the term of such sentence;(iii) the days or parts of days on which the sentence is to be served, but except as provided in paragraph (iv) hereof such specification need not include the dates on which such days fall; and(iv) the first and last dates on which the defendant is to be incarcerated under the sentence.(b) The court, in its discretion, may specify any day or days or parts thereof on which the defendant shall be confined and may specify a period to commence at the commencement of the sentence and not to exceed fifteen days during which the defendant is to be continuously confined. (a) the court is imposing sentence, upon a person other than a second or persistent felony offender, for a class D or class E felony or for any offense that is not a felony; and (b) the court is not imposing any other sentence of imprisonment upon the defendant at the same time; and (c) the defendant is not under any other sentence of imprisonment with a term in excess of fifteen days imposed by any other court; and 3. Duration of sentence. A sentence of intermittent imprisonment may be for any term that could be imposed as a definite sentence of imprisonment for the offense for which such sentence is imposed. The term of the sentence shall commence on the day it is imposed and shall be calculated upon the basis of the duration of its term, rather than upon the basis of the days spent in confinement, so that no person shall be subject to any such sentence for a period that is longer than a period that commences on the date the sentence is imposed and ends on the date the term of the longest definite sentence for the offense would have expired, after deducting the credit that would have been applicable to a definite sentence for jail time but without regard to any credit authorized to be allowed against the term of a definite sentence for good behavior. The provisions of section five hundred-l of the correction law shall not be applicable to a sentence of intermittent imprisonment. 4. Imposition of sentence. (a) When the court imposes a sentence of intermittent imprisonment the court shall specify in the sentence: (i) that the court is imposing a sentence of intermittent imprisonment; (ii) the term of such sentence; (iii) the days or parts of days on which the sentence is to be served, but except as provided in paragraph (iv) hereof such specification need not include the dates on which such days fall; and (iv) the first and last dates on which the defendant is to be incarcerated under the sentence. (b) The court, in its discretion, may specify any day or days or parts thereof on which the defendant shall be confined and may specify a period to commence at the commencement of the sentence and not to exceed fifteen days during which the defendant is to be continuously confined.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 85 - Sentence of Intermittent Imprisonment85.05 - Modification and Revocation of Sentences of Intermittent Imprisonment.

imprisonment. 1. Authorization. A sentence of intermittent imprisonment may be modified by the court in its discretion upon application of the defendant; and the court on its own motion may modify or revoke any such sentence if:(a) the court is satisfied during the term of the sentence that the defendant has committed another offense during such term;(b) the defendant has failed to report to the institution to which he has been committed, or to the institution designated by the head of the agency to which he has been committed, on a day or dates specified in the commitment and is unable or unwilling to furnish a reasonable and acceptable explanation for such failure; or(c) the defendant has violated a rule or regulation of the institution or agency to which he has been committed and the head of such institution or agency or someone delegated by him has reported such violation in writing to the court.2. Interruption of sentence. In any case where the defendant fails to report to the institution or to an institution of the agency to which he has been committed, the term of the sentence shall be interrupted and such interruption shall continue until the defendant either reports to such institution or appears before the court that imposed the sentence, whichever occurs first. If the defendant reports to the institution before he appears before the court, he shall be brought before the court.3. Action by court. The court shall not modify or revoke a sentence of intermittent imprisonment unless the defendant has been afforded an opportunity to be heard. Any modification of a sentence of intermittent imprisonment:(a) may provide (i) for different or additional or fewer days or parts of days on which the defendant is to be confined, or (ii) where the defendant has failed to report as specified in the sentence, an extension of the term of the sentence for the period during which it was interrupted, or (iii) for both; and(b) shall be by written order of the court and shall be delivered and filed in the same manner as the original sentence, as specified in subdivision two of section 85.10 of this article.4. Jail time. Where a sentence of intermittent imprisonment is revoked and a sentence of imprisonment is imposed in its place for the same offense, time spent in confinement under the sentence of intermittent imprisonment shall be calculated as jail time under subdivision three of section 70.30 of this chapter and shall be added to any jail time accrued against such sentence prior to imposition thereof. (a) the court is satisfied during the term of the sentence that the defendant has committed another offense during such term; (b) the defendant has failed to report to the institution to which he has been committed, or to the institution designated by the head of the agency to which he has been committed, on a day or dates specified in the commitment and is unable or unwilling to furnish a reasonable and acceptable explanation for such failure; or (c) the defendant has violated a rule or regulation of the institution or agency to which he has been committed and the head of such institution or agency or someone delegated by him has reported such violation in writing to the court. 2. Interruption of sentence. In any case where the defendant fails to report to the institution or to an institution of the agency to which he has been committed, the term of the sentence shall be interrupted and such interruption shall continue until the defendant either reports to such institution or appears before the court that imposed the sentence, whichever occurs first. If the defendant reports to the institution before he appears before the court, he shall be brought before the court. 3. Action by court. The court shall not modify or revoke a sentence of intermittent imprisonment unless the defendant has been afforded an opportunity to be heard. Any modification of a sentence of intermittent imprisonment: (a) may provide (i) for different or additional or fewer days or parts of days on which the defendant is to be confined, or (ii) where the defendant has failed to report as specified in the sentence, an extension of the term of the sentence for the period during which it was

interrupted, or (iii) for both; and (b) shall be by written order of the court and shall be delivered and filed in the same manner as the original sentence, as specified in subdivision two of section 85.10 of this article. 4. Jail time. Where a sentence of intermittent imprisonment is revoked and a sentence of imprisonment is imposed in its place for the same offense, time spent in confinement under the sentence of intermittent imprisonment shall be calculated as jail time under subdivision three of section 70.30 of this chapter and shall be added to any jail time accrued against such sentence prior to imposition thereof.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 85 - Sentence of Intermittent Imprisonment85.10 - Commitment; Notifications; Warrants.

1. Commitment. Commitment under a sentence of intermittent imprisonment and execution of the judgment shall be in accordance with the procedure applicable to a definite sentence of imprisonment, except that: (a) detention of the defendant under the judgment shall be executed during the times specified in the sentence; and (b) the court may provide that the defendant is to report to a specified institution on a specified date at a specified time to commence service of the sentence and in such case the defendant need not be taken into or retained in custody when sentence is imposed. 2. Notifications. A written copy of the sentence imposed by the court signed by the judge who imposed the sentence shall be delivered to the defendant and shall be annexed to the commitment and to each copy of the commitment required to be delivered or filed. When the defendant is not taken into or retained in custody at the time sentence is imposed, the commitment and copy of the sentence shall forthwith be delivered to the person whose duty it is to execute the judgment. If at any time the defendant fails to report for confinement as provided in the sentence the officer in charge of the institution or department to which such commitment is made or someone designated by such officer shall forthwith notify the court in writing of such failure to report. 3. Warrants. Upon receipt of any such notification the court may issue a warrant to an appropriate police officer or peace officer directing him to take the defendant into custody and bring him before the court. The court may then commit such person to custody or fix bail or release him on his own recognizance for future appearance before the court.

2024 New York LawsPEN - PenalPart 2 - SentencesTitle E - SentencesArticle 85 - Sentence of Intermittent Imprisonment85.15 - Subsequent Sentences.

* 1. Indeterminate and determinate sentences. The service of an indeterminate or a determinate sentence of imprisonment shall satisfy any sentence of intermittent imprisonment imposed on a person for an offense committed prior to the time the indeterminate or determinate sentence was imposed. A person who is serving a sentence of intermittent imprisonment at the time an indeterminate or a determinate sentence of imprisonment is imposed shall be delivered to the custody of the state department of corrections and community supervision to commence service of the indeterminate or determinate sentence immediately. * NB Effective until September 1, 2025 * 1. Indeterminate and reformatory sentences. The service of an indeterminate or a reformatory sentence of imprisonment shall satisfy any sentence of intermittent imprisonment imposed on a person for an offense committed prior to the time the indeterminate or reformatory sentence was imposed. A person who is serving a sentence of intermittent imprisonment at the time an indeterminate or a reformatory sentence of imprisonment is imposed shall be delivered to the custody of the state department of corrections and community supervision to commence service of the indeterminate or reformatory sentence immediately. * NB Effective September 1, 2025 2. Definite sentences. If a definite sentence of imprisonment is imposed on a person who is under a previously imposed sentence of intermittent imprisonment, such person shall commence service of the definite sentence immediately. Where such definite sentence is for a term in excess of thirty days, the service of such sentence shall satisfy the sentence of intermittent imprisonment unless the sentence of intermittent imprisonment is revoked, or a warrant is issued pursuant to subdivision three of section 85.10 of this article and prior to satisfaction of, or conditional release under, such definite sentence of imprisonment.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 100 - Criminal Solicitation100.00 - Criminal Solicitation in the Fifth Degree.

A person is guilty of criminal solicitation in the fifth degree when, with intent that another person engage in conduct constituting a crime, he solicits, requests, commands, importunes or otherwise attempts to cause such other person to engage in such conduct. Criminal solicitation in the fifth degree is a violation.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 100 - Criminal Solicitation100.05 - Criminal Solicitation in the Fourth Degree.

A person is guilty of criminal solicitation in the fourth degree when: 1. with intent that another person engage in conduct constituting a felony, he solicits, requests, commands, importunes or otherwise attempts to cause such other person to engage in such conduct; or 2. being over eighteen years of age, with intent that another person under sixteen years of age engage in conduct that would constitute a crime, he solicits, requests, commands, importunes or otherwise attempts to cause such other person to engage in such conduct. Criminal solicitation in the fourth degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 100 - Criminal Solicitation100.08 - Criminal Solicitation in the Third Degree.

A person is guilty of criminal solicitation in the third degree when, being over eighteen years of age, with intent that another person

under sixteen years of age engage in conduct that would constitute a felony, he solicits, requests, commands, importunes or otherwise attempts to cause such other person to engage in such conduct. Criminal solicitation in the third degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 100 - Criminal Solicitation100.10 - Criminal Solicitation in the Second Degree.

A person is guilty of criminal solicitation in the second degree when, with intent that another person engage in conduct constituting a class A felony, he solicits, requests, commands, importunes or otherwise attempts to cause such other person to engage in such conduct. Criminal solicitation in the second degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 100 - Criminal Solicitation100.13 - Criminal Solicitation in the First Degree.

A person is guilty of criminal solicitation in the first degree when, being over eighteen years of age, with intent that another person under sixteen years of age engage in conduct that would constitute a class A felony, he solicits, requests, commands, importunes or otherwise attempts to cause such other person to engage in such conduct. Criminal solicitation in the first degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 100 - Criminal Solicitation100.15 - Criminal Solicitation; No Defense.

It is no defense to a prosecution for criminal solicitation that the person solicited could not be guilty of the crime solicited owing to criminal irresponsibility or other legal incapacity or exemption, or to unawareness of the criminal nature of the conduct solicited or of the defendant's criminal purpose or to other factors precluding the mental state required for the commission of the crime in question.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 100 - Criminal Solicitation100.20 - Criminal Solicitation; Exemption.

A person is not guilty of criminal solicitation when his solicitation constitutes conduct of a kind that is necessarily incidental to the commission of the crime solicited. When under such circumstances the solicitation constitutes an offense other than criminal solicitation which is related to but separate from the crime solicited, the actor is guilty of such related and separate offense only and not of criminal solicitation.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 105 - Conspiracy105.00 - Conspiracy in the Sixth Degree.

A person is guilty of conspiracy in the sixth degree when, with intent that conduct constituting a crime be performed, he agrees with one or more persons to engage in or cause the performance of such conduct. Conspiracy in the sixth degree is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 105 - Conspiracy105.05 - Conspiracy in the Fifth Degree.

A person is guilty of conspiracy in the fifth degree when, with intent that conduct constituting: 1. a felony be performed, he agrees with one or more persons to engage in or cause the performance of such conduct; or 2. a crime be performed, he, being over eighteen years of age, agrees with one or more persons under sixteen years of age to engage in or cause the performance of such conduct. Conspiracy in the fifth degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 105 - Conspiracy105.10 - Conspiracy in the Fourth Degree.

A person is guilty of conspiracy in the fourth degree when, with intent that conduct constituting: 1. a class B or class C felony be performed, he or she agrees with one or more persons to engage in or cause the performance of such conduct; or 2. a felony be performed, he or she, being over eighteen years of age, agrees with one or more persons under sixteen years of age to engage in or cause the performance of such conduct; or 3. the felony of money laundering in the third degree as defined in section 470.10 of this chapter, be performed, he or she agrees with one or more persons to engage in or cause the performance of such conduct. Conspiracy in the fourth degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 105 - Conspiracy105.13 - Conspiracy in the Third Degree.

A person is guilty of conspiracy in the third degree when, with intent that conduct constituting a class B or a class C felony be performed, he, being over eighteen years of age, agrees with one or more persons under sixteen years of age to engage in or cause the performance of such conduct. Conspiracy in the third degree is a class D felony.

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2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 105 - Conspiracy105.15 - Conspiracy in the Second Degree.

A person is guilty of conspiracy in the second degree when, with intent that conduct constituting a class A felony be performed, he agrees with one or more persons to engage in or cause the performance of such conduct. Conspiracy in the second degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 105 - Conspiracy105.17 - Conspiracy in the First Degree.

A person is guilty of conspiracy in the first degree when, with intent that conduct constituting a class A felony be performed, he, being over eighteen years of age, agrees with one or more persons under sixteen years of age to engage in or cause the performance of such conduct. Conspiracy in the first degree is a class A-I felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 105 - Conspiracy105.20 - Conspiracy; Pleading and Proof; Necessity of Overt Act.

A person shall not be convicted of conspiracy unless an overt act is alleged and proved to have been committed by one of the conspirators in furtherance of the conspiracy.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 105 - Conspiracy105.25 - Conspiracy; Jurisdiction and Venue.

1. A person may be prosecuted for conspiracy in the county in which he entered into such conspiracy or in any county in which an overt act in furtherance thereof was committed. 2. An agreement made within this state to engage in or cause the performance of conduct in another jurisdiction is punishable herein as a conspiracy only when such conduct would constitute a crime both under the laws of this state if performed herein and under the laws of the other jurisdiction if performed therein. 3. An agreement made in another jurisdiction to engage in or cause the performance of conduct within this state, which would constitute a crime herein, is punishable herein only when an overt act in furtherance of such conspiracy is committed within this state. Under such circumstances, it is no defense to a prosecution for conspiracy that the conduct which is the objective of the conspiracy would not constitute a crime under the laws of the other jurisdiction if performed therein.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 105 - Conspiracy105.30 - Conspiracy; No Defense.

It is no defense to a prosecution for conspiracy that, owing to criminal irresponsibility or other legal incapacity or exemption, or to unawareness of the criminal nature of the agreement or the object conduct or of the defendant's criminal purpose or to other factors precluding the mental state required for the commission of conspiracy or the object crime, one or more of the defendant's co-conspirators could not be guilty of conspiracy or the object crime.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 105 - Conspiracy105.35 - Conspiracy; Enterprise Corruption: Applicability.

For purposes of this article, conspiracy to commit the crime of enterprise corruption in violation of section 460.20 of this chapter shall not constitute an offense.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 110 - Attempt110.00 - Attempt to Commit a Crime.

A person is guilty of an attempt to commit a crime when, with intent to commit a crime, he engages in conduct which tends to effect the commission of such crime.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 110 - Attempt110.05 - Attempt to Commit a Crime; Punishment.

An attempt to commit a crime is a: 1. Class A-I felony when the crime attempted is the A-I felony of murder in the first degree, aggravated murder as defined in subdivision one of section 125.26 of this chapter, criminal possession of a controlled substance in the first degree, criminal sale of a controlled substance in the first degree, criminal possession of a chemical or biological weapon in the first degree or criminal use of a chemical or biological weapon in the first degree; 2. Class A-II felony when the crime attempted is a class A-II felony; 3. Class B felony when the crime attempted is a class A-I felony except as provided in subdivision one hereof; 4. Class C felony when the crime attempted is a class B felony; 5. Class D felony when the crime attempted is a class C felony; 6. Class E felony when the crime attempted is a class D felony; 7. Class A misdemeanor when the crime attempted is a class E felony; 8. Class B misdemeanor when the crime attempted is a misdemeanor; 9. Class D felony when the crime attempted is bribery in the third degree as defined in section 200.00 of this chapter, a class C felony when the crime attempted is bribery in the second degree

as defined in section 200.03 of this chapter and a class B felony when the crime attempted is bribery in the first degree as defined in subdivision two of section 200.04 of this chapter.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 110 - Attempt110.10 - Attempt to Commit a Crime; No Defense.

If the conduct in which a person engages otherwise constitutes an attempt to commit a crime pursuant to section 110.00, it is no defense to a prosecution for such attempt that the crime charged to have been attempted was, under the attendant circumstances, factually or legally impossible of commission, if such crime could have been committed had the attendant circumstances been as such person believed them to be.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 115 - Criminal Facilitation115.00 - Criminal Facilitation in the Fourth Degree.

A person is guilty of criminal facilitation in the fourth degree when, believing it probable that he is rendering aid: 1. to a person who intends to commit a crime, he engages in conduct which provides such person with means or opportunity for the commission thereof and which in fact aids such person to commit a felony; or 2. to a person under sixteen years of age who intends to engage in conduct which would constitute a crime, he, being over eighteen years of age, engages in conduct which provides such person with means or opportunity for the commission thereof and which in fact aids such person to commit a crime. Criminal facilitation in the fourth degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 115 - Criminal Facilitation115.01 - Criminal Facilitation in the Third Degree.

A person guilty of criminal facilitation in the third degree, when believing it probable that he is rendering aid to a person under sixteen years of age who intends to engage in conduct that would constitute a felony, he, being over eighteen years of age, engages in conduct which provides such person with means or opportunity for the commission thereof and which in fact aids such person to commit a felony. Criminal facilitation in the third degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 115 - Criminal Facilitation115.05 - Criminal Facilitation in the Second Degree.

A person is guilty of criminal facilitation in the second degree when, believing it probable that he is rendering aid to a person who intends to commit a class A felony, he engages in conduct which provides such person with means or opportunity for the commission thereof and which in fact aids such person to commit such class A felony. Criminal facilitation in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 115 - Criminal Facilitation115.08 - Criminal Facilitation in the First Degree.

A person is guilty of criminal facilitation in the first degree when, believing it probable that he is rendering aid to a person under sixteen years of age who intends to engage in conduct that would constitute a class A felony, he, being over eighteen years of age, engages in conduct which provides such person with means or opportunity for the commission thereof and which in fact aids such person to commit such a class A felony. Criminal facilitation in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 115 - Criminal Facilitation115.10 - Criminal Facilitation; No Defense.

It is no defense to a prosecution for criminal facilitation that: 1. The person facilitated was not guilty of the underlying felony owing to criminal irresponsibility or other legal incapacity or exemption, or to unawareness of the criminal nature of the conduct in question or to other factors precluding the mental state required for the commission of such felony; or 2. The person facilitated has not been prosecuted for or convicted of the underlying felony, or has previously been acquitted thereof; or 3. The defendant himself is not guilty of the felony which he facilitated because he did not act with the intent or other culpable mental state required for the commission thereof.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 115 - Criminal Facilitation115.15 - Criminal Facilitation; Corroboration.

A person shall not be convicted of criminal facilitation upon the testimony of a person who has committed the felony charged to have been facilitated unless such testimony be corroborated by such other evidence as tends to connect the defendant with such facilitation.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle G - Anticipatory OffensesArticle 115 - Criminal Facilitation115.20 - Criminal Facilitation; Definitions and Construction.

For purposes of this article, such conduct shall include, but not be limited to, making available, selling, exchanging, giving or

disposing of a community gun, which in fact, aids a person to commit a crime. "Community gun" shall mean a firearm that is actually shared, made available, sold, exchanged, given or disposed of among or between two or more persons, at least one of whom is not authorized pursuant to law to possess such firearm. "Dispose of" shall have the same meaning as that term is defined in section 265.00 of this chapter. "Share" and "make available" shall, in the case of a firearm, be construed to include knowingly placing such firearm at a location accessible and known to one or more other persons.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.00 - Assault in the Third Degree.

A person is guilty of assault in the third degree when: 1. With intent to cause physical injury to another person, he causes such injury to such person or to a third person; or 2. He recklessly causes physical injury to another person; or 3. With criminal negligence, he causes physical injury to another person by means of a deadly weapon or a dangerous instrument. Assault in the third degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.01 - Reckless Assault of a Child by a Child Day Care Provider.

A person is guilty of reckless assault of a child when, being a child day care provider or an employee thereof, he or she recklessly causes serious physical injury to a child under the care of such provider or employee who is less than eleven years of age. Reckless assault of a child by a child day care provider is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.02 - Reckless Assault of a Child.

1. A person is guilty of reckless assault of a child when, being eighteen years of age or more, such person recklessly causes serious physical injury to the brain of a child less than five years old by shaking the child, or by slamming or throwing the child so as to impact the child's head on a hard surface or object. 2. For purposes of subdivision one of this section, the following shall constitute "serious physical injury": a. "serious physical injury" as defined in subdivision ten of section 10.00 of this chapter; or b. extreme rotational cranial acceleration and deceleration and one or more of the following: (i) subdural hemorrhaging; (ii) intracranial hemorrhaging; or (iii) retinal hemorrhaging. Reckless assault of a child is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.03 - Vehicular Assault in the Second Degree.

A person is guilty of vehicular assault in the second degree when he or she causes serious physical injury to another person, and either:(1) operates a motor vehicle in violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of the vehicle and traffic law or operates a vessel or public vessel in violation of paragraph (b), (c), (d) or (e) of subdivision two of section forty-nine-a of the navigation law, and as a result of such intoxication or impairment by the use of a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, operates such motor vehicle, vessel or public vessel in a manner that causes such serious physical injury to such other person, or(2) operates a motor vehicle with a gross vehicle weight rating of more than eighteen thousand pounds which contains flammable gas, radioactive materials or explosives in violation of subdivision one of section eleven hundred ninety-two of the vehicle and traffic law, and such flammable gas, radioactive materials or explosives is the cause of such serious physical injury, and as a result of such impairment by the use of alcohol, operates such motor vehicle in a manner that causes such serious physical injury to such other person, or(3) operates a snowmobile in violation of paragraph (b), (c) or (d) of subdivision one of section 25.24 of the parks, recreation and historic preservation law or operates an all terrain vehicle as defined in paragraph (a) of subdivision one of section twenty-two hundred eighty-one of the vehicle and traffic law and in violation of subdivision two, three, four, or four-a of section eleven hundred ninety-two of the vehicle and traffic law, and as a result of such intoxication or impairment by the use of a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, operates such snowmobile or all terrain vehicle in a manner that causes such serious physical injury to such other person.If it is established that the person operating such motor vehicle, vessel, public vessel, snowmobile or all terrain vehicle caused such serious physical injury while unlawfully intoxicated or impaired by the use of alcohol or a drug, then there shall be a rebuttable presumption that, as a result of such intoxication or impairment by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, such person operated the motor vehicle, vessel, public vessel, snowmobile or all terrain vehicle in a manner that caused such serious physical injury, as required by this section.Vehicular assault in the second degree is a class E felony. (1) operates a motor vehicle in violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of the vehicle and traffic law or operates a vessel or public vessel in violation of paragraph (b), (c), (d) or (e) of subdivision two of section forty-nine-a of the navigation law, and as a result of such intoxication or impairment by the use of a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, operates such motor vehicle, vessel or public vessel in a manner that causes such serious physical injury to such other person, or (2) operates a motor vehicle with a gross vehicle weight rating of more than eighteen thousand pounds which contains flammable gas, radioactive materials or explosives in violation of subdivision one of

section eleven hundred ninety-two of the vehicle and traffic law, and such flammable gas, radioactive materials or explosives is the cause of such serious physical injury, and as a result of such impairment by the use of alcohol, operates such motor vehicle in a manner that causes such serious physical injury to such other person, or (3) operates a snowmobile in violation of paragraph (b), (c) or (d) of subdivision one of section 25.24 of the parks, recreation and historic preservation law or operates an all terrain vehicle as defined in paragraph (a) of subdivision one of section twenty-two hundred eighty-one of the vehicle and traffic law and in violation of subdivision two, three, four, or four-a of section eleven hundred ninety-two of the vehicle and traffic law, and as a result of such intoxication or impairment by the use of a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, operates such snowmobile or all terrain vehicle in a manner that causes such serious physical injury to such other person. If it is established that the person operating such motor vehicle, vessel, public vessel, snowmobile or all terrain vehicle caused such serious physical injury while unlawfully intoxicated or impaired by the use of alcohol or a drug, then there shall be a rebuttable presumption that, as a result of such intoxication or impairment by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, such person operated the motor vehicle, vessel, public vessel, snowmobile or all terrain vehicle in a manner that caused such serious physical injury, as required by this section. Vehicular assault in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.04-A - Aggravated Vehicular Assault.

A person is guilty of aggravated vehicular assault when he or she engages in reckless driving as defined by section twelve hundred twelve of the vehicle and traffic law, and commits the crime of vehicular assault in the second degree as defined in section 120.03 of this article, and either:(1) commits such crimes while operating a motor vehicle while such person has .18 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of the vehicle and traffic law;(2) commits such crimes while knowing or having reason to know that: (a) his or her license or his or her privilege of operating a motor vehicle in another state or his or her privilege of obtaining a license to operate a motor vehicle in another state is suspended or revoked and such suspension or revocation is based upon a conviction in such other state for an offense which would, if committed in this state, constitute a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law; or (b) his or her license or his or her privilege of operating a motor vehicle in this state or his or her privilege of obtaining a license issued by the commissioner of motor vehicles is suspended or revoked and such suspension or revocation is based upon either a refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of the vehicle and traffic law or following a conviction for a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law;(3) has previously been convicted of violating any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law within the preceding ten years, provided that, for the purposes of this subdivision, a conviction in any other state or jurisdiction for an offense which, if committed in this state, would constitute a violation of section eleven hundred ninety-two of the vehicle and traffic law, shall be treated as a violation of such law;(4) causes serious physical injury to more than one other person;(5) has previously been convicted of violating any provision of this article or article one hundred twenty-five of this title involving the operation of a motor vehicle, or was convicted in any other state or jurisdiction of an offense involving the operation of a motor vehicle which, if committed in this state, would constitute a violation of this article or article one hundred twenty-five of this title; or(6) commits such crime while operating a motor vehicle while a child who is fifteen years of age or less is a passenger in such motor vehicle and causes serious physical injury to such child.If it is established that the person operating such motor vehicle caused such serious physical injury or injuries while unlawfully intoxicated or impaired by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, then there shall be a rebuttable presumption that, as a result of such intoxication or impairment by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, such person operated the motor vehicle in a manner that caused such serious physical injury or injuries, as required by this section and section 120.03 of this article.Aggravated vehicular assault is a class C felony. (1) commits such crimes while operating a motor vehicle while such person has .18 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of the vehicle and traffic law; (2) commits such crimes while knowing or having reason to know that: (a) his or her license or his or her privilege of operating a motor vehicle in another state or his or her privilege of obtaining a license to operate a motor vehicle in another state is suspended or revoked and such suspension or revocation is based upon a conviction in such other state for an offense which would, if committed in this state, constitute a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law; or (b) his or her license or his or her privilege of operating a motor vehicle in this state or his or her privilege of obtaining a license issued by the commissioner of motor vehicles is suspended or revoked and such suspension or revocation is based upon either a refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of the vehicle and traffic law or following a conviction for a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law; (3) has previously been convicted of violating any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law within the preceding ten years, provided that, for the purposes of this subdivision, a conviction in any other state or jurisdiction for an offense which, if committed in this state, would constitute a violation of section eleven hundred ninety-two of the vehicle and traffic law, shall be treated as a violation of such law; (4) causes serious physical injury to more than one other person; (5) has previously been convicted of violating any provision of this article or article one hundred twenty-five of this title involving the operation of a motor vehicle, or was convicted in any other state

or jurisdiction of an offense involving the operation of a motor vehicle which, if committed in this state, would constitute a violation of this article or article one hundred twenty-five of this title; or (6) commits such crime while operating a motor vehicle while a child who is fifteen years of age or less is a passenger in such motor vehicle and causes serious physical injury to such child. If it is established that the person operating such motor vehicle caused such serious physical injury or injuries while unlawfully intoxicated or impaired by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, then there shall be a rebuttable presumption that, as a result of such intoxication or impairment by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, such person operated the motor vehicle in a manner that caused such serious physical injury or injuries, as required by this section and section 120.03 of this article. Aggravated vehicular assault is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.04 - Vehicular Assault in the First Degree.

A person is guilty of vehicular assault in the first degree when he or she commits the crime of vehicular assault in the second degree as defined in section 120.03 of this article, and either:(1) commits such crime while operating a motor vehicle while such person has .18 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of the vehicle and traffic law;(2) commits such crime while knowing or having reason to know that: (a) his or her license or his or her privilege of operating a motor vehicle in another state or his or her privilege of obtaining a license to operate a motor vehicle in another state is suspended or revoked and such suspension or revocation is based upon a conviction in such other state for an offense which would, if committed in this state, constitute a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law; or (b) his or her license or his or her privilege of operating a motor vehicle in the state or his or her privilege of obtaining a license issued by the commissioner of motor vehicles is suspended or revoked and such suspension or revocation is based upon either a refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of the vehicle and traffic law or following a conviction for a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law;(3) has previously been convicted of violating any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law within the preceding ten years, provided that, for the purposes of this subdivision, a conviction in any other state or jurisdiction for an offense which, if committed in this state, would constitute a violation of section eleven hundred ninety-two of the vehicle and traffic law, shall be treated as a violation of such law;(4) causes serious physical injury to more than one other person;(5) has previously been convicted of violating any provision of this article or article one hundred twenty-five of this title involving the operation of a motor vehicle, or was convicted in any other state or jurisdiction of an offense involving the operation of a motor vehicle which, if committed in this state, would constitute a violation of this article or article one hundred twenty-five of this title;(6) commits such crime while operating a motor vehicle while a child who is fifteen years of age or less is a passenger in such motor vehicle and causes serious physical injury to such child; or(7) commits such crime while operating a vessel in violation of paragraph (e-1) of subdivision two of section forty-nine-a of the navigation law while a child who is fifteen years of age or less is a passenger in such vessel and causes serious physical injury to such child.If it is established that the person operating such motor vehicle caused such serious physical injury or injuries while unlawfully intoxicated or impaired by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, then there shall be a rebuttable presumption that, as a result of such intoxication or impairment by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, such person operated the motor vehicle in a manner that caused such serious physical injury or injuries, as required by this section and section 120.03 of this article.Vehicular assault in the first degree is a class D felony. (1) commits such crime while operating a motor vehicle while such person has .18 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of the vehicle and traffic law; (2) commits such crime while knowing or having reason to know that: (a) his or her license or his or her privilege of operating a motor vehicle in another state or his or her privilege of obtaining a license to operate a motor vehicle in another state is suspended or revoked and such suspension or revocation is based upon a conviction in such other state for an offense which would, if committed in this state, constitute a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law; or (b) his or her license or his or her privilege of operating a motor vehicle in the state or his or her privilege of obtaining a license issued by the commissioner of motor vehicles is suspended or revoked and such suspension or revocation is based upon either a refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of the vehicle and traffic law or following a conviction for a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law; (3) has previously been convicted of violating any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law within the preceding ten years, provided that, for the purposes of this subdivision, a conviction in any other state or jurisdiction for an offense which, if committed in this state, would constitute a violation of section eleven hundred ninety-two of the vehicle and traffic law, shall be treated as a violation of such law; (4) causes serious physical injury to more than one other person; (5) has previously been convicted of violating any provision of this article or article one hundred twenty-five of this title involving the operation of a motor vehicle, or was convicted in any other state or jurisdiction of an offense involving the operation of a motor vehicle which, if committed in this state, would constitute a violation of this article or article one hundred twenty-five of this title; (6) commits such crime while operating a motor vehicle while a child who is fifteen years of age or less is a passenger in such motor

vehicle and causes serious physical injury to such child; or (7) commits such crime while operating a vessel in violation of paragraph (e-1) of subdivision two of section forty-nine-a of the navigation law while a child who is fifteen years of age or less is a passenger in such vessel and causes serious physical injury to such child. If it is established that the person operating such motor vehicle caused such serious physical injury or injuries while unlawfully intoxicated or impaired by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, then there shall be a rebuttable presumption that, as a result of such intoxication or impairment by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, such person operated the motor vehicle in a manner that caused such serious physical injury or injuries, as required by this section and section 120.03 of this article. Vehicular assault in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.05 - Assault in the Second Degree.

A person is guilty of assault in the second degree when: 1. With intent to cause serious physical injury to another person, he causes such injury to such person or to a third person; or 2. With intent to cause physical injury to another person, he causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument; or 3. With intent to prevent a peace officer, a police officer, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, a firefighter, including a firefighter acting as a paramedic or emergency medical technician administering first aid in the course of performance of duty as such firefighter, an emergency medical service paramedic or emergency medical service technician, or medical or related personnel in a hospital emergency department, a city marshal, a school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, a traffic enforcement officer, traffic enforcement agent or employee of any entity governed by the public service law in the course of performing an essential service, from performing a lawful duty, by means including releasing or failing to control an animal under circumstances evincing the actor's intent that the animal obstruct the lawful activity of such peace officer, police officer, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, firefighter, paramedic, technician, city marshal, school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, traffic enforcement officer, traffic enforcement agent or employee of an entity governed by the public service law, he or she causes physical injury to such peace officer, police officer, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, firefighter, paramedic, technician or medical or related personnel in a hospital emergency department, city marshal, school crossing guard, traffic enforcement officer, traffic enforcement agent or employee of an entity governed by the public service law; or 3-a. With intent to prevent an employee of a local social services district directly involved in investigation of or response to alleged abuse or neglect of a child, a vulnerable elderly person or an incompetent or physically disabled person, from performing such investigation or response, the actor, not being such child, vulnerable elderly person or incompetent or physically disabled person, or with intent to prevent an employee of a local social services district directly involved in providing public assistance and care from performing his or her job, causes physical injury to such employee including by means of releasing or failing to control an animal under circumstances evincing the actor's intent that the animal obstruct the lawful activities of such employee; or 3-b. With intent to prevent an employee of the New York city housing authority from performing his or her lawful duties while located on housing project grounds, real property, or a building owned, managed, or operated by such authority he or she causes physical injury to such employee; or 3-c. With intent to prevent an employee providing direct patient care, who is not a nurse pursuant to title eight of the education law, whose principal employment responsibility is to carry out direct patient care for one or more patients in any hospital, nursing home, residential health care facility, general hospital, government agency including any chronic disease hospital, maternity hospital, outpatient department, emergency center or surgical center under article twenty-eight of the public health law, from performing a lawful duty, he or she causes physical injury to such employee providing direct patient care; or 4. He recklessly causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument; or 4-a. He recklessly causes physical injury to another person who is a child under the age of eighteen by intentional discharge of a firearm, rifle or shotgun; or 5. For a purpose other than lawful medical or therapeutic treatment, he intentionally causes stupor, unconsciousness or other physical impairment or injury to another person by administering to him, without his consent, a drug, substance or preparation capable of producing the same; or 6. In the course of and in furtherance of the commission or attempted commission of a felony, other than a felony defined in article one hundred thirty which requires corroboration for conviction, or of immediate flight therefrom, he, or another participant if there be any, causes physical injury to a person other than one of the participants; or 7. Having been charged with or convicted of a crime and while confined in a correctional facility, as defined in subdivision three of section forty of the correction law, pursuant to such charge or conviction, with intent to cause physical injury to another person, he causes such injury to such person or to a third person; or 8. Being eighteen years old or more and with intent to cause physical injury to a person less than eleven years old, the defendant recklessly causes serious physical injury to such person; or 9. Being eighteen years old or more and with intent to cause physical injury to a person less than seven years old, the defendant causes such injury to such person; or 10. Acting at a place the person knows, or reasonably should know, is on school grounds and with intent to cause physical injury, he or she:(a) causes such injury to an employee of a school or public school district; or(b) not being a student of such school or public school district, causes physical injury to another,

and such other person is a student of such school who is attending or present for educational purposes. For purposes of this subdivision the term "school grounds" shall have the meaning set forth in subdivision fourteen of section 220.00 of this chapter; or11. With intent to cause physical injury to a train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner, terminal cleaner, station customer assistant, traffic checker; person whose official duties include the sale or collection of tickets, passes, vouchers, or other revenue payment media for use on a train, bus, or ferry the collection or handling of revenues therefrom; a person whose official duties include the maintenance, repair, inspection, troubleshooting, testing or cleaning of buses or ferries, a transit signal system, elevated or underground subway tracks, transit station structure, including fare equipment, escalators, elevators and other equipment necessary to passenger service, commuter rail tracks or stations, train yard, revenue train in passenger service, a ferry station, or a train or bus station or terminal; or a supervisor of such personnel, employed by any transit or commuter rail agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions, a city marshal, a school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, a traffic enforcement officer, traffic enforcement agent, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, sanitation enforcement agent, New York city sanitation worker, public health sanitarian, New York city public health sanitarian, registered nurse, licensed practical nurse, emergency medical service paramedic, or emergency medical service technician, he or she causes physical injury to such train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner, terminal cleaner, station customer assistant, traffic checker; person whose official duties include the sale or collection of tickets, passes, vouchers or other revenue payment media for use on a train, bus, or ferry or the collection or handling of revenues therefrom; a person whose official duties include the maintenance, repair, inspection, troubleshooting, testing or cleaning of buses or ferries, a transit signal system, elevated or underground subway tracks, transit station structure, including fare equipment, escalators, elevators and other equipment necessary to passenger service, commuter rail tracks or stations, train yard, revenue train in passenger service, a ferry station, or a train or bus station or terminal; or a supervisor of such personnel, city marshal, school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, traffic enforcement officer, traffic enforcement agent, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, emergency medical service paramedic, or emergency medical service technician, while such employee is performing an assigned duty on, or directly related to, the operation of a train or bus, cleaning of a train or bus station or terminal, assisting customers, checking traffic, the sale or collection of tickets, passes, vouchers, or other revenue media for use on a train, bus, or ferry or maintenance or cleaning of a train, a bus, a ferry, or bus station or terminal, signal system, elevated or underground subway tracks, transit station structure, including fare equipment, escalators, elevators and other equipment necessary to passenger service, commuter rail tracks or stations, train yard or revenue train in passenger service, a ferry station, or such city marshal, school crossing guard, traffic enforcement officer, traffic enforcement agent, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, emergency medical service paramedic, or emergency medical service technician is performing an assigned duty; or11-a. With intent to cause physical injury to an employee of a local social services district directly involved in investigation of or response to alleged abuse or neglect of a child, vulnerable elderly person or an incompetent or physically disabled person, the actor, not being such child, vulnerable elderly person or incompetent or physically disabled person, or with intent to prevent an employee of a local social services district directly involved in providing public assistance and care from performing his or her job, causes physical injury to such employee; or11-b. With intent to cause physical injury to an employee of the New York city housing authority performing his or her lawful duties while located on housing project grounds, real property, or a building owned, managed, or operated by such authority he or she causes physical injury to such employee; or11-c. With intent to cause physical injury to an employee providing direct patient care, who is not a nurse pursuant to title eight of the education law, whose principal employment responsibility is to carry out direct patient care for one or more patients in any hospital, nursing home, residential health care facility, general hospital, government agency including any chronic disease hospital, maternity hospital, outpatient department, emergency center or surgical center under article twenty-eight of the public health law, he or she causes physical injury to such employee providing direct patient care while such employee is performing a lawful duty; or12. With intent to cause physical injury to a person who is sixty-five years of age or older, he or she causes such injury to such person, and the actor is more than ten years younger than such person; or13. Being confined to a secure treatment facility, as such term is defined in subdivision (o) of section 10.03 of the mental hygiene law, and with intent to cause physical injury to an employee of such secure treatment facility performing his or her duties, he or she causes such injury to such person; or14. With intent to prevent or obstruct a process server, as defined in section eighty-nine-t of the general business law, from performing a lawful duty pursuant to article three of the civil practice law and rules, or intentionally, as retaliation against such a process server for the performance of the process server's duties pursuant to such article, including by means of releasing or failing to control an animal evincing the actor's intent that the animal prevent or obstruct the lawful duty of the process server or as retaliation against the process server, he or she causes physical injury to such process server.Assault in the second degree is a class D felony. (a) causes such injury to an employee of a school or public school district; or (b) not being a student of such school or public school district, causes physical injury to another, and such other person is a student of such school who is attending or present for educational purposes. For purposes of this subdivision the term "school grounds" shall have the meaning set forth in subdivision fourteen of section 220.00 of this chapter; or 11. With intent to cause physical injury to a train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner, terminal cleaner, station customer

assistant, traffic checker; person whose official duties include the sale or collection of tickets, passes, vouchers, or other revenue payment media for use on a train, bus, or ferry the collection or handling of revenues therefrom; a person whose official duties include the maintenance, repair, inspection, troubleshooting, testing or cleaning of buses or ferries, a transit signal system, elevated or underground subway tracks, transit station structure, including fare equipment, escalators, elevators and other equipment necessary to passenger service, commuter rail tracks or stations, train yard, revenue train in passenger service, a ferry station, or a train or bus station or terminal; or a supervisor of such personnel, employed by any transit or commuter rail agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions, a city marshal, a school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, a traffic enforcement officer, traffic enforcement agent, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, sanitation enforcement agent, New York city sanitation worker, public health sanitarian, New York city public health sanitarian, registered nurse, licensed practical nurse, emergency medical service paramedic, or emergency medical service technician, he or she causes physical injury to such train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner, terminal cleaner, station customer assistant, traffic checker; person whose official duties include the sale or collection of tickets, passes, vouchers or other revenue payment media for use on a train, bus, or ferry or the collection or handling of revenues therefrom; a person whose official duties include the maintenance, repair, inspection, troubleshooting, testing or cleaning of buses or ferries, a transit signal system, elevated or underground subway tracks, transit station structure, including fare equipment, escalators, elevators and other equipment necessary to passenger service, commuter rail tracks or stations, train yard, revenue train in passenger service, a ferry station, or a train or bus station or terminal; or a supervisor of such personnel, city marshal, school crossing guard appointed pursuant to section two hundred eight-a of the general municipal law, traffic enforcement officer, traffic enforcement agent, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, emergency medical service paramedic, or emergency medical service technician, while such employee is performing an assigned duty on, or directly related to, the operation of a train or bus, cleaning of a train or bus station or terminal, assisting customers, checking traffic, the sale or collection of tickets, passes, vouchers, or other revenue media for use on a train, bus, or ferry or maintenance or cleaning of a train, a bus, a ferry, or bus station or terminal, signal system, elevated or underground subway tracks, transit station structure, including fare equipment, escalators, elevators and other equipment necessary to passenger service, commuter rail tracks or stations, train yard or revenue train in passenger service, a ferry station, or such city marshal, school crossing guard, traffic enforcement officer, traffic enforcement agent, prosecutor as defined in subdivision thirty-one of section 1.20 of the criminal procedure law, registered nurse, licensed practical nurse, public health sanitarian, New York city public health sanitarian, sanitation enforcement agent, New York city sanitation worker, emergency medical service paramedic, or emergency medical service technician is performing an assigned duty; or 11-a. With intent to cause physical injury to an employee of a local social services district directly involved in investigation of or response to alleged abuse or neglect of a child, vulnerable elderly person or an incompetent or physically disabled person, the actor, not being such child, vulnerable elderly person or incompetent or physically disabled person, or with intent to prevent an employee of a local social services district directly involved in providing public assistance and care from performing his or her job, causes physical injury to such employee; or 11-b. With intent to cause physical injury to an employee of the New York city housing authority performing his or her lawful duties while located on housing project grounds, real property, or a building owned, managed, or operated by such authority he or she causes physical injury to such employee; or 11-c. With intent to cause physical injury to an employee providing direct patient care, who is not a nurse pursuant to title eight of the education law, whose principal employment responsibility is to carry out direct patient care for one or more patients in any hospital, nursing home, residential health care facility, general hospital, government agency including any chronic disease hospital, maternity hospital, outpatient department, emergency center or surgical center under article twenty-eight of the public health law, he or she causes physical injury to such employee providing direct patient care while such employee is performing a lawful duty; or 12. With intent to cause physical injury to a person who is sixty-five years of age or older, he or she causes such injury to such person, and the actor is more than ten years younger than such person; or 13. Being confined to a secure treatment facility, as such term is defined in subdivision (o) of section 10.03 of the mental hygiene law, and with intent to cause physical injury to an employee of such secure treatment facility performing his or her duties, he or she causes such injury to such person; or 14. With intent to prevent or obstruct a process server, as defined in section eighty-nine-t of the general business law, from performing a lawful duty pursuant to article three of the civil practice law and rules, or intentionally, as retaliation against such a process server for the performance of the process server's duties pursuant to such article, including by means of releasing or failing to control an animal evincing the actor's intent that the animal prevent or obstruct the lawful duty of the process server or as retaliation against the process server, he or she causes physical injury to such process server. Assault in the second degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.06 - Gang Assault in the Second Degree.

A person is guilty of gang assault in the second degree when, with intent to cause physical injury to another person and when aided by two or more other persons actually present, he causes serious physical injury to such person or to a third person. Gang assault in the second degree is a class C felony.

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2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.07 - Gang Assault in the First Degree.

A person is guilty of gang assault in the first degree when, with intent to cause serious physical injury to another person and when aided by two or more other persons actually present, he causes serious physical injury to such person or to a third person. Gang assault in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.08 - Assault on a Peace Officer, Police Officer, Firefighter or Emergency Medical Services Professional.

emergency medical services professional. A person is guilty of assault on a peace officer, police officer, firefighter or emergency medical services professional when, with intent to prevent a peace officer, police officer, a firefighter, including a firefighter acting as a paramedic or emergency medical technician administering first aid in the course of performance of duty as such firefighter, or an emergency medical service paramedic or emergency medical service technician, from performing a lawful duty, he or she causes serious physical injury to such peace officer, police officer, firefighter, paramedic or technician. Assault on a peace officer, police officer, firefighter or emergency medical services professional is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.09-A - Aggravated Assault on a Judge.

A person is guilty of aggravated assault on a judge when, with intent to cause serious physical injury and prevent a judge from performing official judicial duties, such person causes serious physical injury to such judge. For the purposes of this section, the term judge shall mean a judge of a court of record or a justice court. Aggravated assault on a judge is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.09 - Assault on a Judge.

A person is guilty of assault on a judge when, with intent to prevent a judge from performing official judicial duties, such person causes serious physical injury to such judge. For the purposes of this section, the term judge shall mean a judge of a court of record or a justice court. Assault on a judge is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.10 - Assault in the First Degree.

A person is guilty of assault in the first degree when: 1. With intent to cause serious physical injury to another person, he causes such injury to such person or to a third person by means of a deadly weapon or a dangerous instrument; or 2. With intent to disfigure another person seriously and permanently, or to destroy, amputate or disable permanently a member or organ of his body, he causes such injury to such person or to a third person; or 3. Under circumstances evincing a depraved indifference to human life, he recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes serious physical injury to another person; or 4. In the course of and in furtherance of the commission or attempted commission of a felony or of immediate flight therefrom, he, or another participant if there be any, causes serious physical injury to a person other than one of the participants. Assault in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.11 - Aggravated Assault Upon a Police Officer or a Peace Officer.

A person is guilty of aggravated assault upon a police officer or a peace officer when, with intent to cause serious physical injury to a person whom he knows or reasonably should know to be a police officer or a peace officer engaged in the course of performing his official duties, he causes such injury by means of a deadly weapon or dangerous instrument. Aggravated assault upon a police officer or a peace officer is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.12 - Aggravated Assault Upon a Person Less Than Eleven Years Old.

A person is guilty of aggravated assault upon a person less than eleven years old when being eighteen years old or more the defendant commits the crime of assault in the third degree as defined in section 120.00 of this article upon a person less than eleven years old and has been previously convicted of such crime upon a person less than eleven years old within the preceding ten years. Aggravated assault upon a person less than eleven years old is a class E felony.

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2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.13 - Menacing in the First Degree.

A person is guilty of menacing in the first degree when he or she commits the crime of menacing in the second degree and has been previously convicted of the crime of menacing in the second degree or the crime of menacing a police officer or peace officer within the preceding ten years. Menacing in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.14 - Menacing in the Second Degree.

A person is guilty of menacing in the second degree when: 1. He or she intentionally places or attempts to place another person in reasonable fear of physical injury, serious physical injury or death by displaying a deadly weapon, dangerous instrument or what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or 2. He or she repeatedly follows a person or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place another person in reasonable fear of physical injury, serious physical injury or death; or 3. He or she commits the crime of menacing in the third degree in violation of that part of a duly served order of protection, or such order which the defendant has actual knowledge of because he or she was present in court when such order was issued, pursuant to article eight of the family court act, section 530.12 of the criminal procedure law, or an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, which directed the respondent or defendant to stay away from the person or persons on whose behalf the order was issued. Menacing in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.15 - Menacing in the Third Degree.

A person is guilty of menacing in the third degree when, by physical menace, he or she intentionally places or attempts to place another person in fear of death, imminent serious physical injury or physical injury. Menacing in the third degree is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.16 - Hazing in the First Degree.

A person is guilty of hazing in the first degree when, in the course of another person's initiation into or affiliation with any organization, he intentionally or recklessly engages in conduct, including, but not limited to, making physical contact with or requiring physical activity of such other person, which creates a substantial risk of physical injury to such other person or a third person and thereby causes such injury. Hazing in the first degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.17 - Hazing in the Second Degree.

A person is guilty of hazing in the second degree when, in the course of another person's initiation or affiliation with any organization, he intentionally or recklessly engages in conduct, including, but not limited to, making physical contact with or requiring physical activity of such other person, which creates a substantial risk of physical injury to such other person or a third person. Hazing in the second degree is a violation.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.18 - Menacing a Police Officer or Peace Officer.

A person is guilty of menacing a police officer or peace officer when he or she intentionally places or attempts to place a police officer or peace officer in reasonable fear of physical injury, serious physical injury or death by displaying a deadly weapon, knife, pistol, revolver, rifle, shotgun, machine gun or other firearm, whether operable or not, where such officer was in the course of performing his or her official duties and the defendant knew or reasonably should have known that such victim was a police officer or peace officer. Menacing a police officer or peace officer is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.19 - Assault on a Retail Worker.

1. A person is guilty of assault on a retail worker when, with the intent to prevent a retail worker from performing an act within the scope of such worker's employment, such person causes physical injury to such retail worker and the person knew or reasonably should have known that such individual was a retail worker. 2. For the purposes of this section: a. "Retail worker" shall mean any person whose usual place of work is a retail establishment. This shall include, but is not limited to, an employee of the retail

establishment, an owner of the retail establishment, or a person who works in the retail establishment under arrangements made between the person and the establishment. b. "Retail establishment" shall mean any physical business or commercial entity engaged in the sale of goods, merchandise, or services directly to consumers. Assault on a retail worker is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.20 - Reckless Endangerment in the Second Degree.

A person is guilty of reckless endangerment in the second degree when he recklessly engages in conduct which creates a substantial risk of serious physical injury to another person. Reckless endangerment in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.25 - Reckless Endangerment in the First Degree.

A person is guilty of reckless endangerment in the first degree when, under circumstances evincing a depraved indifference to human life, he recklessly engages in conduct which creates a grave risk of death to another person. Reckless endangerment in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.30 - Promoting a Suicide Attempt.

A person is guilty of promoting a suicide attempt when he intentionally causes or aids another person to attempt suicide. Promoting a suicide attempt is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.35 - Promoting a Suicide Attempt; When Punishable as Attempt to Commit Murder.

commit murder. A person who engages in conduct constituting both the offense of promoting a suicide attempt and the offense of attempt to commit murder may not be convicted of attempt to commit murder unless he causes or aids the suicide attempt by the use of duress or deception.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.40 - Definitions.

For purposes of sections 120.45, 120.50, 120.55 and 120.60 of this article: 1. "Kidnapping" shall mean a kidnapping crime defined in article one hundred thirty-five of this chapter. 2. "Unlawful imprisonment" shall mean an unlawful imprisonment felony crime defined in article one hundred thirty-five of this chapter. 3. "Sex offense" shall mean a felony defined in article one hundred thirty of this chapter, sexual misconduct, as defined in section 130.20 of this chapter, sexual abuse in the third degree as defined in section 130.55 of this chapter or sexual abuse in the second degree as defined in section 130.60 of this chapter. 4. "Immediate family" means the spouse, former spouse, parent, child, sibling, or any other person who regularly resides or has regularly resided in the household of a person. 5. "Specified predicate crime" means: a. a violent felony offense; b. a crime defined in section 130.20, 130.25, 130.30, 130.55, 130.60, 130.70, 255.25, 255.26 or 255.27, or formerly defined in section 130.40 or 130.45; c. assault in the third degree, as defined in section 120.00; menacing in the first degree, as defined in section 120.13; menacing in the second degree, as defined in section 120.14; coercion in the first degree, as defined in section 135.65; coercion in the second degree, as defined in section 135.61; coercion in the third degree, as defined in section 135.60; aggravated harassment in the second degree, as defined in section 240.30; harassment in the first degree, as defined in section 240.25; menacing in the third degree, as defined in section 120.15; criminal mischief in the third degree, as defined in section 145.05; criminal mischief in the second degree, as defined in section 145.10, criminal mischief in the first degree, as defined in section 145.12; criminal tampering in the first degree, as defined in section 145.20; arson in the fourth degree, as defined in section 150.05; arson in the third degree, as defined in section 150.10; criminal contempt in the first degree, as defined in section 215.51; endangering the welfare of a child, as defined in section 260.10; or d. stalking in the fourth degree, as defined in section 120.45; stalking in the third degree, as defined in section 120.50; stalking in the second degree, as defined in section 120.55; or e. an offense in any other jurisdiction which includes all of the essential elements of any such crime for which a sentence to a term of imprisonment in excess of one year or a sentence of death was authorized and is authorized in this state irrespective of whether such sentence was imposed.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.45 - Stalking in the Fourth Degree.

A person is guilty of stalking in the fourth degree when he or she intentionally, and for no legitimate purpose, engages in a course of conduct directed at a specific person, and knows or reasonably should know that such conduct: 1. is likely to cause reasonable fear of material harm to the physical health, safety or property of such person, a member of such person's immediate family or a third

party with whom such person is acquainted; or 2. causes material harm to the mental or emotional health of such person, where such conduct consists of following, telephoning or initiating communication or contact with such person, a member of such person's immediate family or a third party with whom such person is acquainted, and the actor was previously clearly informed to cease that conduct; or 3. is likely to cause such person to reasonably fear that his or her employment, business or career is threatened, where such conduct consists of appearing, telephoning or initiating communication or contact at such person's place of employment or business, and the actor was previously clearly informed to cease that conduct. For the purposes of subdivision two of this section, "following" shall include the unauthorized tracking of such person's movements or location through the use of a global positioning system or other device. Stalking in the fourth degree is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.50 - Stalking in the Third Degree.

A person is guilty of stalking in the third degree when he or she: 1. Commits the crime of stalking in the fourth degree in violation of section 120.45 of this article against three or more persons, in three or more separate transactions, for which the actor has not been previously convicted; or 2. Commits the crime of stalking in the fourth degree in violation of section 120.45 of this article against any person, and has previously been convicted, within the preceding ten years of a specified predicate crime, as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or 3. With intent to harass, annoy or alarm a specific person, intentionally engages in a course of conduct directed at such person which is likely to cause such person to reasonably fear physical injury or serious physical injury, the commission of a sex offense against, or the kidnapping, unlawful imprisonment or death of such person or a member of such person's immediate family; or 4. Commits the crime of stalking in the fourth degree and has previously been convicted within the preceding ten years of stalking in the fourth degree. Stalking in the third degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.55 - Stalking in the Second Degree.

A person is guilty of stalking in the second degree when he or she: 1. Commits the crime of stalking in the third degree as defined in subdivision three of section 120.50 of this article and in the course of and in furtherance of the commission of such offense: (i) displays, or possesses and threatens the use of, a firearm, pistol, revolver, rifle, shotgun, machine gun, electronic dart gun, electronic stun gun, cane sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, slingshot, slungshot, shuriken, throwing star, dagger, dangerous knife, dirk, razor, stiletto, imitation pistol, dangerous instrument, deadly instrument or deadly weapon; or (ii) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or 2. Commits the crime of stalking in the third degree in violation of subdivision three of section 120.50 of this article against any person, and has previously been convicted, within the preceding five years, of a specified predicate crime as defined in subdivision five of section 120.40 of this article, and the victim of such specified predicate crime is the victim, or an immediate family member of the victim, of the present offense; or 3. Commits the crime of stalking in the fourth degree and has previously been convicted of stalking in the third degree as defined in subdivision four of section 120.50 of this article against any person; or 4. Being twenty-one years of age or older, repeatedly follows a person under the age of fourteen or engages in a course of conduct or repeatedly commits acts over a period of time intentionally placing or attempting to place such person who is under the age of fourteen in reasonable fear of physical injury, serious physical injury or death; or 5. Commits the crime of stalking in the third degree, as defined in subdivision three of section 120.50 of this article, against ten or more persons, in ten or more separate transactions, for which the actor has not been previously convicted. Stalking in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.60 - Stalking in the First Degree.

A person is guilty of stalking in the first degree when he or she commits the crime of stalking in the third degree as defined in subdivision three of section 120.50 or stalking in the second degree as defined in section 120.55 of this article and, in the course and furtherance thereof, he or she: 1. intentionally or recklessly causes physical injury to the victim of such crime; or 2. commits a class A misdemeanor defined in article one hundred thirty of this chapter, or a class E felony defined in section 130.25, former section 130.40 or section 130.85 of this chapter, or a class D felony defined in former section 130.45 or section 130.30 of this chapter. Stalking in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 120 - Assault and Related Offenses120.70 - Luring a Child.

1. A person is guilty of luring a child when he or she lures a child into a motor vehicle, aircraft, watercraft, isolated area, building, or part thereof, for the purpose of committing against such child any of the following offenses: an offense as defined in section 70.02 of this chapter; an offense as defined in section 125.25 or 125.27 of this chapter; a felony offense that is a violation of article one hundred thirty of this chapter; an offense as defined in section 135.25 of this chapter; an offense as defined in sections 230.30, 230.33, 230.34 or 230.34-a of this chapter; an offense as defined in sections 255.25, 255.26, or 255.27 of this chapter; or an offense

as defined in sections 263.05, 263.10, or 263.15 of this chapter. For purposes of this subdivision "child" means a person less than seventeen years of age. Nothing in this section shall be deemed to preclude, if the evidence warrants, a conviction for the commission or attempted commission of any crime, including but not limited to a crime defined in article one hundred thirty-five of this chapter. 2. Luring a child is a class E felony, provided, however, that if the underlying offense the actor intended to commit against such child constituted a class A or a class B felony, then the offense of luring a child in violation of this section shall be deemed respectively, a class C felony or class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 121 - Strangulation and Related Offenses121.11 - Criminal Obstruction of Breathing or Blood Circulation.

A person is guilty of criminal obstruction of breathing or blood circulation when, with intent to impede the normal breathing or circulation of the blood of another person, he or she: a. applies pressure on the throat or neck of such person; or b. blocks the nose or mouth of such person. Criminal obstruction of breathing or blood circulation is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 121 - Strangulation and Related Offenses121.12 - Strangulation in the Second Degree.

A person is guilty of strangulation in the second degree when he or she commits the crime of criminal obstruction of breathing or blood circulation, as defined in section 121.11 of this article, and thereby causes stupor, loss of consciousness for any period of time, or any other physical injury or impairment. Strangulation in the second degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 121 - Strangulation and Related Offenses121.13-A - Aggravated Strangulation.

A person is guilty of aggravated strangulation when, being a police officer as defined in subdivision thirty-four of section 1.20 of the criminal procedure law or a peace officer as defined in section 2.10 of the criminal procedure law, he or she commits the crime of criminal obstruction of breathing or blood circulation, as defined in section 121.11 of this article, or uses a chokehold or similar restraint, as described in paragraph b of subdivision one of section eight hundred thirty-seven-t of the executive law, and thereby causes serious physical injury or death to another person. Aggravated strangulation is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 121 - Strangulation and Related Offenses121.13 - Strangulation in the First Degree.

A person is guilty of strangulation in the first degree when he or she commits the crime of criminal obstruction of breathing or blood circulation, as defined in section 121.11 of this article, and thereby causes serious physical injury to such other person. Strangulation in the first degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 121 - Strangulation and Related Offenses121.14 - Medical or Dental Purpose.

For purposes of section 121.11, 121.12, 121.13 or 121.13-a of this article, it shall be an affirmative defense that the defendant performed such conduct for a valid medical or dental purpose.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 125 - Homicide and Related Offenses125.00 - Homicide Defined.

Homicide means conduct which causes the death of a person under circumstances constituting murder, manslaughter in the first degree, manslaughter in the second degree, or criminally negligent homicide.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 125 - Homicide and Related Offenses125.05 - Homicide and Related Offenses; Definition.

The following definition is applicable to this article: "Person," when referring to the victim of a homicide, means a human being who has been born and is alive.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 125 - Homicide and Related Offenses125.10 - Criminally Negligent Homicide.

A person is guilty of criminally negligent homicide when, with criminal negligence, he causes the death of another person.

Criminally negligent homicide is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 125 - Homicide and Related Offenses125.11 - Aggravated Criminally Negligent Homicide.

A person is guilty of aggravated criminally negligent homicide when, with criminal negligence, he or she causes the death of a police officer or peace officer where such officer was in the course of performing his or her official duties and the defendant knew or reasonably should have known that such victim was a police officer or peace officer. Aggravated criminally negligent homicide is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 125 - Homicide and Related Offenses125.12 - Vehicular Manslaughter in the Second Degree.

A person is guilty of vehicular manslaughter in the second degree when he or she causes the death of another person, and either:(1) operates a motor vehicle in violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of the vehicle and traffic law or operates a vessel or public vessel in violation of paragraph (b), (c), (d) or (e) of subdivision two of section forty-nine-a of the navigation law, and as a result of such intoxication or impairment by the use of a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, operates such motor vehicle, vessel or public vessel in a manner that causes the death of such other person, or(2) operates a motor vehicle with a gross vehicle weight rating of more than eighteen thousand pounds which contains flammable gas, radioactive materials or explosives in violation of subdivision one of section eleven hundred ninety-two of the vehicle and traffic law, and such flammable gas, radioactive materials or explosives is the cause of such death, and as a result of such impairment by the use of alcohol, operates such motor vehicle in a manner that causes the death of such other person, or(3) operates a snowmobile in violation of paragraph (b), (c) or (d) of subdivision one of section 25.24 of the parks, recreation and historic preservation law or operates an all terrain vehicle as defined in paragraph (a) of subdivision one of section twenty-two hundred eighty-one of the vehicle and traffic law in violation of subdivision two, three, four, or four-a of section eleven hundred ninety-two of the vehicle and traffic law, and as a result of such intoxication or impairment by the use of a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, operates such snowmobile or all terrain vehicle in a manner that causes the death of such other person.If it is established that the person operating such motor vehicle, vessel, public vessel, snowmobile or all terrain vehicle caused such death while unlawfully intoxicated or impaired by the use of alcohol or a drug, then there shall be a rebuttable presumption that, as a result of such intoxication or impairment by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, such person operated the motor vehicle, vessel, public vessel, snowmobile or all terrain vehicle in a manner that caused such death, as required by this section.Vehicular manslaughter in the second degree is a class D felony. (1) operates a motor vehicle in violation of subdivision two, three, four or four-a of section eleven hundred ninety-two of the vehicle and traffic law or operates a vessel or public vessel in violation of paragraph (b), (c), (d) or (e) of subdivision two of section forty-nine-a of the navigation law, and as a result of such intoxication or impairment by the use of a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, operates such motor vehicle, vessel or public vessel in a manner that causes the death of such other person, or (2) operates a motor vehicle with a gross vehicle weight rating of more than eighteen thousand pounds which contains flammable gas, radioactive materials or explosives in violation of subdivision one of section eleven hundred ninety-two of the vehicle and traffic law, and such flammable gas, radioactive materials or explosives is the cause of such death, and as a result of such impairment by the use of alcohol, operates such motor vehicle in a manner that causes the death of such other person, or (3) operates a snowmobile in violation of paragraph (b), (c) or (d) of subdivision one of section 25.24 of the parks, recreation and historic preservation law or operates an all terrain vehicle as defined in paragraph (a) of subdivision one of section twenty-two hundred eighty-one of the vehicle and traffic law in violation of subdivision two, three, four, or four-a of section eleven hundred ninety-two of the vehicle and traffic law, and as a result of such intoxication or impairment by the use of a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, operates such snowmobile or all terrain vehicle in a manner that causes the death of such other person. If it is established that the person operating such motor vehicle, vessel, public vessel, snowmobile or all terrain vehicle caused such death while unlawfully intoxicated or impaired by the use of alcohol or a drug, then there shall be a rebuttable presumption that, as a result of such intoxication or impairment by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, such person operated the motor vehicle, vessel, public vessel, snowmobile or all terrain vehicle in a manner that caused such death, as required by this section. Vehicular manslaughter in the second degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 125 - Homicide and Related Offenses125.13 - Vehicular Manslaughter in the First Degree.

A person is guilty of vehicular manslaughter in the first degree when he or she commits the crime of vehicular manslaughter in the second degree as defined in section 125.12 of this article, and either:(1) commits such crime while operating a motor vehicle while such person has .18 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of the vehicle and

traffic law;(2) commits such crime while knowing or having reason to know that: (a) his or her license or his or her privilege of operating a motor vehicle in another state or his or her privilege of obtaining a license to operate a motor vehicle in another state is suspended or revoked and such suspension or revocation is based upon a conviction in such other state for an offense which would, if committed in this state, constitute a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law; or (b) his or her license or his or her privilege of operating a motor vehicle in the state or his or her privilege of obtaining a license issued by the commissioner of motor vehicles is suspended or revoked and such suspension or revocation is based upon either a refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of the vehicle and traffic law or following a conviction for a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law;(3) has previously been convicted of violating any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law within the preceding ten years, provided that, for the purposes of this subdivision, a conviction in any other state or jurisdiction for an offense which, if committed in this state, would constitute a violation of section eleven hundred ninety-two of the vehicle and traffic law, shall be treated as a violation of such law;(4) causes the death of more than one other person;(5) has previously been convicted of violating any provision of this article or article one hundred twenty of this title involving the operation of a motor vehicle, or was convicted in any other state or jurisdiction of an offense involving the operation of a motor vehicle which, if committed in this state, would constitute a violation of this article or article one hundred twenty of this title;(6) commits such crime while operating a motor vehicle while a child who is fifteen years of age or less is a passenger in such motor vehicle and causes the death of such child; or(7) commits such crime while operating a vessel in violation of paragraph (e-1) of subdivision two of section forty-nine-a of the navigation law while a child who is fifteen years of age or less is a passenger in such vessel and causes the death of such child.If it is established that the person operating such motor vehicle caused such death or deaths while unlawfully intoxicated or impaired by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, then there shall be a rebuttable presumption that, as a result of such intoxication or impairment by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, such person operated the motor vehicle in a manner that caused such death or deaths, as required by this section and section 125.12 of this article.Vehicular manslaughter in the first degree is a class C felony. (1) commits such crime while operating a motor vehicle while such person has .18 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of the vehicle and traffic law; (2) commits such crime while knowing or having reason to know that: (a) his or her license or his or her privilege of operating a motor vehicle in another state or his or her privilege of obtaining a license to operate a motor vehicle in another state is suspended or revoked and such suspension or revocation is based upon a conviction in such other state for an offense which would, if committed in this state, constitute a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law; or (b) his or her license or his or her privilege of operating a motor vehicle in the state or his or her privilege of obtaining a license issued by the commissioner of motor vehicles is suspended or revoked and such suspension or revocation is based upon either a refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of the vehicle and traffic law or following a conviction for a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law; (3) has previously been convicted of violating any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law within the preceding ten years, provided that, for the purposes of this subdivision, a conviction in any other state or jurisdiction for an offense which, if committed in this state, would constitute a violation of section eleven hundred ninety-two of the vehicle and traffic law, shall be treated as a violation of such law; (4) causes the death of more than one other person; (5) has previously been convicted of violating any provision of this article or article one hundred twenty of this title involving the operation of a motor vehicle, or was convicted in any other state or jurisdiction of an offense involving the operation of a motor vehicle which, if committed in this state, would constitute a violation of this article or article one hundred twenty of this title; (6) commits such crime while operating a motor vehicle while a child who is fifteen years of age or less is a passenger in such motor vehicle and causes the death of such child; or (7) commits such crime while operating a vessel in violation of paragraph (e-1) of subdivision two of section forty-nine-a of the navigation law while a child who is fifteen years of age or less is a passenger in such vessel and causes the death of such child. If it is established that the person operating such motor vehicle caused such death or deaths while unlawfully intoxicated or impaired by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, then there shall be a rebuttable presumption that, as a result of such intoxication or impairment by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, such person operated the motor vehicle in a manner that caused such death or deaths, as required by this section and section 125.12 of this article. Vehicular manslaughter in the first degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 125 - Homicide and Related Offenses125.14 - Aggravated Vehicular Homicide.

A person is guilty of aggravated vehicular homicide when he or she engages in reckless driving as defined by section twelve hundred twelve of the vehicle and traffic law, and commits the crime of vehicular manslaughter in the second degree as defined in section 125.12 of this article, and either:(1) commits such crimes while operating a motor vehicle while such person has .18 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of the vehicle and traffic law;(2) commits such crimes while knowing or having reason to know that: (a) his or her license or his or her privilege of operating a motor vehicle in

another state or his or her privilege of obtaining a license to operate a motor vehicle in another state is suspended or revoked and such suspension or revocation is based upon a conviction in such other state for an offense which would, if committed in this state, constitute a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law; or (b) his or her license or his or her privilege of operating a motor vehicle in this state or his or her privilege of obtaining a license issued by the commissioner of motor vehicles is suspended or revoked and such suspension or revocation is based upon either a refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of the vehicle and traffic law or following a conviction for a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law;(3) has previously been convicted of violating any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law within the preceding ten years, provided that, for the purposes of this subdivision, a conviction in any other state or jurisdiction for an offense which, if committed in this state, would constitute a violation of section eleven hundred ninety-two of the vehicle and traffic law, shall be treated as a violation of such law;(4) causes the death of more than one other person;(5) causes the death of one person and the serious physical injury of at least one other person;(6) has previously been convicted of violating any provision of this article or article one hundred twenty of this title involving the operation of a motor vehicle, or was convicted in any other state or jurisdiction of an offense involving the operation of a motor vehicle which, if committed in this state, would constitute a violation of this article or article one hundred twenty of this title; or(7) commits such crime while operating a motor vehicle while a child who is fifteen years of age or less is a passenger in such motor vehicle and causes the death of such child.If it is established that the person operating such motor vehicle caused such death or deaths while unlawfully intoxicated or impaired by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, then there shall be a rebuttable presumption that, as a result of such intoxication or impairment by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, such person operated the motor vehicle in a manner that caused such death or deaths, as required by this section and section 125.12 of this article.Aggravated vehicular homicide is a class B felony. (1) commits such crimes while operating a motor vehicle while such person has .18 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of the vehicle and traffic law; (2) commits such crimes while knowing or having reason to know that: (a) his or her license or his or her privilege of operating a motor vehicle in another state or his or her privilege of obtaining a license to operate a motor vehicle in another state is suspended or revoked and such suspension or revocation is based upon a conviction in such other state for an offense which would, if committed in this state, constitute a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law; or (b) his or her license or his or her privilege of operating a motor vehicle in this state or his or her privilege of obtaining a license issued by the commissioner of motor vehicles is suspended or revoked and such suspension or revocation is based upon either a refusal to submit to a chemical test pursuant to section eleven hundred ninety-four of the vehicle and traffic law or following a conviction for a violation of any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law; (3) has previously been convicted of violating any of the provisions of section eleven hundred ninety-two of the vehicle and traffic law within the preceding ten years, provided that, for the purposes of this subdivision, a conviction in any other state or jurisdiction for an offense which, if committed in this state, would constitute a violation of section eleven hundred ninety-two of the vehicle and traffic law, shall be treated as a violation of such law; (4) causes the death of more than one other person; (5) causes the death of one person and the serious physical injury of at least one other person; (6) has previously been convicted of violating any provision of this article or article one hundred twenty of this title involving the operation of a motor vehicle, or was convicted in any other state or jurisdiction of an offense involving the operation of a motor vehicle which, if committed in this state, would constitute a violation of this article or article one hundred twenty of this title; or (7) commits such crime while operating a motor vehicle while a child who is fifteen years of age or less is a passenger in such motor vehicle and causes the death of such child. If it is established that the person operating such motor vehicle caused such death or deaths while unlawfully intoxicated or impaired by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, then there shall be a rebuttable presumption that, as a result of such intoxication or impairment by the use of alcohol or a drug, or by the combined influence of drugs or of alcohol and any drug or drugs, such person operated the motor vehicle in a manner that caused such death or deaths, as required by this section and section 125.12 of this article. Aggravated vehicular homicide is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 125 - Homicide and Related Offenses125.15 - Manslaughter in the Second Degree.

A person is guilty of manslaughter in the second degree when: 1. He recklessly causes the death of another person; or 3. He intentionally causes or aids another person to commit suicide. Manslaughter in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 125 - Homicide and Related Offenses125.20 - Manslaughter in the First Degree.

A person is guilty of manslaughter in the first degree when: 1. With intent to cause serious physical injury to another person, he causes the death of such person or of a third person; or 2. With intent to cause the death of another person, he causes the death of such person or of a third person under circumstances which do not constitute murder because he acts under the influence of extreme

emotional disturbance, as defined in paragraph (a) of subdivision one of section 125.25. The fact that homicide was committed under the influence of extreme emotional disturbance constitutes a mitigating circumstance reducing murder to manslaughter in the first degree and need not be proved in any prosecution initiated under this subdivision; or 4. Being eighteen years old or more and with intent to cause physical injury to a person less than eleven years old, the defendant recklessly engages in conduct which creates a grave risk of serious physical injury to such person and thereby causes the death of such person. Manslaughter in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 125 - Homicide and Related Offenses125.21 - Aggravated Manslaughter in the Second Degree.

A person is guilty of aggravated manslaughter in the second degree when he or she recklessly causes the death of a police officer or peace officer where such officer was in the course of performing his or her official duties and the defendant knew or reasonably should have known that such victim was a police officer or peace officer. Aggravated manslaughter in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 125 - Homicide and Related Offenses125.22 - Aggravated Manslaughter in the First Degree.

A person is guilty of aggravated manslaughter in the first degree when: 1. with intent to cause serious physical injury to a police officer or peace officer, where such officer was in the course of performing his or her official duties and the defendant knew or reasonably should have known that such victim was a police officer or a peace officer, he or she causes the death of such officer or another police officer or peace officer; or 2. with intent to cause the death of a police officer or peace officer, where such officer was in the course of performing his or her official duties and the defendant knew or reasonably should have known that such victim was a police officer or peace officer, he or she causes the death of such officer or another police officer or peace officer under circumstances which do not constitute murder because he or she acts under the influence of extreme emotional disturbance, as defined in paragraph (a) of subdivision one of section 125.25. The fact that homicide was committed under the influence of extreme emotional disturbance constitutes a mitigating circumstance reducing murder to aggravated manslaughter in the first degree or manslaughter in the first degree and need not be proved in any prosecution initiated under this subdivision. Aggravated manslaughter in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 125 - Homicide and Related Offenses125.25 - Murder in the Second Degree.

A person is guilty of murder in the second degree when: 1. With intent to cause the death of another person, he causes the death of such person or of a third person; except that in any prosecution under this subdivision, it is an affirmative defense that:(a) (i) The defendant acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the first degree or any other crime. (ii) It shall not be a "reasonable explanation or excuse" pursuant to subparagraph (i) of this paragraph when the defendant's conduct resulted from the discovery, knowledge or disclosure of the victim's sexual orientation, sex, gender, gender identity, gender expression or sex assigned at birth; or(b) The defendant's conduct consisted of causing or aiding, without the use of duress or deception, another person to commit suicide. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the second degree or any other crime; or2. Under circumstances evincing a depraved indifference to human life, he recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes the death of another person; or3. Acting either alone or with one or more other persons, he commits or attempts to commit robbery, burglary, kidnapping, arson, rape in the first degree, a crime formerly defined in section 130.50 of this title, the crime of sexual abuse in the first degree, aggravated sexual abuse, escape in the first degree, or escape in the second degree, and, in the course of and in furtherance of such crime or of immediate flight therefrom, he, or another participant, if there be any, causes the death of a person other than one of the participants; except that in any prosecution under this subdivision, in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant:(a) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and(b) Was not armed with a deadly weapon, or any instrument, article or substance readily capable of causing death or serious physical injury and of a sort not ordinarily carried in public places by law-abiding persons; and(c) Had no reasonable ground to believe that any other participant was armed with such a weapon, instrument, article or substance; and(d) Had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury; or4. Under circumstances evincing a depraved indifference to human life, and being eighteen years old or more the defendant recklessly engages in conduct which creates a grave risk of serious physical injury or death to another person less than eleven years old and thereby causes the death of such person; or5. Being eighteen years old or more, while in the course of committing rape in the first, second or third degree, a crime formerly defined in section 130.50, 130.45 or 130.40 of this title, the crime of sexual abuse

in the first degree, aggravated sexual abuse in the first, second, third or fourth degree, or incest in the first, second or third degree, against a person less than fourteen years old, he or she intentionally causes the death of such person.Murder in the second degree is a class A-I felony. (a) (i) The defendant acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the first degree or any other crime. (ii) It shall not be a "reasonable explanation or excuse" pursuant to subparagraph (i) of this paragraph when the defendant's conduct resulted from the discovery, knowledge or disclosure of the victim's sexual orientation, sex, gender, gender identity, gender expression or sex assigned at birth; or (b) The defendant's conduct consisted of causing or aiding, without the use of duress or deception, another person to commit suicide. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the second degree or any other crime; or 2. Under circumstances evincing a depraved indifference to human life, he recklessly engages in conduct which creates a grave risk of death to another person, and thereby causes the death of another person; or 3. Acting either alone or with one or more other persons, he commits or attempts to commit robbery, burglary, kidnapping, arson, rape in the first degree, a crime formerly defined in section 130.50 of this title, the crime of sexual abuse in the first degree, aggravated sexual abuse, escape in the first degree, or escape in the second degree, and, in the course of and in furtherance of such crime or of immediate flight therefrom, he, or another participant, if there be any, causes the death of a person other than one of the participants; except that in any prosecution under this subdivision, in which the defendant was not the only participant in the underlying crime, it is an affirmative defense that the defendant: (a) Did not commit the homicidal act or in any way solicit, request, command, importune, cause or aid the commission thereof; and (b) Was not armed with a deadly weapon, or any instrument, article or substance readily capable of causing death or serious physical injury and of a sort not ordinarily carried in public places by law-abiding persons; and (c) Had no reasonable ground to believe that any other participant was armed with such a weapon, instrument, article or substance; and (d) Had no reasonable ground to believe that any other participant intended to engage in conduct likely to result in death or serious physical injury; or 4. Under circumstances evincing a depraved indifference to human life, and being eighteen years old or more the defendant recklessly engages in conduct which creates a grave risk of serious physical injury or death to another person less than eleven years old and thereby causes the death of such person; or 5. Being eighteen years old or more, while in the course of committing rape in the first, second or third degree, a crime formerly defined in section 130.50, 130.45 or 130.40 of this title, the crime of sexual abuse in the first degree, aggravated sexual abuse in the first, second, third or fourth degree, or incest in the first, second or third degree, against a person less than fourteen years old, he or she intentionally causes the death of such person. Murder in the second degree is a class A-I felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 125 - Homicide and Related Offenses125.26 - Aggravated Murder.

A person is guilty of aggravated murder when: 1. With intent to cause the death of another person, he or she causes the death of such person, or of a third person who was a person described in subparagraph (i), (ii), (ii-a) or (iii) of paragraph (a) of this subdivision engaged at the time of the killing in the course of performing his or her official duties; and(a) Either:(i) the intended victim was a police officer as defined in subdivision thirty-four of section 1.20 of the criminal procedure law who was at the time of the killing engaged in the course of performing his or her official duties, and the defendant knew or reasonably should have known that the victim was a police officer; or(ii) the intended victim was a peace officer as defined in paragraph a of subdivision twenty-one, subdivision twenty-three, twenty-four or sixty-two (employees of the division for youth) of section 2.10 of the criminal procedure law who was at the time of the killing engaged in the course of performing his or her official duties, and the defendant knew or reasonably should have known that the victim was such a uniformed court officer, parole officer, probation officer, or employee of the division for youth; or(ii-a) the intended victim was a firefighter, emergency medical technician, ambulance driver, paramedic, physician or registered nurse involved in a first response team, or any other individual who, in the course of official duties, performs emergency response activities and was engaged in such activities at the time of killing and the defendant knew or reasonably should have known that the intended victim was such firefighter, emergency medical technician, ambulance driver, paramedic, physician or registered nurse; or(iii) the intended victim was an employee of a state correctional institution or was an employee of a local correctional facility as defined in subdivision two of section forty of the correction law, who was at the time of the killing engaged in the course of performing his or her official duties, and the defendant knew or reasonably should have known that the victim was an employee of a state correctional institution or a local correctional facility; and(b) The defendant was more than eighteen years old at the time of the commission of the crime; or2. (a) With intent to cause the death of a person less than fourteen years old, he or she causes the death of such person, and the defendant acted in an especially cruel and wanton manner pursuant to a course of conduct intended to inflict and inflicting torture upon the victim prior to the victim's death. As used in this subdivision, "torture" means the intentional and depraved infliction of extreme physical pain that is separate and apart from the pain which otherwise would have been associated with such cause of death; and(b) The defendant was more than eighteen years old at the time of the commission of the crime.3. In any prosecution under subdivision one or two of this section, it is an affirmative defense that:(a) (i) The defendant acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, aggravated manslaughter in the first degree, manslaughter in the first degree or any other crime except murder in the

second degree. (ii) It shall not be a "reasonable explanation or excuse" pursuant to subparagraph (i) of this paragraph when the defendant's conduct resulted from the discovery, knowledge or disclosure of the victim's sexual orientation, sex, gender, gender identity, gender expression or sex assigned at birth; or(b) The defendant's conduct consisted of causing or aiding, without the use of duress or deception, another person to commit suicide. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, aggravated manslaughter in the second degree, manslaughter in the second degree or any other crime except murder in the second degree.Aggravated murder is a class A-I felony. (a) Either: (i) the intended victim was a police officer as defined in subdivision thirty-four of section 1.20 of the criminal procedure law who was at the time of the killing engaged in the course of performing his or her official duties, and the defendant knew or reasonably should have known that the victim was a police officer; or (ii) the intended victim was a peace officer as defined in paragraph a of subdivision twenty-one, subdivision twenty-three, twenty-four or sixty-two (employees of the division for youth) of section 2.10 of the criminal procedure law who was at the time of the killing engaged in the course of performing his or her official duties, and the defendant knew or reasonably should have known that the victim was such a uniformed court officer, parole officer, probation officer, or employee of the division for youth; or (ii-a) the intended victim was a firefighter, emergency medical technician, ambulance driver, paramedic, physician or registered nurse involved in a first response team, or any other individual who, in the course of official duties, performs emergency response activities and was engaged in such activities at the time of killing and the defendant knew or reasonably should have known that the intended victim was such firefighter, emergency medical technician, ambulance driver, paramedic, physician or registered nurse; or (iii) the intended victim was an employee of a state correctional institution or was an employee of a local correctional facility as defined in subdivision two of section forty of the correction law, who was at the time of the killing engaged in the course of performing his or her official duties, and the defendant knew or reasonably should have known that the victim was an employee of a state correctional institution or a local correctional facility; and (b) The defendant was more than eighteen years old at the time of the commission of the crime; or 2. (a) With intent to cause the death of a person less than fourteen years old, he or she causes the death of such person, and the defendant acted in an especially cruel and wanton manner pursuant to a course of conduct intended to inflict and inflicting torture upon the victim prior to the victim's death. As used in this subdivision, "torture" means the intentional and depraved infliction of extreme physical pain that is separate and apart from the pain which otherwise would have been associated with such cause of death; and (b) The defendant was more than eighteen years old at the time of the commission of the crime. 3. In any prosecution under subdivision one or two of this section, it is an affirmative defense that: (a) (i) The defendant acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, aggravated manslaughter in the first degree, manslaughter in the first degree or any other crime except murder in the second degree. (ii) It shall not be a "reasonable explanation or excuse" pursuant to subparagraph (i) of this paragraph when the defendant's conduct resulted from the discovery, knowledge or disclosure of the victim's sexual orientation, sex, gender, gender identity, gender expression or sex assigned at birth; or (b) The defendant's conduct consisted of causing or aiding, without the use of duress or deception, another person to commit suicide. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, aggravated manslaughter in the second degree, manslaughter in the second degree or any other crime except murder in the second degree. Aggravated murder is a class A-I felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 125 - Homicide and Related Offenses125.27 - Murder in the First Degree.

A person is guilty of murder in the first degree when: 1. With intent to cause the death of another person, he causes the death of such person or of a third person; and(a) Either:(i) the intended victim was a police officer as defined in subdivision 34 of section 1.20 of the criminal procedure law who was at the time of the killing engaged in the course of performing his official duties, and the defendant knew or reasonably should have known that the intended victim was a police officer; or(ii) the intended victim was a peace officer as defined in paragraph a of subdivision twenty-one, subdivision twenty-three, twenty-four or sixty-two (employees of the division for youth) of section 2.10 of the criminal procedure law who was at the time of the killing engaged in the course of performing his official duties, and the defendant knew or reasonably should have known that the intended victim was such a uniformed court officer, parole officer, probation officer, or employee of the division for youth; or(ii-a) the intended victim was a firefighter, emergency medical technician, ambulance driver, paramedic, physician or registered nurse involved in a first response team, or any other individual who, in the course of official duties, performs emergency response activities and was engaged in such activities at the time of killing and the defendant knew or reasonably should have known that the intended victim was such firefighter, emergency medical technician, ambulance driver, paramedic, physician or registered nurse; or(iii) the intended victim was an employee of a state correctional institution or was an employee of a local correctional facility as defined in subdivision two of section forty of the correction law, who was at the time of the killing engaged in the course of performing his official duties, and the defendant knew or reasonably should have known that the intended victim was an employee of a state correctional institution or a local correctional facility; or(iv) at the time of the commission of the killing, the defendant was confined in a state correctional institution or was otherwise in custody upon a sentence for the term of his natural life, or upon a sentence commuted to one of natural life, or upon a sentence for an indeterminate term the minimum of which was at least fifteen years and the maximum of which was natural life, or at the time of the commission of the killing, the defendant had escaped from such confinement or custody while serving such a sentence and had not yet been returned to such confinement or custody; or(v) the intended victim was a witness

to a crime committed on a prior occasion and the death was caused for the purpose of preventing the intended victim's testimony in any criminal action or proceeding whether or not such action or proceeding had been commenced, or the intended victim had previously testified in a criminal action or proceeding and the killing was committed for the purpose of exacting retribution for such prior testimony, or the intended victim was an immediate family member of a witness to a crime committed on a prior occasion and the killing was committed for the purpose of preventing or influencing the testimony of such witness, or the intended victim was an immediate family member of a witness who had previously testified in a criminal action or proceeding and the killing was committed for the purpose of exacting retribution upon such witness for such prior testimony. As used in this subparagraph "immediate family member" means a husband, wife, father, mother, daughter, son, brother, sister, stepparent, grandparent, stepchild or grandchild; or(vi) the defendant committed the killing or procured commission of the killing pursuant to an agreement with a person other than the intended victim to commit the same for the receipt, or in expectation of the receipt, of anything of pecuniary value from a party to the agreement or from a person other than the intended victim acting at the direction of a party to such agreement; or(vii) the victim was killed while the defendant was in the course of committing or attempting to commit and in furtherance of robbery, burglary in the first degree or second degree, kidnapping in the first degree, arson in the first degree or second degree, rape in the first degree, a crime formerly defined in section 130.50 of this title, sexual abuse in the first degree, aggravated sexual abuse in the first degree or escape in the first degree, or in the course of and furtherance of immediate flight after committing or attempting to commit any such crime or in the course of and furtherance of immediate flight after attempting to commit the crime of murder in the second degree; provided however, the victim is not a participant in one of the aforementioned crimes and, provided further that, unless the defendant's criminal liability under this subparagraph is based upon the defendant having commanded another person to cause the death of the victim or intended victim pursuant to section 20.00 of this chapter, this subparagraph shall not apply where the defendant's criminal liability is based upon the conduct of another pursuant to section 20.00 of this chapter; or(viii) as part of the same criminal transaction, the defendant, with intent to cause serious physical injury to or the death of an additional person or persons, causes the death of an additional person or persons; provided, however, the victim is not a participant in the criminal transaction; or(ix) prior to committing the killing, the defendant had been convicted of murder as defined in this section or section 125.25 of this article, or had been convicted in another jurisdiction of an offense which, if committed in this state, would constitute a violation of either of such sections; or(x) the defendant acted in an especially cruel and wanton manner pursuant to a course of conduct intended to inflict and inflicting torture upon the victim prior to the victim's death. As used in this subparagraph, "torture" means the intentional and depraved infliction of extreme physical pain; "depraved" means the defendant relished the infliction of extreme physical pain upon the victim evidencing debasement or perversion or that the defendant evidenced a sense of pleasure in the infliction of extreme physical pain; or(xi) the defendant intentionally caused the death of two or more additional persons within the state in separate criminal transactions within a period of twenty-four months when committed in a similar fashion or pursuant to a common scheme or plan; or(xii) the intended victim was a judge as defined in subdivision twenty-three of section 1.20 of the criminal procedure law and the defendant killed such victim because such victim was, at the time of the killing, a judge; or(xiii) the victim was killed in furtherance of an act of terrorism, as defined in paragraph (b) of subdivision one of section 490.05 of this chapter; and(b) The defendant was more than eighteen years old at the time of the commission of the crime.2. In any prosecution under subdivision one, it is an affirmative defense that:(a) (i) The defendant acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the first degree or any other crime except murder in the second degree. (ii) It shall not be a "reasonable explanation or excuse" pursuant to subparagraph (i) of this paragraph when the defendant's conduct resulted from the discovery, knowledge or disclosure of the victim's sexual orientation, sex, gender, gender identity, gender expression or sex assigned at birth; or(b) The defendant's conduct consisted of causing or aiding, without the use of duress or deception, another person to commit suicide. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the second degree or any other crime except murder in the second degree.Murder in the first degree is a class A-I felony. (a) Either: (i) the intended victim was a police officer as defined in subdivision 34 of section 1.20 of the criminal procedure law who was at the time of the killing engaged in the course of performing his official duties, and the defendant knew or reasonably should have known that the intended victim was a police officer; or (ii) the intended victim was a peace officer as defined in paragraph a of subdivision twenty-one, subdivision twenty-three, twenty-four or sixty-two (employees of the division for youth) of section 2.10 of the criminal procedure law who was at the time of the killing engaged in the course of performing his official duties, and the defendant knew or reasonably should have known that the intended victim was such a uniformed court officer, parole officer, probation officer, or employee of the division for youth; or (ii-a) the intended victim was a firefighter, emergency medical technician, ambulance driver, paramedic, physician or registered nurse involved in a first response team, or any other individual who, in the course of official duties, performs emergency response activities and was engaged in such activities at the time of killing and the defendant knew or reasonably should have known that the intended victim was such firefighter, emergency medical technician, ambulance driver, paramedic, physician or registered nurse; or (iii) the intended victim was an employee of a state correctional institution or was an employee of a local correctional facility as defined in subdivision two of section forty of the correction law, who was at the time of the killing engaged in the course of performing his official duties, and the defendant knew or reasonably should have known that the intended victim was an employee of a state correctional institution or a local correctional facility; or (iv) at the time of the commission of the killing, the defendant was confined in a state correctional institution or was otherwise in custody upon a sentence for the term of his natural

life, or upon a sentence commuted to one of natural life, or upon a sentence for an indeterminate term the minimum of which was at least fifteen years and the maximum of which was natural life, or at the time of the commission of the killing, the defendant had escaped from such confinement or custody while serving such a sentence and had not yet been returned to such confinement or custody; or (v) the intended victim was a witness to a crime committed on a prior occasion and the death was caused for the purpose of preventing the intended victim's testimony in any criminal action or proceeding whether or not such action or proceeding had been commenced, or the intended victim had previously testified in a criminal action or proceeding and the killing was committed for the purpose of exacting retribution for such prior testimony, or the intended victim was an immediate family member of a witness to a crime committed on a prior occasion and the killing was committed for the purpose of preventing or influencing the testimony of such witness, or the intended victim was an immediate family member of a witness who had previously testified in a criminal action or proceeding and the killing was committed for the purpose of exacting retribution upon such witness for such prior testimony. As used in this subparagraph "immediate family member" means a husband, wife, father, mother, daughter, son, brother, sister, stepparent, grandparent, stepchild or grandchild; or (vi) the defendant committed the killing or procured commission of the killing pursuant to an agreement with a person other than the intended victim to commit the same for the receipt, or in expectation of the receipt, of anything of pecuniary value from a party to the agreement or from a person other than the intended victim acting at the direction of a party to such agreement; or (vii) the victim was killed while the defendant was in the course of committing or attempting to commit and in furtherance of robbery, burglary in the first degree or second degree, kidnapping in the first degree, arson in the first degree or second degree, rape in the first degree, a crime formerly defined in section 130.50 of this title, sexual abuse in the first degree, aggravated sexual abuse in the first degree or escape in the first degree, or in the course of and furtherance of immediate flight after committing or attempting to commit any such crime or in the course of and furtherance of immediate flight after attempting to commit the crime of murder in the second degree; provided however, the victim is not a participant in one of the aforementioned crimes and, provided further that, unless the defendant's criminal liability under this subparagraph is based upon the defendant having commanded another person to cause the death of the victim or intended victim pursuant to section 20.00 of this chapter, this subparagraph shall not apply where the defendant's criminal liability is based upon the conduct of another pursuant to section 20.00 of this chapter; or (viii) as part of the same criminal transaction, the defendant, with intent to cause serious physical injury to or the death of an additional person or persons, causes the death of an additional person or persons; provided, however, the victim is not a participant in the criminal transaction; or (ix) prior to committing the killing, the defendant had been convicted of murder as defined in this section or section 125.25 of this article, or had been convicted in another jurisdiction of an offense which, if committed in this state, would constitute a violation of either of such sections; or (x) the defendant acted in an especially cruel and wanton manner pursuant to a course of conduct intended to inflict and inflicting torture upon the victim prior to the victim's death. As used in this subparagraph, "torture" means the intentional and depraved infliction of extreme physical pain; "depraved" means the defendant relished the infliction of extreme physical pain upon the victim evidencing debasement or perversion or that the defendant evidenced a sense of pleasure in the infliction of extreme physical pain; or (xi) the defendant intentionally caused the death of two or more additional persons within the state in separate criminal transactions within a period of twenty-four months when committed in a similar fashion or pursuant to a common scheme or plan; or (xii) the intended victim was a judge as defined in subdivision twenty-three of section 1.20 of the criminal procedure law and the defendant killed such victim because such victim was, at the time of the killing, a judge; or (xiii) the victim was killed in furtherance of an act of terrorism, as defined in paragraph (b) of subdivision one of section 490.05 of this chapter; and (b) The defendant was more than eighteen years old at the time of the commission of the crime. 2. In any prosecution under subdivision one, it is an affirmative defense that: (a) (i) The defendant acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the first degree or any other crime except murder in the second degree. (ii) It shall not be a "reasonable explanation or excuse" pursuant to subparagraph (i) of this paragraph when the defendant's conduct resulted from the discovery, knowledge or disclosure of the victim's sexual orientation, sex, gender, gender identity, gender expression or sex assigned at birth; or (b) The defendant's conduct consisted of causing or aiding, without the use of duress or deception, another person to commit suicide. Nothing contained in this paragraph shall constitute a defense to a prosecution for, or preclude a conviction of, manslaughter in the second degree or any other crime except murder in the second degree. Murder in the first degree is a class A-I felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.00 - Sex Offenses; Definitions of Terms.

The following definitions are applicable to this article: 1. "Vaginal sexual contact" means conduct between persons consisting of contact between the penis and the vagina or vulva. 2. (a) "Oral sexual contact" means conduct between persons consisting of contact between the mouth and the penis, the mouth and the anus, or the mouth and the vulva or vagina.(b) "Anal sexual contact" means conduct between persons consisting of contact between the penis and anus.3. "Sexual contact" means any touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing, as well as the emission of ejaculate by the actor upon any part of the victim, clothed or unclothed.4. For the purposes of this article "married" means the existence of the relationship between the actor and the victim as spouses which is recognized by law at the time the actor commits an offense proscribed by this article against the victim.5. "Mentally disabled" means that a person suffers from a mental disease or defect which

renders him or her incapable of appraising the nature of his or her conduct.6. "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other act committed upon him without his consent.7. "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.8. "Forcible compulsion" means to compel by either:a. use of physical force; orb. a threat, express or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she or another person will immediately be kidnapped.9. "Foreign object" means any instrument or article which, when inserted in the vagina, urethra, penis, rectum or anus, is capable of causing physical injury.10. "Sexual conduct" means vaginal sexual contact, oral sexual contact, anal sexual contact, aggravated sexual contact, or sexual contact.11. "Aggravated sexual contact" means inserting, other than for a valid medical purpose, a foreign object in the vagina, urethra, penis, rectum or anus of a child, thereby causing physical injury to such child.12. "Health care provider" means any person who is, or is required to be, licensed or registered or holds himself or herself out to be licensed or registered, or provides services as if he or she were licensed or registered in the profession of medicine, chiropractic, dentistry or podiatry under any of the following: article one hundred thirty-one, one hundred thirty-two, one hundred thirty-three, or one hundred forty-one of the education law.13. "Mental health care provider" shall mean a licensed physician, licensed psychologist, registered professional nurse, licensed clinical social worker, licensed master social worker under the supervision of a physician, psychologist or licensed clinical social worker, licensed mental health counselor or a licensed marriage and family therapist. (b) "Anal sexual contact" means conduct between persons consisting of contact between the penis and anus. 3. "Sexual contact" means any touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing, as well as the emission of ejaculate by the actor upon any part of the victim, clothed or unclothed. 4. For the purposes of this article "married" means the existence of the relationship between the actor and the victim as spouses which is recognized by law at the time the actor commits an offense proscribed by this article against the victim. 5. "Mentally disabled" means that a person suffers from a mental disease or defect which renders him or her incapable of appraising the nature of his or her conduct. 6. "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other act committed upon him without his consent. 7. "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act. 8. "Forcible compulsion" means to compel by either: a. use of physical force; or b. a threat, express or implied, which places a person in fear of immediate death or physical injury to himself, herself or another person, or in fear that he, she or another person will immediately be kidnapped. 9. "Foreign object" means any instrument or article which, when inserted in the vagina, urethra, penis, rectum or anus, is capable of causing physical injury. 10. "Sexual conduct" means vaginal sexual contact, oral sexual contact, anal sexual contact, aggravated sexual contact, or sexual contact. 11. "Aggravated sexual contact" means inserting, other than for a valid medical purpose, a foreign object in the vagina, urethra, penis, rectum or anus of a child, thereby causing physical injury to such child. 12. "Health care provider" means any person who is, or is required to be, licensed or registered or holds himself or herself out to be licensed or registered, or provides services as if he or she were licensed or registered in the profession of medicine, chiropractic, dentistry or podiatry under any of the following: article one hundred thirty-one, one hundred thirty-two, one hundred thirty-three, or one hundred forty-one of the education law. 13. "Mental health care provider" shall mean a licensed physician, licensed psychologist, registered professional nurse, licensed clinical social worker, licensed master social worker under the supervision of a physician, psychologist or licensed clinical social worker, licensed mental health counselor or a licensed marriage and family therapist.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.05 - Sex Offenses; Lack of Consent.

1. Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without consent of the victim. 2. Lack of consent results from:(a) Forcible compulsion; or(b) Incapacity to consent; or(c) Where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct; or(d) Where the offense charged is rape in the third degree as defined in subdivision seven, eight or nine of section 130.25, or a crime formerly defined in subdivision three of section 130.40, in addition to forcible compulsion, circumstances under which, at the time of the act of vaginal sexual contact, oral sexual contact or anal sexual contact, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances.3. A person is deemed incapable of consent when he or she is:(a) less than seventeen years old; or(b) mentally disabled; or(c) mentally incapacitated; or(d) physically helpless; or(e) committed to the care and custody or supervision of the state department of corrections and community supervision or a hospital, as such term is defined in subdivision two of section four hundred of the correction law, and the actor is an employee who knows or reasonably should know that such person is committed to the care and custody or supervision of such department or hospital. For purposes of this paragraph, "employee" means (i) an employee of the state department of corrections and community supervision who, as part of his or her employment, performs duties: (A) in a state correctional facility in which the victim is confined at the time of the offense consisting of providing custody, medical or mental health services, counseling services, educational programs, vocational training, institutional parole services or direct supervision to incarcerated individuals; or(B) of supervising persons released on community supervision

and supervises the victim at the time of the offense or has supervised the victim and the victim is still under community supervision at the time of the offense; or(ii) an employee of the office of mental health who, as part of his or her employment, performs duties in a state correctional facility or hospital, as such term is defined in subdivision two of section four hundred of the correction law in which the incarcerated individual is confined at the time of the offense, consisting of providing custody, medical or mental health services, or direct supervision to such incarcerated individuals; or(iii) a person, including a volunteer, providing direct services to incarcerated individuals in a state correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the state department of corrections and community supervision or, in the case of a volunteer, a written agreement with such department, provided that the person received written notice concerning the provisions of this paragraph; or(f) committed to the care and custody of a local correctional facility, as such term is defined in subdivision two of section forty of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such facility. For purposes of this paragraph, "employee" means an employee of the local correctional facility where the person is committed who performs professional duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for incarcerated individuals. For purposes of this paragraph, "employee" shall also mean a person, including a volunteer or a government employee of the state department of corrections and community supervision or a local health, education or probation agency, providing direct services to incarcerated individuals in the local correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the local correctional department or, in the case of such a volunteer or government employee, a written agreement with such department, provided that such person received written notice concerning the provisions of this paragraph; or(g) committed to or placed with the office of children and family services and in residential care, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to or placed with such office of children and family services and in residential care. For purposes of this paragraph, "employee" means an employee of the office of children and family services or of a residential facility in which such person is committed to or placed at the time of the offense who, as part of his or her employment, performs duties consisting of providing custody, medical or mental health services, counseling services, educational services, vocational training, or direct supervision to persons committed to or placed in a residential facility operated by the office of children and family services; or(h) a client or patient and the actor is a health care provider or mental health care provider charged with rape in the third degree as defined in section 130.25, a crime formerly defined in section 130.40, aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55, and the act of sexual conduct occurs during a treatment session, consultation, interview, or examination; or(i) a resident or inpatient of a residential facility operated, licensed or certified by (i) the office of mental health; (ii) the office for people with developmental disabilities; or (iii) the office of alcoholism and substance abuse services, and the actor is an employee of the facility not married to such resident or inpatient. For purposes of this paragraph, "employee" means either: an employee of the agency operating the residential facility, who knows or reasonably should know that such person is a resident or inpatient of such facility and who provides direct care services, case management services, medical or other clinical services, habilitative services or direct supervision of the residents in the facility in which the resident resides; or an officer or other employee, consultant, contractor or volunteer of the residential facility, who knows or reasonably should know that the person is a resident of such facility and who is in direct contact with residents or inpatients; provided, however, that the provisions of this paragraph shall only apply to a consultant, contractor or volunteer providing services pursuant to a contractual arrangement with the agency operating the residential facility or, in the case of a volunteer, a written agreement with such facility, provided that the person received written notice concerning the provisions of this paragraph; provided further, however, "employee" shall not include a person with a developmental disability who is or was receiving services and is also an employee of a service provider and who has sexual contact with another service recipient who is a consenting adult who has consented to such contact; or(j) detained or otherwise in the custody of a police officer, peace officer, or other law enforcement official and the actor is a police officer, peace officer or other law enforcement official who either: (i) is detaining or maintaining custody of such person; or (ii) knows, or reasonably should know, that at the time of the offense, such person was detained or in custody.* (k) under the supervision of a local probation department, pursuant to section two hundred seventy-two of the correction law, or another local department or agency which fulfills a similar function and the actor is an employee who knows or reasonably should know that such person is committed to the supervision of a local probation department. For purposes of this paragraph, "employee" means an employee of such local probation department or agency who, as part of his or her employment, supervises the victim at the time of the offense or has supervised the victim and the victim is still under supervision of a local probation department or agency at the time of the offense.* NB Effective November 1, 2025 (a) Forcible compulsion; or (b) Incapacity to consent; or (c) Where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct; or (d) Where the offense charged is rape in the third degree as defined in subdivision seven, eight or nine of section 130.25, or a crime formerly defined in subdivision three of section 130.40, in addition to forcible compulsion, circumstances under which, at the time of the act of vaginal sexual contact, oral sexual contact or anal sexual contact, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances. 3. A person is deemed incapable of consent when he or she is: (a) less than seventeen years old; or (b) mentally disabled; or (c) mentally incapacitated; or (d) physically helpless; or (e) committed to the care and custody or supervision of the state department of corrections and community supervision or a hospital, as such term is defined in subdivision two of section four

hundred of the correction law, and the actor is an employee who knows or reasonably should know that such person is committed to the care and custody or supervision of such department or hospital. For purposes of this paragraph, "employee" means (i) an employee of the state department of corrections and community supervision who, as part of his or her employment, performs duties: (A) in a state correctional facility in which the victim is confined at the time of the offense consisting of providing custody, medical or mental health services, counseling services, educational programs, vocational training, institutional parole services or direct supervision to incarcerated individuals; or (B) of supervising persons released on community supervision and supervises the victim at the time of the offense or has supervised the victim and the victim is still under community supervision at the time of the offense; or (ii) an employee of the office of mental health who, as part of his or her employment, performs duties in a state correctional facility or hospital, as such term is defined in subdivision two of section four hundred of the correction law in which the incarcerated individual is confined at the time of the offense, consisting of providing custody, medical or mental health services, or direct supervision to such incarcerated individuals; or (iii) a person, including a volunteer, providing direct services to incarcerated individuals in a state correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the state department of corrections and community supervision or, in the case of a volunteer, a written agreement with such department, provided that the person received written notice concerning the provisions of this paragraph; or (f) committed to the care and custody of a local correctional facility, as such term is defined in subdivision two of section forty of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such facility. For purposes of this paragraph, "employee" means an employee of the local correctional facility where the person is committed who performs professional duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for incarcerated individuals. For purposes of this paragraph, "employee" shall also mean a person, including a volunteer or a government employee of the state department of corrections and community supervision or a local health, education or probation agency, providing direct services to incarcerated individuals in the local correctional facility in which the victim is confined at the time of the offense pursuant to a contractual arrangement with the local correctional department or, in the case of such a volunteer or government employee, a written agreement with such department, provided that such person received written notice concerning the provisions of this paragraph; or (g) committed to or placed with the office of children and family services and in residential care, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to or placed with such office of children and family services and in residential care. For purposes of this paragraph, "employee" means an employee of the office of children and family services or of a residential facility in which such person is committed to or placed at the time of the offense who, as part of his or her employment, performs duties consisting of providing custody, medical or mental health services, counseling services, educational services, vocational training, or direct supervision to persons committed to or placed in a residential facility operated by the office of children and family services; or (h) a client or patient and the actor is a health care provider or mental health care provider charged with rape in the third degree as defined in section 130.25, a crime formerly defined in section 130.40, aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55, and the act of sexual conduct occurs during a treatment session, consultation, interview, or examination; or (i) a resident or inpatient of a residential facility operated, licensed or certified by (i) the office of mental health; (ii) the office for people with developmental disabilities; or (iii) the office of alcoholism and substance abuse services, and the actor is an employee of the facility not married to such resident or inpatient. For purposes of this paragraph, "employee" means either: an employee of the agency operating the residential facility, who knows or reasonably should know that such person is a resident or inpatient of such facility and who provides direct care services, case management services, medical or other clinical services, habilitative services or direct supervision of the residents in the facility in which the resident resides; or an officer or other employee, consultant, contractor or volunteer of the residential facility, who knows or reasonably should know that the person is a resident of such facility and who is in direct contact with residents or inpatients; provided, however, that the provisions of this paragraph shall only apply to a consultant, contractor or volunteer providing services pursuant to a contractual arrangement with the agency operating the residential facility or, in the case of a volunteer, a written agreement with such facility, provided that the person received written notice concerning the provisions of this paragraph; provided further, however, "employee" shall not include a person with a developmental disability who is or was receiving services and is also an employee of a service provider and who has sexual contact with another service recipient who is a consenting adult who has consented to such contact; or (j) detained or otherwise in the custody of a police officer, peace officer, or other law enforcement official and the actor is a police officer, peace officer or other law enforcement official who either: (i) is detaining or maintaining custody of such person; or (ii) knows, or reasonably should know, that at the time of the offense, such person was detained or in custody. * (k) under the supervision of a local probation department, pursuant to section two hundred seventy-two of the correction law, or another local department or agency which fulfills a similar function and the actor is an employee who knows or reasonably should know that such person is committed to the supervision of a local probation department. For purposes of this paragraph, "employee" means an employee of such local probation department or agency who, as part of his or her employment, supervises the victim at the time of the offense or has supervised the victim and the victim is still under supervision of a local probation department or agency at the time of the offense. * NB Effective November 1, 2025

1. In any prosecution under this article in which the victim's lack of consent is based solely upon his or her incapacity to consent because he or she was mentally disabled, mentally incapacitated or physically helpless, it is an affirmative defense that the defendant, at the time he or she engaged in the conduct constituting the offense, did not know of the facts or conditions responsible for such incapacity to consent. 2. Conduct performed for a valid medical or mental health care purpose shall not constitute a violation of any section of this article in which incapacity to consent is based on the circumstances set forth in paragraph (h) of subdivision three of section 130.05 of this article. 3. In any prosecution for the crime of rape in the third degree as defined in section 130.25, a crime formerly defined in section 130.40, aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55 in which incapacity to consent is based on the circumstances set forth in paragraph (h) of subdivision three of section 130.05 of this article it shall be an affirmative defense that the client or patient consented to such conduct charged after having been expressly advised by the health care or mental health care provider that such conduct was not performed for a valid medical purpose. 4. In any prosecution under this article in which the victim's lack of consent is based solely on his or her incapacity to consent because he or she was less than seventeen years old, mentally disabled, a client or patient and the actor is a health care provider, detained or otherwise in custody of law enforcement under the circumstances described in paragraph (j) of subdivision three of section 130.05 of this article, or committed to the care and custody or supervision of the state department of corrections and community supervision or a hospital and the actor is an employee, it shall be a defense that the defendant was married to the victim as defined in subdivision four of section 130.00 of this article.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.16 - Sex Offenses; Corroboration.

A person shall not be convicted of any offense defined in this article of which lack of consent is an element but results solely from incapacity to consent because of the victim's mental defect, or mental incapacity, or an attempt to commit the same, solely on the testimony of the victim, unsupported by other evidence tending to:(a) Establish that an attempt was made to engage the victim in vaginal sexual contact, oral sexual contact, anal sexual contact, or sexual contact, as the case may be, at the time of the occurrence; and(b) Connect the defendant with the commission of the offense or attempted offense. (a) Establish that an attempt was made to engage the victim in vaginal sexual contact, oral sexual contact, anal sexual contact, or sexual contact, as the case may be, at the time of the occurrence; and (b) Connect the defendant with the commission of the offense or attempted offense.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.20 - Sexual Misconduct.

A person is guilty of sexual misconduct when: 1. He or she engages in vaginal sexual contact with another person without such person's consent; or 2. He or she engages in oral sexual contact with another person without such person's consent; or 3. He or she engages in anal sexual contact with another person without such person's consent; or 4. He or she engages in sexual conduct with an animal or a dead human body. Sexual misconduct is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.25 - Rape in the Third Degree.

A person is guilty of rape in the third degree when: 1. He or she engages in vaginal sexual contact with another person who is incapable of consent by reason of some factor other than being less than seventeen years old; 2. He or she engages in oral sexual contact with another person who is incapable of consent by reason of some factor other than being less than seventeen years old; 3. He or she engages in anal sexual contact with another person who is incapable of consent by reason of some other factor other than being less than seventeen years old; 4. Being twenty-one years old or more, he or she engages in vaginal sexual contact with another person less than seventeen years old; 5. Being twenty-one years old or more, he or she engages in oral sexual contact with another person less than seventeen years old; 6. Being twenty-one years old or more, he or she engages in anal sexual contact with another person less than seventeen years old; 7. He or she engages in vaginal sexual contact with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent; 8. He or she engages in oral sexual contact with another person without such person's consent where such lack of consent is by reason of some factor other than incapacity to consent; or 9. He or she engages in anal sexual contact with another person without such person's consent where such lack of consent is by reason of some factor other than the incapacity to consent. Rape in the third degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.30 - Rape in the Second Degree.

A person is guilty of rape in the second degree when: 1. being eighteen years old or more, he or she engages in vaginal sexual contact with another person less than fifteen years old; 2. being eighteen years old or more, he or she engages in oral sexual contact with another person less than fifteen years old; 3. being eighteen years old or more, he or she engages in anal sexual contact with another person less than fifteen years old; 4. he or she engages in vaginal sexual contact with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated; 5. he or she engages in oral sexual contact with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated; or 6. he or she engages in anal sexual contact with another person who is incapable of consent by reason of being mentally disabled or mentally incapacitated. It

shall be an affirmative defense to the crime of rape in the second degree as defined in subdivisions one, two and three of this section that the defendant was less than four years older than the victim at the time of the act. Rape in the second degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.35 - Rape in the First Degree.

A person is guilty of rape in the first degree when: 1. he or she engages in vaginal sexual contact with another person:(a) By forcible compulsion; or(b) Who is incapable of consent by reason of being physically helpless; or(c) Who is less than eleven years old; or(d) Who is less than thirteen years old and the actor is eighteen years old or more;2. he or she engages in oral sexual contact with another person:(a) By forcible compulsion; or(b) Who is incapable of consent by reason of being physically helpless; or(c) Who is less than eleven years old; or(d) Who is less than thirteen years old and the actor is eighteen years old or more; or3. he or she engages in anal sexual contact with another person:(a) By forcible compulsion; or(b) Who is incapable of consent by reason of being physically helpless; or(c) Who is less than eleven years old; or(d) Who is less than thirteen years old and the actor is eighteen years old or more.Rape in the first degree is a class B felony. (a) By forcible compulsion; or (b) Who is incapable of consent by reason of being physically helpless; or (c) Who is less than eleven years old; or (d) Who is less than thirteen years old and the actor is eighteen years old or more; 2. he or she engages in oral sexual contact with another person: (a) By forcible compulsion; or (b) Who is incapable of consent by reason of being physically helpless; or (c) Who is less than eleven years old; or (d) Who is less than thirteen years old and the actor is eighteen years old or more; or 3. he or she engages in anal sexual contact with another person: (a) By forcible compulsion; or (b) Who is incapable of consent by reason of being physically helpless; or (c) Who is less than eleven years old; or (d) Who is less than thirteen years old and the actor is eighteen years old or more. Rape in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.52 - Forcible Touching.

A person is guilty of forcible touching when such person intentionally, and for no legitimate purpose: 1. forcibly touches the sexual or other intimate parts of another person for the purpose of degrading or abusing such person, or for the purpose of gratifying the actor's sexual desire; or 2. subjects another person to sexual contact for the purpose of gratifying the actor's sexual desire and with intent to degrade or abuse such other person while such other person is a passenger on a bus, train, or subway car operated by any transit agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions. For the purposes of this section, forcible touching includes squeezing, grabbing or pinching. Forcible touching is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.53 - Persistent Sexual Abuse.

A person is guilty of persistent sexual abuse when he or she commits the crime of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree, as defined in section 130.55 of this article, or sexual abuse in the second degree, as defined in section 130.60 of this article, and, within the previous ten year period, excluding any time during which such person was incarcerated for any reason, has been convicted two or more times, in separate criminal transactions for which sentence was imposed on separate occasions, of forcible touching, as defined in section 130.52 of this article, sexual abuse in the third degree as defined in section 130.55 of this article, sexual abuse in the second degree, as defined in section 130.60 of this article, or any offense defined in this article, of which the commission or attempted commission thereof is a felony. Persistent sexual abuse is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.55 - Sexual Abuse in the Third Degree.

A person is guilty of sexual abuse in the third degree when he or she subjects another person to sexual contact without the latter's consent; except that in any prosecution under this section, it is an affirmative defense that (a) such other person's lack of consent was due solely to incapacity to consent by reason of being less than seventeen years old, and (b) such other person was more than fourteen years old, and (c) the defendant was less than five years older than such other person. Sexual abuse in the third degree is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.60 - Sexual Abuse in the Second Degree.

A person is guilty of sexual abuse in the second degree when he or she subjects another person to sexual contact and when such other person is: 1. Incapable of consent by reason of some factor other than being less than seventeen years old; or 2. Less than fourteen years old. Sexual abuse in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.65-A - Aggravated Sexual Abuse in the Fourth Degree.

1. A person is guilty of aggravated sexual abuse in the fourth degree when:(a) He or she inserts a foreign object in the vagina,

urethra, penis, rectum or anus of another person and the other person is incapable of consent by reason of some factor other than being less than seventeen years old; or(b) He or she inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than seventeen years old.2. Conduct performed for a valid medical purpose does not violate the provisions of this section.Aggravated sexual abuse in the fourth degree is a class E felony. (a) He or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person and the other person is incapable of consent by reason of some factor other than being less than seventeen years old; or (b) He or she inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of some factor other than being less than seventeen years old. 2. Conduct performed for a valid medical purpose does not violate the provisions of this section. Aggravated sexual abuse in the fourth degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.65 - Sexual Abuse in the First Degree.

A person is guilty of sexual abuse in the first degree when he or she subjects another person to sexual contact: 1. By forcible compulsion; or 2. When the other person is incapable of consent by reason of being physically helpless; or 3. When the other person is less than eleven years old; or 4. When the other person is less than thirteen years old and the actor is twenty-one years old or older. Sexual abuse in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.66 - Aggravated Sexual Abuse in the Third Degree.

1. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object or a finger in the vagina, urethra, penis, rectum or anus of another person:(a) By forcible compulsion; or(b) When the other person is incapable of consent by reason of being physically helpless;(c) When the other person is less than eleven years old; or(d) When the other person is less than thirteen years old and the actor is eighteen years of age or older.2. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated.3. Conduct performed for a valid medical purpose does not violate the provisions of this section.Aggravated sexual abuse in the third degree is a class D felony. (a) By forcible compulsion; or (b) When the other person is incapable of consent by reason of being physically helpless; (c) When the other person is less than eleven years old; or (d) When the other person is less than thirteen years old and the actor is eighteen years of age or older. 2. A person is guilty of aggravated sexual abuse in the third degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person and such person is incapable of consent by reason of being mentally disabled or mentally incapacitated. 3. Conduct performed for a valid medical purpose does not violate the provisions of this section. Aggravated sexual abuse in the third degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.67 - Aggravated Sexual Abuse in the Second Degree.

1. A person is guilty of aggravated sexual abuse in the second degree when he or she inserts a finger in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person:(a) By forcible compulsion; or(b) When the other person is incapable of consent by reason of being physically helpless; or(c) When the other person is less than eleven years old.2. Conduct performed for a valid medical purpose does not violate the provisions of this section.Aggravated sexual abuse in the second degree is a class C felony. (a) By forcible compulsion; or (b) When the other person is incapable of consent by reason of being physically helpless; or (c) When the other person is less than eleven years old. 2. Conduct performed for a valid medical purpose does not violate the provisions of this section. Aggravated sexual abuse in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.70 - Aggravated Sexual Abuse in the First Degree.

1. A person is guilty of aggravated sexual abuse in the first degree when he or she inserts a foreign object in the vagina, urethra, penis, rectum or anus of another person causing physical injury to such person:(a) By forcible compulsion; or(b) When the other person is incapable of consent by reason of being physically helpless; or(c) When the other person is less than eleven years old.2. Conduct performed for a valid medical purpose does not violate the provisions of this section.Aggravated sexual abuse in the first degree is a class B felony. (a) By forcible compulsion; or (b) When the other person is incapable of consent by reason of being physically helpless; or (c) When the other person is less than eleven years old. 2. Conduct performed for a valid medical purpose does not violate the provisions of this section. Aggravated sexual abuse in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.75 - Course of Sexual Conduct Against a Child in the First Degree.

1. A person is guilty of course of sexual conduct against a child in the first degree when, over a period of time not less than three months in duration:(a) he or she engages in two or more acts of sexual conduct, which includes at least one act of vaginal sexual contact, oral sexual contact, anal sexual contact or aggravated sexual contact, with a child less than eleven years old; or(b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct, which include at least one act of vaginal sexual contact, oral sexual contact, anal sexual contact or aggravated sexual contact, with a child less than thirteen years old.2. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section.Course of sexual conduct against a child in the first degree is a class B felony. (a) he or she engages in two or more acts of sexual conduct, which includes at least one act of vaginal sexual contact, oral sexual contact, anal sexual contact or aggravated sexual contact, with a child less than eleven years old; or (b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct, which include at least one act of vaginal sexual contact, oral sexual contact, anal sexual contact or aggravated sexual contact, with a child less than thirteen years old. 2. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section. Course of sexual conduct against a child in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.80 - Course of Sexual Conduct Against a Child in the Second Degree.

1. A person is guilty of course of sexual conduct against a child in the second degree when, over a period of time not less than three months in duration:(a) he or she engages in two or more acts of sexual conduct with a child less than eleven years old; or(b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct with a child less than thirteen years old.2. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section.Course of sexual conduct against a child in the second degree is a class D felony. (a) he or she engages in two or more acts of sexual conduct with a child less than eleven years old; or (b) he or she, being eighteen years old or more, engages in two or more acts of sexual conduct with a child less than thirteen years old. 2. A person may not be subsequently prosecuted for any other sexual offense involving the same victim unless the other charged offense occurred outside the time period charged under this section. Course of sexual conduct against a child in the second degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.85 - Female Genital Mutilation.

1. A person is guilty of female genital mutilation when:(a) a person knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not reached eighteen years of age; or(b) being a parent, guardian or other person legally responsible and charged with the care or custody of a child less than eighteen years old, he or she knowingly consents to the circumcision, excision or infibulation of whole or part of such child's labia majora or labia minora or clitoris.2. Such circumcision, excision, or infibulation is not a violation of this section if such act is:(a) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or(b) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife.3. For the purposes of paragraph (a) of subdivision two of this section, no account shall be taken of the effect on the person on whom such procedure is to be performed of any belief on the part of that or any other person that such procedure is required as a matter of custom or ritual.Female genital mutilation is a class E felony. (a) a person knowingly circumcises, excises, or infibulates the whole or any part of the labia majora or labia minora or clitoris of another person who has not reached eighteen years of age; or (b) being a parent, guardian or other person legally responsible and charged with the care or custody of a child less than eighteen years old, he or she knowingly consents to the circumcision, excision or infibulation of whole or part of such child's labia majora or labia minora or clitoris. 2. Such circumcision, excision, or infibulation is not a violation of this section if such act is: (a) necessary to the health of the person on whom it is performed, and is performed by a person licensed in the place of its performance as a medical practitioner; or (b) performed on a person in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed in the place it is performed as a medical practitioner, midwife, or person in training to become such a practitioner or midwife. 3. For the purposes of paragraph (a) of subdivision two of this section, no account shall be taken of the effect on the person on whom such procedure is to be performed of any belief on the part of that or any other person that such procedure is required as a matter of custom or ritual. Female genital mutilation is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.90 - Facilitating a Sex Offense With a Controlled Substance.

A person is guilty of facilitating a sex offense with a controlled substance when he or she: 1. knowingly and unlawfully possesses a controlled substance or any preparation, compound, mixture or substance that requires a prescription to obtain and administers such substance or preparation, compound, mixture or substance that requires a prescription to obtain to another person without such person's consent and with intent to commit against such person conduct constituting a felony defined in this article; and 2. commits or attempts to commit such conduct constituting a felony defined in this article. Facilitating a sex offense with a controlled substance

is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.91 - Sexually Motivated Felony.

1. A person commits a sexually motivated felony when he or she commits a specified offense for the purpose, in whole or substantial part, of his or her own direct sexual gratification. 2. A "specified offense" is a felony offense defined by any of the following provisions of this chapter: assault in the second degree as defined in section 120.05, assault in the first degree as defined in section 120.10, gang assault in the second degree as defined in section 120.06, gang assault in the first degree as defined in section 120.07, stalking in the first degree as defined in section 120.60, strangulation in the second degree as defined in section 121.12, strangulation in the first degree as defined in section 121.13, manslaughter in the second degree as defined in subdivision one of section 125.15, manslaughter in the first degree as defined in section 125.20, murder in the second degree as defined in section 125.25, aggravated murder as defined in section 125.26, murder in the first degree as defined in section 125.27, kidnapping in the second degree as defined in section 135.20, kidnapping in the first degree as defined in section 135.25, burglary in the third degree as defined in section 140.20, burglary in the second degree as defined in section 140.25, burglary in the first degree as defined in section 140.30, arson in the second degree as defined in section 150.15, arson in the first degree as defined in section 150.20, robbery in the third degree as defined in section 160.05, robbery in the second degree as defined in section 160.10, robbery in the first degree as defined in section 160.15, promoting prostitution in the second degree as defined in section 230.30, promoting prostitution in the first degree as defined in section 230.32, compelling prostitution as defined in section 230.33, sex trafficking of a child as defined in section 230.34-a, disseminating indecent material to minors in the first degree as defined in section 235.22, use of a child in a sexual performance as defined in section 263.05, promoting an obscene sexual performance by a child as defined in section 263.10, promoting a sexual performance by a child as defined in section 263.15, or any felony attempt or conspiracy to commit any of the foregoing offenses.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.92 - Sentencing.

1. When a person is convicted of a sexually motivated felony pursuant to this article, and the specified felony is a violent felony offense, as defined in section 70.02 of this chapter, the sexually motivated felony shall be deemed a violent felony offense. 2. When a person is convicted of a sexually motivated felony pursuant to this article, the sexually motivated felony shall be deemed to be the same offense level as the specified offense the defendant committed. 3. Persons convicted of a sexually motivated felony as defined in section 130.91 of this article, must be sentenced in accordance with the provisions of section 70.80 of this chapter.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.95 - Predatory Sexual Assault.

A person is guilty of predatory sexual assault when he or she commits the crime of rape in the first degree, a crime formerly defined in section 130.50 of this title, the crime of aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, and when: 1. In the course of the commission of the crime or the immediate flight therefrom, he or she:(a) Causes serious physical injury to the victim of such crime; or(b) Uses or threatens the immediate use of a dangerous instrument; or2. He or she has engaged in conduct constituting the crime of rape in the first degree, a crime formerly defined in section 130.50 of this title, the crime of aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, against one or more additional persons; or3. He or she has previously been subjected to a conviction for a felony defined in this article, incest as defined in section 255.25 of this chapter or use of a child in a sexual performance as defined in section 263.05 of this chapter.Predatory sexual assault is a class A-II felony. (a) Causes serious physical injury to the victim of such crime; or (b) Uses or threatens the immediate use of a dangerous instrument; or 2. He or she has engaged in conduct constituting the crime of rape in the first degree, a crime formerly defined in section 130.50 of this title, the crime of aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, against one or more additional persons; or 3. He or she has previously been subjected to a conviction for a felony defined in this article, incest as defined in section 255.25 of this chapter or use of a child in a sexual performance as defined in section 263.05 of this chapter. Predatory sexual assault is a class A-II felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 130 - Sex Offenses130.96 - Predatory Sexual Assault Against a Child.

A person is guilty of predatory sexual assault against a child when, being eighteen years old or more, he or she commits the crime of rape in the first degree, a crime formerly defined in section 130.50 of this title, the crime of aggravated sexual abuse in the first degree, or course of sexual conduct against a child in the first degree, as defined in this article, and the victim is less than thirteen years old. Predatory sexual assault against a child is a class A-II felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 135 - Kidnapping, Coercion and Related Offenses135.00 - Unlawful Imprisonment, Kidnapping and Custodial Interference; Definitions of Terms.

definitions of terms. The following definitions are applicable to this article: 1. "Restrain" means to restrict a person's movements intentionally and unlawfully in such manner as to interfere substantially with his liberty by moving him from one place to another, or by confining him either in the place where the restriction commences or in a place to which he has been moved, without consent and with knowledge that the restriction is unlawful. A person is so moved or confined "without consent" when such is accomplished by (a) physical force, intimidation or deception, or (b) any means whatever, including acquiescence of the victim, if he is a child less than sixteen years old or an incompetent person and the parent, guardian or other person or institution having lawful control or custody of him has not acquiesced in the movement or confinement. 2. "Abduct" means to restrain a person with intent to prevent his liberation by either (a) secreting or holding him in a place where he is not likely to be found, or (b) using or threatening to use deadly physical force. 3. "Relative" means a parent, ancestor, brother, sister, uncle or aunt.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 135 - Kidnapping, Coercion and Related Offenses135.05 - Unlawful Imprisonment in the Second Degree.

A person is guilty of unlawful imprisonment in the second degree when he restrains another person. Unlawful imprisonment in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 135 - Kidnapping, Coercion and Related Offenses135.10 - Unlawful Imprisonment in the First Degree.

A person is guilty of unlawful imprisonment in the first degree when he restrains another person under circumstances which expose the latter to a risk of serious physical injury. Unlawful imprisonment in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 135 - Kidnapping, Coercion and Related Offenses135.15 - Unlawful Imprisonment; Defense.

In any prosecution for unlawful imprisonment, it is an affirmative defense that (a) the person restrained was a child less than sixteen years old, and (b) the defendant was a relative of such child, and (c) his sole purpose was to assume control of such child.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 135 - Kidnapping, Coercion and Related Offenses135.20 - Kidnapping in the Second Degree.

A person is guilty of kidnapping in the second degree when he abducts another person. Kidnapping in the second degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 135 - Kidnapping, Coercion and Related Offenses135.25 - Kidnapping in the First Degree.

A person is guilty of kidnapping in the first degree when he abducts another person and when: 1. His intent is to compel a third person to pay or deliver money or property as ransom, or to engage in other particular conduct, or to refrain from engaging in particular conduct; or 2. He restrains the person abducted for a period of more than twelve hours with intent to:(a) Inflict physical injury upon him or violate or abuse him sexually; or(b) Accomplish or advance the commission of a felony; or(c) Terrorize him or a third person; or(d) Interfere with the performance of a governmental or political function; or3. The person abducted dies during the abduction or before he is able to return or to be returned to safety. Such death shall be presumed, in a case where such person was less than sixteen years old or an incompetent person at the time of the abduction, from evidence that his parents, guardians or other lawful custodians did not see or hear from him following the termination of the abduction and prior to trial and received no reliable information during such period persuasively indicating that he was alive. In all other cases, such death shall be presumed from evidence that a person whom the person abducted would have been extremely likely to visit or communicate with during the specified period were he alive and free to do so did not see or hear from him during such period and received no reliable information during such period persuasively indicating that he was alive.Kidnapping in the first degree is a class A-I felony. (a) Inflict physical injury upon him or violate or abuse him sexually; or (b) Accomplish or advance the commission of a felony; or (c) Terrorize him or a third person; or (d) Interfere with the performance of a governmental or political function; or 3. The person abducted dies during the abduction or before he is able to return or to be returned to safety. Such death shall be presumed, in a case where such person was less than sixteen years old or an incompetent person at the time of the abduction, from evidence that his parents, guardians or other lawful custodians did not see or hear from him following the termination of the abduction and prior to trial and received no reliable information during such period persuasively indicating that he was alive. In all other cases, such death shall be presumed from evidence that a person whom the person abducted would have been extremely likely to visit or communicate with during the specified period were he alive and free to do so did not see or hear from him during such period and received no reliable information during such period persuasively indicating that he was alive. Kidnapping in the first degree is a class A-I felony.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 135 - Kidnapping, Coercion and Related Offenses135.30 - Kidnapping; Defense.

In any prosecution for kidnapping, it is an affirmative defense that (a) the defendant was a relative of the person abducted, and (b) his sole purpose was to assume control of such person.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 135 - Kidnapping, Coercion and Related Offenses135.35 - Labor Trafficking.

A person is guilty of labor trafficking if he or she compels or induces another to engage in labor or recruits, entices, harbors, or transports such other person by means of intentionally: 1. requiring that the labor be performed to retire, repay, or service a real or purported debt that the actor has caused by a systematic ongoing course of conduct with intent to defraud such person; 2. withholding, destroying, or confiscating any actual or purported passport, immigration document, or any other actual or purported government identification document, of another person with intent to impair said person's freedom of movement; provided, however, that this subdivision shall not apply to an attempt to correct a social security administration record or immigration agency record in accordance with any local, state, or federal agency requirement, where such attempt is not made for the purpose of any express or implied threat; 3. using force or engaging in any scheme, plan or pattern to compel or induce such person to engage in or continue to engage in labor activity by means of instilling a fear in such person that, if the demand is not complied with, the actor or another will do one or more of the following:(a) cause physical injury, serious physical injury, or death to a person; or(b) cause damage to property, other than the property of the actor; or(c) engage in other conduct constituting a felony or unlawful imprisonment in the second degree in violation of section 135.05 of this article; or(d) accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against such person; provided, however, that it shall be an affirmative defense to this subdivision that the defendant reasonably believed the threatened charge to be true and that his or her sole purpose was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of such threatened charge; or(e) expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or(f) testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or(g) use or abuse his or her position as a public servant by performing some act within or related to his or her official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely.Labor trafficking is a class D felony. (a) cause physical injury, serious physical injury, or death to a person; or (b) cause damage to property, other than the property of the actor; or (c) engage in other conduct constituting a felony or unlawful imprisonment in the second degree in violation of section 135.05 of this article; or (d) accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against such person; provided, however, that it shall be an affirmative defense to this subdivision that the defendant reasonably believed the threatened charge to be true and that his or her sole purpose was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of such threatened charge; or (e) expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or (f) testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or (g) use or abuse his or her position as a public servant by performing some act within or related to his or her official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely. Labor trafficking is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 135 - Kidnapping, Coercion and Related Offenses135.36 - Labor Trafficking; Accomplice.

In a prosecution for labor trafficking, a person who has been compelled or induced or recruited, enticed, harbored or transported to engage in labor shall not be deemed to be an accomplice.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 135 - Kidnapping, Coercion and Related Offenses135.37 - Aggravated Labor Trafficking.

A person is guilty of aggravated labor trafficking if he or she compels or induces another to engage in labor or recruits, entices, harbors, or transports such other person to engage in labor by means of intentionally unlawfully providing a controlled substance to such person with intent to impair said person's judgment. Aggravated labor trafficking is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 135 - Kidnapping, Coercion and Related Offenses135.45 - Custodial Interference in the Second Degree.

A person is guilty of custodial interference in the second degree when: 1. Being a relative of a child less than sixteen years old,

intending to hold such child permanently or for a protracted period, and knowing that he has no legal right to do so, he takes or entices such child from his lawful custodian; or 2. Knowing that he has no legal right to do so, he takes or entices from lawful custody any incompetent person or other person entrusted by authority of law to the custody of another person or institution. Custodial interference in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 135 - Kidnapping, Coercion and Related Offenses135.50 - Custodial Interference in the First Degree.

A person is guilty of custodial interference in the first degree when he commits the crime of custodial interference in the second degree: 1. With intent to permanently remove the victim from this state, he removes such person from the state; or 2. Under circumstances which expose the victim to a risk that his safety will be endangered or his health materially impaired. It shall be an affirmative defense to a prosecution under subdivision one of this section that the victim had been abandoned or that the taking was necessary in an emergency to protect the victim because he has been subjected to or threatened with mistreatment or abuse. Custodial interference in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 135 - Kidnapping, Coercion and Related Offenses135.55 - Substitution of Children.

A person is guilty of substitution of children when, having been temporarily entrusted with a child less than one year old and intending to deceive a parent, guardian or other lawful custodian of such child, he substitutes, produces or returns to such parent, guardian or custodian a child other than the one entrusted. Substitution of children is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 135 - Kidnapping, Coercion and Related Offenses135.60 - Coercion in the Third Degree.

A person is guilty of coercion in the third degree when he or she compels or induces a person to engage in conduct which the latter has a legal right to abstain from engaging in, or to abstain from engaging in conduct in which he or she has a legal right to engage, or compels or induces a person to join a group, organization or criminal enterprise which such latter person has a right to abstain from joining, or compels or induces a person to produce, disseminate, or otherwise display an image or images depicting nudity of such person or depicting such person engaged in sexual conduct as defined in subdivisions two and three of section 235.20 of this chapter, by means of instilling in him or her a fear that, if the demand is not complied with, the actor or another will: 1. Cause physical injury to a person; or 2. Cause damage to property; or 3. Engage in other conduct constituting a crime; or 4. Accuse some person of a crime or cause criminal charges to be instituted against him or her; or 5. Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or 6. Cause a strike, boycott or other collective labor group action injurious to some person's business; except that such a threat shall not be deemed coercive when the act or omission compelled is for the benefit of the group in whose interest the actor purports to act; or 7. Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or 8. Use or abuse his or her position as a public servant by performing some act within or related to his or her official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or 9. Perform any other act which would not in itself materially benefit the actor but which is calculated to harm another person materially with respect to his or her health, safety, business, calling, career, financial condition, reputation or personal relationships. 10. Report his or her immigration status or suspected immigration status. Coercion in the third degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 135 - Kidnapping, Coercion and Related Offenses135.61 - Coercion in the Second Degree.

A person is guilty of coercion in the second degree when he or she commits the crime of coercion in the third degree as defined in section 135.60 of this article and thereby compels or induces a person to engage in vaginal sexual contact, oral sexual contact or anal sexual contact as such terms are defined in section 130.00 of this title. Coercion in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 135 - Kidnapping, Coercion and Related Offenses135.65 - Coercion in the First Degree.

A person is guilty of coercion in the first degree when he or she commits the crime of coercion in the third degree, and when: 1. He or she commits such crime by instilling in the victim a fear that he or she will cause physical injury to a person or cause damage to property; or 2. He or she thereby compels or induces the victim to:(a) Commit or attempt to commit a felony; or(b) Cause or attempt to cause physical injury to a person; or(c) Violate his or her duty as a public servant.Coercion in the first degree is a class D felony. (a) Commit or attempt to commit a felony; or (b) Cause or attempt to cause physical injury to a person; or (c) Violate his or her duty

as a public servant. Coercion in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 135 - Kidnapping, Coercion and Related Offenses135.70 - Coercion; No Defense.

The crimes of (a) coercion and attempt to commit coercion, and (b) bribe receiving by a labor official as defined in section 180.20, and bribe receiving as defined in section 200.05, are not mutually exclusive, and it is no defense to a prosecution for coercion or an attempt to commit coercion that, by reason of the same conduct, the defendant also committed one of such specified crimes of bribe receiving.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle H - Offenses Against the Person Involving Physical Injury, Sexual Conduct, Restraint and IntimidationArticle 135 - Kidnapping, Coercion and Related Offenses135.75 - Coercion; Defense.

In any prosecution for coercion committed by instilling in the victim a fear that he or another person would be charged with a crime, it is an affirmative defense that the defendant reasonably believed the threatened charge to be true and that his sole purpose was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of such threatened charge.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 140 - Burglary and Related Offenses140.00 - Criminal Trespass and Burglary; Definitions of Terms.

The following definitions are applicable to this article: 1. "Premises" includes the term "building," as defined herein, and any real property. 2. "Building," in addition to its ordinary meaning, includes any structure, vehicle or watercraft used for overnight lodging of persons, or used by persons for carrying on business therein, or used as an elementary or secondary school, or an inclosed motor truck, or an inclosed motor truck trailer. Where a building consists of two or more units separately secured or occupied, each unit shall be deemed both a separate building in itself and a part of the main building. 3. "Dwelling" means a building which is usually occupied by a person lodging therein at night. 4. "Night" means the period between thirty minutes after sunset and thirty minutes before sunrise. 5. "Enter or remain unlawfully." A person "enters or remains unlawfully" in or upon premises when he is not licensed or privileged to do so. A person who, regardless of his intent, enters or remains in or upon premises which are at the time open to the public does so with license and privilege unless he defies a lawful order not to enter or remain, personally communicated to him by the owner of such premises or other authorized person. A license or privilege to enter or remain in a building which is only partly open to the public is not a license or privilege to enter or remain in that part of the building which is not open to the public. A person who enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, does so with license and privilege unless notice against trespass is personally communicated to him by the owner of such land or other authorized person, or unless such notice is given by posting in a conspicuous manner. A person who enters or remains in or about a school building without written permission from someone authorized to issue such permission or without a legitimate reason which includes a relationship involving custody of or responsibility for a pupil or student enrolled in the school or without legitimate business or a purpose relating to the operation of the school does so without license and privilege.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 140 - Burglary and Related Offenses140.05 - Trespass.

A person is guilty of trespass when he knowingly enters or remains unlawfully in or upon premises. Trespass is a violation.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 140 - Burglary and Related Offenses140.10 - Criminal Trespass in the Third Degree.

A person is guilty of criminal trespass in the third degree when he knowingly enters or remains unlawfully in a building or upon real property(a) which is fenced or otherwise enclosed in a manner designed to exclude intruders; or(b) where the building is utilized as an elementary or secondary school or a children's overnight camp as defined in section one thousand three hundred ninety-two of the public health law or a summer day camp as defined in section one thousand three hundred ninety-two of the public health law in violation of conspicuously posted rules or regulations governing entry and use thereof; or(c) located within a city with a population in excess of one million and where the building or real property is utilized as an elementary or secondary school in violation of a personally communicated request to leave the premises from a principal, custodian or other person in charge thereof; or(d) located outside of a city with a population in excess of one million and where the building or real property is utilized as an elementary or secondary school in violation of a personally communicated request to leave the premises from a principal, custodian, school board member or trustee, or other person in charge thereof; or(e) where the building is used as a public housing project in violation of conspicuously posted rules or regulations governing entry and use thereof; or(f) where a building is used as a public housing project in violation of a personally communicated request to leave the premises from a housing police officer or other person in charge thereof; or(g) where the property consists of a right-of-way or yard of a railroad or rapid transit railroad which has been designated and conspicuously posted as a no-trespass railroad zone.Criminal trespass in the third degree is a class B misdemeanor. (a) which is

fenced or otherwise enclosed in a manner designed to exclude intruders; or (b) where the building is utilized as an elementary or secondary school or a children's overnight camp as defined in section one thousand three hundred ninety-two of the public health law or a summer day camp as defined in section one thousand three hundred ninety-two of the public health law in violation of conspicuously posted rules or regulations governing entry and use thereof; or (c) located within a city with a population in excess of one million and where the building or real property is utilized as an elementary or secondary school in violation of a personally communicated request to leave the premises from a principal, custodian or other person in charge thereof; or (d) located outside of a city with a population in excess of one million and where the building or real property is utilized as an elementary or secondary school in violation of a personally communicated request to leave the premises from a principal, custodian, school board member or trustee, or other person in charge thereof; or (e) where the building is used as a public housing project in violation of conspicuously posted rules or regulations governing entry and use thereof; or (f) where a building is used as a public housing project in violation of a personally communicated request to leave the premises from a housing police officer or other person in charge thereof; or (g) where the property consists of a right-of-way or yard of a railroad or rapid transit railroad which has been designated and conspicuously posted as a no-trespass railroad zone. Criminal trespass in the third degree is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 140 - Burglary and Related Offenses140.15 - Criminal Trespass in the Second Degree.

A person is guilty of criminal trespass in the second degree when: 1. he or she knowingly enters or remains unlawfully in a dwelling; or 2. being a person required to maintain registration under article six-C of the correction law and designated a level two or level three offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law, he or she enters or remains in a public or private elementary, parochial, intermediate, junior high, vocational or high school knowing that the victim of the offense for which such registration is required attends or formerly attended such school. It shall not be an offense subject to prosecution under this subdivision if: the person is a lawfully registered student at such school; the person is a lawful student participant in a school sponsored event; the person is a parent or a legal guardian of a lawfully registered student at such school and enters the school for the purpose of attending their child's or dependent's event or activity; such school is the person's designated polling place and he or she enters such school building for the limited purpose of voting; or if the person enters such school building for the limited purposes authorized by the superintendent or chief administrator of such school. Criminal trespass in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 140 - Burglary and Related Offenses140.17 - Criminal Trespass in the First Degree.

A person is guilty of criminal trespass in the first degree when he knowingly enters or remains unlawfully in a building, and when, in the course of committing such crime, he: 1. Possesses, or knows that another participant in the crime possesses, an explosive or a deadly weapon; or 2. Possesses a firearm, rifle or shotgun, as those terms are defined in section 265.00, and also possesses or has readily accessible a quantity of ammunition which is capable of being discharged from such firearm, rifle or shotgun; or 3. Knows that another participant in the crime possesses a firearm, rifle or shotgun under circumstances described in subdivision two. Criminal trespass in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 140 - Burglary and Related Offenses140.20 - Burglary in the Third Degree.

A person is guilty of burglary in the third degree when he knowingly enters or remains unlawfully in a building with intent to commit a crime therein. Burglary in the third degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 140 - Burglary and Related Offenses140.25 - Burglary in the Second Degree.

A person is guilty of burglary in the second degree when he knowingly enters or remains unlawfully in a building with intent to commit a crime therein, and when: 1. In effecting entry or while in the building or in immediate flight therefrom, he or another participant in the crime:(a) Is armed with explosives or a deadly weapon; or(b) Causes physical injury to any person who is not a participant in the crime; or(c) Uses or threatens the immediate use of a dangerous instrument; or(d) Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or2. The building is a dwelling.Burglary in the second degree is a class C felony. (a) Is armed with explosives or a deadly weapon; or (b) Causes physical injury to any person who is not a participant in the crime; or (c) Uses or threatens the immediate use of a dangerous instrument; or (d) Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or 2. The building is a dwelling. Burglary in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 140 - Burglary and Related Offenses140.30 - Burglary in the First Degree.

A person is guilty of burglary in the first degree when he knowingly enters or remains unlawfully in a dwelling with intent to commit a crime therein, and when, in effecting entry or while in the dwelling or in immediate flight therefrom, he or another

participant in the crime: 1. Is armed with explosives or a deadly weapon; or 2. Causes physical injury to any person who is not a participant in the crime; or 3. Uses or threatens the immediate use of a dangerous instrument; or 4. Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; except that in any prosecution under this subdivision, it is an affirmative defense that such pistol, revolver, rifle, shotgun, machine gun or other firearm was not a loaded weapon from which a shot, readily capable of producing death or other serious physical injury, could be discharged. Nothing contained in this subdivision shall constitute a defense to a prosecution for, or preclude a conviction of, burglary in the second degree, burglary in the third degree or any other crime. Burglary in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 140 - Burglary and Related Offenses140.35 - Possession of Burglar's Tools.

A person is guilty of possession of burglar's tools when he possesses any tool, instrument or other article adapted, designed or commonly used for committing or facilitating offenses involving forcible entry into premises, or offenses involving larceny by a physical taking, or offenses involving theft of services as defined in subdivisions four, five and six of section 165.15, under circumstances evincing an intent to use or knowledge that some person intends to use the same in the commission of an offense of such character. Possession of burglar's tools is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 140 - Burglary and Related Offenses140.40 - Unlawful Possession of Radio Devices.

As used in this section, the term "radio device" means any device capable of receiving a wireless voice transmission on any frequency allocated for police use, or any device capable of transmitting and receiving a wireless voice transmission. A person is guilty of unlawful possession of a radio device when he possesses a radio device with the intent to use that device in the commission of robbery, burglary, larceny, gambling or a violation of any provision of article two hundred twenty of the penal law. Unlawful possession of a radio device is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.00 - Criminal Mischief in the Fourth Degree.

A person is guilty of criminal mischief in the fourth degree when, having no right to do so nor any reasonable ground to believe that he or she has such right, he or she: 1. Intentionally damages property of another person; or 2. Intentionally participates in the destruction of an abandoned building as defined in section one thousand nine hundred seventy-one-a of the real property actions and proceedings law; or 3. Recklessly damages property of another person in an amount exceeding two hundred fifty dollars; or 4. With intent to prevent a person from communicating a request for emergency assistance, intentionally disables or removes telephonic, TTY or similar communication sending equipment while that person: (a) is attempting to seek or is engaged in the process of seeking emergency assistance from police, law enforcement, fire or emergency medical services personnel; or (b) is attempting to seek or is engaged in the process of seeking emergency assistance from another person or entity in order to protect himself, herself or a third person from imminent physical injury. The fact that the defendant has an ownership interest in such equipment shall not be a defense to a charge pursuant to this subdivision. Criminal mischief in the fourth degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.05 - Criminal Mischief in the Third Degree.

A person is guilty of criminal mischief in the third degree when, with intent to damage property of another person, and having no right to do so nor any reasonable ground to believe that he or she has such right, he or she: 1. damages the motor vehicle of another person, by breaking into such vehicle when it is locked with the intent of stealing property, and within the previous ten year period, has been convicted three or more times, in separate criminal transactions for which sentence was imposed on separate occasions, of criminal mischief in the fourth degree as defined in section 145.00, criminal mischief in the third degree as defined in this section, criminal mischief in the second degree as defined in section 145.10, or criminal mischief in the first degree as defined in section 145.12 of this article; or 2. damages property of another person in an amount exceeding two hundred fifty dollars. Criminal mischief in the third degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.10 - Criminal Mischief in the Second Degree.

A person is guilty of criminal mischief in the second degree when with intent to damage property of another person, and having no right to do so nor any reasonable ground to believe that he has such right, he damages property of another person in an amount exceeding one thousand five hundred dollars. Criminal mischief in the second degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.12 - Criminal Mischief in the First Degree.

A person is guilty of criminal mischief in the first degree when with intent to damage property of another person, and having no right to do so nor any reasonable ground to believe that he has such right, he damages property of another person by means of an

explosive. Criminal mischief in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.13 - Definitions.

For the purposes of sections 145.00, 145.05, 145.10 and 145.12 of this article: "Property of another" shall include all property in which another person has an ownership interest, whether or not a person who damages such property, or any other person, may also have an interest in such property.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.14 - Criminal Tampering in the Third Degree.

A person is guilty of criminal tampering in the third degree when, having no right to do so nor any reasonable ground to believe that he has such right, he tampers with property of another person with intent to cause substantial inconvenience to such person or to a third person. Criminal tampering in the third degree is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.15 - Criminal Tampering in the Second Degree.

A person is guilty of criminal tampering in the second degree when, having no right to do so nor any reasonable ground to believe that he has such right, he or she tampers or makes connection with property of a gas, electric, sewer, steam or water-works corporation, telephone or telegraph corporation, common carrier, nuclear powered electric generating facility, or public utility operated by a municipality or district; except that in any prosecution under this section, it is an affirmative defense that the defendant did not engage in such conduct for a larcenous or otherwise unlawful or wrongful purpose. Criminal tampering in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.20 - Criminal Tampering in the First Degree.

A person is guilty of criminal tampering in the first degree when, with intent to cause a substantial interruption or impairment of a service rendered to the public, and having no right to do so nor any reasonable ground to believe that he or she has such right, he or she damages or tampers with property of a gas, electric, sewer, steam or water-works corporation, telephone or telegraph corporation, common carrier, nuclear powered electric generating facility, or public utility operated by a municipality or district, and thereby causes such substantial interruption or impairment of service. Criminal tampering in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.22 - Cemetery Desecration in the Second Degree.

A person is guilty of cemetery desecration in the second degree when: (a) with intent to damage property of another person, and having no right to do so nor any reasonable ground to believe that he has such right, he damages any real or personal property maintained as a cemetery plot, grave, burial place or other place of interment of human remains; or(b) with intent to steal personal property, he steals personal property which is located at a cemetery plot, grave, burial place or other place of interment of human remains and which property is owned by the person or organization which maintains or owns such place or the estate, next-of-kin or representatives of the deceased person interred there.Cemetery desecration in the second degree is a class A misdemeanor. (b) with intent to steal personal property, he steals personal property which is located at a cemetery plot, grave, burial place or other place of interment of human remains and which property is owned by the person or organization which maintains or owns such place or the estate, next-of-kin or representatives of the deceased person interred there. Cemetery desecration in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.23 - Cemetery Desecration in the First Degree.

A person is guilty of cemetery desecration in the first degree when with intent to damage property of another person, and having no right to do so nor any reasonable ground to believe that he has such right, he:(a) damages any real or personal property maintained as a cemetery plot, grave, burial place or other place of interment of human remains in an amount exceeding two hundred fifty dollars; or(b) with intent to steal personal property, he steals personal property, the value of which exceeds two hundred fifty dollars, which is located at a cemetery plot, grave, burial place or other place of interment of human remains and which property is owned by the person or organization which maintains or owns such place or the estate, next-of-kin or representatives of the deceased person interred there; or(c) commits the crime of cemetery desecration in the second degree as defined in section 145.22 of this article and has been previously convicted of the crime of cemetery desecration in the second degree within the preceding five years.Cemetery desecration in the first degree is a class E felony. (a) damages any real or personal property maintained as a cemetery plot, grave, burial place or other place of interment of human remains in an amount exceeding two hundred fifty dollars; or (b) with intent to steal personal property, he steals personal property, the value of which exceeds two hundred fifty dollars, which is located at a cemetery plot, grave, burial place or other place of interment of human remains and which property is owned by the person or

organization which maintains or owns such place or the estate, next-of-kin or representatives of the deceased person interred there; or (c) commits the crime of cemetery desecration in the second degree as defined in section 145.22 of this article and has been previously convicted of the crime of cemetery desecration in the second degree within the preceding five years. Cemetery desecration in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.25 - Reckless Endangerment of Property.

A person is guilty of reckless endangerment of property when he recklessly engages in conduct which creates a substantial risk of damage to the property of another person in an amount exceeding two hundred fifty dollars. Reckless endangerment of property is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.26 - Aggravated Cemetery Desecration in the Second Degree.

A person is guilty of aggravated cemetery desecration in the second degree when, having no right to do so nor any reasonable ground to believe that he or she has such right, he or she opens a casket, crypt, or similar vessel containing a human body or human remains which has been buried or otherwise interred in a cemetery and unlawfully removes therefrom a body, bodily part, any human remains or any object contained in such casket, crypt or similar vessel for the purpose of obtaining unlawful possession of such body, bodily part, human remains or object for such person or a third person. Aggravated cemetery desecration in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.27 - Aggravated Cemetery Desecration in the First Degree.

A person is guilty of aggravated cemetery desecration in the first degree when such person commits the crime of aggravated cemetery desecration in the second degree and has been previously convicted within the past five years of the crime of cemetery desecration in the second degree as defined in section 145.22 of this article, cemetery desecration in the first degree as defined in section 145.23 of this article or aggravated cemetery desecration in the second degree as defined in section 145.26 of this article. Aggravated cemetery desecration in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.30 - Unlawfully Posting Advertisements.

1. A person is guilty of unlawfully posting advertisements when, having no right to do so nor any reasonable ground to believe that he has such right, he posts, paints or otherwise affixes to the property of another person any advertisement, poster, notice or other matter designed to benefit a person other than the owner of the property. 2. Where such matter consists of a commercial advertisement, it shall be presumed that the vendor of the specified product, service or entertainment is a person who placed such advertisement or caused it to be placed upon the property. Unlawfully posting advertisements is a violation.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.35 - Tampering With a Consumer Product; Consumer Product Defined.

For the purposes of sections 145.40 and 145.45 of this article, "consumer product" means any drug, food, beverage or thing which is displayed or offered for sale to the public, for administration into or ingestion by a human being or for application to any external surface of a human being.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.40 - Tampering With a Consumer Product in the Second Degree.

A person is guilty of tampering with a consumer product in the second degree when, having no right to do so nor any reasonable ground to believe that he has such right, and with intent to cause physical injury to another or with intent to instill in another a fear that he will cause such physical injury, he alters, adulterates or otherwise contaminates a consumer product. Tampering with a consumer product in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.45 - Tampering With a Consumer Product in the First Degree.

A person is guilty of tampering with a consumer product in the first degree when, having no right to do so nor any reasonable ground to believe that he has such right, and with intent to cause physical injury to another or with intent to instill in another a fear

that he will cause such physical injury, he alters, adulterates or otherwise contaminates a consumer product and thereby creates a substantial risk of serious physical injury to one or more persons. Tampering with a consumer product in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.50 - Penalties for Littering on Railroad Tracks and Rights-of-Way.

1. No person shall throw, dump, or cause to be thrown, dumped, deposited or placed upon any railroad tracks, or within the limits of the rights-of-way of any railroad, any refuse, trash, garbage, rubbish, litter or any nauseous or offensive matter. 2. Where a highway or road lies in whole or part within a railroad rights-of-way, nothing in this section shall be construed as prohibiting the use in a reasonable manner of ashes, sand, salt or other material for the purpose of reducing the hazard of, or providing traction on snow, ice or sleet situated on such highway or road. 3. A violation of the provisions of subdivision one of this section shall be punishable by a fine not to exceed two hundred fifty dollars and/or a requirement to perform services for a public or not-for-profit corporation, association, institution or agency not to exceed eight hours and for any second or subsequent violation by a fine not to exceed five hundred dollars and/or a requirement to perform services for a public or not-for-profit corporation, association, institution or agency not to exceed eight hours. 4. Nothing in this section shall be deemed to apply to a railroad or its employees when matter deposited by them on the railroad tracks or rights-of-way is done pursuant to railroad rules, regulations or procedures.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.60 - Making Graffiti.

1. For purposes of this section, the term "graffiti" shall mean the etching, painting, covering, drawing upon or otherwise placing of a mark upon public or private property with intent to damage such property. 2. No person shall make graffiti of any type on any building, public or private, or any other property real or personal owned by any person, firm or corporation or any public agency or instrumentality, without the express permission of the owner or operator of said property. Making graffiti is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.65 - Possession of Graffiti Instruments.

A person is guilty of possession of graffiti instruments when he possesses any tool, instrument, article, substance, solution or other compound designed or commonly used to etch, paint, cover, draw upon or otherwise place a mark upon a piece of property which that person has no permission or authority to etch, paint, cover, draw upon or otherwise mark, under circumstances evincing an intent to use same in order to damage such property. Possession of graffiti instruments is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 145 - Criminal Mischief and Related Offenses145.70 - Criminal Possession of a Taximeter Accelerating Device.

1. For purposes of this section, a "taximeter" means an instrument or device that automatically calculates and displays the charge to a passenger in a vehicle that is licensed to transport members of the public for hire pursuant to local law. 2. For purposes of this section, a "taximeter accelerating device" means an instrument or device that causes a taximeter to increase the charge displayed by such taximeter to an amount greater than the maximum amount permitted by local law. 3. A person is guilty of criminal possession of a taximeter accelerating device when he knowingly possesses, with intent to use unlawfully, a taximeter accelerating device. If such a device is knowingly possessed there is a rebuttable presumption that it is intended to be used unlawfully. Criminal possession of a taximeter accelerating device is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 150 - Arson150.00 - Arson; Definitions.

As used in this article, 1. "Building", in addition to its ordinary meaning, includes any structure, vehicle or watercraft used for overnight lodging of persons, or used by persons for carrying on business therein. Where a building consists of two or more units separately secured or occupied, each unit shall not be deemed a separate building. 2. "Motor vehicle", includes every vehicle operated or driven upon a public highway which is propelled by any power other than muscular power, except (a) electrically-driven invalid chairs being operated or driven by an invalid, (b) vehicles which run only upon rails or tracks, and (c) snowmobiles as defined in article forty-seven of the vehicle and traffic law.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 150 - Arson150.01 - Arson in the Fifth Degree.

§ 150.01 Arson in the fifth degree. A person is guilty of arson in the fifth degree when he or she intentionally damages property of another without consent of the owner by intentionally starting a fire or causing an explosion. Arson in the fifth degree is a class A misdemeanor.

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2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 150 - Arson150.05 - Arson in the Fourth Degree.

1. A person is guilty of arson in the fourth degree when he recklessly damages a building or motor vehicle by intentionally starting a fire or causing an explosion. 2. In any prosecution under this section, it is an affirmative defense that no person other than the defendant had a possessory or proprietary interest in the building or motor vehicle. Arson in the fourth degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 150 - Arson150.10 - Arson in the Third Degree.

1. A person is guilty of arson in the third degree when he intentionally damages a building or motor vehicle by starting a fire or causing an explosion. 2. In any prosecution under this section, it is an affirmative defense that (a) no person other than the defendant had a possessory or proprietary interest in the building or motor vehicle, or if other persons had such interests, all of them consented to the defendant's conduct, and (b) the defendant's sole intent was to destroy or damage the building or motor vehicle for a lawful and proper purpose, and (c) the defendant had no reasonable ground to believe that his conduct might endanger the life or safety of another person or damage another building or motor vehicle. Arson in the third degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 150 - Arson150.15 - Arson in the Second Degree.

A person is guilty of arson in the second degree when he intentionally damages a building or motor vehicle by starting a fire, and when (a) another person who is not a participant in the crime is present in such building or motor vehicle at the time, and (b) the defendant knows that fact or the circumstances are such as to render the presence of such a person therein a reasonable possibility. Arson in the second degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle I - Offenses Involving Damage to and Intrusion Upon PropertyArticle 150 - Arson150.20 - Arson in the First Degree.

1. A person is guilty of arson in the first degree when he intentionally damages a building or motor vehicle by causing an explosion or a fire and when (a) such explosion or fire is caused by an incendiary device propelled, thrown or placed inside or near such building or motor vehicle; or when such explosion or fire is caused by an explosive; or when such explosion or fire either (i) causes serious physical injury to another person other than a participant, or (ii) the explosion or fire was caused with the expectation or receipt of financial advantage or pecuniary profit by the actor; and when (b) another person who is not a participant in the crime is present in such building or motor vehicle at the time; and (c) the defendant knows that fact or the circumstances are such as to render the presence of such person therein a reasonable possibility. 2. As used in this section, "incendiary device" means a breakable container designed to explode or produce uncontained combustion upon impact, containing flammable liquid and having a wick or a similar device capable of being ignited. Arson in the first degree is a class A-I felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 155 - Larceny155.00 - Larceny; Definitions of Terms.

The following definitions are applicable to this title: 1. "Property" means any money, compensation for labor or services, personal property, real property, computer data, computer program, thing in action, evidence of debt or contract, or any article, substance or thing of value, including any gas, steam, water or electricity, which is provided for a charge or compensation. 2. "Obtain" includes, but is not limited to, the bringing about of a transfer or purported transfer of property or of a legal interest therein, whether to the obtainer or another. 3. "Deprive." To "deprive" another of property means (a) to withhold it or cause it to be withheld from him permanently or for so extended a period or under such circumstances that the major portion of its economic value or benefit is lost to him, or (b) to dispose of the property in such manner or under such circumstances as to render it unlikely that an owner will recover such property. 4. "Appropriate." To "appropriate" property of another to oneself or a third person means (a) to exercise control over it, or to aid a third person to exercise control over it, permanently or for so extended a period or under such circumstances as to acquire the major portion of its economic value or benefit, or (b) to dispose of the property for the benefit of oneself or a third person. 5. "Owner." When property is taken, obtained or withheld by one person from another person, an "owner" thereof means any person who has a right to possession thereof superior to that of the taker, obtainer or withholder. A person who has obtained possession of property by theft or other illegal means shall be deemed to have a right of possession superior to that of a person who takes, obtains or withholds it from him by larcenous means. A joint or common owner of property shall not be deemed to have a right of possession thereto superior to that of any other joint or common owner thereof. In the absence of a specific agreement to the contrary, a person in lawful possession of property shall be deemed to have a right of possession superior to that of a person having only a security interest therein, even if legal title lies with the holder of the security interest pursuant to a conditional sale contract or other security agreement. 6. "Secret scientific material" means a sample, culture, micro-organism, specimen, record, recording, document, drawing or any other article, material, device or substance which constitutes, represents, evidences, reflects, or records a scientific or technical process, invention or formula or any part or phase thereof, and which is not, and is not intended to be,

available to anyone other than the person or persons rightfully in possession thereof or selected persons having access thereto with his or their consent, and when it accords or may accord such rightful possessors an advantage over competitors or other persons who do not have knowledge or the benefit thereof. 7. "Credit card" means any instrument or article defined as a credit card in section five hundred eleven of the general business law. 7-a. "Debit card" means any instrument or article defined as a debit card in section five hundred eleven of the general business law. 7-b. "Public benefit card" means any medical assistance card, food stamp assistance card, public assistance card, or any other identification, authorization card or electronic access device issued by the state or a social services district as defined in subdivision seven of section two of the social services law, which entitles a person to obtain public assistance benefits under a local, state or federal program administered by the state, its political subdivisions or social services districts. 7-c. "Access device" means any telephone calling card number, credit card number, account number, mobile identification number, electronic serial number or personal identification number that can be used to obtain telephone service. 8. "Service" includes, but is not limited to, labor, professional service, a computer service, transportation service, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water. A ticket or equivalent instrument which evidences a right to receive a service is not in itself service but constitutes property within the meaning of subdivision one. 9. "Cable television service" means any and all services provided by or through the facilities of any cable television system or closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system. 10. "Workforce" means a group of one or more persons who work in exchange for wages. 11. "Residential real property" or any derivative word thereof shall have the same meaning as defined in subdivision three of section 187.00 of this part. 12. "Commercial property" or any derivative word thereof shall mean a nonresidential property used for the buying, selling or otherwise providing of goods or services including hotel services, or for other lawful business, commercial or manufacturing activities. 13. "Mixed-use property" shall have the same meaning as defined in subdivision twenty-two of section four hundred eighty-nine-aaaa of the real property tax law. 14. "Incompetent" shall have the same meaning as defined in section 1-2.9 of the estates, powers and trusts law. 15. "Incapacitated person" shall mean a person who, because of mental disability as defined in subdivision three of section 1.03 of the mental hygiene law or mental deficiency, is unable to care for their own property and/or personal needs, and is likely to suffer harm because such person is unable to understand and appreciate the nature and consequences of not being able to care for their property and/or personal needs. 16. "Elderly person" means a person sixty years of age or older.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 155 - Larceny155.05 - Larceny; Defined.

1. A person steals property and commits larceny when, with intent to deprive another of property or to appropriate the same to himself or to a third person, he wrongfully takes, obtains or withholds such property from an owner thereof. 2. Larceny includes a wrongful taking, obtaining or withholding of another's property, with the intent prescribed in subdivision one of this section, committed in any of the following ways:(a) By conduct heretofore defined or known as common law larceny by trespassory taking, common law larceny by trick, embezzlement, or obtaining property by false pretenses;(b) By acquiring lost property.A person acquires lost property when he exercises control over property of another which he knows to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or the nature or amount of the property, without taking reasonable measures to return such property to the owner;(c) By committing the crime of issuing a bad check, as defined in section 190.05;(d) By false promise.A person obtains property by false promise when, pursuant to a scheme to defraud, he obtains property of another by means of a representation, express or implied, that he or a third person will in the future engage in particular conduct, and when he does not intend to engage in such conduct or, as the case may be, does not believe that the third person intends to engage in such conduct.In any prosecution for larceny based upon a false promise, the defendant's intention or belief that the promise would not be performed may not be established by or inferred from the fact alone that such promise was not performed. Such a finding may be based only upon evidence establishing that the facts and circumstances of the case are wholly consistent with guilty intent or belief and wholly inconsistent with innocent intent or belief, and excluding to a moral certainty every hypothesis except that of the defendant's intention or belief that the promise would not be performed;(e) By extortion.A person obtains property by extortion when he compels or induces another person to deliver such property to himself or to a third person by means of instilling in him a fear that, if the property is not so delivered, the actor or another will:(i) Cause physical injury to some person in the future; or(ii) Cause damage to property; or(iii) Engage in other conduct constituting a crime; or(iv) Accuse some person of a crime or cause criminal charges or removal proceedings to be instituted against him or her; or(v) Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or(vi) Cause a strike, boycott or other collective labor group action injurious to some person's business; except that such a threat shall not be deemed extortion when the property is demanded or received for the benefit of the group in whose interest the actor purports to act; or(vii) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or(viii) Use or abuse his position as a public servant by performing some act within or related to his official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or(ix) Perform any other act which would not in itself materially benefit the actor but which is calculated to harm another person materially with respect to such other person's health, safety, business, calling, career, financial condition, reputation or personal relationships;or(f) By wage theft.A person obtains property by wage theft when such person hires a person to perform services and the person performs such services and the person does not pay wages, at the

minimum wage rate and overtime, or promised wage, if greater than the minimum wage rate and overtime, to said person for work performed. In a prosecution for wage theft, for the purposes of venue, it is permissible to aggregate all nonpayments or underpayments to one person from one person, into one larceny count, even if the nonpayments or underpayments occurred in multiple counties. It is also permissible to aggregate nonpayments or underpayments from a workforce into one larceny count even if such nonpayments or underpayments occurred in multiple counties; or(g) By deed theft. A person commits deed theft when such person:(i) Intentionally alters, falsifies, forges, or misrepresents any written instrument involved in the conveyance or financing of real property, such as a residential or commercial deed or title, with the intent to deceive, defraud, or unlawfully transfer or encumber the ownership rights or a portion thereof of a residential or commercial property; or(ii) with intent to defraud, misrepresents themselves as the owner or authorized representative of residential or commercial real property to induce others to rely on such false information in order to obtain ownership or possession of such real property; or(iii) with intent to defraud, takes, obtains, or transfers title or ownership of real property by fraud, misrepresentation, forgery, larceny, false pretenses, false promise, or any other fraudulent or deceptive practice. (a) By conduct heretofore defined or known as common law larceny by trespassory taking, common law larceny by trick, embezzlement, or obtaining property by false pretenses; (b) By acquiring lost property. A person acquires lost property when he exercises control over property of another which he knows to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or the nature or amount of the property, without taking reasonable measures to return such property to the owner; (c) By committing the crime of issuing a bad check, as defined in section 190.05; (d) By false promise. A person obtains property by false promise when, pursuant to a scheme to defraud, he obtains property of another by means of a representation, express or implied, that he or a third person will in the future engage in particular conduct, and when he does not intend to engage in such conduct or, as the case may be, does not believe that the third person intends to engage in such conduct. In any prosecution for larceny based upon a false promise, the defendant's intention or belief that the promise would not be performed may not be established by or inferred from the fact alone that such promise was not performed. Such a finding may be based only upon evidence establishing that the facts and circumstances of the case are wholly consistent with guilty intent or belief and wholly inconsistent with innocent intent or belief, and excluding to a moral certainty every hypothesis except that of the defendant's intention or belief that the promise would not be performed; (e) By extortion. A person obtains property by extortion when he compels or induces another person to deliver such property to himself or to a third person by means of instilling in him a fear that, if the property is not so delivered, the actor or another will: (i) Cause physical injury to some person in the future; or (ii) Cause damage to property; or (iii) Engage in other conduct constituting a crime; or (iv) Accuse some person of a crime or cause criminal charges or removal proceedings to be instituted against him or her; or (v) Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or (vi) Cause a strike, boycott or other collective labor group action injurious to some person's business; except that such a threat shall not be deemed extortion when the property is demanded or received for the benefit of the group in whose interest the actor purports to act; or (vii) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or (viii) Use or abuse his position as a public servant by performing some act within or related to his official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or (ix) Perform any other act which would not in itself materially benefit the actor but which is calculated to harm another person materially with respect to such other person's health, safety, business, calling, career, financial condition, reputation or personal relationships;or (f) By wage theft. A person obtains property by wage theft when such person hires a person to perform services and the person performs such services and the person does not pay wages, at the minimum wage rate and overtime, or promised wage, if greater than the minimum wage rate and overtime, to said person for work performed. In a prosecution for wage theft, for the purposes of venue, it is permissible to aggregate all nonpayments or underpayments to one person from one person, into one larceny count, even if the nonpayments or underpayments occurred in multiple counties. It is also permissible to aggregate nonpayments or underpayments from a workforce into one larceny count even if such nonpayments or underpayments occurred in multiple counties; or (g) By deed theft. A person commits deed theft when such person: (i) Intentionally alters, falsifies, forges, or misrepresents any written instrument involved in the conveyance or financing of real property, such as a residential or commercial deed or title, with the intent to deceive, defraud, or unlawfully transfer or encumber the ownership rights or a portion thereof of a residential or commercial property; or (ii) with intent to defraud, misrepresents themselves as the owner or authorized representative of residential or commercial real property to induce others to rely on such false information in order to obtain ownership or possession of such real property; or (iii) with intent to defraud, takes, obtains, or transfers title or ownership of real property by fraud, misrepresentation, forgery, larceny, false pretenses, false promise, or any other fraudulent or deceptive practice.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 155 - Larceny155.10 - Larceny; No Defense.

The crimes of (a) larceny committed by means of extortion and an attempt to commit the same, and (b) bribe receiving by a labor official as defined in section 180.20, and bribe receiving as defined in section 200.05, are not mutually exclusive, and it is no defense to a prosecution for larceny committed by means of extortion or for an attempt to commit the same that, by reason of the same conduct, the defendant also committed one of such specified crimes of bribe receiving.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 155 - Larceny155.15 - Larceny; Defenses.

1. In any prosecution for larceny committed by trespassory taking or embezzlement, it is an affirmative defense that the property was appropriated under a claim of right made in good faith. 2. In any prosecution for larceny by extortion committed by instilling in the victim a fear that he or another person would be charged with a crime, it is an affirmative defense that the defendant reasonably believed the threatened charge to be true and that his sole purpose was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of such threatened charge.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 155 - Larceny155.20 - Larceny; Value of Stolen Property.

For the purposes of this title, the value of property shall be ascertained as follows: 1. Except as otherwise specified in this section, value means the market value of the property at the time and place of the crime, or if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the crime. 2. Whether or not they have been issued or delivered, certain written instruments, not including those having a readily ascertainable market value such as some public and corporate bonds and securities, shall be evaluated as follows:(a) The value of an instrument constituting an evidence of debt, such as a check, draft or promissory note, shall be deemed the amount due or collectable thereon or thereby, such figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied.(b) The value of a ticket or equivalent instrument which evidences a right to receive a transportation, entertainment or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon the value shall be deemed the price of such ticket or equivalent instrument which the issuer charges the general public.(c) The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument.3. Where the property consists of gas, steam, water or electricity, which is provided for charge or compensation, the value shall be the value of the property stolen in any consecutive twelve-month period.4. When the value of property cannot be satisfactorily ascertained pursuant to the standards set forth in subdivisions one and two of this section, its value shall be deemed to be an amount less than two hundred fifty dollars. (a) The value of an instrument constituting an evidence of debt, such as a check, draft or promissory note, shall be deemed the amount due or collectable thereon or thereby, such figure ordinarily being the face amount of the indebtedness less any portion thereof which has been satisfied. (b) The value of a ticket or equivalent instrument which evidences a right to receive a transportation, entertainment or other service shall be deemed the price stated thereon, if any; and if no price is stated thereon the value shall be deemed the price of such ticket or equivalent instrument which the issuer charges the general public. (c) The value of any other instrument which creates, releases, discharges or otherwise affects any valuable legal right, privilege or obligation shall be deemed the greatest amount of economic loss which the owner of the instrument might reasonably suffer by virtue of the loss of the instrument. 3. Where the property consists of gas, steam, water or electricity, which is provided for charge or compensation, the value shall be the value of the property stolen in any consecutive twelve-month period. 4. When the value of property cannot be satisfactorily ascertained pursuant to the standards set forth in subdivisions one and two of this section, its value shall be deemed to be an amount less than two hundred fifty dollars.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 155 - Larceny155.25 - Petit Larceny.

A person is guilty of petit larceny when he steals property. Petit larceny is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 155 - Larceny155.30 - Grand Larceny in the Fourth Degree.

A person is guilty of grand larceny in the fourth degree when he steals property and when: 1. The value of the property exceeds one thousand dollars; or 2. The property consists of a public record, writing or instrument kept, filed or deposited according to law with or in the keeping of any public office or public servant; or 3. The property consists of secret scientific material; or 4. The property consists of a credit card or debit card; or 5. The property, regardless of its nature and value, is taken from the person of another; or 6. The property, regardless of its nature and value, is obtained by extortion; or 7. The property consists of one or more firearms, rifles or shotguns, as such terms are defined in section 265.00 of this chapter; or 8. The value of the property exceeds one hundred dollars and the property consists of a motor vehicle, as defined in section one hundred twenty-five of the vehicle and traffic law, other than a motorcycle, as defined in section one hundred twenty-three of such law; or 9. The property consists of a scroll, religious vestment, a vessel, an item comprising a display of religious symbols which forms a representative expression of faith, or other miscellaneous item of property which:(a) has a value of at least one hundred dollars; and(b) is kept for or used in connection with religious worship in any building, structure or upon the curtilage of such building or structure used as a place of religious worship by a religious corporation, as incorporated under the religious corporations law or the education law; or10. The property consists of an access device which the person intends to use unlawfully to obtain telephone service; or11. The property consists of anhydrous ammonia or liquified ammonia gas and the actor intends to use, or knows another person intends to use, such anhydrous ammonia or liquified ammonia gas to manufacture methamphetamine; or12. The property consists of retail goods or merchandise stolen pursuant to a common scheme or plan or a single, ongoing intent to deprive another or others of the property or to appropriate the property to the actor or another person and the value of the property exceeds one thousand dollars, which value may be determined by the aggregate value of all such property regardless of whether the goods or merchandise were stolen from the same owner. Nothing in this subdivision shall be read to limit the ability to aggregate the value of any property or the ability to charge the larceny of retail goods

or merchandise under another applicable provision of law.Grand larceny in the fourth degree is a class E felony. (a) has a value of at least one hundred dollars; and (b) is kept for or used in connection with religious worship in any building, structure or upon the curtilage of such building or structure used as a place of religious worship by a religious corporation, as incorporated under the religious corporations law or the education law; or 10. The property consists of an access device which the person intends to use unlawfully to obtain telephone service; or 11. The property consists of anhydrous ammonia or liquified ammonia gas and the actor intends to use, or knows another person intends to use, such anhydrous ammonia or liquified ammonia gas to manufacture methamphetamine; or 12. The property consists of retail goods or merchandise stolen pursuant to a common scheme or plan or a single, ongoing intent to deprive another or others of the property or to appropriate the property to the actor or another person and the value of the property exceeds one thousand dollars, which value may be determined by the aggregate value of all such property regardless of whether the goods or merchandise were stolen from the same owner. Nothing in this subdivision shall be read to limit the ability to aggregate the value of any property or the ability to charge the larceny of retail goods or merchandise under another applicable provision of law. Grand larceny in the fourth degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 155 - Larceny155.35 - Grand Larceny in the Third Degree.

A person is guilty of grand larceny in the third degree when such person steals property and: 1. when the value of the property exceeds three thousand dollars, or 2. the property is an automated teller machine or the contents of an automated teller machine, or ** 3. the property consists of retail goods or merchandise stolen pursuant to a common scheme or plan or a single, ongoing intent to deprive another or others of the property or to appropriate the property to the actor or another person and the value of the property exceeds three thousand dollars, which value may be determined by the aggregate value of all such property regardless of whether the goods or merchandise were stolen from the same owner. Nothing in this subdivision shall be read to limit the ability to aggregate the value of any property or the ability to charge the larceny of retail goods or merchandise under another applicable provision of law. ** NB There are 2 sb 3's * 3. when such person commits deed theft of one commercial real property, regardless of the value. ** NB There are 2 sb 3's Grand larceny in the third degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 155 - Larceny155.40 - Grand Larceny in the Second Degree.

A person is guilty of grand larceny in the second degree when such person steals property and when: 1. The value of the property exceeds fifty thousand dollars; or 2. The property, regardless of its nature and value, is obtained by extortion committed by instilling in the victim a fear that the actor or another person will (a) cause physical injury to some person in the future, or (b) cause damage to property, or (c) use or abuse the actor's position as a public servant by engaging in conduct within or related to the actor's official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or ** 3. The property consists of retail goods or merchandise stolen pursuant to a common scheme or plan or a single, ongoing intent to deprive another or others of the property or to appropriate the property to the actor or another person and the value of the property exceeds fifty thousand dollars, which value may be determined by the aggregate value of all such property regardless of whether the goods or merchandise were stolen from the same owner. Nothing in this subdivision shall be read to limit the ability to aggregate the value of any property or the ability to charge the larceny of retail goods or merchandise under another applicable provision of law. ** NB There are 2 sb 3's ** 3. Such person commits deed theft, regardless of the value, of: (a) one residential real property; or (b) one commercial mixed-use property with at least one residential unit; or (c) two or more commercial properties. ** NB There are 2 sb 3's Grand larceny in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 155 - Larceny155.42 - Grand Larceny in the First Degree.

A person is guilty of grand larceny in the first degree when such person steals property and when: 1. The value of the property exceeds one million dollars; or 2. The property consists of retail goods or merchandise stolen pursuant to a common scheme or plan or a single, ongoing intent to deprive another or others of the property or to appropriate the property to the actor or another person and the value of the property exceeds one million dollars, which value may be determined by the aggregate value of all such property regardless of whether the goods or merchandise were stolen from the same owner. Nothing in this subdivision shall be read to limit the ability to aggregate the value of any property or the ability to charge the larceny of retail goods or merchandise under another applicable provision of law. Grand larceny in the first degree is a class B felony. * NB Separately amended; cannot be put together * § 155.42 Grand larceny in the first degree. A person is guilty of grand larceny in the first degree when: 1. such person steals property and when the value of the property exceeds one million dollars; or 2. such person commits deed theft, regardless of the value, of (a) residential real property that is occupied as a home by at least one person; or (b) residential real property that involves a home that is owned by an elderly person, an incompetent, an incapacitated person, or physically disabled person; or (c) three or more residential real properties. Grand larceny in the first degree is a class B felony. * NB Separately amended; cannot be put together

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 155 - Larceny155.43 - Aggravated Grand Larceny of an Automated Teller Machine.

A person is guilty of aggravated grand larceny of an automated teller machine when he or she commits the crime of grand larceny in the third degree, as defined in subdivision two of section 155.35 of this article and has been previously convicted of grand larceny in the third degree within the previous five years. Aggravated grand larceny of an automated teller machine is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 155 - Larceny155.45 - Larceny; Pleading and Proof.

1. Where it is an element of the crime charged that property was taken from the person or obtained by extortion, an indictment for larceny must so specify. In all other cases, an indictment, information or complaint for larceny is sufficient if it alleges that the defendant stole property of the nature or value required for the commission of the crime charged without designating the particular way or manner in which such property was stolen or the particular theory of larceny involved. 2. Proof that the defendant engaged in any conduct constituting larceny as defined in section 155.05 is sufficient to support any indictment, information or complaint for larceny other than one charging larceny by extortion. An indictment charging larceny by extortion must be supported by proof establishing larceny by extortion.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 156 - Offenses Involving Computers; Definition of Terms156.00 - Offenses Involving Computers; Definition of Terms.

The following definitions are applicable to this chapter except where different meanings are expressly specified: 1. "Computer" means a device or group of devices which, by manipulation of electronic, magnetic, optical or electrochemical impulses, pursuant to a computer program, can automatically perform arithmetic, logical, storage or retrieval operations with or on computer data, and includes any connected or directly related device, equipment or facility which enables such computer to store, retrieve or communicate to or from a person, another computer or another device the results of computer operations, computer programs or computer data. 2. "Computer program" is property and means an ordered set of data representing coded instructions or statements that, when executed by computer, cause the computer to process data or direct the computer to perform one or more computer operations or both and may be in any form, including magnetic storage media, punched cards, or stored internally in the memory of the computer. 3. "Computer data" is property and means a representation of information, knowledge, facts, concepts or instructions which are being processed, or have been processed in a computer and may be in any form, including magnetic storage media, punched cards, or stored internally in the memory of the computer. 4. "Computer service" means any and all services provided by or through the facilities of any computer communication system allowing the input, output, examination, or transfer, of computer data or computer programs from one computer to another. 5. "Computer material" is property and means any computer data or computer program which:(a) contains records of the medical history or medical treatment of an identified or readily identifiable individual or individuals. This term shall not apply to the gaining access to or duplication solely of the medical history or medical treatment records of a person by that person or by another specifically authorized by the person whose records are gained access to or duplicated; or(b) contains records maintained by the state or any political subdivision thereof or any governmental instrumentality within the state which contains any information concerning a person, as defined in subdivision seven of section 10.00 of this chapter, which because of name, number, symbol, mark or other identifier, can be used to identify the person and which is otherwise prohibited by law from being disclosed. This term shall not apply to the gaining access to or duplication solely of records of a person by that person or by another specifically authorized by the person whose records are gained access to or duplicated; or(c) is not and is not intended to be available to anyone other than the person or persons rightfully in possession thereof or selected persons having access thereto with his, her or their consent and which accords or may accord such rightful possessors an advantage over competitors or other persons who do not have knowledge or the benefit thereof.6. "Computer network" means the interconnection of hardwire or wireless communication lines with a computer through remote terminals, or a complex consisting of two or more interconnected computers.7. "Access" means to instruct, communicate with, store data in, retrieve from, or otherwise make use of any resources of a computer, physically, directly or by electronic means.8. "Without authorization" means to use or to access a computer, computer service or computer network without the permission of the owner or lessor or someone licensed or privileged by the owner or lessor where such person knew that his or her use or access was without permission or after actual notice to such person that such use or access was without permission. It shall also mean the access of a computer service by a person without permission where such person knew that such access was without permission or after actual notice to such person, that such access was without permission.Proof that such person used or accessed a computer, computer service or computer network through the knowing use of a set of instructions, code or computer program that bypasses, defrauds or otherwise circumvents a security measure installed or used with the user's authorization on the computer, computer service or computer network shall be presumptive evidence that such person used or accessed such computer, computer service or computer network without authorization.9. "Felony" as used in this article means any felony defined in the laws of this state or any offense defined in the laws of any other jurisdiction for which a sentence to a term of imprisonment in excess of one year is authorized in this state. (a) contains records of the medical history or medical treatment of an identified or readily identifiable individual or individuals. This term shall not apply to the gaining access to or duplication solely of the medical history or medical treatment records of a person by that person or by another specifically authorized by the person whose records are gained access to or duplicated; or (b) contains records maintained by the state or any political subdivision thereof or any governmental instrumentality within the state which contains any information concerning a person, as defined in subdivision seven of section 10.00 of this chapter, which because of name, number, symbol, mark or other identifier, can be used to identify the person and which is otherwise prohibited by law from being disclosed. This term shall not

apply to the gaining access to or duplication solely of records of a person by that person or by another specifically authorized by the person whose records are gained access to or duplicated; or (c) is not and is not intended to be available to anyone other than the person or persons rightfully in possession thereof or selected persons having access thereto with his, her or their consent and which accords or may accord such rightful possessors an advantage over competitors or other persons who do not have knowledge or the benefit thereof. 6. "Computer network" means the interconnection of hardwire or wireless communication lines with a computer through remote terminals, or a complex consisting of two or more interconnected computers. 7. "Access" means to instruct, communicate with, store data in, retrieve from, or otherwise make use of any resources of a computer, physically, directly or by electronic means. 8. "Without authorization" means to use or to access a computer, computer service or computer network without the permission of the owner or lessor or someone licensed or privileged by the owner or lessor where such person knew that his or her use or access was without permission or after actual notice to such person that such use or access was without permission. It shall also mean the access of a computer service by a person without permission where such person knew that such access was without permission or after actual notice to such person, that such access was without permission. Proof that such person used or accessed a computer, computer service or computer network through the knowing use of a set of instructions, code or computer program that bypasses, defrauds or otherwise circumvents a security measure installed or used with the user's authorization on the computer, computer service or computer network shall be presumptive evidence that such person used or accessed such computer, computer service or computer network without authorization. 9. "Felony" as used in this article means any felony defined in the laws of this state or any offense defined in the laws of any other jurisdiction for which a sentence to a term of imprisonment in excess of one year is authorized in this state.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 156 - Offenses Involving Computers; Definition of Terms156.05 - Unauthorized Use of a Computer.

A person is guilty of unauthorized use of a computer when he or she knowingly uses, causes to be used, or accesses a computer, computer service, or computer network without authorization. Unauthorized use of a computer is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 156 - Offenses Involving Computers; Definition of Terms156.10 - Computer Trespass.

A person is guilty of computer trespass when he or she knowingly uses, causes to be used, or accesses a computer, computer service, or computer network without authorization and: 1. he or she does so with an intent to commit or attempt to commit or further the commission of any felony; or 2. he or she thereby knowingly gains access to computer material. Computer trespass is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 156 - Offenses Involving Computers; Definition of Terms156.20 - Computer Tampering in the Fourth Degree.

A person is guilty of computer tampering in the fourth degree when he or she uses, causes to be used, or accesses a computer, computer service, or computer network without authorization and he or she intentionally alters in any manner or destroys computer data or a computer program of another person. Computer tampering in the fourth degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 156 - Offenses Involving Computers; Definition of Terms156.25 - Computer Tampering in the Third Degree.

A person is guilty of computer tampering in the third degree when he commits the crime of computer tampering in the fourth degree and: 1. he does so with an intent to commit or attempt to commit or further the commission of any felony; or 2. he has been previously convicted of any crime under this article or subdivision eleven of section 165.15 of this chapter; or 3. he intentionally alters in any manner or destroys computer material; or 4. he intentionally alters in any manner or destroys computer data or a computer program so as to cause damages in an aggregate amount exceeding one thousand dollars; or 5. he intentionally enters or alters in any manner or destroys computer material indicating that a person did or did not receive a vaccination against COVID-19. Computer tampering in the third degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 156 - Offenses Involving Computers; Definition of Terms156.26 - Computer Tampering in the Second Degree.

A person is guilty of computer tampering in the second degree when he or she commits the crime of computer tampering in the fourth degree and he or she intentionally alters in any manner or destroys: 1. computer data or a computer program so as to cause damages in an aggregate amount exceeding three thousand dollars; or 2. computer material that contains records of the medical history or medical treatment of an identified or readily identifiable individual or individuals and as a result of such alteration or destruction, such individual or individuals suffer serious physical injury, and he or she is aware of and consciously disregards a substantial and unjustifiable risk that such serious physical injury may occur. Computer tampering in the second degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 156 - Offenses Involving Computers; Definition of Terms156.27 - Computer Tampering in the First Degree.

A person is guilty of computer tampering in the first degree when he commits the crime of computer tampering in the fourth degree and he intentionally alters in any manner or destroys computer data or a computer program so as to cause damages in an aggregate amount exceeding fifty thousand dollars. Computer tampering in the first degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 156 - Offenses Involving Computers; Definition of Terms156.29 - Unlawful Duplication of Computer Related Material in the Second Degree.

degree. A person is guilty of unlawful duplication of computer related material in the second degree when having no right to do so, he or she copies, reproduces or duplicates in any manner computer material that contains records of the medical history or medical treatment of an identified or readily identifiable individual or individuals with an intent to commit or further the commission of any crime under this chapter. Unlawful duplication of computer related material in the second degree is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 156 - Offenses Involving Computers; Definition of Terms156.30 - Unlawful Duplication of Computer Related Material in the First Degree.

degree. A person is guilty of unlawful duplication of computer related in the first degree material when having no right to do so, he or she copies, reproduces or duplicates in any manner: 1. any computer data or computer program and thereby intentionally and wrongfully deprives or appropriates from an owner thereof an economic value or benefit in excess of two thousand five hundred dollars; or 2. any computer data or computer program with an intent to commit or attempt to commit or further the commission of any felony. Unlawful duplication of computer related material in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 156 - Offenses Involving Computers; Definition of Terms156.35 - Criminal Possession of Computer Related Material.

A person is guilty of criminal possession of computer related material when having no right to do so, he knowingly possesses, in any form, any copy, reproduction or duplicate of any computer data or computer program which was copied, reproduced or duplicated in violation of section 156.30 of this article, with intent to benefit himself or a person other than an owner thereof. Criminal possession of computer related material is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 156 - Offenses Involving Computers; Definition of Terms156.40 - Operating an Unlawful Electronic Sweepstakes.

1. As used in this section the following words and terms shall have the following meanings:(a) "Electronic machine or device" means a mechanically, electrically or electronically operated machine or device that is owned, leased or otherwise possessed by a sweepstakes sponsor or promoter, or any sponsors, promoters, partners, affiliates, subsidiaries or contractors thereof; that is intended to be used by a sweepstakes entrant; that uses energy; and that displays the results of a game entry or game outcome to a participant on a screen or other mechanism at a business location, including a private club; provided, that an electronic machine or device may, without limitation:(1) be server-based;(2) use a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries;(3) utilize software such that the simulated game influences or determines the winning or value of the prize;(4) select prizes from a predetermined finite pool of entries;(5) utilize a mechanism that reveals the content of a predetermined sweepstakes entry;(6) predetermine the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed;(7) utilize software to create a game result;(8) require deposit of any money, coin or token, or the use of any credit card, debit card, prepaid card or any other method of payment to activate the electronic machine or device;(9) require direct payment into the electronic machine or device, or remote activation of the electronic machine or device;(10) require purchase of a related product having legitimate value;(11) reveal the prize incrementally, even though it may not influence if a prize is awarded or the value of any prize awarded;(12) determine and associate the prize with an entry or entries at the time the sweepstakes is entered; or(13) be a slot machine or other form of electrical, mechanical, or computer game.(b) "Enter" or "entry" means the act or process by which a person becomes eligible to receive any prize offered in a sweepstakes.(c) "Entertaining display" means any visual information, capable of being seen by a sweepstakes entrant, that takes the form of actual game play or simulated game play.(d) "Prize" means any gift, award, gratuity, good, service, credit or anything else of value, which may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize.(e) "Sweepstakes" means any game, advertising scheme or plan, or other promotion, which, with or without payment of any consideration, a person may enter to win or become eligible to receive any prize, the determination of which is based upon chance.2. A person is guilty of operating an unlawful electronic sweepstakes when he or she knowingly possesses with the intent to operate, or place into operation, an electronic machine or device to:(a) conduct a sweepstakes through the use of an entertaining display, including the entry process or the reveal of a prize; or(b) promote a sweepstakes that is conducted through the use of an entertaining display, including the entry process or the reveal of a prize.3. Nothing in this section shall be construed to make illegal any activity which is lawfully conducted as the New York state lottery for education as authorized by article thirty-four of the tax law; pari-mutuel wagering on horse races as authorized by articles two, three, four, five-A, and ten of the racing, pari-mutuel wagering and breeding law; the game of bingo as authorized pursuant to article fourteen-H of the general municipal law; games of chance as authorized pursuant to article nine-A of the general municipal law; gaming as authorized by article thirteen of the racing, pari-mutuel wagering and breeding law; or pursuant to the federal Indian Gaming Regulatory Act.Operating an unlawful electronic

sweepstakes is a class E felony. (a) "Electronic machine or device" means a mechanically, electrically or electronically operated machine or device that is owned, leased or otherwise possessed by a sweepstakes sponsor or promoter, or any sponsors, promoters, partners, affiliates, subsidiaries or contractors thereof; that is intended to be used by a sweepstakes entrant; that uses energy; and that displays the results of a game entry or game outcome to a participant on a screen or other mechanism at a business location, including a private club; provided, that an electronic machine or device may, without limitation: (1) be server-based; (2) use a simulated game terminal as a representation of the prizes associated with the results of the sweepstakes entries; (3) utilize software such that the simulated game influences or determines the winning or value of the prize; (4) select prizes from a predetermined finite pool of entries; (5) utilize a mechanism that reveals the content of a predetermined sweepstakes entry; (6) predetermine the prize results and stores those results for delivery at the time the sweepstakes entry results are revealed; (7) utilize software to create a game result; (8) require deposit of any money, coin or token, or the use of any credit card, debit card, prepaid card or any other method of payment to activate the electronic machine or device; (9) require direct payment into the electronic machine or device, or remote activation of the electronic machine or device; (10) require purchase of a related product having legitimate value; (11) reveal the prize incrementally, even though it may not influence if a prize is awarded or the value of any prize awarded; (12) determine and associate the prize with an entry or entries at the time the sweepstakes is entered; or (13) be a slot machine or other form of electrical, mechanical, or computer game. (b) "Enter" or "entry" means the act or process by which a person becomes eligible to receive any prize offered in a sweepstakes. (c) "Entertaining display" means any visual information, capable of being seen by a sweepstakes entrant, that takes the form of actual game play or simulated game play. (d) "Prize" means any gift, award, gratuity, good, service, credit or anything else of value, which may be transferred to a person, whether possession of the prize is actually transferred, or placed on an account or other record as evidence of the intent to transfer the prize. (e) "Sweepstakes" means any game, advertising scheme or plan, or other promotion, which, with or without payment of any consideration, a person may enter to win or become eligible to receive any prize, the determination of which is based upon chance. 2. A person is guilty of operating an unlawful electronic sweepstakes when he or she knowingly possesses with the intent to operate, or place into operation, an electronic machine or device to: (a) conduct a sweepstakes through the use of an entertaining display, including the entry process or the reveal of a prize; or (b) promote a sweepstakes that is conducted through the use of an entertaining display, including the entry process or the reveal of a prize. 3. Nothing in this section shall be construed to make illegal any activity which is lawfully conducted as the New York state lottery for education as authorized by article thirty-four of the tax law; pari-mutuel wagering on horse races as authorized by articles two, three, four, five-A, and ten of the racing, pari-mutuel wagering and breeding law; the game of bingo as authorized pursuant to article fourteen-H of the general municipal law; games of chance as authorized pursuant to article nine-A of the general municipal law; gaming as authorized by article thirteen of the racing, pari-mutuel wagering and breeding law; or pursuant to the federal Indian Gaming Regulatory Act. Operating an unlawful electronic sweepstakes is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 156 - Offenses Involving Computers; Definition of Terms156.50 - Offenses Involving Computers; Defenses.

In any prosecution: 1. under section 156.05 or 156.10 of this article, it shall be a defense that the defendant had reasonable grounds to believe that he had authorization to use the computer; 2. under section 156.20, 156.25, 156.26 or 156.27 of this article it shall be a defense that the defendant had reasonable grounds to believe that he had the right to alter in any manner or destroy the computer data or the computer program; 3. under section 156.29 or 156.30 of this article it shall be a defense that the defendant had reasonable grounds to believe that he had the right to copy, reproduce or duplicate in any manner the computer data or the computer program.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 158 - Welfare Fraud158.00 - Definitions; Presumption; Limitation.

1. Definitions. The following definitions are applicable to this article:(a) "Public benefit card" means any medical assistance card, food stamp assistance card, public assistance card, or any other identification, authorization card or electronic access device issued by the state or a social services district, as defined in subdivision seven of section two of the social services law, which entitles a person to obtain public assistance benefits under a local, state, or federal program administered by the state, its political subdivisions, or social services districts.(b) "Fraudulent welfare act" means knowingly and with intent to defraud, engaging in an act or acts pursuant to which a person:(1) offers, presents or causes to be presented to the state, any of its political subdivisions or social services districts, or any employee or agent thereof, an oral or written application or request for public assistance benefits or for a public benefit card with knowledge that the application or request contains a false statement or false information, and such statement or information is material, or(2) holds himself or herself out to be another person, whether real or fictitious, for the purpose of obtaining public assistance benefits, or(3) makes a false statement or provides false information for the purpose of (i) establishing or maintaining eligibility for public assistance benefits or (ii) increasing or preventing reduction of public assistance benefits, and such statement or information is material.(c) "Public assistance benefits" means money, property or services provided directly or indirectly through programs of the federal government, the state government or the government of any political subdivision within the state and administered by the department of social services or social services districts.2. Rebuttable presumption. (a) A person who possesses five or more public benefit cards in a name or names other than his or her own is presumed to possess the same with intent to defraud, deceive or injure another.(b) The presumption established by this subdivision shall not apply to:(1) any employee or agent of the department of social services to the extent that he or she possesses such cards in the course of his or her official duties; or(2) any person to the extent that he she possesses a public benefit card or cards issued to a member or members of his or

her immediate family or household with the consent of the cardholder; or(3) any person providing home health services or personal care services pursuant to title eleven of article five of the social services law, or any agent or employee of a congregate care or residential treatment facility or foster care provider, to the extent that in the course of his or her duties, he or she possesses public assistance cards issued to persons under his or her care.(c) The presumption established by this subdivision is rebuttable by evidence tending to show that the defendant did not possess such public benefit card or cards with intent to defraud, deceive or injure another. In any action tried before a jury, the jury shall be so instructed.(d) The foregoing presumption shall apply to prosecutions for criminal possession of public benefit cards.3. Limitation. Nothing contained in this article shall be construed to prohibit a recipient of public assistance benefits from pledging his or her public assistance benefits or using his or her public benefit card as collateral for a loan. (a) "Public benefit card" means any medical assistance card, food stamp assistance card, public assistance card, or any other identification, authorization card or electronic access device issued by the state or a social services district, as defined in subdivision seven of section two of the social services law, which entitles a person to obtain public assistance benefits under a local, state, or federal program administered by the state, its political subdivisions, or social services districts. (b) "Fraudulent welfare act" means knowingly and with intent to defraud, engaging in an act or acts pursuant to which a person: (1) offers, presents or causes to be presented to the state, any of its political subdivisions or social services districts, or any employee or agent thereof, an oral or written application or request for public assistance benefits or for a public benefit card with knowledge that the application or request contains a false statement or false information, and such statement or information is material, or (2) holds himself or herself out to be another person, whether real or fictitious, for the purpose of obtaining public assistance benefits, or (3) makes a false statement or provides false information for the purpose of (i) establishing or maintaining eligibility for public assistance benefits or (ii) increasing or preventing reduction of public assistance benefits, and such statement or information is material. (c) "Public assistance benefits" means money, property or services provided directly or indirectly through programs of the federal government, the state government or the government of any political subdivision within the state and administered by the department of social services or social services districts. 2. Rebuttable presumption. (a) A person who possesses five or more public benefit cards in a name or names other than his or her own is presumed to possess the same with intent to defraud, deceive or injure another. (b) The presumption established by this subdivision shall not apply to: (1) any employee or agent of the department of social services to the extent that he or she possesses such cards in the course of his or her official duties; or (2) any person to the extent that he she possesses a public benefit card or cards issued to a member or members of his or her immediate family or household with the consent of the cardholder; or (3) any person providing home health services or personal care services pursuant to title eleven of article five of the social services law, or any agent or employee of a congregate care or residential treatment facility or foster care provider, to the extent that in the course of his or her duties, he or she possesses public assistance cards issued to persons under his or her care. (c) The presumption established by this subdivision is rebuttable by evidence tending to show that the defendant did not possess such public benefit card or cards with intent to defraud, deceive or injure another. In any action tried before a jury, the jury shall be so instructed. (d) The foregoing presumption shall apply to prosecutions for criminal possession of public benefit cards. 3. Limitation. Nothing contained in this article shall be construed to prohibit a recipient of public assistance benefits from pledging his or her public assistance benefits or using his or her public benefit card as collateral for a loan.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 158 - Welfare Fraud158.05 - Welfare Fraud in the Fifth Degree.

A person is guilty of welfare fraud in the fifth degree when he or she commits a fraudulent welfare act and thereby takes or obtains public assistance benefits. Welfare fraud in the fifth degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 158 - Welfare Fraud158.10 - Welfare Fraud in the Fourth Degree.

A person is guilty of welfare fraud in the fourth degree when he or she commits a fraudulent welfare act and thereby takes or obtains public assistance benefits, and when the value of the public assistance benefits exceeds one thousand dollars. Welfare fraud in the fourth degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 158 - Welfare Fraud158.15 - Welfare Fraud in the Third Degree.

A person is guilty of welfare fraud in the third degree when he or she commits a fraudulent welfare act and thereby takes or obtains public assistance benefits, and when the value of the public assistance benefits exceeds three thousand dollars. Welfare fraud in the third degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 158 - Welfare Fraud158.20 - Welfare Fraud in the Second Degree.

A person is guilty of welfare fraud in the second degree when he or she commits a fraudulent welfare act and thereby takes or obtains public assistance benefits, and when the value of the public assistance benefits exceeds fifty thousand dollars. Welfare fraud in the second degree is a class C felony.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 158 - Welfare Fraud158.25 - Welfare Fraud in the First Degree.

A person is guilty of welfare fraud in the first degree when he or she commits a fraudulent welfare act and thereby takes or obtains public assistance benefits, and when the value of the public assistance benefits exceeds one million dollars. Welfare fraud in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 158 - Welfare Fraud158.30 - Criminal Use of a Public Benefit Card in the Second Degree.

A person is guilty of criminal use of a public benefit card in the second degree when he or she knowingly: 1. Loans money or otherwise provides property or services on credit, and accepts a public benefit card as collateral or security for the repayment of such loan or for the provision of such property or services; 2. Obtains a public benefit card in exchange for a benefit; or 3. Transfers or delivers a public benefit card to another (a) in exchange for money or a controlled substance as defined in subdivision five of section 220.00, or (b) for the purpose of committing an unlawful act. Criminal use of a public benefit card in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 158 - Welfare Fraud158.35 - Criminal Use of a Public Benefit Card in the First Degree.

A person is guilty of criminal use of a public benefit card in the first degree when he or she, pursuant to an act or a series of acts, knowingly (i) obtains three or more public benefit cards from another or others in exchange for a benefit, or (ii) transfers or delivers three or more public benefit cards to another or others in exchange for money or a controlled substance as defined in subdivision five of section 220.00 of this chapter. Criminal use of a public benefit card in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 158 - Welfare Fraud158.40 - Criminal Possession of Public Benefit Cards in the Third Degree.

degree. A person is guilty of criminal possession of public benefit cards in the third degree when he or she with intent to defraud, deceive or injure another, knowingly possesses five or more public benefit cards in a name or names other than the person's own name. Criminal possession of public benefit cards in the third degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 158 - Welfare Fraud158.45 - Criminal Possession of Public Benefit Cards in the Second Degree.

degree. A person is guilty of criminal possession of public benefit cards in the second degree when he or she with intent to defraud, deceive or injure another, knowingly possesses ten or more public benefit cards in a name or names other than the person's own name. Criminal possession of public benefit cards in the second degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 158 - Welfare Fraud158.50 - Criminal Possession of Public Benefit Cards in the First Degree.

degree. A person is guilty of criminal possession of public benefit cards in the first degree when he or she with intent to defraud, deceive or injure another, knowingly possesses twenty-five or more public benefit cards in a name or names other than the person's own name. Criminal possession of public benefit cards in the first degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 160 - Robbery160.00 - Robbery; Defined.

Robbery is forcible stealing. A person forcibly steals property and commits robbery when, in the course of committing a larceny, he uses or threatens the immediate use of physical force upon another person for the purpose of: 1. Preventing or overcoming resistance to the taking of the property or to the retention thereof immediately after the taking; or 2. Compelling the owner of such property or another person to deliver up the property or to engage in other conduct which aids in the commission of the larceny.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 160 - Robbery160.05 - Robbery in the Third Degree.

A person is guilty of robbery in the third degree when he forcibly steals property. Robbery in the third degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 160 - Robbery160.10 - Robbery in the Second Degree.

A person is guilty of robbery in the second degree when he forcibly steals property and when: 1. He is aided by another person actually present; or 2. In the course of the commission of the crime or of immediate flight therefrom, he or another participant in the crime:(a) Causes physical injury to any person who is not a participant in the crime; or(b) Displays what appears to be a pistol,

revolver, rifle, shotgun, machine gun or other firearm; or3. The property consists of a motor vehicle, as defined in section one hundred twenty-five of the vehicle and traffic law.Robbery in the second degree is a class C felony. (a) Causes physical injury to any person who is not a participant in the crime; or (b) Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or 3. The property consists of a motor vehicle, as defined in section one hundred twenty-five of the vehicle and traffic law. Robbery in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 160 - Robbery160.15 - Robbery in the First Degree.

A person is guilty of robbery in the first degree when he forcibly steals property and when, in the course of the commission of the crime or of immediate flight therefrom, he or another participant in the crime: 1. Causes serious physical injury to any person who is not a participant in the crime; or 2. Is armed with a deadly weapon; or 3. Uses or threatens the immediate use of a dangerous instrument; or 4. Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; except that in any prosecution under this subdivision, it is an affirmative defense that such pistol, revolver, rifle, shotgun, machine gun or other firearm was not a loaded weapon from which a shot, readily capable of producing death or other serious physical injury, could be discharged. Nothing contained in this subdivision shall constitute a defense to a prosecution for, or preclude a conviction of, robbery in the second degree, robbery in the third degree or any other crime. Robbery in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.00 - Misapplication of Property.

1. A person is guilty of misapplication of property when, knowingly possessing personal property of another pursuant to an agreement that the same will be returned to the owner at a future time,(a) he loans, leases, pledges, pawns or otherwise encumbers such property without the consent of the owner thereof in such manner as to create a risk that the owner will not be able to recover it or will suffer pecuniary loss; or(b) he intentionally refuses to return personal property valued in excess of one hundred dollars to the owner pursuant to the terms of the rental agreement provided that the owner shall have made a written demand for the return of such personal property in person or by certified mail at an address indicated in the rental agreement and he intentionally refuses to return such personal property for a period of thirty days after such demand has been received or should reasonably have been received by him. Such written demand shall state: (i) the date and time at which the personal property was to have been returned under the rental agreement; (ii) that the owner does not consent to the continued withholding or retaining of such personal property and demands its return; and (iii) that the continued withholding or retaining of the property may constitute a class A misdemeanor punishable by a fine of up to one thousand dollars or by a sentence to a term of imprisonment for a period of up to one year or by both such fine and imprisonment.(c) as used in paragraph (b) of this subdivision and in subdivision three of this section, the terms owner, personal property, and rental agreement shall be defined as in subdivision one of section three hundred ninety-nine-w of the general business law.2. In any prosecution under paragraph (a) of subdivision one of this section, it is a defense that, at the time the prosecution was commenced, (a) the defendant had recovered possession of the property, unencumbered as a result of the unlawful disposition, and (b) the owner had suffered no material economic loss as a result of the unlawful disposition.3. In any prosecution under paragraph (b) of subdivision one of this section, it is a defense that at the time the prosecution was commenced, (a) the owner had recovered possession of the personal property and suffered no material economic loss as a result of the unlawful retention; or (b) the defendant is unable to return such personal property because it has been accidentally destroyed or stolen; or (c) the owner failed to comply with the provisions of section three hundred ninety-nine-w of the general business law.Misapplication of property is a class A misdemeanor. (a) he loans, leases, pledges, pawns or otherwise encumbers such property without the consent of the owner thereof in such manner as to create a risk that the owner will not be able to recover it or will suffer pecuniary loss; or (b) he intentionally refuses to return personal property valued in excess of one hundred dollars to the owner pursuant to the terms of the rental agreement provided that the owner shall have made a written demand for the return of such personal property in person or by certified mail at an address indicated in the rental agreement and he intentionally refuses to return such personal property for a period of thirty days after such demand has been received or should reasonably have been received by him. Such written demand shall state: (i) the date and time at which the personal property was to have been returned under the rental agreement; (ii) that the owner does not consent to the continued withholding or retaining of such personal property and demands its return; and (iii) that the continued withholding or retaining of the property may constitute a class A misdemeanor punishable by a fine of up to one thousand dollars or by a sentence to a term of imprisonment for a period of up to one year or by both such fine and imprisonment. (c) as used in paragraph (b) of this subdivision and in subdivision three of this section, the terms owner, personal property, and rental agreement shall be defined as in subdivision one of section three hundred ninety-nine-w of the general business law. 2. In any prosecution under paragraph (a) of subdivision one of this section, it is a defense that, at the time the prosecution was commenced, (a) the defendant had recovered possession of the property, unencumbered as a result of the unlawful disposition, and (b) the owner had suffered no material economic loss as a result of the unlawful disposition. 3. In any prosecution under paragraph (b) of subdivision one of this section, it is a defense that at the time the prosecution was commenced, (a) the owner had recovered possession of the personal property and suffered no material economic loss as a result of the unlawful retention; or (b) the defendant is unable to return such personal property because it has been accidentally destroyed or stolen; or (c) the owner failed to comply with the provisions of section three hundred ninety-nine-w of the general business law. Misapplication of property is a class A misdemeanor.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.05 - Unauthorized Use of a Vehicle in the Third Degree.

A person is guilty of unauthorized use of a vehicle in the third degree when: 1. Knowing that he does not have the consent of the owner, he takes, operates, exercises control over, rides in or otherwise uses a vehicle. A person who engages in any such conduct without the consent of the owner is presumed to know that he does not have such consent; or 2. Having custody of a vehicle pursuant to an agreement between himself or another and the owner thereof whereby he or another is to perform for compensation a specific service for the owner involving the maintenance, repair or use of such vehicle, he intentionally uses or operates the same, without the consent of the owner, for his own purposes in a manner constituting a gross deviation from the agreed purpose; or 3. Having custody of a vehicle pursuant to an agreement with the owner thereof whereby such vehicle is to be returned to the owner at a specified time, he intentionally retains or withholds possession thereof, without the consent of the owner, for so lengthy a period beyond the specified time as to render such retention or possession a gross deviation from the agreement. For purposes of this section "a gross deviation from the agreement" shall consist of, but not be limited to, circumstances wherein a person who having had custody of a vehicle for a period of fifteen days or less pursuant to a written agreement retains possession of such vehicle for at least seven days beyond the period specified in the agreement and continues such possession for a period of more than two days after service or refusal of attempted service of a notice in person or by certified mail at an address indicated in the agreement stating (i) the date and time at which the vehicle was to have been returned under the agreement; (ii) that the owner does not consent to the continued withholding or retaining of such vehicle and demands its return; and that continued withholding or retaining of the vehicle may constitute a class A misdemeanor punishable by a fine of up to one thousand dollars or by a sentence to a term of imprisonment for a period of up to one year or by both such fine and imprisonment. Unauthorized use of a vehicle in the third degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.06 - Unauthorized Use of a Vehicle in the Second Degree.

A person is guilty of unauthorized use of a vehicle in the second degree when: He commits the crime of unauthorized use of a vehicle in the third degree as defined in subdivision one of section 165.05 of this article and has been previously convicted of the crime of unauthorized use of a vehicle in the third degree as defined in subdivision one of section 165.05 or second degree within the preceding ten years. Unauthorized use of a vehicle in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.07 - Unlawful Use of Secret Scientific Material.

A person is guilty of unlawful use of secret scientific material when, with intent to appropriate to himself or another the use of secret scientific material, and having no right to do so and no reasonable ground to believe that he has such right, he makes a tangible reproduction or representation of such secret scientific material by means of writing, photographing, drawing, mechanically or electronically reproducing or recording such secret scientific material. Unlawful use of secret scientific material is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.08 - Unauthorized Use of a Vehicle in the First Degree.

A person is guilty of unauthorized use of a vehicle in the first degree when knowing that he does not have the consent of the owner, he takes, operates, exercises control over, rides in or otherwise uses a vehicle with the intent to use the same in the course of or the commission of a class A, class B, class C or class D felony or in the immediate flight therefrom. A person who engages in any such conduct without the consent of the owner is presumed to know he does not have such consent. Unauthorized use of a vehicle in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.09 - Auto Stripping in the Third Degree.

A person is guilty of auto stripping in the third degree when: 1. He or she removes or intentionally destroys or defaces any part of a vehicle, other than an abandoned vehicle, as defined in subdivision one of section one thousand two hundred twenty-four of the vehicle and traffic law, without the permission of the owner; or 2. He or she removes or intentionally destroys or defaces any part of an abandoned vehicle, as defined in subdivision one of section one thousand two hundred twenty-four of the vehicle and traffic law, except that it is a defense to such charge that such person was authorized to do so pursuant to law or by permission of the owner. Auto stripping in the third degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.10 - Auto Stripping in the Second Degree.

A person is guilty of auto stripping in the second degree when: 1. He or she commits the offense of auto stripping in the third degree and when he or she has been previously convicted within the last five years of having violated the provisions of section 165.09 or

this section; or 2. He or she removes or intentionally destroys, defaces, disguises, or alters any part of two or more vehicles, other than abandoned vehicles, as defined in subdivision one of section one thousand two hundred twenty-four of the vehicle and traffic law, without the permission of the owner, and the value of the parts of vehicles removed, destroyed, defaced, disguised, or altered exceeds an aggregate value of one thousand dollars. Auto stripping in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.11 - Auto Stripping in the First Degree.

A person is guilty of auto stripping in the first degree when he or she removes or intentionally destroys, defaces, disguises, or alters any part of three or more vehicles, other than abandoned vehicles, as defined in subdivision one of section one thousand two hundred twenty-four of the vehicle and traffic law, without the permission of the owner, and the value of the parts of vehicles removed, destroyed, defaced, disguised, or altered exceeds an aggregate value of three thousand dollars. Auto stripping in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.15 - Theft of Services.

A person is guilty of theft of services when: 1. He obtains or attempts to obtain a service, or induces or attempts to induce the supplier of a rendered service to agree to payment therefor on a credit basis, by the use of a credit card or debit card which he knows to be stolen. 2. With intent to avoid payment for restaurant services rendered, or for services rendered to him as a transient guest at a hotel, motel, inn, tourist cabin, rooming house or comparable establishment, he avoids or attempts to avoid such payment by unjustifiable failure or refusal to pay, by stealth, or by any misrepresentation of fact which he knows to be false. A person who fails or refuses to pay for such services is presumed to have intended to avoid payment therefor; or 3. With intent to obtain railroad, subway, bus, air, taxi or any other public transportation service without payment of the lawful charge therefor, or to avoid payment of the lawful charge for such transportation service which has been rendered to him, he obtains or attempts to obtain such service or avoids or attempts to avoid payment therefor by force, intimidation, stealth, deception or mechanical tampering, or by unjustifiable failure or refusal to pay; or 4. With intent to avoid payment by himself or another person of the lawful charge for any telecommunications service, including, without limitation, cable television service, or any gas, steam, sewer, water, electrical, telegraph or telephone service which is provided for a charge or compensation, he obtains or attempts to obtain such service for himself or another person or avoids or attempts to avoid payment therefor by himself or another person by means of (a) tampering or making connection with the equipment of the supplier, whether by mechanical, electrical, acoustical or other means, or (b) offering for sale or otherwise making available, to anyone other than the provider of a telecommunications service for such service provider's own use in the provision of its service, any telecommunications decoder or descrambler, a principal function of which defeats a mechanism of electronic signal encryption, jamming or individually addressed switching imposed by the provider of any such telecommunications service to restrict the delivery of such service, or (c) any misrepresentation of fact which he knows to be false, or (d) any other artifice, trick, deception, code or device. For the purposes of this subdivision the telecommunications decoder or descrambler described in paragraph (b) above or the device described in paragraph (d) above shall not include any non-decoding and non-descrambling channel frequency converter or any television receiver type-accepted by the federal communications commission. In any prosecution under this subdivision, proof that telecommunications equipment, including, without limitation, any cable television converter, descrambler, or related equipment, has been tampered with or otherwise intentionally prevented from performing its functions of control of service delivery without the consent of the supplier of the service, or that telecommunications equipment, including, without limitation, any cable television converter, descrambler, receiver, or related equipment, has been connected to the equipment of the supplier of the service without the consent of the supplier of the service, shall be presumptive evidence that the resident to whom the service which is at the time being furnished by or through such equipment has, with intent to avoid payment by himself or another person for a prospective or already rendered service, created or caused to be created with reference to such equipment, the condition so existing. A person who tampers with such a device or equipment without the consent of the supplier of the service is presumed to do so with intent to avoid, or to enable another to avoid, payment for the service involved. In any prosecution under this subdivision, proof that any telecommunications decoder or descrambler, a principal function of which defeats a mechanism of electronic signal encryption, jamming or individually addressed switching imposed by the provider of any such telecommunications service to restrict the delivery of such service, has been offered for sale or otherwise made available by anyone other than the supplier of such service shall be presumptive evidence that the person offering such equipment for sale or otherwise making it available has, with intent to avoid payment by himself or another person of the lawful charge for such service, obtained or attempted to obtain such service for himself or another person or avoided or attempted to avoid payment therefor by himself or another person; or 5. With intent to avoid payment by himself or another person of the lawful charge for any telephone service which is provided for a charge or compensation he (a) sells, offers for sale or otherwise makes available, without consent, an existing, canceled or revoked access device; or (b) uses, without consent, an existing, canceled or revoked access device; or (c) knowingly obtains any telecommunications service with fraudulent intent by use of an unauthorized, false, or fictitious name, identification, telephone number, or access device. For purposes of this subdivision access device means any telephone calling card number, credit card number, account number, mobile identification number, electronic serial number or personal identification number that can be used to obtain telephone service. 6. With intent to avoid payment by himself or another person for a prospective or already rendered service the charge or compensation for which is measured by a meter or other mechanical device, he tampers

with such device or with other equipment related thereto, or in any manner attempts to prevent the meter or device from performing its measuring function, without the consent of the supplier of the service. In any prosecution under this subdivision, proof that a meter or related equipment has been tampered with or otherwise intentionally prevented from performing its measuring function without the consent of the supplier of the service shall be presumptive evidence that the person to whom the service which is at the time being furnished by or through such meter or related equipment has, with intent to avoid payment by himself or another person for a prospective or already rendered service, created or caused to be created with reference to such meter or related equipment, the condition so existing. A person who tampers with such a device or equipment without the consent of the supplier of the service is presumed to do so with intent to avoid, or to enable another to avoid, payment for the service involved; or 7. He knowingly accepts or receives the use and benefit of service, including gas, steam or electricity service, which should pass through a meter but has been diverted therefrom, or which has been prevented from being correctly registered by a meter provided therefor, or which has been diverted from the pipes, wires or conductors of the supplier thereof. In any prosecution under this subdivision proof that service has been intentionally diverted from passing through a meter, or has been intentionally prevented from being correctly registered by a meter provided therefor, or has been intentionally diverted from the pipes, wires or conductors of the supplier thereof, shall be presumptive evidence that the person who accepts or receives the use and benefit of such service has done so with knowledge of the condition so existing; or 8. With intent to obtain, without the consent of the supplier thereof, gas, electricity, water, steam or telephone service, he tampers with any equipment designed to supply or to prevent the supply of such service either to the community in general or to particular premises; or 9. With intent to avoid payment of the lawful charge for admission to any theatre or concert hall, or with intent to avoid payment of the lawful charge for admission to or use of a chair lift, gondola, rope-tow or similar mechanical device utilized in assisting skiers in transportation to a point of ski arrival or departure, he obtains or attempts to obtain such admission without payment of the lawful charge therefor. 10. Obtaining or having control over labor in the employ of another person, or of business, commercial or industrial equipment or facilities of another person, knowing that he is not entitled to the use thereof, and with intent to derive a commercial or other substantial benefit for himself or a third person, he uses or diverts to the use of himself or a third person such labor, equipment or facilities. 11. With intent to avoid payment by himself, herself, or another person of the lawful charge for use of any computer, computer service, or computer network which is provided for a charge or compensation he or she uses, causes to be used, accesses, or attempts to use or access a computer, computer service, or computer network and avoids or attempts to avoid payment therefor. In any prosecution under this subdivision proof that a person overcame or attempted to overcome any device or coding system a function of which is to prevent the unauthorized use of said computer or computer service shall be presumptive evidence of an intent to avoid payment for the computer or computer service. 12. With intent to avoid payment for services rendered by a barbershop, salon or beauty shop, he or she avoids or attempts to avoid such payment by unjustifiable failure or refusal to pay, by stealth, or by any misrepresentation of fact which he or she knows to be false. Theft of services is a class A misdemeanor, provided, however, that theft of cable television service as defined by the provisions of paragraphs (a), (c) and (d) of subdivision four of this section, and having a value not in excess of one hundred dollars by a person who has not been previously convicted of theft of services under subdivision four of this section is a violation, that theft of services under subdivision nine of this section by a person who has not been previously convicted of theft of services under subdivision nine of this section is a violation, that theft of services under subdivision twelve of this section by a person who has not previously been convicted of theft of services under subdivision twelve of this section is a violation, and provided further, however, that theft of services of any telephone service under paragraph (a) or (b) of subdivision five of this section having a value in excess of one thousand dollars or by a person who has been previously convicted within five years of theft of services under paragraph (a) of subdivision five of this section is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.16 - Unauthorized Sale of Certain Transportation Services.

1. A person is guilty of unauthorized sale of certain transportation services when, with intent to avoid payment by another person to the metropolitan transportation authority, New York city transit authority or a subsidiary or affiliate of either such authority of the lawful charge for transportation services on a railroad, subway, bus or mass transit service operated by either such authority or a subsidiary or affiliate thereof, he or she, in exchange for value, sells access to such transportation services to such person, without authorization, through the use of an unlimited farecard or doctored farecard. This section shall apply only to such sales that occur in a transportation facility, as such term is defined in subdivision two of section 240.00 of this chapter, operated by such metropolitan transportation authority, New York city transit authority or subsidiary or affiliate of such authority, when public notice of the prohibitions of its section and the exemptions thereto appears on the face of the farecard or is conspicuously posted in transportation facilities operated by such metropolitan transportation authority, New York city transit authority or such subsidiary or affiliate of such authority. 2. It shall be a defense to a prosecution under this section that a person, firm, partnership, corporation, or association: (a) selling a farecard containing value, other than a doctored farecard, relinquished all rights and privileges thereto upon consummation of the sale; or (b) sold access to transportation services through the use of a farecard, other than a doctored farecard, when such sale was made at the request of the purchaser as an accommodation to the purchaser at a time when a farecard was not immediately available to the purchaser, provided, however, that the seller lawfully acquired the farecard and did not, by means of an unlawful act, contribute to the circumstances that caused the purchaser to make such request. 3. For purposes of this section:(a) "farecard" means a value-based, magnetically encoded card containing stored monetary value from which a specified amount of value is deducted as payment of a fare;(b) "unlimited farecard" means a farecard that is time-based, magnetically encoded and which

permits entrance an unlimited number of times into facilities and conveyances for a specified period of time; and(c) "doctored farecard" means a farecard that has been bent or manipulated or altered so as to facilitate a person's access to transportation services without paying the lawful charge.Unauthorized sale of transportation service is a class B misdemeanor. (a) "farecard" means a value-based, magnetically encoded card containing stored monetary value from which a specified amount of value is deducted as payment of a fare; (b) "unlimited farecard" means a farecard that is time-based, magnetically encoded and which permits entrance an unlimited number of times into facilities and conveyances for a specified period of time; and (c) "doctored farecard" means a farecard that has been bent or manipulated or altered so as to facilitate a person's access to transportation services without paying the lawful charge. Unauthorized sale of transportation service is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.17 - Unlawful Use of Credit Card, Debit Card or Public Benefit Card.

A person is guilty of unlawful use of credit card, debit card or public benefit card when in the course of obtaining or attempting to obtain property or a service, he uses or displays a credit card, debit card or public benefit card which he knows to be revoked or cancelled. Unlawful use of a credit card, debit card or public benefit card is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.20 - Fraudulently Obtaining a Signature.

A person is guilty of fraudulently obtaining a signature when, with intent to defraud or injure another or to acquire a substantial benefit for himself or a third person, he obtains the signature of a person to a written instrument by means of any misrepresentation of fact which he knows to be false. Fraudulently obtaining a signature is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.25 - Jostling.

A person is guilty of jostling when, in a public place, he intentionally and unnecessarily: 1. Places his hand in the proximity of a person's pocket or handbag; or 2. Jostles or crowds another person at a time when a third person's hand is in the proximity of such person's pocket or handbag. Jostling is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.30 - Fraudulent Accosting.

1. A person is guilty of fraudulent accosting when he accosts a person in a public place with intent to defraud him of money or other property by means of a trick, swindle or confidence game. 2. A person who, either at the time he accosts another in a public place or at some subsequent time or at some other place, makes statements to him or engages in conduct with respect to him of a kind commonly made or performed in the perpetration of a known type of confidence game, is presumed to intend to defraud such person of money or other property. Fraudulent accosting is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.35 - Fortune Telling.

A person is guilty of fortune telling when, for a fee or compensation which he directly or indirectly solicits or receives, he claims or pretends to tell fortunes, or holds himself out as being able, by claimed or pretended use of occult powers, to answer questions or give advice on personal matters or to exorcise, influence or affect evil spirits or curses; except that this section does not apply to a person who engages in the aforedescribed conduct as part of a show or exhibition solely for the purpose of entertainment or amusement. Fortune telling is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.40 - Criminal Possession of Stolen Property in the Fifth Degree.

A person is guilty of criminal possession of stolen property in the fifth degree when he knowingly possesses stolen property, with intent to benefit himself or a person other than an owner thereof or to impede the recovery by an owner thereof. Criminal possession of stolen property in the fifth degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.45 - Criminal Possession of Stolen Property in the Fourth Degree.

A person is guilty of criminal possession of stolen property in the fourth degree when he knowingly possesses stolen property, with intent to benefit himself or a person other than an owner thereof or to impede the recovery by an owner thereof, and when: 1. The value of the property exceeds one thousand dollars; or 2. The property consists of a credit card, debit card or public benefit card; or 3. He is a collateral loan broker or is in the business of buying, selling or otherwise dealing in property; or 4. The property consists of one or more firearms, rifles and shotguns, as such terms are defined in section 265.00 of this chapter; or 5. The value of the property exceeds one hundred dollars and the property consists of a motor vehicle, as defined in section one hundred twenty-five of the vehicle and traffic law, other than a motorcycle, as defined in section one hundred twenty-three of such law; or 6. The property

consists of a scroll, religious vestment, vessel or other item of property having a value of at least one hundred dollars kept for or used in connection with religious worship in any building or structure used as a place of religious worship by a religious corporation, as incorporated under the religious corporations law or the education law. 7. The property consists of anhydrous ammonia or liquified ammonia gas and the actor intends to use, or knows another person intends to use, such anhydrous ammonia or liquified ammonia gas to manufacture methamphetamine. Criminal possession of stolen property in the fourth degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.50 - Criminal Possession of Stolen Property in the Third Degree.

A person is guilty of criminal possession of stolen property in the third degree when he knowingly possesses stolen property, with intent to benefit himself or a person other than an owner thereof or to impede the recovery by an owner thereof, and when the value of the property exceeds three thousand dollars. Criminal possession of stolen property in the third degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.52 - Criminal Possession of Stolen Property in the Second Degree.

A person is guilty of criminal possession of stolen property in the second degree when he knowingly possesses stolen property, with intent to benefit himself or a person other than an owner thereof or to impede the recovery by an owner thereof, and when the value of the property exceeds fifty thousand dollars. Criminal possession of stolen property in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.54 - Criminal Possession of Stolen Property in the First Degree.

A person is guilty of criminal possession of stolen property in the first degree when he knowingly possesses stolen property, with intent to benefit himself or a person other than an owner thereof or to impede the recovery by an owner, and when the value of the property exceeds one million dollars. Criminal possession of stolen property in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.55 - Criminal Possession of Stolen Property; Presumptions.

1. A person who knowingly possesses stolen property is presumed to possess it with intent to benefit himself or a person other than an owner thereof or to impede the recovery by an owner thereof. 2. A collateral loan broker or a person in the business of buying, selling or otherwise dealing in property who possesses stolen property is presumed to know that such property was stolen if he obtained it without having ascertained by reasonable inquiry that the person from whom he obtained it had a legal right to possess it. 3. A person who possesses two or more stolen credit cards, debit cards or public benefit cards is presumed to know that such credit cards, debit cards or public benefit cards were stolen. 4. A person who possesses three or more tickets or equivalent instrument for air transportation service, which tickets or instruments were stolen by reason of having been obtained from the issuer or agent thereof by the use of one or more stolen or forged credit cards, is presumed to know that such tickets or instruments were stolen.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.60 - Criminal Possession of Stolen Property; No Defense.

In any prosecution for criminal possession of stolen property, it is no defense that: 1. The person who stole the property has not been convicted, apprehended or identified; or 2. The defendant stole or participated in the larceny of the property; or 3. The larceny of the property did not occur in this state.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.65 - Criminal Possession of Stolen Property; Corroboration.

1. A person charged with criminal possession of stolen property who participated in the larceny thereof may not be convicted of criminal possession of such stolen property solely upon the testimony of an accomplice in the larceny unsupported by corroborative evidence tending to connect the defendant with such criminal possession. 2. Unless inconsistent with the provisions of subdivision one of this section, a person charged with criminal possession of stolen property may be convicted thereof solely upon the testimony of one from whom he obtained such property or solely upon the testimony of one to whom he disposed of such property.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.66 - Fostering the Sale of Stolen Goods.

A person is guilty of fostering the sale of stolen goods when such person, for the purposes of financial gain, acting alone or in concert with another person or persons: 1. Uses any internet website, application, online marketplace, digital service, or any other platform or venue, including any physical building, public or private space, or location to offer for sale retail goods or merchandise which are stolen or unlawfully obtained; and 2. Knew or should have known that such retail goods or merchandise were stolen or unlawfully obtained. Fostering the sale of stolen goods is a class A misdemeanor.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.70 - Definitions.

As used in sections 165.71, 165.72, 165.73 and 165.74, the following terms have the following definitions: 1. The term "trademark" means (a) any word, name, symbol, or device, or any combination thereof adopted and used by a person to identify goods made by a person and which distinguish them from those manufactured or sold by others which is in use and which is registered, filed or recorded under the laws of this state or of any other state or is registered in the principal register of the United States patent and trademark office; or (b) the symbol of the International Olympic Committee, consisting of five interlocking rings; the emblem of the United States Olympic Committee, consisting of an escutcheon having a blue chief and vertically extending red and white bars on the base with five interlocking rings displayed on the chief; any trademark, trade name, sign, symbol, or insignia falsely representing association with, or authorization by, the International Olympic Committee or the United States Olympic Committee; or the words "Olympic", "Olympiad", "Citius Altius Fortius", or any combination thereof tending to cause confusion, to cause mistake, to deceive, or to falsely suggest a connection with the United States Olympic Committee or any International Olympic Committee or United States Olympic Committee activity. 2. The term "counterfeit trademark" means a spurious trademark or an imitation of a trademark that is:(a) used in connection with trafficking in goods; and(b) used in connection with the sale, offering for sale or distribution of goods that are identical with or substantially indistinguishable from a trademark as defined in subdivision one of this section.The term "counterfeit trademark" does not include any mark used in connection with goods for which the person using such mark was authorized to use the trademark for the type of goods so manufactured or produced by the holder of the right to use such mark or designation, whether or not such goods were manufactured or produced in the United States or in another country, and does not include imitations of trade dress or packaging such as color, shape and the like unless those features have been registered as trademarks as defined in subdivision one of this section.3. The term "traffic" means to transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or to obtain control of with intent to so transport, transfer, or otherwise dispose of.4. The term "goods" means any products, services, objects, materials, devices or substances which are identified by the use of a trademark. (a) used in connection with trafficking in goods; and (b) used in connection with the sale, offering for sale or distribution of goods that are identical with or substantially indistinguishable from a trademark as defined in subdivision one of this section. The term "counterfeit trademark" does not include any mark used in connection with goods for which the person using such mark was authorized to use the trademark for the type of goods so manufactured or produced by the holder of the right to use such mark or designation, whether or not such goods were manufactured or produced in the United States or in another country, and does not include imitations of trade dress or packaging such as color, shape and the like unless those features have been registered as trademarks as defined in subdivision one of this section. 3. The term "traffic" means to transport, transfer, or otherwise dispose of, to another, as consideration for anything of value, or to obtain control of with intent to so transport, transfer, or otherwise dispose of. 4. The term "goods" means any products, services, objects, materials, devices or substances which are identified by the use of a trademark.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.71 - Trademark Counterfeiting in the Third Degree.

A person is guilty of trademark counterfeiting in the third degree when, with the intent to deceive or defraud some other person or with the intent to evade a lawful restriction on the sale, resale, offering for sale, or distribution of goods, he or she manufactures, distributes, sells, or offers for sale goods which bear a counterfeit trademark, or possesses a trademark knowing it to be counterfeit for the purpose of affixing it to any goods. Trademark counterfeiting in the third degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.72 - Trademark Counterfeiting in the Second Degree.

A person is guilty of trademark counterfeiting in the second degree when, with the intent to deceive or defraud some other person or with the intent to evade a lawful restriction on the sale, resale, offering for sale, or distribution of goods, he or she manufactures, distributes, sells, or offers for sale goods which bear a counterfeit trademark, or possesses a trademark knowing it to be counterfeit for the purpose of affixing it to any goods, and the retail value of all such goods bearing counterfeit trademarks exceeds one thousand dollars. Trademark counterfeiting in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.73 - Trademark Counterfeiting in the First Degree.

A person is guilty of trademark counterfeiting in the first degree when, with the intent to deceive or defraud some other person, or with the intent to evade a lawful restriction on the sale, resale, offering for sale, or distribution of goods, he or she manufactures, distributes, sells, or offers for sale goods which bear a counterfeit trademark, or possesses a trademark knowing it to be counterfeit for the purpose of affixing it to any goods, and the retail value of all such goods bearing counterfeit trademarks exceeds one hundred thousand dollars. Trademark counterfeiting in the first degree is a class C felony.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle J - Offenses Involving TheftArticle 165 - Other Offenses Relating to Theft165.74 - Seizure and Distribution or Destruction of Goods Bearing Counterfeit Trademarks.

counterfeit trademarks. Any goods manufactured, sold, offered for sale, distributed or produced in violation of this article may be seized by any police officer. The magistrate must, within forty-eight hours after arraignment of the defendant, determine whether probable cause exists to believe that the goods had been manufactured, sold, offered for sale, distributed or produced in violation of this article, and upon a finding that probable cause exists to believe that the goods had been manufactured, sold, offered for sale, distributed, or produced in violation of this article, the court shall authorize such articles to be retained as evidence pending the trial of the defendant. Upon conviction of the defendant, the articles in respect whereof the defendant stands convicted shall be destroyed or donated. Destruction shall not include auction, sale or distribution of the items in their original form. Donation of the items shall be made at the court's discretion upon the request of any law enforcement agency and pursuant to the restrictions and procedures of section three hundred sixty-m of the general business law, for the benefit of indigent individuals.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.00 - Forgery; Definitions of Terms.

1. "Written instrument" means any instrument or article, including computer data or a computer program, containing written or printed matter or the equivalent thereof, used for the purpose of reciting, embodying, conveying or recording information, or constituting a symbol or evidence of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person. For the purposes of this article, a card provided to a person by a vaccine provider indicating the date a person received a vaccination against COVID-19, the type of vaccine and its lot number, and bearing a government logo or other indication that it is created by a governmental instrumentality, shall be considered a written instrument. 2. "Complete written instrument" means one which purports to be a genuine written instrument fully drawn with respect to every essential feature thereof. An endorsement, attestation, acknowledgment or other similar signature or statement is deemed both a complete written instrument in itself and a part of the main instrument in which it is contained or to which it attaches. 3. "Incomplete written instrument" means one which contains some matter by way of content or authentication but which requires additional matter in order to render it a complete written instrument. 4. "Falsely make." A person "falsely makes" a written instrument when he makes or draws a complete written instrument in its entirety, or an incomplete written instrument, which purports to be an authentic creation of its ostensible maker or drawer, but which is not such either because the ostensible maker or drawer is fictitious or because, if real, he did not authorize the making or drawing thereof. 5. "Falsely complete." A person "falsely completes" a written instrument when, by adding, inserting or changing matter, he transforms an incomplete written instrument into a complete one, without the authority of anyone entitled to grant it, so that such complete instrument appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer. 6. "Falsely alter." A person "falsely alters" a written instrument when, without the authority of anyone entitled to grant it, he changes a written instrument, whether it be in complete or incomplete form, by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter, or in any other manner, so that such instrument in its thus altered form appears or purports to be in all respects an authentic creation of or fully authorized by its ostensible maker or drawer. 7. "Forged instrument" means a written instrument which has been falsely made, completed or altered. 8. "Electronic access device" means a mobile identification number or electronic serial number that can be used to obtain telephone service.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.05 - Forgery in the Third Degree.

A person is guilty of forgery in the third degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument. Forgery in the third degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.10 - Forgery in the Second Degree.

A person is guilty of forgery in the second degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument which is or purports to be, or which is calculated to become or to represent if completed: 1. A deed, will, codicil, contract, assignment, commercial instrument, credit card, as that term is defined in subdivision seven of section 155.00, or other instrument which does or may evidence, create, transfer, terminate or otherwise affect a legal right, interest, obligation or status; or 2. A public record, or an instrument filed or required or authorized by law to be filed in or with a public office or public servant; or 3. A written instrument officially issued or created by a public office, public servant or governmental instrumentality; or 4. Part of an issue of tokens, public transportation transfers, certificates or other articles manufactured and designed for use as symbols of value usable in place of money for the purchase of property or services; or 5. A prescription of a duly licensed physician or other person authorized to issue the same for any drug or any instrument or device used in the taking or administering of drugs for which a prescription is required by law. Forgery in the second degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.15 - Forgery in the First Degree.

A person is guilty of forgery in the first degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters a written instrument which is or purports to be, or which is calculated to become or to represent if completed: 1. Part of an issue of money, stamps, securities or other valuable instruments issued by a government or governmental instrumentality; or 2. Part of an issue of stock, bonds or other instruments representing interests in or claims against a corporate or other organization or its property. Forgery in the first degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.20 - Criminal Possession of a Forged Instrument in the Third Degree.

A person is guilty of criminal possession of a forged instrument in the third degree when, with knowledge that it is forged and with intent to defraud, deceive or injure another, he utters or possesses a forged instrument. Criminal possession of a forged instrument in the third degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.25 - Criminal Possession of a Forged Instrument in the Second Degree.

degree. A person is guilty of criminal possession of a forged instrument in the second degree when, with knowledge that it is forged and with intent to defraud, deceive or injure another, he utters or possesses any forged instrument of a kind specified in section 170.10. Criminal possession of a forged instrument in the second degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.27 - Criminal Possession of a Forged Instrument in the Second Degree; Presumption.

degree; presumption. A person who possesses two or more forged instruments, each of which purports to be a credit card or debit card, as those terms are defined in subdivisions seven and seven-a of section 155.00, is presumed to possess the same with knowledge that they are forged and with intent to defraud, deceive or injure another.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.30 - Criminal Possession of a Forged Instrument in the First Degree.

A person is guilty of criminal possession of a forged instrument in the first degree when, with knowledge that it is forged and with intent to defraud, deceive or injure another, he utters or possesses any forged instrument of a kind specified in section 170.15. Criminal possession of a forged instrument in the first degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.35 - Criminal Possession of a Forged Instrument; No Defense.

In any prosecution for criminal possession of a forged instrument, it is no defense that the defendant forged or participated in the forgery of the instrument in issue; provided that a person may not be convicted of both criminal possession of a forged instrument and forgery with respect to the same instrument.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.40 - Criminal Possession of Forgery Devices.

A person is guilty of criminal possession of forgery devices when: 1. He makes or possesses with knowledge of its character any plate, die or other device, apparatus, equipment, or article specifically designed for use in counterfeiting or otherwise forging written instruments; or 2. With intent to use, or to aid or permit another to use, the same for purposes of forgery, he makes or possesses any device, apparatus, equipment or article capable of or adaptable to such use. Criminal possession of forgery devices is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.45 - Criminal Simulation.

A person is guilty of criminal simulation when: 1. With intent to defraud, he makes or alters any object in such manner that it appears to have an antiquity, rarity, source or authorship which it does not in fact possess; or 2. With knowledge of its true character and with intent to defraud, he utters or possesses an object so simulated. Criminal simulation is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.47 - Criminal Possession of an Anti-Security Item.

A person is guilty of criminal possession of an anti-security item, when with intent to steal property at a retail mercantile establishment as defined in article twelve-B of the general business law, he knowingly possesses in such an establishment an item designed for the purpose of overcoming detection of security markings or attachments placed on property offered for sale at such an establishment. Criminal possession of an anti-security item is a class B misdemeanor.

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2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.50 - Unlawfully Using Slugs; Definitions of Terms.

The following definitions are applicable to sections 170.55 and 170.60: 1. "Coin machine" means a coin box, turnstile, vending machine or other mechanical or electronic device or receptacle designed (a) to receive a coin or bill or a token made for the purpose, and (b) in return for the insertion or deposit thereof, automatically to offer, to provide, to assist in providing or to permit the acquisition of some property or some service. 2. "Slug" means an object or article which, by virtue of its size, shape or any other quality, is capable of being inserted or deposited in a coin machine as an improper substitute for a genuine coin, bill or token. 3. "Value" of a slug means the value of the coin, bill or token for which it is capable of being substituted.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.55 - Unlawfully Using Slugs in the Second Degree.

A person is guilty of unlawfully using slugs in the second degree when: 1. With intent to defraud the owner of a coin machine, he inserts or deposits a slug in such machine; or 2. He makes, possesses or disposes of a slug with intent to enable a person to insert or deposit it in a coin machine. Unlawfully using slugs in the second degree is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.60 - Unlawfully Using Slugs in the First Degree.

A person is guilty of unlawfully using slugs in the first degree when he makes, possesses or disposes of slugs with intent to enable a person to insert or deposit them in a coin machine, and the value of such slugs exceeds one hundred dollars. Unlawfully using slugs in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.65 - Forgery of a Vehicle Identification Number.

A person is guilty of forgery of a vehicle identification number when:(1) He knowingly destroys, covers, defaces, alters or otherwise changes the form or appearance of a vehicle identification number on any vehicle or component part thereof, except tires; or(2) He removes any such number from a vehicle or component part thereof, except as required by the provisions of the vehicle and traffic law; or(3) He affixes a vehicle identification number to a vehicle, except in accordance with the provisions of the vehicle and traffic law.(4) He or she, with intent to defraud, knowingly manufactures, produces or reproduces a vehicle identification number label, sticker or plate which was not manufactured, produced or reproduced in accordance with the rules and regulations promulgated by the United States National Highway Safety Administration and/or in accordance with the provisions of the state vehicle and traffic law.Forgery of a vehicle identification number is a class E felony. (1) He knowingly destroys, covers, defaces, alters or otherwise changes the form or appearance of a vehicle identification number on any vehicle or component part thereof, except tires; or (2) He removes any such number from a vehicle or component part thereof, except as required by the provisions of the vehicle and traffic law; or (3) He affixes a vehicle identification number to a vehicle, except in accordance with the provisions of the vehicle and traffic law. (4) He or she, with intent to defraud, knowingly manufactures, produces or reproduces a vehicle identification number label, sticker or plate which was not manufactured, produced or reproduced in accordance with the rules and regulations promulgated by the United States National Highway Safety Administration and/or in accordance with the provisions of the state vehicle and traffic law. Forgery of a vehicle identification number is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.70 - Illegal Possession of a Vehicle Identification Number.

A person is guilty of illegal possession of a vehicle identification number when:(1) He knowingly possesses a vehicle identification number label, sticker or plate which has been removed from the vehicle or vehicle part to which such label, sticker or plate was affixed by the manufacturer in accordance with 49 U.S.C. section 32101, et seq. and regulations promulgated thereunder or in accordance with the provisions of the vehicle and traffic law; or(2) He knowingly possesses a vehicle or vehicle part to which is attached a vehicle identification number label, sticker or plate or on which is stamped or embossed a vehicle identification number which has been destroyed, covered, defaced, altered or otherwise changed, or a vehicle or vehicle part from which a vehicle identification number label, sticker or plate has been removed, which label, sticker or plate was affixed in accordance with 49 U.S.C. section 32101, et seq. or regulations promulgated thereunder, except when he has complied with the provisions of the vehicle and traffic law and regulations promulgated thereunder; or(3) He knowingly possesses a vehicle, or part of a vehicle to which by law or regulation must be attached a vehicle identification number, either (a) with a vehicle identification number label, sticker, or plate which was not affixed by the manufacturer in accordance with 49 U.S.C. section 32101, et seq. or regulations promulgated thereunder, or in accordance with the provisions of the vehicle and traffic law or regulations promulgated thereunder, or (b) on which is affixed, stamped or embossed a vehicle identification number which was not affixed, stamped or embossed by the manufacturer, or in accordance with 49 U.S.C. section 32101, et seq. or regulations promulgated thereunder or in accordance with the provisions of the vehicle and traffic law or regulations promulgated thereunder.Illegal possession of a vehicle identification

number is a class E felony. (1) He knowingly possesses a vehicle identification number label, sticker or plate which has been removed from the vehicle or vehicle part to which such label, sticker or plate was affixed by the manufacturer in accordance with 49 U.S.C. section 32101, et seq. and regulations promulgated thereunder or in accordance with the provisions of the vehicle and traffic law; or (2) He knowingly possesses a vehicle or vehicle part to which is attached a vehicle identification number label, sticker or plate or on which is stamped or embossed a vehicle identification number which has been destroyed, covered, defaced, altered or otherwise changed, or a vehicle or vehicle part from which a vehicle identification number label, sticker or plate has been removed, which label, sticker or plate was affixed in accordance with 49 U.S.C. section 32101, et seq. or regulations promulgated thereunder, except when he has complied with the provisions of the vehicle and traffic law and regulations promulgated thereunder; or (3) He knowingly possesses a vehicle, or part of a vehicle to which by law or regulation must be attached a vehicle identification number, either (a) with a vehicle identification number label, sticker, or plate which was not affixed by the manufacturer in accordance with 49 U.S.C. section 32101, et seq. or regulations promulgated thereunder, or in accordance with the provisions of the vehicle and traffic law or regulations promulgated thereunder, or (b) on which is affixed, stamped or embossed a vehicle identification number which was not affixed, stamped or embossed by the manufacturer, or in accordance with 49 U.S.C. section 32101, et seq. or regulations promulgated thereunder or in accordance with the provisions of the vehicle and traffic law or regulations promulgated thereunder. Illegal possession of a vehicle identification number is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.71 - Illegal Possession of a Vehicle Identification Number; Presumptions.

presumptions.(1) A person is presumed to knowingly possess a vehicle or vehicle part in violation of subdivision two of section 170.70, when he possesses any combination of five such whole vehicles or individual vehicle parts, none of which are attached to or contained in the same vehicle.(2) A person is presumed to knowingly possess a vehicle or vehicle part in violation of subdivision three of section 170.70, when he possesses any combination of five such whole vehicles or individual vehicle parts, none of which are attached to or contained in the same vehicle. (1) A person is presumed to knowingly possess a vehicle or vehicle part in violation of subdivision two of section 170.70, when he possesses any combination of five such whole vehicles or individual vehicle parts, none of which are attached to or contained in the same vehicle. (2) A person is presumed to knowingly possess a vehicle or vehicle part in violation of subdivision three of section 170.70, when he possesses any combination of five such whole vehicles or individual vehicle parts, none of which are attached to or contained in the same vehicle.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 170 - Forgery and Related Offenses170.75 - Fraudulent Making of an Electronic Access Device in the Second Degree.

degree. A person is guilty of fraudulent making of an electronic access device in the second degree when, with intent to defraud, deceive or injure another, he falsely makes, completes or alters two or more electronic access devices, as that term is defined in subdivision eight of section 170.00 of this article. Fraudulent making of an electronic access device in the second degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 175 - Offenses Involving False Written Statements175.00 - Definitions of Terms.

The following definitions are applicable to this article: 1. "Enterprise" means any entity of one or more persons, corporate or otherwise, public or private, engaged in business, commercial, professional, industrial, eleemosynary, social, political or governmental activity. 2. "Business record" means any writing or article, including computer data or a computer program, kept or maintained by an enterprise for the purpose of evidencing or reflecting its condition or activity. 3. "Written instrument" means any instrument or article, including computer data or a computer program, containing written or printed matter or the equivalent thereof, used for the purpose of reciting, embodying, conveying or recording information, or constituting a symbol or evidence of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 175 - Offenses Involving False Written Statements175.05 - Falsifying Business Records in the Second Degree.

A person is guilty of falsifying business records in the second degree when, with intent to defraud, he: 1. Makes or causes a false entry in the business records of an enterprise; or 2. Alters, erases, obliterates, deletes, removes or destroys a true entry in the business records of an enterprise; or 3. Omits to make a true entry in the business records of an enterprise in violation of a duty to do so which he knows to be imposed upon him by law or by the nature of his position; or 4. Prevents the making of a true entry or causes the omission thereof in the business records of an enterprise. Falsifying business records in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 175 - Offenses Involving False Written Statements175.10 - Falsifying Business Records in the First Degree.

A person is guilty of falsifying business records in the first degree when he commits the crime of falsifying business records in the second degree, and when his intent to defraud includes an intent to commit another crime or to aid or conceal the commission

thereof. Falsifying business records in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 175 - Offenses Involving False Written Statements175.15 - Falsifying Business Records; Defense.

In any prosecution for falsifying business records, it is an affirmative defense that the defendant was a clerk, bookkeeper or other employee who, without personal benefit, merely executed the orders of his employer or of a superior officer or employee generally authorized to direct his activities.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 175 - Offenses Involving False Written Statements175.20 - Tampering With Public Records in the Second Degree.

A person is guilty of tampering with public records in the second degree when, knowing that he does not have the authority of anyone entitled to grant it, he knowingly removes, mutilates, destroys, conceals, makes a false entry in or falsely alters any record or other written instrument filed with, deposited in, or otherwise constituting a record of a public office or public servant. Tampering with public records in the second degree is a Class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 175 - Offenses Involving False Written Statements175.25 - Tampering With Public Records in the First Degree.

A person is guilty of tampering with public records in the first degree when, knowing that he does not have the authority of anyone entitled to grant it, and with intent to defraud, he knowingly removes, mutilates, destroys, conceals, makes a false entry in or falsely alters any record or other written instrument filed with, deposited in, or otherwise constituting a record of a public office or public servant. Tampering with public records in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 175 - Offenses Involving False Written Statements175.30 - Offering a False Instrument for Filing in the Second Degree.

A person is guilty of offering a false instrument for filing in the second degree when, knowing that a written instrument contains a false statement or false information, he offers or presents it to a public office or public servant with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office or public servant. Offering a false instrument for filing in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 175 - Offenses Involving False Written Statements175.35 - Offering a False Instrument for Filing in the First Degree.

A person is guilty of offering a false instrument for filing in the first degree when: 1. knowing that a written instrument contains a false statement or false information, and with intent to defraud the state or any political subdivision, public authority or public benefit corporation of the state, he or she offers or presents it to a public office, public servant, public authority or public benefit corporation with the knowledge or belief that it will be filed with, registered or recorded in or otherwise become a part of the records of such public office, public servant, public authority or public benefit corporation; or 2. (a) he or she commits the crime of offering a false instrument for filing in the second degree; and(b) such instrument is a financing statement the contents of which are prescribed by section 9--502 of the uniform commercial code, the collateral asserted to be covered in such statement is the property of a person who is a state or local officer as defined by section two of the public officers law or who otherwise is a judge or justice of the unified court system, such financing statement does not relate to an actual transaction, and he or she filed such financing statement in retaliation for the performance of official duties by such person.Offering a false instrument for filing in the first degree is a class E felony. (b) such instrument is a financing statement the contents of which are prescribed by section 9--502 of the uniform commercial code, the collateral asserted to be covered in such statement is the property of a person who is a state or local officer as defined by section two of the public officers law or who otherwise is a judge or justice of the unified court system, such financing statement does not relate to an actual transaction, and he or she filed such financing statement in retaliation for the performance of official duties by such person. Offering a false instrument for filing in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 175 - Offenses Involving False Written Statements175.40 - Issuing a False Certificate.

A person is guilty of issuing a false certificate when, being a public servant authorized by law to make or issue official certificates or other official written instruments, and with intent to defraud, deceive or injure another person, he issues such an instrument, or makes the same with intent that it be issued, knowing that it contains a false statement or false information. Issuing a false certificate is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 175 - Offenses Involving False Written Statements175.45 - Issuing a False Financial Statement.

A person is guilty of issuing a false financial statement when, with intent to defraud: 1. He knowingly makes or utters a written instrument which purports to describe the financial condition or ability to pay of some person and which is inaccurate in some

material respect; or 2. He represents in writing that a written instrument purporting to describe a person's financial condition or ability to pay as of a prior date is accurate with respect to such person's current financial condition or ability to pay, whereas he knows it is materially inaccurate in that respect. Issuing a false financial statement is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 176 - Insurance Fraud176.00 - Insurance Fraud; Definition of Terms.

The following definitions are applicable to this article: 1. "Insurance policy" has the meaning assigned to insurance contract by subsection (a) of section one thousand one hundred one of the insurance law except it shall include reinsurance contracts, purported insurance policies and purported reinsurance contracts. 2. "Statement" includes, but is not limited to, any notice, proof of loss, bill of lading, invoice, account, estimate of property damages, bill for services, diagnosis, prescription, hospital or doctor records, x-ray, test result, and other evidence of loss, injury or expense. 3. "Person" includes any individual, firm, association or corporation. 4. "Personal insurance" means a policy of insurance insuring a natural person against any of the following contingencies:(a) loss of or damage to real property used predominantly for residential purposes and which consists of not more than four dwelling units, other than hotels, motels and rooming houses;(b) loss of or damage to personal property which is not used in the conduct of a business;(c) losses or liabilities arising out of the ownership, operation, or use of a motor vehicle, predominantly used for non-business purposes;(d) other liabilities for loss of, damage to, or injury to persons or property, not arising from the conduct of a business;(e) death, including death by personal injury, or the continuation of life, or personal injury by accident, or sickness, disease or ailment, excluding insurance providing disability benefits pursuant to article nine of the workers' compensation law.A policy of insurance which insures any of the contingencies listed in paragraphs (a) through (e) of this subdivision as well as other contingencies shall be personal insurance if that portion of the annual premium attributable to the listed contingencies exceeds that portion attributable to other contingencies.5. "Commercial insurance" means insurance other than personal insurance, and shall also include insurance providing disability benefits pursuant to article nine of the workers' compensation law, insurance providing workers' compensation benefits pursuant to the provisions of the workers' compensation law and any program of self insurance providing similar benefits. (a) loss of or damage to real property used predominantly for residential purposes and which consists of not more than four dwelling units, other than hotels, motels and rooming houses; (b) loss of or damage to personal property which is not used in the conduct of a business; (c) losses or liabilities arising out of the ownership, operation, or use of a motor vehicle, predominantly used for non-business purposes; (d) other liabilities for loss of, damage to, or injury to persons or property, not arising from the conduct of a business; (e) death, including death by personal injury, or the continuation of life, or personal injury by accident, or sickness, disease or ailment, excluding insurance providing disability benefits pursuant to article nine of the workers' compensation law. A policy of insurance which insures any of the contingencies listed in paragraphs (a) through (e) of this subdivision as well as other contingencies shall be personal insurance if that portion of the annual premium attributable to the listed contingencies exceeds that portion attributable to other contingencies. 5. "Commercial insurance" means insurance other than personal insurance, and shall also include insurance providing disability benefits pursuant to article nine of the workers' compensation law, insurance providing workers' compensation benefits pursuant to the provisions of the workers' compensation law and any program of self insurance providing similar benefits.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 176 - Insurance Fraud176.05 - Insurance Fraud; Defined.

A fraudulent insurance act is committed by any person who, knowingly and with intent to defraud presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, self insurer, or purported insurer, or purported self insurer, or any agent thereof: 1. any written statement as part of, or in support of, an application for the issuance of, or the rating of a commercial insurance policy, or certificate or evidence of self insurance for commercial insurance or commercial self insurance, or a claim for payment or other benefit pursuant to an insurance policy or self insurance program for commercial or personal insurance that he or she knows to:(a) contain materially false information concerning any fact material thereto; or(b) conceal, for the purpose of misleading, information concerning any fact material thereto; or2. any written statement or other physical evidence as part of, or in support of, an application for the issuance of a health insurance policy, or a policy or contract or other authorization that provides or allows coverage for, membership or enrollment in, or other services of a public or private health plan, or a claim for payment, services or other benefit pursuant to such policy, contract or plan that he or she knows to:(a) contain materially false information concerning any material fact thereto; or(b) conceal, for the purpose of misleading, information concerning any fact material thereto.Such policy or contract or plan or authorization shall include, but not be limited to, those issued or operating pursuant to any public or governmentally-sponsored or supported plan for health care coverage or services or those otherwise issued or operated by entities authorized pursuant to the public health law. For purposes of this subdivision an "application for the issuance of a health insurance policy" shall not include (i) any application for a health insurance policy or contract approved by the superintendent of financial services pursuant to the provisions of sections three thousand two hundred sixteen, four thousand three hundred four, four thousand three hundred twenty-one or four thousand three hundred twenty-two of the insurance law or any other application for a health insurance policy or contract approved by the superintendent of financial services in the individual or direct payment market; or (ii) any application for a certificate evidencing coverage under a self-insured plan or under a group contract approved by the superintendent of financial services. (a) contain materially false information concerning any fact material thereto; or (b) conceal, for the purpose of misleading, information concerning any fact material thereto; or 2. any written statement or other physical evidence

as part of, or in support of, an application for the issuance of a health insurance policy, or a policy or contract or other authorization that provides or allows coverage for, membership or enrollment in, or other services of a public or private health plan, or a claim for payment, services or other benefit pursuant to such policy, contract or plan that he or she knows to: (a) contain materially false information concerning any material fact thereto; or (b) conceal, for the purpose of misleading, information concerning any fact material thereto. Such policy or contract or plan or authorization shall include, but not be limited to, those issued or operating pursuant to any public or governmentally-sponsored or supported plan for health care coverage or services or those otherwise issued or operated by entities authorized pursuant to the public health law. For purposes of this subdivision an "application for the issuance of a health insurance policy" shall not include (i) any application for a health insurance policy or contract approved by the superintendent of financial services pursuant to the provisions of sections three thousand two hundred sixteen, four thousand three hundred four, four thousand three hundred twenty-one or four thousand three hundred twenty-two of the insurance law or any other application for a health insurance policy or contract approved by the superintendent of financial services in the individual or direct payment market; or (ii) any application for a certificate evidencing coverage under a self-insured plan or under a group contract approved by the superintendent of financial services.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 176 - Insurance Fraud176.10 - Insurance Fraud in the Fifth Degree.

A person is guilty of insurance fraud in the fifth degree when he commits a fraudulent insurance act. Insurance fraud in the fifth degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 176 - Insurance Fraud176.15 - Insurance Fraud in the Fourth Degree.

A person is guilty of insurance fraud in the fourth degree when he commits a fraudulent insurance act and thereby wrongfully takes, obtains or withholds, or attempts to wrongfully take, obtain or withhold property with a value in excess of one thousand dollars. Insurance fraud in the fourth degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 176 - Insurance Fraud176.20 - Insurance Fraud in the Third Degree.

A person is guilty of insurance fraud in the third degree when he commits a fraudulent insurance act and thereby wrongfully takes, obtains or withholds, or attempts to wrongfully take, obtain or withhold property with a value in excess of three thousand dollars. Insurance fraud in the third degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 176 - Insurance Fraud176.25 - Insurance Fraud in the Second Degree.

A person is guilty of insurance fraud in the second degree when he commits a fraudulent insurance act and thereby wrongfully takes, obtains or withholds, or attempts to wrongfully take, obtain or withhold property with a value in excess of fifty thousand dollars. Insurance fraud in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 176 - Insurance Fraud176.30 - Insurance Fraud in the First Degree.

A person is guilty of insurance fraud in the first degree when he commits a fraudulent insurance act and thereby wrongfully takes, obtains or withholds, or attempts to wrongfully take, obtain or withhold property with a value in excess of one million dollars. Insurance fraud in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 176 - Insurance Fraud176.35 - Aggravated Insurance Fraud.

A person is guilty of aggravated insurance fraud in the fourth degree when he commits a fraudulent insurance act, and has been previously convicted within the preceding five years of any offense, an essential element of which is the commission of a fraudulent insurance act. Aggravated insurance fraud in the fourth degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 176 - Insurance Fraud176.40 - Fraudulent Life Settlement Act; Defined.

A fraudulent life settlement act is committed by any person who, knowingly and with intent to defraud, presents, causes to be presented, or prepares with knowledge or belief that it will be presented to, or by, a life settlement provider, life settlement broker, life settlement intermediary, or any agent thereof, or to any owner any written statement or other physical evidence as part of, or in support of, an application for a life settlement contract, a claim for payment or other benefit under a life settlement contract, which the person knows to:(1) contain materially false information concerning any material fact thereto; or(2) conceal, for the purpose of misleading, information concerning any fact material thereto. (1) contain materially false information concerning any material fact thereto; or (2) conceal, for the purpose of misleading, information concerning any fact material thereto.

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2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 176 - Insurance Fraud176.45 - Life Settlement Fraud in the Fifth Degree.

A person is guilty of life settlement fraud in the fifth degree when he or she commits a fraudulent life settlement act. Life settlement fraud in the fifth degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 176 - Insurance Fraud176.50 - Life Settlement Fraud in the Fourth Degree.

A person is guilty of life settlement fraud in the fourth degree when he or she commits a fraudulent life settlement act and thereby wrongfully takes, obtains or withholds, or attempts to wrongfully take, obtain or withhold property with a value in excess of twenty-five thousand dollars. Life settlement fraud in the fourth degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 176 - Insurance Fraud176.55 - Life Settlement Fraud in the Third Degree.

A person is guilty of life settlement fraud in the third degree when he or she commits a fraudulent life settlement act and thereby wrongfully takes, obtains or withholds, or attempts to wrongfully take, obtain or withhold property with a value in excess of fifty thousand dollars. Life settlement fraud in the third degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 176 - Insurance Fraud176.60 - Life Settlement Fraud in the Second Degree.

A person is guilty of life settlement fraud in the second degree when he or she commits a fraudulent life settlement act and thereby wrongfully takes, obtains or withholds, or attempts to wrongfully take, obtain or withhold property with a value in excess of one hundred thousand dollars. Life settlement fraud in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 176 - Insurance Fraud176.65 - Life Settlement Fraud in the First Degree.

A person is guilty of life settlement fraud in the first degree when he or she commits a fraudulent life settlement act and thereby wrongfully takes, obtains or withholds, or attempts to wrongfully take, obtain or withhold property with a value in excess of one million dollars. Life settlement fraud in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 176 - Insurance Fraud176.70 - Aggravated Life Settlement Fraud.

A person is guilty of aggravated life settlement fraud when he or she commits a fraudulent life settlement act, and has been previously convicted within the preceding five years of any offense, an essential element of which is the commission of a fraudulent life settlement act. Aggravated life settlement fraud is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 176 - Insurance Fraud176.75 - Staging a Motor Vehicle Accident in the Second Degree.

A person is guilty of staging a motor vehicle accident in the second degree when, with intent to commit and in furtherance of a fraudulent insurance act, he or she operates a motor vehicle and intentionally causes a collision involving a motor vehicle. Staging a motor vehicle accident in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 176 - Insurance Fraud176.80 - Staging a Motor Vehicle Accident in the First Degree.

A person is guilty of staging a motor vehicle accident in the first degree when he or she commits the offense of staging a motor vehicle accident in the second degree and thereby causes serious physical injury or death to another person, other than a participant in such offense. Staging a motor vehicle accident in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 177 - Health Care Fraud177.00 - Definitions.

The following definitions are applicable to this article: 1. "Health plan" means any publicly or privately funded health insurance or managed care plan or contract, under which any health care item or service is provided, and through which payment may be made to the person who provided the health care item or service. The state's medical assistance program (Medicaid) shall be considered a single health plan. For purposes of this article, a payment made pursuant to the state's managed care program as defined in paragraph (c) of subdivision one of section three hundred sixty-four-j of the social services law shall be deemed a payment by the state's medical assistance program (Medicaid). 2. "Person" means any individual or entity, other than a recipient of a health care item or service under a health plan unless such recipient acts as an accessory to such an individual or entity.

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2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 177 - Health Care Fraud177.05 - Health Care Fraud in the Fifth Degree.

A person is guilty of health care fraud in the fifth degree when, with intent to defraud a health plan, he or she knowingly and willfully provides materially false information or omits material information for the purpose of requesting payment from a health plan for a health care item or service and, as a result of such information or omission, he or she or another person receives payment in an amount that he, she or such other person is not entitled to under the circumstances. Health care fraud in the fifth degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 177 - Health Care Fraud177.10 - Health Care Fraud in the Fourth Degree.

A person is guilty of health care fraud in the fourth degree when such person, on one or more occasions, commits the crime of health care fraud in the fifth degree and the payment or portion of the payment wrongfully received, as the case may be, from a single health plan, in a period of not more than one year, exceeds three thousand dollars in the aggregate. Health care fraud in the fourth degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 177 - Health Care Fraud177.15 - Health Care Fraud in the Third Degree.

A person is guilty of health care fraud in the third degree when such person, on one or more occasions, commits the crime of health care fraud in the fifth degree and the payment or portion of the payment wrongfully received, as the case may be, from a single health plan, in a period of not more than one year, exceeds ten thousand dollars in the aggregate. Health care fraud in the third degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 177 - Health Care Fraud177.20 - Health Care Fraud in the Second Degree.

A person is guilty of health care fraud in the second degree when such person, on one or more occasions, commits the crime of health care fraud in the fifth degree and the payment or portion of the payment wrongfully received, as the case may be, from a single health plan, in a period of not more than one year, exceeds fifty thousand dollars in the aggregate. Health care fraud in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 177 - Health Care Fraud177.25 - Health Care Fraud in the First Degree.

A person is guilty of health care fraud in the first degree when such person, on one or more occasions, commits the crime of health care fraud in the fifth degree and the payment or portion of the payment wrongfully received, as the case may be, from a single health plan, in a period of not more than one year, exceeds one million dollars in the aggregate. Health care fraud in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 177 - Health Care Fraud177.30 - Health Care Fraud; Affirmative Defense.

In any prosecution under this article, it shall be an affirmative defense that the defendant was a clerk, bookkeeper or other employee, other than an employee charged with the active management and control, in an executive capacity, of the affairs of the corporation, who, without personal benefit, merely executed the orders of his or her employer or of a superior employee generally authorized to direct his or her activities.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 178 - Criminal Diversion of Prescription Medications and Prescriptions178.00 - Criminal Diversion of Prescription Medications and Prescriptions; Definitions.

prescriptions; definitions. The following definitions are applicable to this article: 1. "Prescription medication or device" means any article for which a prescription is required in order to be lawfully sold, delivered or distributed by any person authorized by law to engage in the practice of the profession of pharmacy. 2. "Prescription" means a direction or authorization by means of a written prescription form or an oral prescription which permits a person to lawfully obtain a prescription medication or device from any person authorized to dispense such prescription medication or device. 3. "Criminal diversion act" means an act or acts in which a person knowingly:(a) transfers or delivers, in exchange for anything of pecuniary value, a prescription medication or device with knowledge or reasonable grounds to know that the recipient has no medical need for it; or(b) receives, in exchange for anything of pecuniary value, a prescription medication or device with knowledge or reasonable grounds to know that the seller or transferor is not authorized by law to sell or transfer such prescription medication or device; or(c) transfers or delivers a prescription in exchange for anything of pecuniary value; or(d) receives a prescription in exchange for anything of pecuniary value. (a) transfers or delivers,

in exchange for anything of pecuniary value, a prescription medication or device with knowledge or reasonable grounds to know that the recipient has no medical need for it; or (b) receives, in exchange for anything of pecuniary value, a prescription medication or device with knowledge or reasonable grounds to know that the seller or transferor is not authorized by law to sell or transfer such prescription medication or device; or (c) transfers or delivers a prescription in exchange for anything of pecuniary value; or (d) receives a prescription in exchange for anything of pecuniary value.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 178 - Criminal Diversion of Prescription Medications and Prescriptions178.05 - Criminal Diversion of Prescription Medications and Prescriptions; Limitation.

prescriptions; limitation. 1. The provisions of this article shall not apply to:(a) a duly licensed physician or other person authorized to issue a prescription acting in good faith in the lawful course of his or her profession; or(b) a duly licensed pharmacist acting in good faith in the lawful course of the practice of pharmacy; or(c) a person acting in good faith seeking treatment for a medical condition or assisting another person to obtain treatment for a medical condition.2. No provision of this article relating to the sale of a prescription medication or device shall be deemed to authorize any act prohibited by article thirty-three of the public health law or article two hundred twenty of this chapter. (a) a duly licensed physician or other person authorized to issue a prescription acting in good faith in the lawful course of his or her profession; or (b) a duly licensed pharmacist acting in good faith in the lawful course of the practice of pharmacy; or (c) a person acting in good faith seeking treatment for a medical condition or assisting another person to obtain treatment for a medical condition. 2. No provision of this article relating to the sale of a prescription medication or device shall be deemed to authorize any act prohibited by article thirty-three of the public health law or article two hundred twenty of this chapter.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 178 - Criminal Diversion of Prescription Medications and Prescriptions178.10 - Criminal Diversion of Prescription Medications and Prescriptions in the Fourth Degree.

prescriptions in the fourth degree. A person is guilty of criminal diversion of prescription medications and prescriptions in the fourth degree when he or she commits a criminal diversion act. Criminal diversion of prescription medications and prescriptions in the fourth degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 178 - Criminal Diversion of Prescription Medications and Prescriptions178.15 - Criminal Diversion of Prescription Medications and Prescriptions in the Third Degree.

prescriptions in the third degree. A person is guilty of criminal diversion of prescription medications and prescriptions in the third degree when he or she: 1. commits a criminal diversion act, and the value of the benefit exchanged is in excess of one thousand dollars; or 2. commits the crime of criminal diversion of prescription medications and prescriptions in the fourth degree, and has previously been convicted of the crime of criminal diversion of prescription medications and prescriptions in the fourth degree. Criminal diversion of prescription medications and prescriptions in the third degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 178 - Criminal Diversion of Prescription Medications and Prescriptions178.20 - Criminal Diversion of Prescription Medications and Prescriptions in the Second Degree.

prescriptions in the second degree. A person is guilty of criminal diversion of prescription medications and prescriptions in the second degree when he or she commits a criminal diversion act, and the value of the benefit exchanged is in excess of three thousand dollars. Criminal diversion of prescription medications and prescriptions in the second degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 178 - Criminal Diversion of Prescription Medications and Prescriptions178.25 - Criminal Diversion of Prescription Medications and Prescriptions in the First Degree.

prescriptions in the first degree. A person is guilty of criminal diversion of prescription medications and prescriptions in the first degree when he or she commits a criminal diversion act, and the value of the benefit exchanged is in excess of fifty thousand dollars. Criminal diversion of prescription medications and prescriptions in the first degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 178 - Criminal Diversion of Prescription Medications and Prescriptions178.26 - Fraud and Deceit Related to Controlled Substances.

1. No person shall willfully:(a) obtain or attempt to obtain a controlled substance, a prescription for a controlled substance or an official New York state prescription form,(i) by fraud, deceit, misrepresentation or subterfuge; or(ii) by the concealment of a material fact; or(iii) by the use of a false name or the giving of a false address;(b) make a false statement in any prescription, order, application, report or record required by article thirty-three of the public health law;(c) falsely assume the title of, or represent himself or herself to be a licensed manufacturer, distributor, pharmacy, pharmacist, practitioner, researcher, approved institutional

dispenser, owner or employee of a registered outsourcing facility or other authorized person, for the purpose of obtaining a controlled substance as these terms are defined in article thirty-three of the public health law;(d) make or utter any false or forged prescription or false or forged written order;(e) affix any false or forged label to a package or receptacle containing controlled substances; or(f) imprint on or affix to any controlled substance a false or forged code number or symbol.2. Possession of a false or forged prescription for a controlled substance by any person other than a pharmacist in the lawful pursuance of his or her profession shall be presumptive evidence of his or her intent to use the same for the purpose of illegally obtaining a controlled substance.3. Possession of a blank official New York state prescription form by any person to whom it was not lawfully issued shall be presumptive evidence of such person's intent to use same for the purpose of illegally obtaining a controlled substance.4. Any person who, in the course of treatment, is supplied with a controlled substance or a prescription therefor by one practitioner and who with the intent to deceive, intentionally withholds or intentionally fails to disclose the fact, is supplied during such treatment with a controlled substance or a prescription therefor by another practitioner shall be guilty of a violation of this article.5. The provisions of subdivision one of section thirty-three hundred ninety-six of the public health law shall apply to this section.Fraud and deceit related to controlled substances is a class A misdemeanor. (a) obtain or attempt to obtain a controlled substance, a prescription for a controlled substance or an official New York state prescription form, (i) by fraud, deceit, misrepresentation or subterfuge; or (ii) by the concealment of a material fact; or (iii) by the use of a false name or the giving of a false address; (b) make a false statement in any prescription, order, application, report or record required by article thirty-three of the public health law; (c) falsely assume the title of, or represent himself or herself to be a licensed manufacturer, distributor, pharmacy, pharmacist, practitioner, researcher, approved institutional dispenser, owner or employee of a registered outsourcing facility or other authorized person, for the purpose of obtaining a controlled substance as these terms are defined in article thirty-three of the public health law; (d) make or utter any false or forged prescription or false or forged written order; (e) affix any false or forged label to a package or receptacle containing controlled substances; or (f) imprint on or affix to any controlled substance a false or forged code number or symbol. 2. Possession of a false or forged prescription for a controlled substance by any person other than a pharmacist in the lawful pursuance of his or her profession shall be presumptive evidence of his or her intent to use the same for the purpose of illegally obtaining a controlled substance. 3. Possession of a blank official New York state prescription form by any person to whom it was not lawfully issued shall be presumptive evidence of such person's intent to use same for the purpose of illegally obtaining a controlled substance. 4. Any person who, in the course of treatment, is supplied with a controlled substance or a prescription therefor by one practitioner and who with the intent to deceive, intentionally withholds or intentionally fails to disclose the fact, is supplied during such treatment with a controlled substance or a prescription therefor by another practitioner shall be guilty of a violation of this article. 5. The provisions of subdivision one of section thirty-three hundred ninety-six of the public health law shall apply to this section. Fraud and deceit related to controlled substances is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.00 - Commercial Bribing in the Second Degree.

A person is guilty of commercial bribing in the second degree when he confers, or offers or agrees to confer, any benefit upon any employee, agent or fiduciary without the consent of the latter's employer or principal, with intent to influence his conduct in relation to his employer's or principal's affairs. Commercial bribing in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.03 - Commercial Bribing in the First Degree.

A person is guilty of commercial bribing in the first degree when he confers, or offers or agrees to confer, any benefit upon any employee, agent or fiduciary without the consent of the latter's employer or principal, with intent to influence his conduct in relation to his employer's or principal's affairs, and when the value of the benefit conferred or offered or agreed to be conferred exceeds one thousand dollars and causes economic harm to the employer or principal in an amount exceeding two hundred fifty dollars. Commercial bribing in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.05 - Commercial Bribe Receiving in the Second Degree.

An employee, agent or fiduciary is guilty of commercial bribe receiving in the second degree when, without the consent of his employer or principal, he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that such benefit will influence his conduct in relation to his employer's or principal's affairs. Commercial bribe receiving in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.08 - Commercial Bribe Receiving in the First Degree.

An employee, agent or fiduciary is guilty of commercial bribe receiving in the first degree when, without the consent of his employer or principal, he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that such benefit will influence his conduct in relation to his employer's or principal's affairs, and when the value of the benefit solicited, accepted or agreed to be accepted exceeds one thousand dollars and causes economic harm to the employer or principal in

an amount exceeding two hundred fifty dollars. Commercial bribe receiving in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.10 - Bribery of Labor Official; Definition of Term.

As used in this article, "labor official" means any duly appointed representative of a labor organization or any duly appointed trustee or representative of an employee welfare trust fund.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.15 - Bribing a Labor Official.

A person is guilty of bribing a labor official when, with intent to influence a labor official in respect to any of his acts, decisions or duties as such labor official, he confers, or offers or agrees to confer, any benefit upon him. Bribing a labor official is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.20 - Bribing a Labor Official; Defense.

In any prosecution for bribing a labor official, it is a defense that the defendant conferred or agreed to confer the benefit involved upon the labor official as a result of conduct of the latter constituting larceny committed by means of extortion, or an attempt to commit the same, or coercion, or an attempt to commit coercion.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.25 - Bribe Receiving by a Labor Official.

A labor official is guilty of bribe receiving by a labor official when he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that such benefit will influence him in respect to any of his acts, decisions, or duties as such labor official. Bribe receiving by a labor official is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.30 - Bribe Receiving by a Labor Official; No Defense.

The crimes of (a) bribe receiving by a labor official, and (b) larceny committed by means of extortion, attempt to commit the same, coercion or attempt to commit coercion, are not mutually exclusive, and it is no defense to a prosecution for bribe receiving by a labor official that, by reason of the same conduct, the defendant also committed one of such other specified crimes.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.35 - Sports Bribery and Tampering; Definitions of Terms.

As used in this article: 1. "Sports contest" means any professional or amateur sport or athletic game or contest viewed by the public. 2. "Sports participant" means any person who participates or expects to participate in a sports contest as a player, contestant or member of a team, or as a coach, manager, trainer or other person directly associated with a player, contestant or team. 3. "Sports official" means any person who acts or expects to act in a sports contest as an umpire, referee, judge or otherwise to officiate at a sports contest. 4. "Pari-mutuel betting" is such betting as is authorized under the provisions of the pari-mutuel revenue law as set forth in chapter 254 of the laws of 1940 with amendments. 5. "Pari-mutuel horse race" means any horse race upon which betting is conducted under the provisions of the pari-mutuel revenue law as set forth in chapter 254 of the laws of 1940.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.40 - Sports Bribing.

A person is guilty of sports bribing when he: 1. Confers, or offers or agrees to confer, any benefit upon a sports participant with intent to influence him not to give his best efforts in a sports contest; or 2. Confers, or offers or agrees to confer, any benefit upon a sports official with intent to influence him to perform his duties improperly. Sports bribing is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.45 - Sports Bribe Receiving.

A person is guilty of sports bribe receiving when: 1. Being a sports participant, he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that he will thereby be influenced not to give his best efforts in a sports contest; or 2. Being a sports official, he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that he will perform his duties improperly. Sports bribe receiving is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.50 - Tampering With a Sports Contest in the Second Degree.

A person is guilty of tampering with a sports contest when, with intent to influence the outcome of a sports contest, he tampers with any sports participant, sports official or with any animal or equipment or other thing involved in the conduct or operation of a sports

contest in a manner contrary to the rules and usages purporting to govern such a contest. Tampering with a sports contest in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.51 - Tampering With a Sports Contest in the First Degree.

A person is guilty of tampering with a sports contest in the first degree when, with intent to influence the outcome of a pari-mutuel horse race: 1. He affects any equine animal involved in the conduct or operation of a pari-mutuel horse race by administering to the animal in any manner whatsoever any controlled substance listed in section thirty-three hundred six of the public health law; or 2. He knowingly enters or furnishes to another person for entry or brings into this state for entry into a pari-mutuel horse race, or rides or drives in any pari-mutuel horse race any running, trotting or pacing horse, mare, gelding, colt or filly under an assumed name, or deceptively out of its proper class, or that has been painted or disguised or represented to be any other or different horse, mare, gelding, colt or filly from that which it actually is; or 3. He knowingly and falsely registers with the jockey club, United States trotting association, American quarter horse association or national steeplechase and hunt association a horse, mare, gelding, colt or filly previously registered under a different name; or 4. He agrees with one or more persons to enter such misrepresented or drugged animal in a pari-mutuel horse race. A person shall not be convicted of a violation of this subdivision unless an overt act is alleged and proved to have been committed by one of said persons in furtherance of said agreement. Tampering with a sports contest in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.52 - Impairing the Integrity of a Pari-Mutuel Betting System in the Second Degree.

second degree. A person is guilty of impairing the integrity of a pari-mutuel betting system in the second degree when, with the intent to obtain either any payment for himself or for a third person or with the intent to defraud any person he: 1. Alters, changes or interferes with any equipment or device used in connection with pari-mutuel betting; or 2. Causes any false, inaccurate, delayed or unauthorized data, impulse or signal to be fed into, or transmitted over, or registered in or displayed upon any equipment or device used in connection with pari-mutuel betting. Impairing the integrity of a pari-mutuel betting system in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.53 - Impairing the Integrity of a Pari-Mutuel Betting System in the First Degree.

§ 180.53 Impairing the integrity of a pari-mutuel betting system in the first degree. A person is guilty of impairing the integrity of a pari-mutuel betting system in the first degree when, with the intent to obtain either any payment for himself or for a third person or with the intent to defraud any person, and when the value of the payment exceeds one thousand five hundred dollars he: 1. Alters, changes or interferes with any equipment or device used in connection with pari-mutuel betting; or 2. Causes any false, inaccurate, delayed or unauthorized data, impulse or signal to be fed into, or transmitted over, or registered in or displayed upon any equipment or device used in connection with pari-mutuel betting. Impairing the integrity of a pari-mutuel betting system in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.54 - Rent Gouging; Definition of Term.

As used in this article, "lawful rental and other lawful charges" means registered, reported or contracted for rent pursuant to chapter four hundred three of the laws of nineteen hundred eighty-three, article two of the private housing finance law or section eight of the federal housing act of nineteen hundred sixty-eight, or, rent contained in a court approved stipulation of settlement, even if such rent or charges are subsequently decreased by order of the department of housing and community renewal or a court of competent jurisdiction.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.55 - Rent Gouging in the Third Degree.

A person is guilty of rent gouging in the third degree when, in connection with the leasing, rental or use of real property, he solicits, accepts or agrees to accept from a person some consideration of value, less than two hundred fifty dollars, in addition to lawful rental and other lawful charges, upon an agreement or understanding that the furnishing of such consideration will increase the possibility that any person may obtain or renew the lease, rental or use of such property, or that a failure to furnish it will decrease the possibility that any person may obtain or renew the same. Rent gouging in the third degree is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.56 - Rent Gouging in the Second Degree.

A person is guilty of rent gouging in the second degree when, in connection with the leasing, rental or use of real property, he

solicits, accepts or agrees to accept from a person some consideration of value, of two hundred fifty dollars or more, in addition to lawful rental and other lawful charges, upon an agreement or understanding that the furnishing of such consideration will increase the possibility that any person may obtain or renew the lease, rental or use of such property, or that a failure to furnish it will decrease the possibility that any person may obtain or renew the same. Rent gouging in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 180 - Bribery Not Involving Public Servants, and Related Offenses180.57 - Rent Gouging in the First Degree.

A person is guilty of rent gouging in the first degree when, in the course of a scheme constituting a systematic ongoing course of conduct in connection with the leasing, rental or use of three or more apartment units, the rental price of which is regulated pursuant to the provisions of federal, state or local law, he solicits, accepts or agrees to accept from one or more persons in three separate transactions some consideration of value, knowing that such consideration is in addition to lawful rental and other lawful charges established pursuant to the provisions of such federal, state or local law, and upon an agreement or understanding that the furnishing of such consideration will increase the possibility that any person may obtain or renew the lease, rental or use of such property, or that a failure to furnish it will decrease the possibility that any person may obtain or renew same, and thereby obtains such consideration from one or more persons. Rent gouging in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 185 - Frauds on Creditors185.00 - Fraud in Insolvency.

1. As used in this section, "administrator" means an assignee or trustee for the benefit of creditors, a liquidator, a receiver or any other person entitled to administer property for the benefit of creditors. 2. A person is guilty of fraud in insolvency when, with intent to defraud any creditor and knowing that proceedings have been or are about to be instituted for the appointment of an administrator, or knowing that a composition agreement or other arrangement for the benefit of creditors has been or is about to be made, he(a) conveys, transfers, removes, conceals, destroys, encumbers or otherwise disposes of any part of or any interest in the debtor's estate; or(b) obtains any substantial part of or interest in the debtor's estate; or(c) presents to any creditor or to the administrator any writing or record relating to the debtor's estate knowing the same to contain a false material statement; or(d) misrepresents or fails or refuses to disclose to the administrator the existence, amount or location of any part of or any interest in the debtor's estate, or any other information which he is legally required to furnish to such administrator.Fraud in insolvency is a class A misdemeanor. (a) conveys, transfers, removes, conceals, destroys, encumbers or otherwise disposes of any part of or any interest in the debtor's estate; or (b) obtains any substantial part of or interest in the debtor's estate; or (c) presents to any creditor or to the administrator any writing or record relating to the debtor's estate knowing the same to contain a false material statement; or (d) misrepresents or fails or refuses to disclose to the administrator the existence, amount or location of any part of or any interest in the debtor's estate, or any other information which he is legally required to furnish to such administrator. Fraud in insolvency is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 185 - Frauds on Creditors185.05 - Fraud Involving a Security Interest.

A person is guilty of fraud involving a security interest when, having executed a security agreement creating a security interest in personal property securing a monetary obligation owed to a secured party, and: 1. Having under the security agreement both the right of sale or other disposition of the property and the duty to account to the secured party for the proceeds of disposition, he sells or otherwise disposes of the property and wrongfully fails to account to the secured party for the proceeds of disposition; or 2. Having under the security agreement no right of sale or other disposition of the property, he knowingly secretes, withholds or disposes of such property in violation of the security agreement. Fraud involving a security interest is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 185 - Frauds on Creditors185.10 - Fraudulent Disposition of Mortgaged Property.

A person is guilty of fraudulent disposition of mortgaged property when, having theretofore executed a mortgage of real or personal property or any instrument intended to operate as such, he sells, assigns, exchanges, secretes, injures, destroys or otherwise disposes of any part of the property, upon which the mortgage or other instrument is at the time a lien, with intent thereby to defraud the mortgagee or a purchaser thereof. Fraudulent disposition of mortgaged property is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 185 - Frauds on Creditors185.15 - Fraudulent Disposition of Property Subject to a Conditional Sale Contract.

sale contract. A person is guilty of fraudulent disposition of property subject to a conditional sale contract when, prior to the performance of the condition of a conditional sale contract and being the buyer or any legal successor in interest of the buyer, he sells, assigns, mortgages, exchanges, secretes, injures, destroys or otherwise disposes of the goods subject to the conditional sale contract under claim of full ownership, with intent thereby to defraud another. Fraudulent disposition of property subject to a conditional sale contract is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 187 - Residential Mortgage Fraud187.00 - Definitions.

As used in this article: 1. "Person" means any individual or entity. 2. "Residential mortgage loan" means a loan or agreement to extend credit, including the renewal, refinancing or modification of any such loan, made to a person, which loan is primarily secured by either a mortgage, deed of trust, or other lien upon any interest in residential real property or any certificate of stock or other evidence of ownership in, and a proprietary lease from, a corporation or partnership formed for the purpose of cooperative ownership of residential real property. 3. "Residential real property" means real property that is used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons, including real property that is improved by a one-to-four family dwelling, or a residential unit in a building including units owned as condominiums or on a cooperative basis, used or occupied, or intended to be used or occupied, wholly or partly, as the home or residence of one or more persons, but shall not refer to unimproved real property upon which such dwellings are to be constructed. 4. "Residential mortgage fraud" is committed by a person who, knowingly and with intent to defraud, presents, causes to be presented, or prepares with knowledge or belief that it will be used in soliciting an applicant for, applying for, underwriting or closing a residential mortgage loan, or filing with a county clerk of any county in the state arising out of and related to the closing of a residential mortgage loan, any written statement which:(a) contains materially false information concerning any fact material thereto; or(b) conceals, for the purpose of misleading, information concerning any fact material thereto. (a) contains materially false information concerning any fact material thereto; or (b) conceals, for the purpose of misleading, information concerning any fact material thereto.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 187 - Residential Mortgage Fraud187.01 - Limitation on Prosecution.

No individual who applies for a residential mortgage loan and intends to occupy such residential property which such mortgage secures shall be held liable under this article provided, however, any such individual who acts as an accessory to an individual or entity in committing any crime defined in this article may be charged as an accessory to such crime.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 187 - Residential Mortgage Fraud187.05 - Residential Mortgage Fraud in the Fifth Degree.

A person is guilty of residential mortgage fraud in the fifth degree when he or she commits residential mortgage fraud. Residential mortgage fraud in the fifth degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 187 - Residential Mortgage Fraud187.10 - Residential Mortgage Fraud in the Fourth Degree.

A person is guilty of residential mortgage fraud in the fourth degree when he or she commits residential mortgage fraud and thereby receives proceeds or any other funds in the aggregate in excess of one thousand dollars. Residential mortgage fraud in the fourth degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 187 - Residential Mortgage Fraud187.15 - Residential Mortgage Fraud in the Third Degree.

A person is guilty of residential mortgage fraud in the third degree when he or she commits residential mortgage fraud and thereby receives proceeds or any other funds in the aggregate in excess of three thousand dollars. Residential mortgage fraud in the third degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 187 - Residential Mortgage Fraud187.20 - Residential Mortgage Fraud in the Second Degree.

A person is guilty of residential mortgage fraud in the second degree when he or she commits residential mortgage fraud and thereby receives proceeds or any other funds in the aggregate in excess of fifty thousand dollars. Residential mortgage fraud in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 187 - Residential Mortgage Fraud187.25 - Residential Mortgage Fraud in the First Degree.

A person is guilty of residential mortgage fraud in the first degree when he or she commits residential mortgage fraud and thereby receives proceeds or any other funds in the aggregate in excess of one million dollars. Residential mortgage fraud in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.00 - Issuing a Bad Check; Definitions of Terms.

The following definitions are applicable to this article: 1. "Check" means any check, draft or similar sight order for the payment of money which is not post-dated with respect to the time of utterance. 2. "Drawer" of a check means a person whose name appears thereon as the primary obligor, whether the actual signature be that of himself or of a person purportedly authorized to draw the check in his behalf. 3. "Representative drawer" means a person who signs a check as drawer in a representative capacity or as agent of the person whose name appears thereon as the principal drawer or obligor. 4. "Utter." A person "utters" a check when, as a drawer

or representative drawer thereof, he delivers it or causes it to be delivered to a person who thereby acquires a right against the drawer with respect to such check. One who draws a check with intent that it be so delivered is deemed to have uttered it if the delivery occurs. 5. "Pass." A person "passes" a check when, being a payee, holder or bearer of a check which previously has been or purports to have been drawn and uttered by another, he delivers it, for a purpose other than collection, to a third person who thereby acquires a right with respect thereto. 6. "Funds" means money or credit. 7. "Insufficient funds." A drawer has "insufficient funds" with a drawee to cover a check when he has no funds or account whatever, or funds in an amount less than that of the check; and a check dishonored for "no account" shall also be deemed to have been dishonored for "insufficient funds."

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.05 - Issuing a Bad Check.

A person is guilty of issuing a bad check when: 1. (a) As a drawer or representative drawer, he utters a check knowing that he or his principal, as the case may be, does not then have sufficient funds with the drawee to cover it, and (b) he intends or believes at the time of utterance that payment will be refused by the drawee upon presentation, and (c) payment is refused by the drawee upon presentation; or 2. (a) He passes a check knowing that the drawer thereof does not then have sufficient funds with the drawee to cover it, and (b) he intends or believes at the time the check is passed that payment will be refused by the drawee upon presentation, and (c) payment is refused by the drawee upon presentation. Issuing a bad check is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.10 - Issuing a Bad Check; Presumptions.

1. When the drawer of a check has insufficient funds with the drawee to cover it at the time of utterance, the subscribing drawer or representative drawer, as the case may be, is presumed to know of such insufficiency. 2. A subscribing drawer or representative drawer, as the case may be, of an ultimately dishonored check is presumed to have intended or believed that the check would be dishonored upon presentation when:(a) The drawer had no account with the drawee at the time of utterance; or(b) (i) The drawer had insufficient funds with the drawee at the time of utterance, and (ii) the check was presented to the drawee for payment not more than thirty days after the date of utterance, and (iii) the drawer had insufficient funds with the drawee at the time of presentation.3. Dishonor of a check by the drawee and insufficiency of the drawer's funds at the time of presentation may properly be proved by introduction in evidence of a notice of protest of the check, or of a certificate under oath of an authorized representative of the drawee declaring the dishonor and insufficiency, and such proof shall constitute presumptive evidence of such dishonor and insufficiency. (a) The drawer had no account with the drawee at the time of utterance; or (b) (i) The drawer had insufficient funds with the drawee at the time of utterance, and (ii) the check was presented to the drawee for payment not more than thirty days after the date of utterance, and (iii) the drawer had insufficient funds with the drawee at the time of presentation. 3. Dishonor of a check by the drawee and insufficiency of the drawer's funds at the time of presentation may properly be proved by introduction in evidence of a notice of protest of the check, or of a certificate under oath of an authorized representative of the drawee declaring the dishonor and insufficiency, and such proof shall constitute presumptive evidence of such dishonor and insufficiency.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.15 - Issuing a Bad Check; Defenses.

In any prosecution for issuing a bad check, it is an affirmative defense that: 1. The defendant or a person acting in his behalf made full satisfaction of the amount of the check within ten days after dishonor by the drawee; or 2. The defendant, in acting as a representative drawer, did so as an employee who, without personal benefit, merely executed the orders of his employer or of a superior officer or employee generally authorized to direct his activities.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.20 - False Advertising.

A person is guilty of false advertising when, with intent to promote the sale or to increase the consumption of property or services, he makes or causes to be made a false or misleading statement in any advertisement or publishes any advertisement in violation of chapter three of the act of congress entitled "Truth in Lending Act" and the regulations thereunder, as such act and regulations may from time to time be amended, addressed to the public or to a substantial number of persons; except that, in any prosecution under this section, it is an affirmative defense that the allegedly false or misleading statement was not knowingly or recklessly made or caused to be made. False advertising is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.23 - False Personation.

A person is guilty of false personation when after being informed of the consequences of such act, he or she knowingly misrepresents his or her actual name, date of birth or address to a police officer or peace officer with intent to prevent such police officer or peace officer from ascertaining such information. False personation is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.25 - Criminal Impersonation in the Second Degree.

A person is guilty of criminal impersonation in the second degree when he: 1. Impersonates another and does an act in such assumed character with intent to obtain a benefit or to injure or defraud another; or 2. Pretends to be a representative of some person or organization and does an act in such pretended capacity with intent to obtain a benefit or to injure or defraud another; or 3. (a) Pretends to be a public servant, or wears or displays without authority any uniform, badge, insignia or facsimile thereof by which such public servant is lawfully distinguished, or falsely expresses by his words or actions that he is a public servant or is acting with approval or authority of a public agency or department; and (b) so acts with intent to induce another to submit to such pretended official authority, to solicit funds or to otherwise cause another to act in reliance upon that pretense; or 4. Impersonates another by communication by internet website or electronic means with intent to obtain a benefit or injure or defraud another, or by such communication pretends to be a public servant in order to induce another to submit to such authority or act in reliance on such pretense; or 5. Impersonates another person, without such other person's permission, by using the other person's electronic signature with intent to obtain a benefit or injure or defraud the other person or another person. For the purposes of this subdivision, electronic signature shall have the same meaning as set forth in subdivision three of section three hundred two of the state technology law. Criminal impersonation in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.26 - Criminal Impersonation in the First Degree.

A person is guilty of criminal impersonation in the first degree when he: 1. Pretends to be a police officer or a federal law enforcement officer as enumerated in section 2.15 of the criminal procedure law, or wears or displays without authority, any uniform, badge or other insignia or facsimile thereof, by which such police officer or federal law enforcement officer is lawfully distinguished or expresses by his or her words or actions that he or she is acting with the approval or authority of any police department or acting as a federal law enforcement officer with the approval of any agency that employs federal law enforcement officers as enumerated in section 2.15 of the criminal procedure law; and 2. So acts with intent to induce another to submit to such pretended official authority or otherwise to act in reliance upon said pretense and in the course of such pretense commits or attempts to commit a felony; or 3. Pretending to be a duly licensed physician or other person authorized to issue a prescription for any drug or any instrument or device used in the taking or administering of drugs for which a prescription is required by law, communicates to a pharmacist an oral prescription which is required to be reduced to writing pursuant to section thirty-three hundred thirty-two of the public health law. Criminal impersonation in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.27 - Criminal Sale of a Police Uniform.

A person is guilty of criminal sale of a police uniform when he or she sells or offers for sale the uniform of any police officer to any person, unless presented with a valid photo identification card showing the purchaser to be a member of the police department which has authorized the requested uniform or an authorization to purchase specified uniforms signed by the police chief or the police commissioner of such police department accompanied by a personal photo identification. For purposes of this section, "police officer" shall include federal law enforcement officers, as defined in section 2.15 of the criminal procedure law; and "uniform" shall include all or any part of the uniform which identifies the wearer as a member of a police department, such as the uniform, shield, badge, numbers or other identifying insignias or emblems. Criminal sale of a police uniform is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.30 - Unlawfully Concealing a Will.

A person is guilty of unlawfully concealing a will when, with intent to defraud, he conceals, secretes, suppresses, mutilates or destroys a will, codicil or other testamentary instrument. Unlawfully concealing a will is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.35 - Misconduct by Corporate Official.

A person is guilty of misconduct by corporate official when: 1. Being a director of a stock corporation, he knowingly concurs in any vote or act of the directors of such corporation, or any of them, by which it is intended:(a) To make a dividend except in the manner provided by law; or(b) To divide, withdraw or in any manner pay to any stockholder any part of the capital stock of the corporation except in the manner provided by law; or(c) To discount or receive any note or other evidence of debt in payment of an installment of capital stock actually called in and required to be paid, or with intent to provide the means of making such payment; or(d) To receive or discount any note or other evidence of debt with intent to enable any stockholder to withdraw any part of the money paid in by him on his stock; or(e) To apply any portion of the funds of such corporation, directly or indirectly, to the purchase of shares of its own stock, except in the manner provided by law; or2. Being a director or officer of a stock corporation:(a) He issues, participates in issuing, or concurs in a vote to issue any increase of its capital stock beyond the amount of the capital stock thereof, duly authorized by or in pursuance of law; or(b) He sells, or agrees to sell, or is directly or indirectly interested in the sale of any share of stock of such corporation, or in any agreement to sell the same, unless at the time of such sale or agreement he is an actual owner of such share, provided that the foregoing shall not apply to a sale by or on behalf of an underwriter or dealer in connection with a bona fide public offering of shares of stock of such corporation.Misconduct by corporate official is a class B misdemeanor.

(a) To make a dividend except in the manner provided by law; or (b) To divide, withdraw or in any manner pay to any stockholder any part of the capital stock of the corporation except in the manner provided by law; or (c) To discount or receive any note or other evidence of debt in payment of an installment of capital stock actually called in and required to be paid, or with intent to provide the means of making such payment; or (d) To receive or discount any note or other evidence of debt with intent to enable any stockholder to withdraw any part of the money paid in by him on his stock; or (e) To apply any portion of the funds of such corporation, directly or indirectly, to the purchase of shares of its own stock, except in the manner provided by law; or 2. Being a director or officer of a stock corporation: (a) He issues, participates in issuing, or concurs in a vote to issue any increase of its capital stock beyond the amount of the capital stock thereof, duly authorized by or in pursuance of law; or (b) He sells, or agrees to sell, or is directly or indirectly interested in the sale of any share of stock of such corporation, or in any agreement to sell the same, unless at the time of such sale or agreement he is an actual owner of such share, provided that the foregoing shall not apply to a sale by or on behalf of an underwriter or dealer in connection with a bona fide public offering of shares of stock of such corporation. Misconduct by corporate official is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.40 - Criminal Usury in the Second Degree.

A person is guilty of criminal usury in the second degree when, not being authorized or permitted by law to do so, he knowingly charges, takes or receives any money or other property as interest on the loan or forebearance of any money or other property, at a rate exceeding twenty-five per centum per annum or the equivalent rate for a longer or shorter period. Criminal usury in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.42 - Criminal Usury in the First Degree.

A person is guilty of criminal usury in the first degree when, not being authorized or permitted by law to do so, he knowingly charges, takes or receives any money or other property as interest on the loan or forbearance of any money or other property, at a rate exceeding twenty-five per centum per annum or the equivalent rate for a longer or shorter period and either the actor had previously been convicted of the crime of criminal usury or of the attempt to commit such crime, or the actor's conduct was part of a scheme or business of making or collecting usurious loans. Criminal usury in the first degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.45 - Possession of Usurious Loan Records.

A person is guilty of possession of usurious loan records when, with knowledge of the contents thereof, he possesses any writing, paper, instrument or article used to record criminally usurious transactions prohibited by section 190.40. Possession of usurious loan records is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.50 - Unlawful Collection Practices.

A person is guilty of unlawful collection practices when, with intent to enforce a claim or judgment for money or property, he knowingly sends, mails or delivers to another person a notice, document or other instrument which has no judicial or official sanction and which in its format or appearance, simulates a summons, complaint, court order or process, or an insignia, seal or printed form of a federal, state or local government or an instrumentality thereof, or is otherwise calculated to induce a belief that such notice, document or instrument has a judicial or official sanction. Unlawful collection practices is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.55 - Making a False Statement of Credit Terms.

A person is guilty of making a false statement of credit terms when he knowingly and willfully violates the provisions of chapter two of the act of congress entitled "Truth in Lending Act" and the regulations thereunder, as such act and regulations may from time to time be amended, by understating or failing to state the interest rate required to be disclosed, or by failing to make or by making a false or inaccurate or incomplete statement of other credit terms in violation of such act. Making a false statement of credit terms is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.60 - Scheme to Defraud in the Second Degree.

1. A person is guilty of a scheme to defraud in the second degree when he engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud more than one person or to obtain property from more than one person by false or fraudulent pretenses, representations or promises, and so obtains property from one or more of such persons. 2. In any prosecution under this section, it shall be necessary to prove the identity of at least one person from whom the defendant so obtained property, but it shall not be necessary to prove the identity of any other intended victim. Scheme to defraud in the second degree is a class A misdemeanor.

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2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.65 - Scheme to Defraud in the First Degree.

1. A person is guilty of a scheme to defraud in the first degree when he or she: (a) engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud ten or more persons or to obtain property from ten or more persons by false or fraudulent pretenses, representations or promises, and so obtains property from one or more of such persons; or (b) engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud more than one person or to obtain property from more than one person by false or fraudulent pretenses, representations or promises, and so obtains property with a value in excess of one thousand dollars from one or more such persons; or (c) engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud more than one person, more than one of whom is a vulnerable elderly person as defined in subdivision three of section 260.31 of this chapter or to obtain property from more than one person, more than one of whom is a vulnerable elderly person as defined in subdivision three of section 260.31 of this chapter, by false or fraudulent pretenses, representations or promises, and so obtains property from one or more such persons; or (d) engages in a systematic ongoing course of conduct, with intent to defraud more than one person by false or fraudulent pretenses, representations or promises, by disposing of solid waste as defined in section 27-0701 of the environmental conservation law on such persons' property, and so damages the property of one or more of such persons in an amount in excess of one thousand dollars. 2. In any prosecution under this section, it shall be necessary to prove the identity of at least one person from whom the defendant so obtained property, but it shall not be necessary to prove the identity of any other intended victim, provided that in any prosecution under paragraph (c) of subdivision one of this section, it shall be necessary to prove the identity of at least one such vulnerable elderly person as defined in subdivision three of section 260.31 of this chapter. 3. In any prosecution under paragraph (d) of subdivision one of this section, it shall be necessary to prove the identity of at least one person on whose property the defendant fraudulently disposed of solid waste pursuant to such paragraph (d), but it shall not be necessary to prove the identity of any other victim or intended victim. Scheme to defraud in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.70 - Scheme to Defraud the State by Unlawfully Selling Prescriptions.

prescriptions. A person is guilty of a scheme to defraud the state by unlawfully selling prescriptions when he or she engages, with intent to defraud the state, in a scheme constituting a systematic, ongoing course of conduct to make, sell, deliver for sale or offer for sale one or more prescriptions and so obtains goods or services from the state with a value in excess of one thousand dollars or causes the state to reimburse another in excess of one thousand dollars for the delivery of such goods or services. Scheme to defraud the state by unlawfully selling prescriptions is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.72 - Unauthorized Radio Transmission.

A person is guilty of an unauthorized radio transmission when such person knowingly makes or causes to be made a radio transmission in this state, on a radio frequency assigned and licensed by the federal communications commission for use by amplitude modulation (AM) radio stations between the frequencies of five hundred thirty kilohertz (kHz) to seventeen hundred kilohertz (kHz), or frequency modulation (FM) radio stations between the frequencies of eighty-eight megahertz (MHz) to one hundred eight megahertz (MHz), without authorization or having first obtained a license from the federal communications commission or duly authorized federal agency, in violation of federal law. Unauthorized radio transmission is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.75 - Criminal Use of an Access Device in the Second Degree.

A person is guilty of criminal use of an access device in the second degree when he knowingly uses an access device without consent of an owner thereof with intent to unlawfully obtain telecommunications services on behalf of himself or a third person. As used in this section, access device shall have the meaning set forth in subdivision seven-c of section 155.00 of this chapter. Criminal use of an access device in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.76 - Criminal Use of an Access Device in the First Degree.

§ 190.76 Criminal use of an access device in the first degree. A person is guilty of criminal use of an access device in the first degree when he knowingly uses an access device without consent of an owner thereof with intent to unlawfully obtain telecommunications services on behalf of himself or a third person, and so obtains such services with a value in excess of one thousand dollars. As used in this section, access device shall have the meaning set forth in subdivision seven-c of section 155.00 of this chapter. Criminal use of an access device in the first degree is a class E felony.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.77 - Offenses Involving Theft of Identity; Definitions.

* 1. For the purposes of sections 190.78, 190.79, 190.80 and 190.80-a and 190.85 of this article "personal identifying information" means a person's name, address, telephone number, date of birth, driver's license number, social security number, place of employment, mother's maiden name, financial services account number or code, savings account number or code, checking account number or code, brokerage account number or code, credit card account number or code, debit card number or code, automated teller machine number or code, taxpayer identification number, computer system password, signature or copy of a signature, electronic signature, unique biometric data that is a fingerprint, voice print, retinal image or iris image of another person, telephone calling card number, mobile identification number or code, electronic serial number or personal identification number, or any other name, number, code or information that may be used alone or in conjunction with other such information to assume the identity of another person. * NB Effective until March 21, 2025 * 1. For the purposes of sections 190.78, 190.79, 190.80, 190.80-a and 190.85 of this article "personal identifying information" means a person's name, address, telephone number, date of birth, driver's license number, social security number, place of employment, mother's maiden name, financial services account number or code, savings account number or code, checking account number or code, brokerage account number or code, credit card account number or code, debit card number or code, automated teller machine number or code, taxpayer identification number, computer system password, signature or copy of a signature, electronic signature, unique biometric data that is a fingerprint, voice print, retinal image or iris image of another person, telephone calling card number, mobile identification number or code, electronic serial number or personal identification number, medical information, health insurance information, or any other name, number, code or information that may be used alone or in conjunction with other such information to assume the identity of another person. * NB Effective March 21, 2025 2. * For the purposes of sections 190.78, 190.79, 190.80, 190.80-a, 190.81, 190.82 and 190.83 of this article: * NB Effective until March 21, 2025 * For the purposes of subdivision one of this section and sections 190.78, 190.79, 190.80, 190.80-a, 190.81, 190.82, 190.83 and 190.85 of this article: * NB Effective March 21, 2025 a. "electronic signature" shall have the same meaning as defined in subdivision three of section three hundred two of the state technology law. b. "personal identification number" means any number or code which may be used alone or in conjunction with any other information to assume the identity of another person or access financial resources or credit of another person. c. "member of the armed forces" shall mean a person in the military service of the United States or the military service of the state, including but not limited to, the armed forces of the United States, the army national guard, the air national guard, the New York naval militia, the New York guard, and such additional forces as may be created by the federal or state government as authorized by law. * d. "medical information" means any information regarding an individual's medical history, mental or physical condition, or medical treatment or diagnosis by a health care professional. * NB Effective March 21, 2025 * e. "health insurance information" means an individual's health insurance policy number or subscriber identification number, any unique identifier used by a health insurer to identify the individual or any information in an individual's application and claims history, including, but not limited to, appeals history. * NB Effective March 21, 2025

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.78 - Identity Theft in the Third Degree.

A person is guilty of identity theft in the third degree when he or she knowingly and with intent to defraud assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person or by using personal identifying information of that other person, and thereby: 1. obtains goods, money, property or services or uses credit in the name of such other person or causes financial loss to such person or to another person or persons; or 2. commits a class A misdemeanor or higher level crime. Identity theft in the third degree is a class A misdemeanor. * NB Effective until March 21, 2025 * § 190.78 Identity theft in the third degree. A person is guilty of identity theft in the third degree when such person knowingly and with intent to defraud assumes the identity of another person by presenting themself as that other person, or by acting as that other person or by using personal identifying information of that other person, and thereby: 1. obtains goods, money, property or services or uses credit in the name of such other person or causes financial loss to such person or to another person or persons; or 2. commits a class A misdemeanor or higher level crime. Identity theft in the third degree is a class A misdemeanor. * NB Effective March 21, 2025

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.79 - Identity Theft in the Second Degree.

A person is guilty of identify theft in the second degree when he or she knowingly and with intent to defraud assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person or by using personal identifying information of that other person, and thereby: 1. obtains goods, money, property or services or uses credit in the name of such other person in an aggregate amount that exceeds five hundred dollars; or 2. causes financial loss to such person or to another person or persons in an aggregate amount that exceeds five hundred dollars; or 3. commits or attempts to commit a felony or acts as an accessory to the commission of a felony; or 4. commits the crime of identity theft in the third degree as defined in section 190.78 of this article and has been previously convicted within the last five years of identity theft in the third degree as defined in section 190.78, identity theft in the second degree as defined in this section, identity theft in the first degree as defined in section 190.80, unlawful possession of personal identification information in the third degree as defined in section 190.81, unlawful possession of

personal identification information in the second degree as defined in section 190.82, unlawful possession of personal identification information in the first degree as defined in section 190.83, unlawful possession of a skimmer device in the second degree as defined in section 190.85, unlawful possession of a skimmer device in the first degree as defined in section 190.86, grand larceny in the fourth degree as defined in section 155.30, grand larceny in the third degree as defined in section 155.35, grand larceny in the second degree as defined in section 155.40 or grand larceny in the first degree as defined in section 155.42 of this chapter. Identity theft in the second degree is a class E felony. * NB Effective until March 21, 2025 * § 190.79 Identity theft in the second degree. A person is guilty of identity theft in the second degree when such person knowingly and with intent to defraud assumes the identity of another person by presenting themself as that other person, or by acting as that other person or by using personal identifying information of that other person, and thereby: 1. obtains goods, money, property or services or uses credit in the name of such other person in an aggregate amount that exceeds five hundred dollars; or 2. causes financial loss to such person or to another person or persons in an aggregate amount that exceeds five hundred dollars; or 3. commits or attempts to commit a felony or acts as an accessory to the commission of a felony; or 4. commits the crime of identity theft in the third degree as defined in section 190.78 of this article and has been previously convicted within the last five years of identity theft in the third degree as defined in section 190.78, identity theft in the second degree as defined in this section, identity theft in the first degree as defined in section 190.80, unlawful possession of personal identification information in the third degree as defined in section 190.81, unlawful possession of personal identification information in the second degree as defined in section 190.82, unlawful possession of personal identification information in the first degree as defined in section 190.83, unlawful possession of a skimmer device in the second degree as defined in section 190.85, unlawful possession of a skimmer device in the first degree as defined in section 190.86, grand larceny in the fourth degree as defined in section 155.30, grand larceny in the third degree as defined in section 155.35, grand larceny in the second degree as defined in section 155.40 or grand larceny in the first degree as defined in section 155.42 of this chapter. Identity theft in the second degree is a class E felony. * NB Effective March 21, 2025

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.80-A - Aggravated Identity Theft.

A person is guilty of aggravated identity theft when he or she knowingly and with intent to defraud assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person or by using personal identifying information of that other person, and knows that such person is a member of the armed forces, and knows that such member is presently deployed outside of the continental United States and: 1. thereby obtains goods, money, property or services or uses credit in the name of such member of the armed forces in an aggregate amount that exceeds five hundred dollars; or 2. thereby causes financial loss to such member of the armed forces in an aggregate amount that exceeds five hundred dollars. Aggravated identity theft is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.80 - Identity Theft in the First Degree.

A person is guilty of identity theft in the first degree when he or she knowingly and with intent to defraud assumes the identity of another person by presenting himself or herself as that other person, or by acting as that other person or by using personal identifying information of that other person, and thereby: 1. obtains goods, money, property or services or uses credit in the name of such other person in an aggregate amount that exceeds two thousand dollars; or 2. causes financial loss to such person or to another person or persons in an aggregate amount that exceeds two thousand dollars; or 3. commits or attempts to commit a class D felony or higher level crime or acts as an accessory in the commission of a class D or higher level felony; or 4. commits the crime of identity theft in the second degree as defined in section 190.79 of this article and has been previously convicted within the last five years of identity theft in the third degree as defined in section 190.78, identity theft in the second degree as defined in section 190.79, identity theft in the first degree as defined in this section, unlawful possession of personal identification information in the third degree as defined in section 190.81, unlawful possession of personal identification information in the second degree as defined in section 190.82, unlawful possession of personal identification information in the first degree as defined in section 190.83, unlawful possession of a skimmer device in the second degree as defined in section 190.85, unlawful possession of a skimmer device in the first degree as defined in section 190.86, grand larceny in the fourth degree as defined in section 155.30, grand larceny in the third degree as defined in section 155.35, grand larceny in the second degree as defined in section 155.40 or grand larceny in the first degree as defined in section 155.42 of this chapter. Identity theft in the first degree is a class D felony. * NB Effective until March 21, 2025 * § 190.80 Identity theft in the first degree. A person is guilty of identity theft in the first degree when such person knowingly and with intent to defraud assumes the identity of another person by presenting themself as that other person, or by acting as that other person or by using personal identifying information of that other person, and thereby: 1. obtains goods, money, property or services or uses credit in the name of such other person in an aggregate amount that exceeds two thousand dollars; or 2. causes financial loss to such person or to another person or persons in an aggregate amount that exceeds two thousand dollars; or 3. commits or attempts to commit a class D felony or higher level crime or acts as an accessory in the commission of a class D or higher level felony; or 4. commits the crime of identity theft in the second degree as defined in section 190.79 of this article and has been previously convicted within the last five years of identity theft in the third degree as defined in section 190.78, identity theft in the second degree as defined in section 190.79, identity theft in the first degree as defined in this section, unlawful possession of personal identification information in the third degree as defined in section 190.81, unlawful possession of personal identification

information in the second degree as defined in section 190.82, unlawful possession of personal identification information in the first degree as defined in section 190.83, unlawful possession of a skimmer device in the second degree as defined in section 190.85, unlawful possession of a skimmer device in the first degree as defined in section 190.86, grand larceny in the fourth degree as defined in section 155.30, grand larceny in the third degree as defined in section 155.35, grand larceny in the second degree as defined in section 155.40 or grand larceny in the first degree as defined in section 155.42 of this chapter. Identity theft in the first degree is a class D felony. * NB Effective March 21, 2025

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.81 - Unlawful Possession of Personal Identification Information in the Third Degree.

the third degree. A person is guilty of unlawful possession of personal identification information in the third degree when he or she knowingly possesses a person's financial services account number or code, savings account number or code, checking account number or code, brokerage account number or code, credit card account number or code, debit card number or code, automated teller machine number or code, personal identification number, mother's maiden name, computer system password, electronic signature or unique biometric data that is a fingerprint, voice print, retinal image or iris image of another person knowing such information is intended to be used in furtherance of the commission of a crime defined in this chapter. Unlawful possession of personal identification information in the third degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.82 - Unlawful Possession of Personal Identification Information in the Second Degree.

the second degree. A person is guilty of unlawful possession of personal identification information in the second degree when he or she knowingly possesses two hundred fifty or more items of personal identification information of the following nature: a person's financial services account number or code, savings account number or code, checking account number or code, brokerage account number or code, credit card account number or code, debit card number or code, automated teller machine number or code, personal identification number, mother's maiden name, computer system password, electronic signature or unique biometric data that is a fingerprint, voice print, retinal image or iris image of another person knowing such information is intended to be used in furtherance of the commission of a crime defined in this chapter. Unlawful possession of personal identification information in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.83 - Unlawful Possession of Personal Identification Information in the First Degree.

the first degree. A person is guilty of unlawful possession of personal identification information in the first degree when he or she commits the crime of unlawful possession of personal identification information in the second degree and: 1. with intent to further the commission of identity theft in the second degree, he or she supervises more than three accomplices; or 2. he or she has been previously convicted within the last five years of identity theft in the third degree as defined in section 190.78, identity theft in the second degree as defined in section 190.79, identity theft in the first degree as defined in section 190.80, unlawful possession of personal identification information in the third degree as defined in section 190.81, unlawful possession of personal identification information in the second degree as defined in section 190.82, unlawful possession of personal identification information in the first degree as defined in this section, unlawful possession of a skimmer device in the second degree as defined in section 190.85, unlawful possession of a skimmer device in the first degree as defined in section 190.86, grand larceny in the fourth degree as defined in section 155.30, grand larceny in the third degree as defined in section 155.35, grand larceny in the second degree as defined in section 155.40 or grand larceny in the first degree as defined in section 155.42 of this chapter; or 3. with intent to further the commission of identity theft in the second degree:(a) he or she supervises more than two accomplices, and(b) he or she knows that the person whose personal identification information that he or she possesses is a member of the armed forces, and(c) he or she knows that such member of the armed forces is presently deployed outside of the continental United States.Unlawful possession of personal identification information in the first degree is a class D felony. (a) he or she supervises more than two accomplices, and (b) he or she knows that the person whose personal identification information that he or she possesses is a member of the armed forces, and (c) he or she knows that such member of the armed forces is presently deployed outside of the continental United States. Unlawful possession of personal identification information in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.84 - Defenses.

In any prosecution for identity theft or unlawful possession of personal identification information pursuant to this article, it shall be an affirmative defense that the person charged with the offense: 1. was under twenty-one years of age at the time of committing the offense and the person used or possessed the personal identifying or identification information of another solely for the purpose of purchasing alcohol; 2. was under eighteen years of age at the time of committing the offense and the person used or possessed the personal identifying or identification information of another solely for the purpose of purchasing tobacco products; or 3. used or possessed the personal identifying or identification information of another person solely for the purpose of misrepresenting the person's age to gain access to a place the access to which is restricted based on age.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.85 - Unlawful Possession of a Skimmer Device in the Second Degree.

1. A person is guilty of unlawful possession of a skimmer device in the second degree when he or she possesses a skimmer device with the intent that such device be used in furtherance of the commission of the crime of identity theft or unlawful possession of personal identification information as defined in this article. 2. For purposes of this article, "skimmer device" means a device designed or adapted to obtain personal identifying information from a credit card, debit card, public benefit card, access card or device, or other card or device that contains personal identifying information. Unlawful possession of a skimmer device in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.86 - Unlawful Possession of a Skimmer Device in the First Degree.

A person is guilty of unlawful possession of a skimmer device in the first degree when he or she commits the crime of unlawful possession of a skimmer device in the second degree and he or she has been previously convicted within the last five years of identity theft in the third degree as defined in section 190.78, identity theft in the second degree as defined in section 190.79, identity theft in the first degree as defined in section 190.80, unlawful possession of personal identification information in the third degree as defined in section 190.81, unlawful possession of personal identification information in the second degree as defined in section 190.82, unlawful possession of personal identification information in the first degree as defined in section 190.83, unlawful possession of a skimmer device in the second degree as defined in section 190.85, unlawful possession of a skimmer device in the first degree as defined in this section, grand larceny in the fourth degree as defined in section 155.30, grand larceny in the third degree as defined in section 155.35, grand larceny in the second degree as defined in section 155.40 or grand larceny in the first degree as defined in section 155.42 of this chapter. Unlawful possession of a skimmer device in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.87 - Immigrant Assistant Services Fraud in the Second Degree.

A person is guilty of immigrant assistance services fraud in the second degree when, with intent to defraud another person seeking immigrant assistance services, as defined in article twenty-eight-C of the general business law, from such person, he or she violates section four hundred sixty-d of the general business law with intent to obtain property from such other person by false or fraudulent pretenses, representations or promises, and thereby wrongfully obtains such property. Immigrant assistance services fraud in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle K - Offenses Involving FraudArticle 190 - Other Frauds190.89 - Immigrant Assistance Services Fraud in the First Degree.

A person is guilty of immigrant assistance services fraud in the first degree when, with intent to defraud another person seeking immigrant assistance services, as defined in article twenty-eight-C of the general business law, from such person, he or she violates section four hundred sixty-d of the general business law with intent to obtain property from such other person by false or fraudulent pretenses, representations or promises, and thereby wrongfully obtains such property with a value in excess of one thousand dollars. Immigrant assistance services fraud in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 195 - Official Misconduct and Obstruction of Public Servants Generally195.00 - Official Misconduct.

A public servant is guilty of official misconduct when, with intent to obtain a benefit or deprive another person of a benefit: 1. He commits an act relating to his office but constituting an unauthorized exercise of his official functions, knowing that such act is unauthorized; or 2. He knowingly refrains from performing a duty which is imposed upon him by law or is clearly inherent in the nature of his office. Official misconduct is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 195 - Official Misconduct and Obstruction of Public Servants Generally195.02 - Concealment of a Human Corpse.

A person is guilty of concealment of a human corpse when, having a reasonable expectation that a human corpse or a part thereof will be produced for or used as physical evidence in: (a) an official proceeding; (b) an autopsy as part of a criminal investigation; or (c) an examination by law enforcement personnel as part of a criminal investigation; such person, alone or in concert with another, conceals, alters or destroys such corpse or part thereof with the intent to prevent its production, use or discovery. Concealment of a human corpse is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 195 - Official Misconduct and Obstruction of Public Servants Generally195.05 - Obstructing Governmental Administration in the Second Degree.

A person is guilty of obstructing governmental administration when: 1. Such person intentionally obstructs, impairs or perverts the administration of law or other governmental function or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force or interference, or by means of any independently unlawful act, or by means of interfering, whether or not physical force is involved, with radio, telephone, television or other telecommunications systems owned or operated by the state, or a county, city, town, village, fire district or emergency medical service or by means of releasing a dangerous animal under circumstances evincing the actor's intent that the animal obstruct governmental administration; or 2. With the intent to violate a closing order, order to seal, temporary closing order, or temporary order to seal issued by a governmental entity to address a public health or safety concern, such person damages or removes any padlock or other device installed for the purpose of effectuating such order. Obstructing governmental administration is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 195 - Official Misconduct and Obstruction of Public Servants Generally195.06-A - Killing a Police Work Dog or Police Work Horse.

A person is guilty of killing a police work dog or police work horse when such person intentionally kills a police work dog or police work horse while such dog or horse is in the performance of its duties and under the supervision of a police officer. For purposes of this section, "police work dog" or "police work horse," as the case may be, shall mean any dog or horse owned or harbored by any state or municipal police department or any state or federal law enforcement agency, which has been trained to aid law enforcement officers and is actually being used for police work purposes. Killing a police work dog or police work horse is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 195 - Official Misconduct and Obstruction of Public Servants Generally195.06 - Killing or Injuring a Police Animal.

A person is guilty of killing or injuring a police animal when such person intentionally kills or injures any animal while such animal is in the performance of its duties and under the supervision of a police or peace officer. Killing or injuring a police animal is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 195 - Official Misconduct and Obstruction of Public Servants Generally195.07 - Obstructing Governmental Administration in the First Degree.

A person is guilty of obstructing governmental administration in the first degree when he commits the crime of obstructing governmental administration in the second degree by means of interfering with a telecommunications system thereby causing serious physical injury to another person. Obstructing governmental administration in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 195 - Official Misconduct and Obstruction of Public Servants Generally195.08 - Obstructing Governmental Administration by Means of a Self-Defense Spray Device.

self-defense spray device. A person is guilty of obstructing governmental administration by means of a self-defense spray device when, with the intent to prevent a police officer or peace officer from performing a lawful duty, he causes temporary physical impairment to a police officer or peace officer by intentionally discharging a self-defense spray device, as defined in paragraph fourteen of subdivision a of section 265.20 of this chapter, thereby causing such temporary physical impairment. Obstructing governmental administration by means of a self-defense spray device is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 195 - Official Misconduct and Obstruction of Public Servants Generally195.10 - Refusing to Aid a Peace or a Police Officer.

A person is guilty of refusing to aid a peace or a police officer when, upon command by a peace or a police officer identifiable or identified to him as such, he unreasonably fails or refuses to aid such peace or a police officer in effecting an arrest, or in preventing the commission by another person of any offense. Refusing to aid a peace or a police officer is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 195 - Official Misconduct and Obstruction of Public Servants Generally195.11 - Harming an Animal Trained to Aid a Person With a Disability in the Second Degree.

the second degree. A person is guilty of harming an animal trained to aid a person with a disability in the second degree when such person intentionally causes physical injury to such animal while it is in the performance of aiding a person with a disability, and thereby renders such animal incapable of providing such aid to such person, or to another person with a disability. For purposes of this section and section 195.12 of this article, the term "disability" means "disability" as defined in subdivision twenty-one of section two hundred ninety-two of the executive law. Harming an animal trained to aid a person with a disability in the second degree is a class B misdemeanor.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 195 - Official Misconduct and Obstruction of Public Servants Generally195.12 - Harming an Animal Trained to Aid a Person With a Disability in the First Degree.

the first degree. A person is guilty of harming an animal trained to aid a person with a disability in the first degree when such person: 1. intentionally causes physical injury to such animal while it is in the performance of aiding a person with a disability, and thereby renders such animal permanently incapable of providing such aid to such person, or to another person with a disability; or 2. intentionally kills such animal while it is in the performance of aiding a person with a disability. Harming an animal trained to aid a person with a disability in the first degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 195 - Official Misconduct and Obstruction of Public Servants Generally195.15 - Obstructing Firefighting Operations.

A person is guilty of obstructing firefighting operations when he or she intentionally and unreasonably obstructs the efforts of any: 1. firefighter in extinguishing a fire, or prevents or dissuades another from extinguishing or helping to extinguish a fire; 2. firefighter, police officer or peace officer in performing his or her duties in circumstances involving an imminent danger created by an explosion, threat of explosion or the presence of toxic fumes or gases; or 3. firefighter performing emergency medical care on a sick or injured person. Obstructing firefighting operations is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 195 - Official Misconduct and Obstruction of Public Servants Generally195.16 - Obstructing Emergency Medical Services.

A person is guilty of obstructing emergency medical services when he or she intentionally and unreasonably obstructs the efforts of any service, technician, personnel, system or unit specified in section three thousand one of the public health law in the performance of their duties. Obstructing emergency medical services is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 195 - Official Misconduct and Obstruction of Public Servants Generally195.17 - Obstruction of Governmental Duties by Means of a Bomb, Destructive Device, Explosive, or Hazardous Substance.

destructive device, explosive, or hazardous substance. A person is guilty of obstruction of governmental duties by means of a bomb, destructive device, explosive, or hazardous substance when he or she, in furtherance of a felony offense, knowingly and unlawfully installs or causes to be installed a bomb, destructive device, explosive, or hazardous substance, in any object, place, or compartment that is subject to a search so as to obstruct, prevent, hinder or delay the administration of law or performance of a government function. Obstruction of governmental duties by means of a bomb, destructive device, explosive, or hazardous substance is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 195 - Official Misconduct and Obstruction of Public Servants Generally195.20 - Defrauding the Government.

A person is guilty of defrauding the government when, being a public servant or party officer, he or she:(a) engages in a scheme constituting a systematic ongoing course of conduct with intent to:(i) defraud the state or a political subdivision of the state or a governmental instrumentality within the state or to obtain property, services or other resources from the state or a political subdivision of the state or a governmental instrumentality within the state by false or fraudulent pretenses, representations or promises; or(ii) defraud the state or a political subdivision of the state or a governmental instrumentality within the state by making use of property, services or resources of the state, political subdivision of the state or a governmental instrumentality within the state for private business purposes or other compensated non-governmental purposes; and(b) so obtains property, services or other resources with a value in excess of one thousand dollars from such state, political subdivision or governmental instrumentality.Defrauding the government is a class E felony. (a) engages in a scheme constituting a systematic ongoing course of conduct with intent to: (i) defraud the state or a political subdivision of the state or a governmental instrumentality within the state or to obtain property, services or other resources from the state or a political subdivision of the state or a governmental instrumentality within the state by false or fraudulent pretenses, representations or promises; or (ii) defraud the state or a political subdivision of the state or a governmental instrumentality within the state by making use of property, services or resources of the state, political subdivision of the state or a governmental instrumentality within the state for private business purposes or other compensated non-governmental purposes; and (b) so obtains property, services or other resources with a value in excess of one thousand dollars from such state, political subdivision or governmental instrumentality. Defrauding the government is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 210 - Perjury and Related Offenses210.00 - Perjury and Related Offenses; Definitions of Terms.

The following definitions are applicable to this article: 1. "Oath" includes an affirmation and every other mode authorized by law of attesting to the truth of that which is stated. 2. "Swear" means to state under oath. 3. "Testimony" means an oral statement made

under oath in a proceeding before any court, body, agency, public servant or other person authorized by law to conduct such proceeding and to administer the oath or cause it to be administered. 4. "Oath required by law." An affidavit, deposition or other subscribed written instrument is one for which an "oath is required by law" when, absent an oath or swearing thereto, it does not or would not, according to statute or appropriate regulatory provisions, have legal efficacy in a court of law or before any public or governmental body, agency or public servant to whom it is or might be submitted. 5. "Swear falsely." A person "swears falsely" when he intentionally makes a false statement which he does not believe to be true (a) while giving testimony, or (b) under oath in a subscribed written instrument. A false swearing in a subscribed written instrument shall not be deemed complete until the instrument is delivered by its subscriber, or by someone acting in his behalf, to another person with intent that it be uttered or published as true. 6. "Attesting officer" means any notary public or other person authorized by law to administer oaths in connection with affidavits, depositions and other subscribed written instruments, and to certify that the subscriber of such an instrument has appeared before him and has sworn to the truth of the contents thereof. 7. "Jurat" means a clause wherein an attesting officer certifies, among other matters, that the subscriber has appeared before him and sworn to the truth of the contents thereof.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 210 - Perjury and Related Offenses210.05 - Perjury in the Third Degree.

A person is guilty of perjury in the third degree when he swears falsely. Perjury in the third degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 210 - Perjury and Related Offenses210.10 - Perjury in the Second Degree.

A person is guilty of perjury in the second degree when he swears falsely and when his false statement is (a) made in a subscribed written instrument for which an oath is required by law, and (b) made with intent to mislead a public servant in the performance of his official functions, and (c) material to the action, proceeding or matter involved. Perjury in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 210 - Perjury and Related Offenses210.15 - Perjury in the First Degree.

A person is guilty of perjury in the first degree when he swears falsely and when his false statement (a) consists of testimony, and (b) is material to the action, proceeding or matter in which it is made. Perjury in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 210 - Perjury and Related Offenses210.20 - Perjury; Pleading and Proof Where Inconsistent Statements Involved.

involved. Where a person has made two statements under oath which are inconsistent to the degree that one of them is necessarily false, where the circumstances are such that each statement, if false, is perjuriously so, and where each statement was made within the jurisdiction of this state and within the period of the statute of limitations for the crime charged, the inability of the people to establish specifically which of the two statements is the false one does not preclude a prosecution for perjury, and such prosecution may be conducted as follows: 1. The indictment or information may set forth the two statements and, without designating either, charge that one of them is false and perjuriously made. 2. The falsity of one or the other of the two statements may be established by proof or a showing of their irreconcilable inconsistency. 3. The highest degree of perjury of which the defendant may be convicted is determined by hypothetically assuming each statement to be false and perjurious. If under such circumstances perjury of the same degree would be established by the making of each statement, the defendant may be convicted of that degree at most. If perjury of different degrees would be established by the making of the two statements, the defendant may be convicted of the lesser degree at most.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 210 - Perjury and Related Offenses210.25 - Perjury; Defense.

In any prosecution for perjury, it is an affirmative defense that the defendant retracted his false statement in the course of the proceeding in which it was made before such false statement substantially affected the proceeding and before it became manifest that its falsity was or would be exposed.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 210 - Perjury and Related Offenses210.30 - Perjury; No Defense.

It is no defense to a prosecution for perjury that: 1. The defendant was not competent to make the false statement alleged; or 2. The defendant mistakenly believed the false statement to be immaterial; or 3. The oath was administered or taken in an irregular manner or that the authority or jurisdiction of the attesting officer who administered the oath was defective, if such defect was excusable under any statute or rule of law.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 210 - Perjury and Related Offenses210.35 - Making an Apparently Sworn False Statement in the Second Degree.

degree. A person is guilty of making an apparently sworn false statement in the second degree when (a) he subscribes a written

instrument knowing that it contains a statement which is in fact false and which he does not believe to be true, and (b) he intends or believes that such instrument will be uttered or delivered with a jurat affixed thereto, and (c) such instrument is uttered or delivered with a jurat affixed thereto. Making an apparently sworn false statement in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 210 - Perjury and Related Offenses210.40 - Making an Apparently Sworn False Statement in the First Degree.

A person is guilty of making an apparently sworn false statement in the first degree when he commits the crime of making an apparently sworn false statement in the second degree, and when (a) the written instrument involved is one for which an oath is required by law, and (b) the false statement contained therein is made with intent to mislead a public servant in the performance of his official functions, and (c) such false statement is material to the action, proceeding or matter involved. Making an apparently sworn false statement in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 210 - Perjury and Related Offenses210.45 - Making a Punishable False Written Statement.

A person is guilty of making a punishable false written statement when he knowingly makes a false statement, which he does not believe to be true, in a written instrument bearing a legally authorized form notice to the effect that false statements made therein are punishable. Making a punishable false written statement is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 210 - Perjury and Related Offenses210.50 - Perjury and Related Offenses; Requirement of Corroboration.

In any prosecution for perjury, except a prosecution based upon inconsistent statements pursuant to section 210.20, or in any prosecution for making an apparently sworn false statement, or making a punishable false written statement, falsity of a statement may not be established by the uncorroborated testimony of a single witness.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.00 - Bribing a Witness.

A person is guilty of bribing a witness when he confers, or offers or agrees to confer, any benefit upon a witness or a person about to be called as a witness in any action or proceeding upon an agreement or understanding that (a) the testimony of such witness will thereby be influenced, or (b) such witness will absent himself from, or otherwise avoid or seek to avoid appearing or testifying at, such action or proceeding. Bribing a witness is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.05 - Bribe Receiving by a Witness.

A witness or a person about to be called as a witness in any action or proceeding is guilty of bribe receiving by a witness when he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that (a) his testimony will thereby be influenced, or (b) he will absent himself from, or otherwise avoid or seek to avoid appearing or testifying at, such action or proceeding. Bribe receiving by a witness is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.10 - Tampering With a Witness in the Fourth Degree.

A person is guilty of tampering with a witness when, knowing that a person is or is about to be called as a witness in an action or proceeding, (a) he wrongfully induces or attempts to induce such person to absent himself from, or otherwise to avoid or seek to avoid appearing or testifying at, such action or proceeding, or (b) he knowingly makes any false statement or practices any fraud or deceit with intent to affect the testimony of such person. Tampering with a witness in the fourth degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.11 - Tampering With a Witness in the Third Degree.

A person is guilty of tampering with a witness in the third degree when, knowing that a person is about to be called as a witness in a criminal proceeding: 1. He wrongfully compels or attempts to compel such person to absent himself from, or otherwise to avoid or seek to avoid appearing or testifying at such proceeding by means of instilling in him a fear that the actor will cause physical injury to such person or another person; or 2. He wrongfully compels or attempts to compel such person to swear falsely by means of instilling in him a fear that the actor will cause physical injury to such person or another person. Tampering with a witness in the third degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.12 - Tampering With a Witness in the Second Degree.

A person is guilty of tampering with a witness in the second degree when he: 1. Intentionally causes physical injury to a person for the purpose of obstructing, delaying, preventing or impeding the giving of testimony in a criminal proceeding by such person or

another person or for the purpose of compelling such person or another person to swear falsely; or 2. He intentionally causes physical injury to a person on account of such person or another person having testified in a criminal proceeding. Tampering with a witness in the second degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.13 - Tampering With a Witness in the First Degree.

A person is guilty of tampering with a witness in the first degree when: 1. He intentionally causes serious physical injury to a person for the purpose of obstructing, delaying, preventing or impeding the giving of testimony in a criminal proceeding by such person or another person or for the purpose of compelling such person or another person to swear falsely; or 2. He intentionally causes serious physical injury to a person on account of such person or another person having testified in a criminal proceeding. Tampering with a witness in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.14 - Employer Unlawfully Penalizing Witness or Victim.

1. Any person who is the victim of an offense upon which an accusatory instrument is based or, is subpoenaed to attend a criminal proceeding as a witness pursuant to article six hundred ten of the criminal procedure law or who exercises his rights as a victim as provided by section 380.50 or 390.30 of the criminal procedure law or subdivision two of section two hundred fifty-nine-i of the executive law and who notifies his employer or agent of his intent to appear as a witness, to consult with the district attorney, or to exercise his rights as provided in the criminal procedure law, the family court act and the executive law prior to the day of his attendance, shall not on account of his absence from employment by reason of such service be subject to discharge or penalty except as hereinafter provided. Upon request of the employer or agent, the party who sought the attendance or testimony shall provide verification of the employee's service. An employer may, however, withhold wages of any such employee during the period of such attendance. The subjection of an employee to discharge or penalty on account of his absence from employment by reason of his required attendance as a witness at a criminal proceeding or consultation with the district attorney or exercise of his rights as provided under law shall constitute a class B misdemeanor. 2. For purposes of this section, the term "victim" shall include the aggrieved party or the aggrieved party's next of kin, if the aggrieved party is deceased as a result of the offense, the representative of a victim as defined in subdivision six of section six hundred twenty-one of the executive law, a good samaritan as defined in subdivision seven of section six hundred twenty-one of such law or a person pursuing an application or enforcement of an order of protection under the criminal procedure law or the family court act.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.15 - Intimidating a Victim or Witness in the Third Degree.

A person is guilty of intimidating a victim or witness in the third degree when, knowing that another person possesses information relating to a criminal transaction and other than in the course of that criminal transaction or immediate flight therefrom, he: 1. Wrongfully compels or attempts to compel such other person to refrain from communicating such information to any court, grand jury, prosecutor, police officer or peace officer by means of instilling in him a fear that the actor will cause physical injury to such other person or another person; or 2. Intentionally damages the property of such other person or another person for the purpose of compelling such other person or another person to refrain from communicating, or on account of such other person or another person having communicated, information relating to that criminal transaction to any court, grand jury, prosecutor, police officer or peace officer. Intimidating a victim or witness in the third degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.16 - Intimidating a Victim or Witness in the Second Degree.

A person is guilty of intimidating a victim or witness in the second degree when, other than in the course of that criminal transaction or immediate flight therefrom, he: 1. Intentionally causes physical injury to another person for the purpose of obstructing, delaying, preventing or impeding the communication by such other person or another person of information relating to a criminal transaction to any court, grand jury, prosecutor, police officer or peace officer or for the purpose of compelling such other person or another person to swear falsely; or 2. Intentionally causes physical injury to another person on account of such other person or another person having communicated information relating to a criminal transaction to any court, grand jury, prosecutor, police officer or peace officer; or 3. Recklessly causes physical injury to another person by intentionally damaging the property of such other person or another person, for the purpose of obstructing, delaying, preventing or impeding such other person or another person from communicating, or on account of such other person or another person having communicated, information relating to a criminal transaction to any court, grand jury, prosecutor, police officer or peace officer. Intimidating a victim or witness in the second degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.17 - Intimidating a Victim or Witness in the First Degree.

A person is guilty of intimidating a victim or witness in the first degree when, other than in the course of that criminal transaction or

immediate flight therefrom, he: 1. Intentionally causes serious physical injury to another person for the purpose of obstructing, delaying, preventing or impeding the communication by such other person or another person of information relating to a criminal transaction to any court, grand jury, prosecutor, police officer or peace officer or for the purpose of compelling such other person or another person to swear falsely; or 2. Intentionally causes serious physical injury to another person on account of such other person or another person having communicated information relating to a criminal transaction to any court, grand jury, prosecutor, police officer or peace officer. Intimidating a victim or witness in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.19 - Bribing a Juror.

A person is guilty of bribing a juror when he confers, or offers or agrees to confer, any benefit upon a juror upon an agreement or understanding that such juror's vote, opinion, judgment, decision or other action as a juror will thereby be influenced. Bribing a juror is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.20 - Bribe Receiving by a Juror.

A juror is guilty of bribe receiving by a juror when he solicits, accepts or agrees to accept any benefit from another person upon an agreement or understanding that his vote, opinion, judgment, decision or other action as a juror will thereby be influenced. Bribe receiving by a juror is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.22 - Providing a Juror With a Gratuity.

A person is guilty of providing a juror with a gratuity when he or she, having been a party in a concluded civil or criminal action or proceeding or having been a person with regard to whom a grand jury has taken action pursuant to any subdivision of section 190.60 of the criminal procedure law (or acting on behalf of such a party or such a person), directly or indirectly confers, offers to confer or agrees to confer upon a person whom he or she knows has served as a juror in such action or proceeding or on such grand jury any benefit with intent to reward such person for such service. Providing a juror with a gratuity is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.23 - Tampering With a Juror in the Second Degree.

A person is guilty of tampering with a juror in the second degree when, prior to discharge of the jury, he: 1. confers, or offers or agrees to confer, any payment or benefit upon a juror or upon a third person acting on behalf of such juror, in consideration for such juror or third person supplying information in relation to an action or proceeding pending or about to be brought before such juror; or 2. acting on behalf of a juror, accepts or agrees to accept any payment or benefit for himself or for such juror, in consideration for supplying any information in relation to an action or proceeding pending or about to be brought before such juror and prior to his discharge. Tampering with a juror in the second degree is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.25 - Tampering With a Juror in the First Degree.

A person is guilty of tampering with a juror in the first degree when, with intent to influence the outcome of an action or proceeding, he communicates with a juror in such action or proceeding, except as authorized by law. Tampering with a juror in the first degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.28 - Misconduct by a Juror in the Second Degree.

A person is guilty of misconduct by a juror in the second degree when, in relation to an action or proceeding pending or about to be brought before him and prior to discharge, he accepts or agrees to accept any payment or benefit for himself or for a third person in consideration for supplying any information concerning such action or proceeding. Misconduct by a juror in the second degree is a violation.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.30 - Misconduct by a Juror in the First Degree.

A juror is guilty of misconduct by a juror in the first degree when, in relation to an action or proceeding pending or about to be brought before him, he agrees to give a vote, opinion, judgment, decision or report for or against any party to such action or proceeding. Misconduct by a juror in the first degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.35 - Tampering With Physical Evidence; Definitions of Terms.

The following definitions are applicable to section 215.40: 1. "Physical evidence" means any article, object, document, record or other thing of physical substance which is or is about to be produced or used as evidence in an official proceeding. 2. "Official proceeding" means any action or proceeding conducted by or before a legally constituted judicial, legislative, administrative or other governmental agency or official, in which evidence may properly be received.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.40 - Tampering With Physical Evidence.

A person is guilty of tampering with physical evidence when: 1. With intent that it be used or introduced in an official proceeding or a prospective official proceeding, he (a) knowingly makes, devises or prepares false physical evidence, or (b) produces or offers such evidence at such a proceeding knowing it to be false; or 2. Believing that certain physical evidence is about to be produced or used in an official proceeding or a prospective official proceeding, and intending to prevent such production or use, he suppresses it by any act of concealment, alteration or destruction, or by employing force, intimidation or deception against any person. Tampering with physical evidence is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.45 - Compounding a Crime.

1. A person is guilty of compounding a crime when:(a) He solicits, accepts or agrees to accept any benefit upon an agreement or understanding that he will refrain from initiating a prosecution for a crime; or(b) He confers, or offers or agrees to confer, any benefit upon another person upon an agreement or understanding that such other person will refrain from initiating a prosecution for a crime.2. In any prosecution under this section, it is an affirmative defense that the benefit did not exceed an amount which the defendant reasonably believed to be due as restitution or indemnification for harm caused by the crime.Compounding a crime is a class A misdemeanor. (a) He solicits, accepts or agrees to accept any benefit upon an agreement or understanding that he will refrain from initiating a prosecution for a crime; or (b) He confers, or offers or agrees to confer, any benefit upon another person upon an agreement or understanding that such other person will refrain from initiating a prosecution for a crime. 2. In any prosecution under this section, it is an affirmative defense that the benefit did not exceed an amount which the defendant reasonably believed to be due as restitution or indemnification for harm caused by the crime. Compounding a crime is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.50 - Criminal Contempt in the Second Degree.

A person is guilty of criminal contempt in the second degree when he engages in any of the following conduct: 1. Disorderly, contemptuous, or insolent behavior, committed during the sitting of a court, in its immediate view and presence and directly tending to interrupt its proceedings or to impair the respect due to its authority; or 2. Breach of the peace, noise, or other disturbance, directly tending to interrupt a court's proceedings; or 3. Intentional disobedience or resistance to the lawful process or other mandate of a court except in cases involving or growing out of labor disputes as defined by subdivision two of section seven hundred fifty-three-a of the judiciary law; or 4. Contumacious and unlawful refusal to be sworn as a witness in any court proceeding or, after being sworn, to answer any legal and proper interrogatory; or 5. Knowingly publishing a false or grossly inaccurate report of a court's proceedings; or 6. Intentional failure to obey any mandate, process or notice, issued pursuant to articles sixteen, seventeen, eighteen, or eighteen-a of the judiciary law, or to rules adopted pursuant to any such statute or to any special statute establishing commissioners of jurors and prescribing their duties or who refuses to be sworn as provided therein; or 7. On or along a public street or sidewalk within a radius of two hundred feet of any building established as a courthouse, he calls aloud, shouts, holds or displays placards or signs containing written or printed matter, concerning the conduct of a trial being held in such courthouse or the character of the court or jury engaged in such trial or calling for or demanding any specified action or determination by such court or jury in connection with such trial. Criminal contempt in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.51 - Criminal Contempt in the First Degree.

A person is guilty of criminal contempt in the first degree when:(a) he contumaciously and unlawfully refuses to be sworn as a witness before a grand jury, or, when after having been sworn as a witness before a grand jury, he refuses to answer any legal and proper interrogatory; or(b) in violation of a duly served order of protection, or such order of which the defendant has actual knowledge because he or she was present in court when such order was issued, or an order of protection issued by a court of competent jurisdiction in this or another state, territorial or tribal jurisdiction, he or she:(i) intentionally places or attempts to place a person for whose protection such order was issued in reasonable fear of physical injury, serious physical injury or death by displaying a deadly weapon, dangerous instrument or what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm or by means of a threat or threats; or(ii) intentionally places or attempts to place a person for whose protection such order was issued in reasonable fear of physical injury, serious physical injury or death by repeatedly following such person or engaging in a course of conduct or repeatedly committing acts over a period of time; or(iii) intentionally places or attempts to place a person for whose protection such order was issued in reasonable fear of physical injury, serious physical injury or death when he or she communicates or causes a communication to be initiated with such person by mechanical or electronic means or otherwise,

anonymously or otherwise, by telephone, or by telegraph, mail or any other form of written communication; or(iv) with intent to harass, annoy, threaten or alarm a person for whose protection such order was issued, repeatedly makes telephone calls to such person, whether or not a conversation ensues, with no purpose of legitimate communication; or(v) with intent to harass, annoy, threaten or alarm a person for whose protection such order was issued, strikes, shoves, kicks or otherwise subjects such other person to physical contact or attempts or threatens to do the same; or(vi) by physical menace, intentionally places or attempts to place a person for whose protection such order was issued in reasonable fear of death, imminent serious physical injury or physical injury.(c) he or she commits the crime of criminal contempt in the second degree as defined in subdivision three of section 215.50 of this article by violating that part of a duly served order of protection, or such order of which the defendant has actual knowledge because he or she was present in court when such order was issued, under sections two hundred forty and two hundred fifty-two of the domestic relations law, articles four, five, six and eight of the family court act and section 530.12 of the criminal procedure law, or an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, which requires the respondent or defendant to stay away from the person or persons on whose behalf the order was issued, and where the defendant has been previously convicted of the crime of aggravated criminal contempt or criminal contempt in the first or second degree for violating an order of protection as described herein within the preceding five years; or(d) in violation of a duly served order of protection, or such order of which the defendant has actual knowledge because he or she was present in court when such order was issued, or an order issued by a court of competent jurisdiction in this or another state, territorial or tribal jurisdiction, he or she intentionally or recklessly damages the property of a person for whose protection such order was issued in an amount exceeding two hundred fifty dollars.Criminal contempt in the first degree is a class E felony. (a) he contumaciously and unlawfully refuses to be sworn as a witness before a grand jury, or, when after having been sworn as a witness before a grand jury, he refuses to answer any legal and proper interrogatory; or (b) in violation of a duly served order of protection, or such order of which the defendant has actual knowledge because he or she was present in court when such order was issued, or an order of protection issued by a court of competent jurisdiction in this or another state, territorial or tribal jurisdiction, he or she: (i) intentionally places or attempts to place a person for whose protection such order was issued in reasonable fear of physical injury, serious physical injury or death by displaying a deadly weapon, dangerous instrument or what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm or by means of a threat or threats; or (ii) intentionally places or attempts to place a person for whose protection such order was issued in reasonable fear of physical injury, serious physical injury or death by repeatedly following such person or engaging in a course of conduct or repeatedly committing acts over a period of time; or (iii) intentionally places or attempts to place a person for whose protection such order was issued in reasonable fear of physical injury, serious physical injury or death when he or she communicates or causes a communication to be initiated with such person by mechanical or electronic means or otherwise, anonymously or otherwise, by telephone, or by telegraph, mail or any other form of written communication; or (iv) with intent to harass, annoy, threaten or alarm a person for whose protection such order was issued, repeatedly makes telephone calls to such person, whether or not a conversation ensues, with no purpose of legitimate communication; or (v) with intent to harass, annoy, threaten or alarm a person for whose protection such order was issued, strikes, shoves, kicks or otherwise subjects such other person to physical contact or attempts or threatens to do the same; or (vi) by physical menace, intentionally places or attempts to place a person for whose protection such order was issued in reasonable fear of death, imminent serious physical injury or physical injury. (c) he or she commits the crime of criminal contempt in the second degree as defined in subdivision three of section 215.50 of this article by violating that part of a duly served order of protection, or such order of which the defendant has actual knowledge because he or she was present in court when such order was issued, under sections two hundred forty and two hundred fifty-two of the domestic relations law, articles four, five, six and eight of the family court act and section 530.12 of the criminal procedure law, or an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, which requires the respondent or defendant to stay away from the person or persons on whose behalf the order was issued, and where the defendant has been previously convicted of the crime of aggravated criminal contempt or criminal contempt in the first or second degree for violating an order of protection as described herein within the preceding five years; or (d) in violation of a duly served order of protection, or such order of which the defendant has actual knowledge because he or she was present in court when such order was issued, or an order issued by a court of competent jurisdiction in this or another state, territorial or tribal jurisdiction, he or she intentionally or recklessly damages the property of a person for whose protection such order was issued in an amount exceeding two hundred fifty dollars. Criminal contempt in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.52 - Aggravated Criminal Contempt.

A person is guilty of aggravated criminal contempt when: 1. in violation of a duly served order of protection, or such order of which the defendant has actual knowledge because he or she was present in court when such order was issued, or an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, he or she intentionally or recklessly causes physical injury or serious physical injury to a person for whose protection such order was issued; or 2. he or she commits the crime of criminal contempt in the first degree as defined in subdivision (b) or (d) of section 215.51 of this article and has been previously convicted of the crime of aggravated criminal contempt; or 3. he or she commits the crime of criminal contempt in the first degree, as defined in paragraph (i), (ii), (iii), (v) or (vi) of subdivision (b) or subdivision (c) of section 215.51 of this article, and has been previously convicted of the crime of criminal contempt in the first degree, as defined in such subdivision (b), (c) or (d) of section 215.51 of this article, within the preceding five years. Aggravated criminal contempt is a class D felony.

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2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.54 - Criminal Contempt; Prosecution and Punishment.

Adjudication for criminal contempt under subdivision A of section seven hundred fifty of the judiciary law shall not bar a prosecution for the crime of criminal contempt under section 215.50 based upon the same conduct but, upon conviction thereunder, the court, in sentencing the defendant shall take the previous punishment into consideration.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.55 - Bail Jumping in the Third Degree.

A person is guilty of bail jumping in the third degree when by court order he has been released from custody or allowed to remain at liberty, either upon bail or upon his own recognizance, upon condition that he will subsequently appear personally in connection with a criminal action or proceeding, and when he does not appear personally on the required date or voluntarily within thirty days thereafter. Bail jumping in the third degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.56 - Bail Jumping in the Second Degree.

A person is guilty of bail jumping in the second degree when by court order he has been released from custody or allowed to remain at liberty, either upon bail or upon his own recognizance, upon condition that he will subsequently appear personally in connection with a charge against him of committing a felony, and when he does not appear personally on the required date or voluntarily within thirty days thereafter. Bail jumping in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.57 - Bail Jumping in the First Degree.

A person is guilty of bail jumping in the first degree when by court order he has been released from custody or allowed to remain at liberty, either upon bail or upon his own recognizance, upon condition that he will subsequently appear personally in connection with an indictment pending against him which charges him with the commission of a class A or class B felony, and when he does not appear personally on the required date or voluntarily within thirty days thereafter. Bail jumping in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.58 - Failing to Respond to an Appearance Ticket.

1. A person is guilty of failing to respond to an appearance ticket when, having been personally served with an appearance ticket, as defined in subdivision two, based upon his alleged commission of a crime, he does not appear personally in the court in which such appearance ticket is returnable on the return date thereof or voluntarily within thirty days thereafter. 2. As used in this section, an appearance ticket means a written notice, whether referred to as a summons or by any other name, issued by a police officer, peace officer or other non-judicial public servant authorized by law to issue the same, directing a designated person to appear in a designated court at a designated future time in connection with a criminal action to be instituted in such court with respect to his alleged commission of a designated offense. 3. This section does not apply to any case in which an alternative to response to an appearance ticket is authorized by law and the actor complies with such alternative procedure. Failing to respond to an appearance ticket is a violation.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.59 - Bail Jumping and Failing to Respond to an Appearance Ticket; Defense.

defense. In any prosecution for bail jumping or failing to respond to an appearance ticket, it is an affirmative defense that: 1. The defendant's failure to appear on the required date or within thirty days thereafter was unavoidable and due to circumstances beyond his control; and 2. During the period extending from the expiration of the thirty day period to the commencement of the action, the defendant either:(a) appeared voluntarily as soon as he was able to do so, or(b) although he did not so appear, such failure of appearance was unavoidable and due to circumstances beyond his control. (a) appeared voluntarily as soon as he was able to do so, or (b) although he did not so appear, such failure of appearance was unavoidable and due to circumstances beyond his control.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.60 - Criminal Contempt of the Legislature.

A person is guilty of criminal contempt of the legislature when, having been duly subpoenaed to attend as a witness before either house of the legislature or before any committee thereof, he: 1. Fails or refuses to attend without lawful excuse; or 2. Refuses to be sworn; or 3. Refuses to answer any material and proper question; or 4. Refuses, after reasonable notice, to produce books, papers, or documents in his possession or under his control which constitute material and proper evidence. Criminal contempt of the legislature

is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.65 - Criminal Contempt of a Temporary State Commission.

A person is guilty of criminal contempt of a temporary state commission when, having been duly subpoenaed to attend as a witness at an investigation or hearing before a temporary state commission, he fails or refuses to attend without lawful excuse. Criminal contempt of a temporary state commission is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.66 - Criminal Contempt of the State Commission on Judicial Conduct.

A person is guilty of criminal contempt of the state commission on judicial conduct when, having been duly subpoenaed to attend as a witness at an investigation or hearing before the commission or a referee designated by the commission, he fails or refuses to attend without lawful excuse. Criminal contempt of the state commission on judicial conduct is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.70 - Unlawful Grand Jury Disclosure.

A person is guilty of unlawful grand jury disclosure when, being a grand juror, a public prosecutor, a grand jury stenographer, a grand jury interpreter, a police officer or a peace officer guarding a witness in a grand jury proceeding, or a clerk, attendant, warden or other public servant having official duties in or about a grand jury room or proceeding, or a public officer or public employee, he intentionally discloses to another the nature or substance of any grand jury testimony, or any decision, result or other matter attending a grand jury proceeding which is required by law to be kept secret, except in the proper discharge of his official duties or upon written order of the court. Nothing contained herein shall prohibit a witness from disclosing his own testimony. Unlawful grand jury disclosure is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.75 - Unlawful Disclosure of an Indictment.

A public servant is guilty of unlawful disclosure of an indictment when, except in the proper discharge of his official duties, he intentionally discloses the fact that an indictment has been found or filed before the accused person is in custody. Unlawful disclosure of an indictment is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle L - Offenses Against Public AdministrationArticle 215 - Other Offenses Relating to Judicial and Other Proceedings215.80 - Unlawful Disposition of Assets Subject to Forfeiture.

Any defendant in a forfeiture action pursuant to article thirteen-A of the civil practice law and rules who knowingly and intentionally conceals, destroys, dissipates, alters, removes from the jurisdiction, or otherwise disposes of, property specified in a provisional remedy ordered by the court or in a judgment of forfeiture in knowing contempt of said order shall be guilty of a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.00 - Controlled Substances; Definitions.

1. "Sell" means to sell, exchange, give or dispose of to another, or to offer or agree to do the same. 2. "Unlawfully" means in violation of article thirty-three of the public health law. 3. "Ounce" means an avoirdupois ounce as applied to solids or semisolids, and a fluid ounce as applied to liquids. 4. "Pound" means an avoirdupois pound. 5. "Controlled substance" means any substance listed in schedule I, II, III, IV or V of section thirty-three hundred six of the public health law. 7. "Narcotic drug" means any controlled substance listed in schedule I(b), I(c), II(b) or II(c) other than methadone. 8. "Narcotic preparation" means any controlled substance listed in schedule II(b-1), III(d) or III(e). 9. "Hallucinogen" means any controlled substance listed in paragraphs (5), (17), (18), (19), (20) and (21) of subdivision (d) of schedule I of section thirty-three hundred six of the public health law. 10. "Hallucinogenic substance" means any controlled substance listed in schedule I(d) other than concentrated cannabis, lysergic acid diethylamide, or an hallucinogen. 11. "Stimulant" means any controlled substance listed in schedule I(f),II(d). 12. "Dangerous depressant" means any controlled substance listed in schedule I(e)(2), (3), II(e), III(c)(3) or IV(c)(2), (31), (32), (40). 13. "Depressant" means any controlled substance listed in schedule IV(c) except (c)(2), (31), (32), (40). 14. "School grounds" means (a) in or on or within any building, structure, athletic playing field, playground or land contained within the real property boundary line of a public or private elementary, parochial, intermediate, junior high, vocational, or high school, or (b) any area accessible to the public located within one thousand feet of the real property boundary line comprising any such school or any parked automobile or other parked vehicle located within one thousand feet of the real property boundary line comprising any such school. For the purposes of this section an "area accessible to the public" shall mean sidewalks, streets, parking lots, parks, playgrounds, stores and restaurants. 15. "Prescription for a controlled substance" means a direction or authorization, by means of an official New York state prescription form, a written prescription form or an oral prescription, which will permit a person to lawfully obtain a controlled

substance from any person authorized to dispense controlled substances. 16. For the purposes of sections 220.70, 220.71, 220.72, 220.73, 220.74, 220.75 and 220.76 of this article:(a) "Precursor" means ephedrine, pseudoephedrine, or any salt, isomer or salt of an isomer of such substances.(b) "Chemical reagent" means a chemical reagent that can be used in the manufacture, production or preparation of methamphetamine.(c) "Solvent" means a solvent that can be used in the manufacture, production or preparation of methamphetamine.(d) "Laboratory equipment" means any items, components or materials that can be used in the manufacture, preparation or production of methamphetamine.(e) "Hazardous or dangerous material" means any substance, or combination of substances, that results from or is used in the manufacture, preparation or production of methamphetamine which, because of its quantity, concentration, or physical or chemical characteristics, poses a substantial risk to human health or safety, or a substantial danger to the environment.17. "School bus" means every motor vehicle owned by a public or governmental agency or private school and operated for the transportation of pupils, teachers and other persons acting in a supervisory capacity, to or from school or school activities or privately owned and operated for compensation for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity to or from school or school activities.18. "Controlled substance organization" means four or more persons sharing a common purpose to engage in conduct that constitutes or advances the commission of a felony under this article.19. "Director" means a person who is the principal administrator, organizer, or leader of a controlled substance organization or one of several principal administrators, organizers, or leaders of a controlled substance organization.20. "Profiteer" means a person who: (a) is a director of a controlled substance organization; (b) is a member of a controlled substance organization and has managerial responsibility over one or more other members of that organization; or (c) arranges, devises or plans one or more transactions constituting a felony under this article so as to obtain profits or expected profits. A person is not a profiteer if he or she is acting only as an employee; or if he or she is acting as an accommodation to a friend or relative; or if he or she is acting only under the direction and control of others and exercises no substantial, independent role in arranging or directing the transactions in question. (a) "Precursor" means ephedrine, pseudoephedrine, or any salt, isomer or salt of an isomer of such substances. (b) "Chemical reagent" means a chemical reagent that can be used in the manufacture, production or preparation of methamphetamine. (c) "Solvent" means a solvent that can be used in the manufacture, production or preparation of methamphetamine. (d) "Laboratory equipment" means any items, components or materials that can be used in the manufacture, preparation or production of methamphetamine. (e) "Hazardous or dangerous material" means any substance, or combination of substances, that results from or is used in the manufacture, preparation or production of methamphetamine which, because of its quantity, concentration, or physical or chemical characteristics, poses a substantial risk to human health or safety, or a substantial danger to the environment. 17. "School bus" means every motor vehicle owned by a public or governmental agency or private school and operated for the transportation of pupils, teachers and other persons acting in a supervisory capacity, to or from school or school activities or privately owned and operated for compensation for the transportation of pupils, children of pupils, teachers and other persons acting in a supervisory capacity to or from school or school activities. 18. "Controlled substance organization" means four or more persons sharing a common purpose to engage in conduct that constitutes or advances the commission of a felony under this article. 19. "Director" means a person who is the principal administrator, organizer, or leader of a controlled substance organization or one of several principal administrators, organizers, or leaders of a controlled substance organization. 20. "Profiteer" means a person who: (a) is a director of a controlled substance organization; (b) is a member of a controlled substance organization and has managerial responsibility over one or more other members of that organization; or (c) arranges, devises or plans one or more transactions constituting a felony under this article so as to obtain profits or expected profits. A person is not a profiteer if he or she is acting only as an employee; or if he or she is acting as an accommodation to a friend or relative; or if he or she is acting only under the direction and control of others and exercises no substantial, independent role in arranging or directing the transactions in question.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.03 - Criminal Possession of a Controlled Substance in the Seventh Degree.

degree. A person is guilty of criminal possession of a controlled substance in the seventh degree when he or she knowingly and unlawfully possesses a controlled substance; provided, however, that it shall not be a violation of this section when a person possesses a residual amount of a controlled substance and that residual amount is in or on a hypodermic syringe or hypodermic needle; nor shall it be a violation of this section when a person's unlawful possession of a controlled substance is discovered as a result of seeking immediate health care as defined in paragraph (b) of subdivision three of section 220.78 of this article, for either another person or him or herself because such person is experiencing a drug or alcohol overdose or other life threatening medical emergency as defined in paragraph (a) of subdivision three of section 220.78 of this article. Criminal possession of a controlled substance in the seventh degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.06 - Criminal Possession of a Controlled Substance in the Fifth Degree.

degree. A person is guilty of criminal possession of a controlled substance in the fifth degree when he knowingly and unlawfully possesses: 1. a controlled substance with intent to sell it; or 2. one or more preparations, compounds, mixtures or substances containing a narcotic preparation and said preparations, compounds, mixtures or substances are of an aggregate weight of one-half ounce or more; or 3. phencyclidine and said phencyclidine weighs fifty milligrams or more; or 5. cocaine and said cocaine weighs five hundred milligrams or more. 6. ketamine and said ketamine weighs more than one thousand milligrams; or 7. ketamine and has previously been convicted of possession or the attempt to commit possession of ketamine in any amount; or 8. one or more

preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid, as defined in paragraph four of subdivision (e) of schedule I of section thirty-three hundred six of the public health law, and said preparations, compounds, mixtures or substances are of an aggregate weight of twenty-eight grams or more. Criminal possession of a controlled substance in the fifth degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.09 - Criminal Possession of a Controlled Substance in the Fourth Degree.

degree. A person is guilty of criminal possession of a controlled substance in the fourth degree when he knowingly and unlawfully possesses: 1. one or more preparations, compounds, mixtures or substances containing a narcotic drug and said preparations, compounds, mixtures or substances are of an aggregate weight of one-eighth ounce or more; or 2. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers and said preparations, compounds, mixtures or substances are of an aggregate weight of one-half ounce or more; or 3. one or more preparations, compounds, mixtures or substances containing a narcotic preparation and said preparations, compounds, mixtures or substances are of an aggregate weight of two ounces or more; or 4. a stimulant and said stimulant weighs one gram or more; or 5. lysergic acid diethylamide and said lysergic acid diethylamide weighs one milligram or more; or 6. a hallucinogen and said hallucinogen weighs twenty-five milligrams or more; or 7. a hallucinogenic substance and said hallucinogenic substance weighs one gram or more; or 8. a dangerous depressant and such dangerous depressant weighs ten ounces or more; or 9. a depressant and such depressant weighs two pounds or more; or 11. phencyclidine and said phencyclidine weighs two hundred fifty milligrams or more; or 12. methadone and said methadone weighs three hundred sixty milligrams or more; or 13. phencyclidine and said phencyclidine weighs fifty milligrams or more with intent to sell it and has previously been convicted of an offense defined in this article or the attempt or conspiracy to commit any such offense; or 14. ketamine and said ketamine weighs four thousand milligrams or more; or 15. one or more preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid, as defined in paragraph four of subdivision (e) of schedule I of section thirty-three hundred six of the public health law, and said preparations, compounds, mixtures or substances are of an aggregate weight of two hundred grams or more. Criminal possession of a controlled substance in the fourth degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.16 - Criminal Possession of a Controlled Substance in the Third Degree.

degree. A person is guilty of criminal possession of a controlled substance in the third degree when he knowingly and unlawfully possesses: 1. a narcotic drug with intent to sell it; or 2. a stimulant, hallucinogen, hallucinogenic substance, or lysergic acid diethylamide, with intent to sell it and has previously been con- victed of an offense defined in article two hundred twenty or the attempt or conspiracy to commit any such offense; or 3. a stimulant with intent to sell it and said stimulant weighs one gram or more; or 4. lysergic acid diethylamide with intent to sell it and said lysergic acid diethylamide weighs one milligram or more; or 5. a hallucinogen with intent to sell it and said hallucinogen weighs twenty-five milligrams or more; or 6. a hallucinogenic substance with intent to sell it and said hallucinogenic substance weighs one gram or more; or 7. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers with intent to sell it and said preparations, compounds, mixtures or substances are of an aggregate weight of one-eighth ounce or more; or 8. a stimulant and said stimulant weighs five grams or more; or 9. lysergic acid diethylamide and said lysergic acid diethylamide weighs five milligrams or more; or 10. a hallucinogen and said hallucinogen weighs one hundred twenty-five milligrams or more; or 11. a hallucinogenic substance and said hallucinogenic substance weighs five grams or more; or 12. one or more preparations, compounds, mixtures or substances containing a narcotic drug and said preparations, compounds, mixtures or substances are of an aggregate weight of one-half ounce or more; or 13. phencyclidine and said phencyclidine weighs one thousand two hundred fifty milligrams or more. Criminal possession of a controlled substance in the third degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.18 - Criminal Possession of a Controlled Substance in the Second Degree.

degree. A person is guilty of criminal possession of a controlled substance in the second degree when he or she knowingly and unlawfully possesses: 1. one or more preparations, compounds, mixtures or substances containing a narcotic drug and said preparations, compounds, mixtures or substances are of an aggregate weight of four ounces or more; or 2. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers and said preparations, compounds, mixtures or substances are of an aggregate weight of two ounces or more; or 3. a stimulant and said stimulant weighs ten grams or more; or 4. lysergic acid diethylamide and said lysergic acid diethylamide weighs twenty-five milligrams or more; or 5. a hallucinogen and said hallucinogen weighs six hundred twenty-five milligrams or more; or 6. a hallucinogenic substance and said hallucinogenic substance weighs twenty-five grams or more; or 7. methadone and said methadone weighs two thousand eight hundred eighty milligrams or more. Criminal possession of a controlled substance in the second degree is a class A-II felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.21 - Criminal Possession of a Controlled Substance in the First Degree.

degree. A person is guilty of criminal possession of a controlled substance in the first degree when he or she knowingly and unlawfully possesses: 1. one or more preparations, compounds, mixtures or substances containing a narcotic drug and said preparations, compounds, mixtures or substances are of an aggregate weight of eight ounces or more; or 2. methadone and said methadone weighs five thousand seven hundred sixty milligrams or more. Criminal possession of a controlled substance in the first degree is a class A-I felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.25 - Criminal Possession of a Controlled Substance; Presumption.

1. The presence of a controlled substance in an automobile, other than a public omnibus, is presumptive evidence of knowing possession thereof by each and every person in the automobile at the time such controlled substance was found; except that such presumption does not apply (a) to a duly licensed operator of an automobile who is at the time operating it for hire in the lawful and proper pursuit of his trade, or (b) to any person in the automobile if one of them, having obtained the controlled substance and not being under duress, is authorized to possess it and such controlled substance is in the same container as when he received possession thereof, or (c) when the controlled substance is concealed upon the person of one of the occupants. 2. The presence of a narcotic drug, narcotic preparation, marihuana or phencyclidine in open view in a room, other than a public place, under circumstances evincing an intent to unlawfully mix, compound, package or otherwise prepare for sale such controlled substance is presumptive evidence of knowing possession thereof by each and every person in close proximity to such controlled substance at the time such controlled substance was found; except that such presumption does not apply to any such persons if (a) one of them, having obtained such controlled substance and not being under duress, is authorized to possess it and such controlled substance is in the same container as when he received possession thereof, or (b) one of them has such controlled substance upon his person.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.28 - Use of a Child to Commit a Controlled Substance Offense.

1. A person is guilty of use of a child to commit a controlled substance offense when, being eighteen years old or more, he or she commits a felony sale or felony attempted sale of a controlled substance in violation of this article and, as part of that criminal transaction, knowingly uses a child to effectuate such felony sale or felony attempted sale of such controlled substance. 2. For purposes of this section, "uses a child to effectuate the felony sale or felony attempted sale of such controlled substance" means conduct by which the actor: (a) conceals such controlled substance on or about the body or person of such child for the purpose of effectuating the criminal sale or attempted sale of such controlled substance to a third person; or (b) directs, forces or otherwise requires such child to sell or attempt to sell or offer direct assistance to the defendant in selling or attempting to sell such controlled substance to a third person. For purposes of this section, "child" means a person less than sixteen years of age. Use of a child to commit a controlled substance offense is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.31 - Criminal Sale of a Controlled Substance in the Fifth Degree.

A person is guilty of criminal sale of a controlled substance in the fifth degree when he knowingly and unlawfully sells a controlled substance. Criminal sale of a controlled substance in the fifth degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.34 - Criminal Sale of a Controlled Substance in the Fourth Degree.

A person is guilty of criminal sale of a controlled substance in the fourth degree when he knowingly and unlawfully sells: 1. a narcotic preparation; or 2. a dangerous depressant or a depressant and the dangerous depressant weighs ten ounces or more, or the depressant weighs two pounds or more; or 4. phencyclidine and the phencyclidine weighs fifty milligrams or more; or 5. methadone; or 6. any amount of phencyclidine and has previously been convicted of an offense defined in this article or the attempt or conspiracy to commit any such offense; or 6-a. ketamine and said ketamine weighs four thousand milligrams or more. 7. a controlled substance in violation of section 220.31 of this article, when such sale takes place upon school grounds or on a school bus; or 8. a controlled substance in violation of section 220.31 of this article, when such sale takes place upon the grounds of a child day care or educational facility under circumstances evincing knowledge by the defendant that such sale is taking place upon such grounds. As used in this subdivision, the phrase "the grounds of a child day care or educational facility" shall have the same meaning as provided for in subdivision five of section 220.44 of this article. For the purposes of this subdivision, a rebuttable presumption shall be established that a person has knowledge that they are within the grounds of a child day care or educational facility when notice is conspicuously posted of the presence or proximity of such facility; or 9. one or more preparations, compounds, mixtures or substances containing gamma hydroxybutyric acid, as defined in paragraph four of subdivision (e) of schedule I of section thirty-three hundred six of the public health law, and said preparations, compounds, mixtures or substances are of an aggregate weight of twenty-eight grams or more. Criminal sale of a controlled substance in the fourth degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.39 - Criminal Sale of a Controlled Substance in the Third Degree.

A person is guilty of criminal sale of a controlled substance in the third degree when he knowingly and unlawfully sells: 1. a narcotic drug; or 2. a stimulant, hallucinogen, hallucinogenic substance, or lysergic acid diethylamide and has previously been convicted of an offense defined in article two hundred twenty or the attempt or conspiracy to commit any such offense; or 3. a stimulant and the stimulant weighs one gram or more; or 4. lysergic acid diethylamide and the lysergic acid diethylamide weighs one milligram or more; or 5. a hallucinogen and the hallucinogen weighs twenty-five milligrams or more; or 6. a hallucinogenic substance and the hallucinogenic substance weighs one gram or more; or 7. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers and the preparations, compounds, mixtures or substances are of an aggregate weight of one-eighth ounce or more; or 8. phencyclidine and the phencyclidine weighs two hundred fifty milligrams or more; or 9. a narcotic preparation to a person less than twenty-one years old. Criminal sale of a controlled substance in the third degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.41 - Criminal Sale of a Controlled Substance in the Second Degree.

A person is guilty of criminal sale of a controlled substance in the second degree when he knowingly and unlawfully sells: 1. one or more preparations, compounds, mixtures or substances containing a narcotic drug and the preparations, compounds, mixtures or substances are of an aggregate weight of one-half ounce or more; or 2. one or more preparations, compounds, mixtures or substances containing methamphetamine, its salts, isomers or salts of isomers and the preparations, compounds, mixtures or substances are of an aggregate weight of one-half ounce or more; or 3. a stimulant and the stimulant weighs five grams or more; or 4. lysergic acid diethylamide and the lysergic acid diethylamide weighs five milligrams or more; or 5. a hallucinogen and the hallucinogen weighs one hundred twenty-five milligrams or more; or 6. a hallucinogenic substance and the hallucinogenic substance weighs five grams or more; or 7. methadone and the methadone weighs three hundred sixty milligrams or more. Criminal sale of a controlled substance in the second degree is a class A-II felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.43 - Criminal Sale of a Controlled Substance in the First Degree.

A person is guilty of criminal sale of a controlled substance in the first degree when he knowingly and unlawfully sells: 1. one or more preparations, compounds, mixtures or substances containing a narcotic drug and the preparations, compounds, mixtures or substances are of an aggregate weight of two ounces or more; or 2. methadone and the methadone weighs two thousand eight hundred eighty milligrams or more. Criminal sale of a controlled substance in the first degree is a class A-I felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.44 - Criminal Sale of a Controlled Substance in or Near School Grounds.

grounds. A person is guilty of criminal sale of a controlled substance in or near school grounds when he knowingly and unlawfully sells: 1. a controlled substance in violation of any one of subdivisions one through six-a of section 220.34 of this article, when such sale takes place upon school grounds or on a school bus; or 2. a controlled substance in violation of any one of subdivisions one through eight of section 220.39 of this article, when such sale takes place upon school grounds or on a school bus; or 3. a controlled substance in violation of any one of subdivisions one through six of section 220.34 of this article, when such sale takes place upon the grounds of a child day care or educational facility under circumstances evincing knowledge by the defendant that such sale is taking place upon such grounds; or 4. a controlled substance in violation of any one of subdivisions one through eight of section 220.39 of this article, when such sale takes place upon the grounds of a child day care or educational facility under circumstances evincing knowledge by the defendant that such sale is taking place upon such grounds. 5. For purposes of subdivisions three and four of this section, "the grounds of a child day care or educational facility" means (a) in or on or within any building, structure, athletic playing field, a playground or land contained within the real property boundary line of a public or private child day care center as such term is defined in paragraph (c) of subdivision one of section three hundred ninety of the social services law, or nursery, pre-kindergarten or kindergarten, or (b) any area accessible to the public located within one thousand feet of the real property boundary line comprising any such facility or any parked automobile or other parked vehicle located within one thousand feet of the real property boundary line comprising any such facility. For the purposes of this section an "area accessible to the public" shall mean sidewalks, streets, parking lots, parks, playgrounds, stores and restaurants. 6. For the purposes of this section, a rebuttable presumption shall be established that a person has knowledge that they are within the grounds of a child day care or educational facility when notice is conspicuously posted of the presence or proximity of such facility. Criminal sale of a controlled substance in or near school grounds is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.46 - Criminal Injection of a Narcotic Drug.

§ 220.46 Criminal injection of a narcotic drug. A person is guilty of criminal injection of a narcotic drug when he knowingly and unlawfully possesses a narcotic drug and he intentionally injects by means of a hypodermic syringe or hypodermic needle all or any portion of that drug into the body of another person with the latter's consent. Criminal injection of a narcotic drug is a class E felony.

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2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.48 - Criminal Sale of a Controlled Substance to a Child.

A person is guilty of criminal sale of a controlled substance to a child when, being over twenty-one years old, he or she knowingly and unlawfully sells a controlled substance in violation of section 220.34 or 220.39 of this article to a person less than seventeen years old. Criminal sale of a controlled substance to a child is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.50 - Criminally Using Drug Paraphernalia in the Second Degree.

A person is guilty of criminally using drug paraphernalia in the second degree when he knowingly possesses or sells: 1. Diluents, dilutants or adulterants, including but not limited to, any of the following: quinine hydrochloride, mannitol, mannite, lactose or dextrose, adapted for the dilution of narcotic drugs or stimulants under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for purposes of unlawfully mixing, compounding, or otherwise preparing any narcotic drug or stimulant; or 2. Gelatine capsules, glassine envelopes, vials, capsules or any other material suitable for the packaging of individual quantities of narcotic drugs or stimulants under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for the purpose of unlawfully manufacturing, packaging or dispensing of any narcotic drug or stimulant; or 3. Scales and balances used or designed for the purpose of weighing or measuring controlled substances, under circumstances evincing an intent to use, or under circumstances evincing knowledge that some person intends to use, the same for purpose of unlawfully manufacturing, packaging or dispensing of any narcotic drug or stimulant. Criminally using drug paraphernalia in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.55 - Criminally Using Drug Paraphernalia in the First Degree.

A person is guilty of criminally using drug paraphernalia in the first degree when he commits the crime of criminally using drug paraphernalia in the second degree and he has previously been convicted of criminally using drug paraphernalia in the second degree. Criminally using drug paraphernalia in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.60 - Criminal Possession of Precursors of Controlled Substances.

A person is guilty of criminal possession of precursors of con- trolled substances when, with intent to manufacture a controlled substance unlawfully, he possesses at the same time:(a) carbamide (urea) and propanedioc and malonic acid or its derivatives; or(b) ergot or an ergot derivative and diethylamine or dimethyl- formamide or diethylamide; or(c) phenylacetone (1-phenyl-2 propanone) and hydroxylamine or ammonia or formamide or benzaldehyde or nitroethane or methylamine.(d) pentazocine and methyliodide; or(e) phenylacetonitrile and dichlorodiethyl methylamine or dichlor- odiethyl benzylamine; or(f) diephenylacetonitrile and dimethylaminoisopropyl chloride; or(g) piperidine and cyclohexanone and bromobenzene and lithium or magnesium; or(h) 2, 5-dimethoxy benzaldehyde and nitroethane and a reducing agent.Criminal prossession of precursors of controlled substances is a class E felony. (a) carbamide (urea) and propanedioc and malonic acid or its derivatives; or (b) ergot or an ergot derivative and diethylamine or dimethyl- formamide or diethylamide; or (c) phenylacetone (1-phenyl-2 propanone) and hydroxylamine or ammonia or formamide or benzaldehyde or nitroethane or methylamine. (d) pentazocine and methyliodide; or (e) phenylacetonitrile and dichlorodiethyl methylamine or dichlor- odiethyl benzylamine; or (f) diephenylacetonitrile and dimethylaminoisopropyl chloride; or (g) piperidine and cyclohexanone and bromobenzene and lithium or magnesium; or (h) 2, 5-dimethoxy benzaldehyde and nitroethane and a reducing agent. Criminal prossession of precursors of controlled substances is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.65 - Criminal Sale of a Prescription for a Controlled Substance or of a Controlled Substance by a Practitioner or Pharmacist.

of a controlled substance by a practitioner or pharmacist. A person is guilty of criminal sale of a prescription for a controlled substance or of a controlled substance by a practitioner or pharmacist when: 1. being a practitioner, as that term is defined in section thirty-three hundred two of the public health law, he or she knowingly and unlawfully sells a prescription for a controlled substance. For the purposes of this section, a person sells a prescription for a controlled substance unlawfully when he or she does so other than in good faith in the course of his or her professional practice; or 2. being a practitioner or pharmacist, as those terms are defined in section thirty-three hundred two of the public health law, he or she, acting other than in good faith, while purporting to act within the scope of the power, authority and privileges of his or her license, as that term is defined in section thirty-three hundred two of the public health law, knowingly and unlawfully sells a controlled substance. Criminal sale of a prescription for a controlled substance or of a controlled substance by a practitioner or pharmacist is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.70 - Criminal Possession of Methamphetamine Manufacturing Material in the Second

Degree.

in the second degree. A person is guilty of criminal possession of methamphetamine manufacturing material in the second degree when he or she possesses a precursor, a chemical reagent or a solvent with the intent to use or knowing another intends to use such precursor, chemical reagent, or solvent to unlawfully produce, prepare or manufacture methamphetamine. Criminal possession of methamphetamine manufacturing material in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.71 - Criminal Possession of Methamphetamine Manufacturing Material in the First Degree.

in the first degree. A person is guilty of criminal possession of methamphetamine manufacturing material in the first degree when he or she commits the offense of criminal possession of methamphetamine manufacturing material in the second degree, as defined in section 220.70 of this article, and has previously been convicted within the preceding five years of criminal possession of methamphetamine manufacturing material in the second degree, as defined in section 220.70 of this article, or a violation of this section. Criminal possession of methamphetamine manufacturing material in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.72 - Criminal Possession of Precursors of Methamphetamine.

A person is guilty of criminal possession of precursors of methamphetamine when he or she possesses at the same time a precursor and a solvent or chemical reagent, with intent to use or knowing that another intends to use each such precursor, solvent or chemical reagent to unlawfully manufacture methamphetamine. Criminal possession of precursors of methamphetamine is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.73 - Unlawful Manufacture of Methamphetamine in the Third Degree.

A person is guilty of unlawful manufacture of methamphetamine in the third degree when he or she possesses at the same time and location, with intent to use, or knowing that another intends to use each such product to unlawfully manufacture, prepare or produce methamphetamine: 1. Two or more items of laboratory equipment and two or more precursors, chemical reagents or solvents in any combination; or 2. One item of laboratory equipment and three or more precursors, chemical reagents or solvents in any combination; or 3. A precursor:(a) mixed together with a chemical reagent or solvent; or(b) with two or more chemical reagents and/or solvents mixed together.Unlawful manufacture of methamphetamine in the third degree is a class D felony. (a) mixed together with a chemical reagent or solvent; or (b) with two or more chemical reagents and/or solvents mixed together. Unlawful manufacture of methamphetamine in the third degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.74 - Unlawful Manufacture of Methamphetamine in the Second Degree.

A person is guilty of unlawful manufacture of methamphetamine in the second degree when he or she: 1. Commits the offense of unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of this article in the presence of another person under the age of sixteen, provided, however, that the actor is at least five years older than such other person under the age of sixteen; or 2. Commits the crime of unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of this article and has previously been convicted within the preceding five years of the offense of criminal possession of precursors of methamphetamine as defined in section 220.72 of this article, criminal possession of methamphetamine manufacturing material in the first degree as defined in section 220.71 of this article, unlawful disposal of methamphetamine laboratory material as defined in section 220.76 of this article, unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of this article, unlawful manufacture of methamphetamine in the second degree as defined in this section, or unlawful manufacture of methamphetamine in the first degree as defined in section 220.75 of this article. Unlawful manufacture of methamphetamine in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.75 - Unlawful Manufacture of Methamphetamine in the First Degree.

A person is guilty of unlawful manufacture of methamphetamine in the first degree when such person commits the crime of unlawful manufacture of methamphetamine in the second degree, as defined in subdivision one of section 220.74 of this article, after having previously been convicted within the preceding five years of unlawful manufacture of methamphetamine in the third degree, as defined in section 220.73, unlawful manufacture of methamphetamine in the second degree, as defined in section 220.74 of this article, or unlawful manufacture of methamphetamine in the first degree, as defined in this section. Unlawful manufacturer of methamphetamine in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.76 - Unlawful Disposal of Methamphetamine Laboratory Material.

A person is guilty of unlawful disposal of methamphetamine laboratory material when, knowing that such actions are in furtherance

of a methamphetamine operation, he or she knowingly disposes of, or possesses with intent to dispose of, hazardous or dangerous material under circumstances that create a substantial risk to human health or safety or a substantial danger to the environment. Unlawful disposal of methamphetamine laboratory material is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.77 - Operating as a Major Trafficker.

A person is guilty of operating as a major trafficker when: 1. Such person acts as a director of a controlled substance organization during any period of twelve months or less, during which period such controlled substance organization sells one or more controlled substances, and the proceeds collected or due from such sale or sales have a total aggregate value of seventy-five thousand dollars or more; or 2. As a profiteer, such person knowingly and unlawfully sells, on one or more occasions within six months or less, a narcotic drug, and the proceeds collected or due from such sale or sales have a total aggregate value of seventy-five thousand dollars or more. 3. As a profiteer, such person knowingly and unlawfully possesses, on one or more occasions within six months or less, a narcotic drug with intent to sell the same, and such narcotic drugs have a total aggregate value of seventy-five thousand dollars or more. Operating as a major trafficker is a class A-I felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 220 - Controlled Substances Offenses220.78 - Witness or Victim of Drug or Alcohol Overdose.

1. A person who, in good faith, seeks health care for someone who is experiencing a drug or alcohol overdose or other life threatening medical emergency shall not be charged or prosecuted for a controlled substance offense under this article or a cannabis offense under article two hundred twenty-two of this title, other than an offense involving sale for consideration or other benefit or gain, or charged or prosecuted for possession of alcohol by a person under age twenty-one years under section sixty-five-c of the alcoholic beverage control law, or for possession of drug paraphernalia under article thirty-nine of the general business law, with respect to any controlled substance, cannabis, alcohol or paraphernalia that was obtained as a result of such seeking or receiving of health care. 2. A person who is experiencing a drug or alcohol overdose or other life threatening medical emergency and, in good faith, seeks health care for himself or herself or is the subject of such a good faith request for health care, shall not be charged or prosecuted for a controlled substance offense under this article or a cannabis offense under article two hundred twenty-two of this title, other than an offense involving sale for consideration or other benefit or gain, or charged or prosecuted for possession of alcohol by a person under age twenty-one years under section sixty-five-c of the alcoholic beverage control law, or charged or prosecuted for possession of cannabis or concentrated cannabis by a person under the age of twenty-one under section one hundred thirty-two of the cannabis law, or for possession of drug paraphernalia under article thirty-nine of the general business law, with respect to any substance, cannabis, alcohol or paraphernalia that was obtained as a result of such seeking or receiving of health care. 3. Definitions. As used in this section the following terms shall have the following meanings:(a) "Drug or alcohol overdose" or "overdose" means an acute condition including, but not limited to, physical illness, coma, mania, hysteria or death, which is the result of consumption or use of a controlled substance or alcohol and relates to an adverse reaction to or the quantity of the controlled substance or alcohol or a substance with which the controlled substance or alcohol was combined; provided that a patient's condition shall be deemed to be a drug or alcohol overdose if a prudent layperson, possessing an average knowledge of medicine and health, could reasonably believe that the condition is in fact a drug or alcohol overdose and (except as to death) requires health care.(b) "Health care" means the professional services provided to a person experiencing a drug or alcohol overdose by a health care professional licensed, registered or certified under title eight of the education law or article thirty of the public health law who, acting within his or her lawful scope of practice, may provide diagnosis, treatment or emergency services for a person experiencing a drug or alcohol overdose.4. It shall be an affirmative defense to a criminal sale controlled substance offense under this article or a criminal sale of cannabis offense under article two hundred twenty-two of this title, not covered by subdivision one or two of this section, with respect to any controlled substance or cannabis which was obtained as a result of such seeking or receiving of health care, that:(a) the defendant, in good faith, seeks health care for someone or for him or herself who is experiencing a drug or alcohol overdose or other life threatening medical emergency; and(b) the defendant has no prior conviction for the commission or attempted commission of a class A-I, A-II or B felony under this article.5. Nothing in this section shall be construed to bar the admissibility of any evidence in connection with the investigation and prosecution of a crime with regard to another defendant who does not independently qualify for the bar to prosecution or for the affirmative defense; nor with regard to other crimes committed by a person who otherwise qualifies under this section; nor shall anything in this section be construed to bar any seizure pursuant to law, including but not limited to pursuant to section thirty-three hundred eighty-seven of the public health law.6. The bar to prosecution described in subdivisions one and two of this section shall not apply to the prosecution of a class A-I felony under this article, and the affirmative defense described in subdivision four of this section shall not apply to the prosecution of a class A-I or A-II felony under this article. (a) "Drug or alcohol overdose" or "overdose" means an acute condition including, but not limited to, physical illness, coma, mania, hysteria or death, which is the result of consumption or use of a controlled substance or alcohol and relates to an adverse reaction to or the quantity of the controlled substance or alcohol or a substance with which the controlled substance or alcohol was combined; provided that a patient's condition shall be deemed to be a drug or alcohol overdose if a prudent layperson, possessing an average knowledge of medicine and health, could reasonably believe that the condition is in fact a drug or alcohol overdose and (except as to death) requires health care. (b) "Health care" means the professional services provided to a person experiencing a drug or alcohol overdose by a health care professional licensed, registered or certified under title

eight of the education law or article thirty of the public health law who, acting within his or her lawful scope of practice, may provide diagnosis, treatment or emergency services for a person experiencing a drug or alcohol overdose. 4. It shall be an affirmative defense to a criminal sale controlled substance offense under this article or a criminal sale of cannabis offense under article two hundred twenty-two of this title, not covered by subdivision one or two of this section, with respect to any controlled substance or cannabis which was obtained as a result of such seeking or receiving of health care, that: (a) the defendant, in good faith, seeks health care for someone or for him or herself who is experiencing a drug or alcohol overdose or other life threatening medical emergency; and (b) the defendant has no prior conviction for the commission or attempted commission of a class A-I, A-II or B felony under this article. 5. Nothing in this section shall be construed to bar the admissibility of any evidence in connection with the investigation and prosecution of a crime with regard to another defendant who does not independently qualify for the bar to prosecution or for the affirmative defense; nor with regard to other crimes committed by a person who otherwise qualifies under this section; nor shall anything in this section be construed to bar any seizure pursuant to law, including but not limited to pursuant to section thirty-three hundred eighty-seven of the public health law. 6. The bar to prosecution described in subdivisions one and two of this section shall not apply to the prosecution of a class A-I felony under this article, and the affirmative defense described in subdivision four of this section shall not apply to the prosecution of a class A-I or A-II felony under this article.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 222 - Cannabis222.00 - Cannabis; Definitions.

1. "Cannabis" means all parts of the plant of the genus Cannabis, whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. It does not include hemp, cannabinoid hemp or hemp extract as defined in section three of the cannabis law or drug products approved by the Federal Food and Drug Administration. 2. "Concentrated cannabis" means:(a) the separated resin, whether crude or purified, obtained from a plant of the genus Cannabis; or(b) a material, preparation, mixture, compound or other substance which contains more than three percent by weight of delta-9 tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene numbering system.3. For the purposes of this article, "sell" shall mean to sell, exchange or dispose of for compensation. "Sell" shall not include the transfer of cannabis or concentrated cannabis between persons twenty-one years of age or older without compensation in the quantities authorized in paragraph (b) of subdivision one of section 222.05 of this article.4. For the purposes of this article, "smoking" shall have the same meaning as that term is defined in section three of the cannabis law. (a) the separated resin, whether crude or purified, obtained from a plant of the genus Cannabis; or (b) a material, preparation, mixture, compound or other substance which contains more than three percent by weight of delta-9 tetrahydrocannabinol, or its isomer, delta-8 dibenzopyran numbering system, or delta-1 tetrahydrocannabinol or its isomer, delta 1 (6) monoterpene numbering system. 3. For the purposes of this article, "sell" shall mean to sell, exchange or dispose of for compensation. "Sell" shall not include the transfer of cannabis or concentrated cannabis between persons twenty-one years of age or older without compensation in the quantities authorized in paragraph (b) of subdivision one of section 222.05 of this article. 4. For the purposes of this article, "smoking" shall have the same meaning as that term is defined in section three of the cannabis law.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 222 - Cannabis222.05 - Personal Use of Cannabis.

Notwithstanding any other provision of law to the contrary: 1. The following acts are lawful for persons twenty-one years of age or older: (a) possessing, displaying, purchasing, obtaining, or transporting up to three ounces of cannabis and up to twenty-four grams of concentrated cannabis;(b) transferring, without compensation, to a person twenty-one years of age or older, up to three ounces of cannabis and up to twenty-four grams of concentrated cannabis;(c) using, smoking, ingesting, or consuming cannabis or concentrated cannabis unless otherwise prohibited by state law;(d) possessing, using, displaying, purchasing, obtaining, manufacturing, transporting or giving to any person twenty-one years of age or older cannabis paraphernalia or concentrated cannabis paraphernalia;(e) planting, cultivating, harvesting, drying, processing or possessing cultivated cannabis in accordance with section 222.15 of this article; and(f) assisting another person who is twenty-one years of age or older, or allowing property to be used, in any of the acts described in paragraphs (a) through (e) of this subdivision.2. Cannabis, concentrated cannabis, cannabis paraphernalia or concentrated cannabis paraphernalia involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure or forfeiture of assets under article four hundred eighty of this chapter, section thirteen hundred eleven of the civil practice law and rules, or other applicable law, and no conduct deemed lawful by this section shall constitute the basis for approach, search, seizure, arrest or detention.3. Except as provided in subdivision four of this section, in any criminal proceeding including proceedings pursuant to section 710.20 of the criminal procedure law, no finding or determination of reasonable cause to believe a crime has been committed shall be based solely on evidence of the following facts and circumstances, either individually or in combination with each other:(a) the odor of cannabis;(b) the odor of burnt cannabis;(c) the possession of or the suspicion of possession of cannabis or concentrated cannabis in the amounts authorized in this article;(d) the possession of multiple containers of cannabis without evidence of concentrated cannabis in the amounts authorized in this article;(e) the presence of cash or currency in proximity to cannabis or concentrated cannabis; or(f) the planting, cultivating, harvesting, drying, processing

or possessing cultivated cannabis in accordance with section 222.15 of this article.4. Paragraph (b) of subdivision three of this section shall not apply when a law enforcement officer is investigating whether a person is operating a motor vehicle, vessel or snowmobile while impaired by drugs or the combined influence of drugs or of alcohol and any drug or drugs in violation of subdivision four or subdivision four-a of section eleven hundred ninety-two of the vehicle and traffic law, or paragraph (e) of subdivision two of section forty-nine-a of the navigation law, or paragraph (d) of subdivision one of section 25.24 of the parks, recreation and historic preservation law. During such investigations, the odor of burnt cannabis shall not provide probable cause to search any area of a vehicle that is not readily accessible to the driver and reasonably likely to contain evidence relevant to the driver's condition. (b) transferring, without compensation, to a person twenty-one years of age or older, up to three ounces of cannabis and up to twenty-four grams of concentrated cannabis; (c) using, smoking, ingesting, or consuming cannabis or concentrated cannabis unless otherwise prohibited by state law; (d) possessing, using, displaying, purchasing, obtaining, manufacturing, transporting or giving to any person twenty-one years of age or older cannabis paraphernalia or concentrated cannabis paraphernalia; (e) planting, cultivating, harvesting, drying, processing or possessing cultivated cannabis in accordance with section 222.15 of this article; and (f) assisting another person who is twenty-one years of age or older, or allowing property to be used, in any of the acts described in paragraphs (a) through (e) of this subdivision. 2. Cannabis, concentrated cannabis, cannabis paraphernalia or concentrated cannabis paraphernalia involved in any way with conduct deemed lawful by this section are not contraband nor subject to seizure or forfeiture of assets under article four hundred eighty of this chapter, section thirteen hundred eleven of the civil practice law and rules, or other applicable law, and no conduct deemed lawful by this section shall constitute the basis for approach, search, seizure, arrest or detention. 3. Except as provided in subdivision four of this section, in any criminal proceeding including proceedings pursuant to section 710.20 of the criminal procedure law, no finding or determination of reasonable cause to believe a crime has been committed shall be based solely on evidence of the following facts and circumstances, either individually or in combination with each other: (a) the odor of cannabis; (b) the odor of burnt cannabis; (c) the possession of or the suspicion of possession of cannabis or concentrated cannabis in the amounts authorized in this article; (d) the possession of multiple containers of cannabis without evidence of concentrated cannabis in the amounts authorized in this article; (e) the presence of cash or currency in proximity to cannabis or concentrated cannabis; or (f) the planting, cultivating, harvesting, drying, processing or possessing cultivated cannabis in accordance with section 222.15 of this article. 4. Paragraph (b) of subdivision three of this section shall not apply when a law enforcement officer is investigating whether a person is operating a motor vehicle, vessel or snowmobile while impaired by drugs or the combined influence of drugs or of alcohol and any drug or drugs in violation of subdivision four or subdivision four-a of section eleven hundred ninety-two of the vehicle and traffic law, or paragraph (e) of subdivision two of section forty-nine-a of the navigation law, or paragraph (d) of subdivision one of section 25.24 of the parks, recreation and historic preservation law. During such investigations, the odor of burnt cannabis shall not provide probable cause to search any area of a vehicle that is not readily accessible to the driver and reasonably likely to contain evidence relevant to the driver's condition.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 222 - Cannabis222.10 - Restrictions on Cannabis Use.

Unless otherwise authorized by law or regulation, no person shall: 1. smoke or vape cannabis in a location where smoking or vaping cannabis is prohibited pursuant to article thirteen-E of the public health law; or 2. smoke, vape or ingest cannabis or concentrated cannabis in or upon the grounds of a school, as defined in subdivision ten of section eleven hundred twenty-five of the education law or in or on a school bus, as defined in section one hundred forty-two of the vehicle and traffic law; provided, however, provisions of this subdivision shall not apply to acts that are in compliance with article three of the cannabis law. Notwithstanding any other section of law, violations of restrictions on cannabis use are subject to a civil penalty not exceeding twenty-five dollars or an amount of community service not exceeding twenty hours.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 222 - Cannabis222.15 - Personal Cultivation and Home Possession of Cannabis.

1. Except as provided for in section forty-one of the cannabis law, and unless otherwise authorized by law or regulation, no person may:(a) plant, cultivate, harvest, dry, process or possess more than three mature cannabis plants and three immature cannabis plants at any one time; or(b) plant, cultivate, harvest, dry, process or possess, within his or her private residence, or on the grounds of his or her private residence, more than three mature cannabis plants and three immature cannabis plants at any one time; or(c) being under the age of twenty-one, plant, cultivate, harvest, dry, process or possess cannabis plants.2. No more than six mature and six immature cannabis plants may be cultivated, harvested, dried, or possessed within any private residence, or on the grounds of a person's private residence.3. The personal cultivation of cannabis shall only be permitted within, or on the grounds of, a person's private residence.4. Any mature or immature cannabis plant described in paragraph (a) or (b) of subdivision one of this section, and any cannabis produced by any such cannabis plant or plants cultivated, harvested, dried, processed or possessed pursuant to paragraph (a) or (b) of subdivision one of this section shall, unless otherwise authorized by law or regulation, be stored within such person's private residence or on the grounds of such person's private residence. Such person shall take reasonable steps designed to ensure that such cultivated cannabis is in a secured place and not accessible to any person under the age of twenty-one.5. Notwithstanding any law to the contrary, a person may lawfully possess up to five pounds of cannabis in their private residence or on the grounds of such person's private residence. Such person shall take reasonable steps designed to ensure that such cannabis is in a secured place

not accessible to any person under the age of twenty-one.6. A county, town, city or village may enact and enforce regulations to reasonably regulate the actions and conduct set forth in subdivision one of this section; provided that:(a) a violation of any such a regulation, as approved by such county, town, city or village enacting the regulation, may constitute no more than an infraction and may be punishable by no more than a discretionary civil penalty of two hundred dollars or less; and(b) no county, town, city or village may enact or enforce any such regulation or regulations that may completely or essentially prohibit a person from engaging in the action or conduct authorized by subdivision one of this section.A violation of this section, other than paragraph (a) of subdivision six of this section, may be subject to a civil penalty of up to one hundred twenty-five dollars per violation.7. The office of cannabis management shall issue regulations for the home cultivation of cannabis. The office of cannabis management shall enact, and may enforce, regulations to regulate the actions and conduct set forth in this section including requirements for, or restrictions and prohibitions on, the use of any compressed flammable gas solvents such as propane, butane, or other hexane gases for cannabis processing; or other forms of home cultivation, manufacturing, or cannabinoid production and processing, which the office determines poses a danger to public safety; and to ensure the home cultivation of cannabis is for personal use by an adult over the age of twenty-one in possession of cannabis plants, and not utilized for unlicensed commercial or illicit activity, provided any regulations issued by the office shall not completely or essentially prohibit a person from engaging in the action or conduct authorized by this section.8. The office of cannabis management may issue guidance or advisories for the education and promotion of safe practices for activities and conduct authorized in subdivision one of this section.9. Subdivisions one through five of this section shall not take effect until such a time as the office of cannabis management has issued regulations governing the home cultivation of cannabis. The office shall issue rules and regulations governing the home cultivation of cannabis by certified patients as defined in section three of the cannabis law, no later than six months after the effective date of this article and shall issue rules and regulations governing the home cultivation of cannabis for cannabis consumers as defined by section three of the cannabis law no later than eighteen months following the first authorized retail sale of adult-use cannabis products to a cannabis consumer. (a) plant, cultivate, harvest, dry, process or possess more than three mature cannabis plants and three immature cannabis plants at any one time; or (b) plant, cultivate, harvest, dry, process or possess, within his or her private residence, or on the grounds of his or her private residence, more than three mature cannabis plants and three immature cannabis plants at any one time; or (c) being under the age of twenty-one, plant, cultivate, harvest, dry, process or possess cannabis plants. 2. No more than six mature and six immature cannabis plants may be cultivated, harvested, dried, or possessed within any private residence, or on the grounds of a person's private residence. 3. The personal cultivation of cannabis shall only be permitted within, or on the grounds of, a person's private residence. 4. Any mature or immature cannabis plant described in paragraph (a) or (b) of subdivision one of this section, and any cannabis produced by any such cannabis plant or plants cultivated, harvested, dried, processed or possessed pursuant to paragraph (a) or (b) of subdivision one of this section shall, unless otherwise authorized by law or regulation, be stored within such person's private residence or on the grounds of such person's private residence. Such person shall take reasonable steps designed to ensure that such cultivated cannabis is in a secured place and not accessible to any person under the age of twenty-one. 5. Notwithstanding any law to the contrary, a person may lawfully possess up to five pounds of cannabis in their private residence or on the grounds of such person's private residence. Such person shall take reasonable steps designed to ensure that such cannabis is in a secured place not accessible to any person under the age of twenty-one. 6. A county, town, city or village may enact and enforce regulations to reasonably regulate the actions and conduct set forth in subdivision one of this section; provided that: (a) a violation of any such a regulation, as approved by such county, town, city or village enacting the regulation, may constitute no more than an infraction and may be punishable by no more than a discretionary civil penalty of two hundred dollars or less; and (b) no county, town, city or village may enact or enforce any such regulation or regulations that may completely or essentially prohibit a person from engaging in the action or conduct authorized by subdivision one of this section. A violation of this section, other than paragraph (a) of subdivision six of this section, may be subject to a civil penalty of up to one hundred twenty-five dollars per violation. 7. The office of cannabis management shall issue regulations for the home cultivation of cannabis. The office of cannabis management shall enact, and may enforce, regulations to regulate the actions and conduct set forth in this section including requirements for, or restrictions and prohibitions on, the use of any compressed flammable gas solvents such as propane, butane, or other hexane gases for cannabis processing; or other forms of home cultivation, manufacturing, or cannabinoid production and processing, which the office determines poses a danger to public safety; and to ensure the home cultivation of cannabis is for personal use by an adult over the age of twenty-one in possession of cannabis plants, and not utilized for unlicensed commercial or illicit activity, provided any regulations issued by the office shall not completely or essentially prohibit a person from engaging in the action or conduct authorized by this section. 8. The office of cannabis management may issue guidance or advisories for the education and promotion of safe practices for activities and conduct authorized in subdivision one of this section. 9. Subdivisions one through five of this section shall not take effect until such a time as the office of cannabis management has issued regulations governing the home cultivation of cannabis. The office shall issue rules and regulations governing the home cultivation of cannabis by certified patients as defined in section three of the cannabis law, no later than six months after the effective date of this article and shall issue rules and regulations governing the home cultivation of cannabis for cannabis consumers as defined by section three of the cannabis law no later than eighteen months following the first authorized retail sale of adult-use cannabis products to a cannabis consumer.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 222 - Cannabis222.20 - Licensing of Cannabis Production and Distribution; Defense.

In any prosecution for an offense involving cannabis under this article or an authorized local law, it is a defense that the defendant

was engaged in such activity in compliance with the cannabis law.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 222 - Cannabis222.25 - Unlawful Possession of Cannabis.

A person is guilty of unlawful possession of cannabis when he or she knowingly and unlawfully possesses cannabis and such cannabis weighs more than three ounces or concentrated cannabis and such concentrated cannabis weighs more than twenty-four grams. Unlawful possession of cannabis is a violation punishable by a fine of not more than one hundred twenty-five dollars.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 222 - Cannabis222.30 - Criminal Possession of Cannabis in the Third Degree.

A person is guilty of criminal possession of cannabis in the third degree when he or she knowingly and unlawfully possesses: 1. cannabis and such cannabis weighs more than sixteen ounces; or 2. concentrated cannabis and such concentrated cannabis weighs more than five ounces. Criminal possession of cannabis in the third degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 222 - Cannabis222.35 - Criminal Possession of Cannabis in the Second Degree.

A person is guilty of criminal possession of cannabis in the second degree when he or she knowingly and unlawfully possesses: 1. cannabis and such cannabis weighs more than five pounds; or 2. concentrated cannabis and such concentrated cannabis weighs more than two pounds. Criminal possession of cannabis in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 222 - Cannabis222.40 - Criminal Possession of Cannabis in the First Degree.

A person is guilty of criminal possession of cannabis in the first degree when he or she knowingly and unlawfully possesses: 1. cannabis and such cannabis weighs more than ten pounds; or 2. concentrated cannabis and such concentrated cannabis weighs more than four pounds. Criminal possession of cannabis in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 222 - Cannabis222.45 - Unlawful Sale of Cannabis.

A person is guilty of unlawful sale of cannabis when he or she knowingly and unlawfully sells cannabis or concentrated cannabis. Unlawful sale of cannabis is a violation punishable by a fine of not more than two hundred fifty dollars.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 222 - Cannabis222.50 - Criminal Sale of Cannabis in the Third Degree.

A person is guilty of criminal sale of cannabis in the third degree when: 1. he or she knowingly and unlawfully sells more than three ounces of cannabis or more than twenty-four grams of concentrated cannabis; or 2. being twenty-one years of age or older, he or she knowingly and unlawfully sells or gives, or causes to be given or sold, cannabis or concentrated cannabis to a person less than twenty-one years of age; except that in any prosecution under this subdivision, it is a defense that the defendant was less than three years older than the person under the age of twenty-one at the time of the offense. This subdivision shall not apply to designated caregivers, practitioners, employees of a registered organization or employees of a designated caregiver facility acting in compliance with article three of the cannabis law. Criminal sale of cannabis in the third degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 222 - Cannabis222.55 - Criminal Sale of Cannabis in the Second Degree.

A person is guilty of criminal sale of cannabis in the second degree when: 1. he or she knowingly and unlawfully sells more than sixteen ounces of cannabis or more than five ounces of concentrated cannabis; or 2. being twenty-one years of age or older, he or she knowingly and unlawfully sells or gives, or causes to be given or sold, more than three ounces of cannabis or more than twenty-four grams of concentrated cannabis to a person less than eighteen years of age. This subdivision shall not apply to designated caregivers, practitioners, employees of a registered organization or employees of a designated caregiver facility acting in compliance with article three of the cannabis law. Criminal sale of cannabis in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 222 - Cannabis222.60 - Criminal Sale of Cannabis in the First Degree.

A person is guilty of criminal sale of cannabis in the first degree when he or she knowingly and unlawfully sells more than five pounds of cannabis or more than two pounds of concentrated cannabis. Criminal sale of cannabis in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 222 - Cannabis222.65 - Aggravated Criminal Sale of Cannabis.

A person is guilty of aggravated criminal sale of cannabis when he or she knowingly and unlawfully sells cannabis or concentrated cannabis weighing one hundred pounds or more. Aggravated criminal sale of cannabis is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.00 - Gambling Offenses; Definitions of Terms.

The following definitions are applicable to this article: 1. "Contest of chance" means any contest, game, gaming scheme or gaming device in which the outcome depends in a material degree upon an element of chance, notwithstanding that skill of the contestants may also be a factor therein. 2. "Gambling." A person engages in gambling when he stakes or risks something of value upon the outcome of a contest of chance or a future contingent event not under his control or influence, upon an agreement or understanding that he will receive something of value in the event of a certain outcome. 3. "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity. A person who gambles at a social game of chance on equal terms with the other participants therein does not otherwise render material assistance to the establishment, conduct or operation thereof by performing, without fee or remuneration, acts directed toward the arrangement or facilitation of the game, such as inviting persons to play, permitting the use of premises therefor and supplying cards or other equipment used therein. A person who engages in "bookmaking", as defined in this section is not a "player." 4. "Advance gambling activity." A person "advances gambling activity" when, acting other than as a player, he engages in conduct which materially aids any form of gambling activity. Such conduct includes but is not limited to conduct directed toward the creation or establishment of the particular game, contest, scheme, device or activity involved, toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor, toward the solicitation or inducement of persons to participate therein, toward the actual conduct of the playing phases thereof, toward the arrangement of any of its financial or recording phases, or toward any other phase of its operation. One advances gambling activity when, having substantial proprietary or other authoritative control over premises being used with his knowledge for purposes of gambling activity, he permits such to occur or continue or makes no effort to prevent its occurrence or continuation. 5. "Profit from gambling activity." A person "profits from gambling activity" when, other than as a player, he accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity. 6. "Something of value" means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge. 7. "Gambling device" means any device, machine, paraphernalia or equipment which is used or usable in the playing phases of any gambling activity, whether such activity consists of gambling between persons or gambling by a person involving the playing of a machine. Notwithstanding the foregoing, lottery tickets, policy slips and other items used in the playing phases of lottery and policy schemes are not gambling devices. 7-a. A "coin operated gambling device" means a gambling device which operates as a result of the insertion of something of value. A device designed, constructed or readily adaptable or convertible for such use is a coin operated gambling device notwithstanding the fact that it may require adjustment, manipulation or repair in order to operate as such. A machine which awards free or extended play is not a gambling device merely because such free or extended play may constitute something of value provided that the outcome depends upon the skill of the player and not in a material degree upon an element of chance. 8. "Slot machine" means a gambling device which, as a result of the insertion of a coin or other object, operates, either completely automatically or with the aid of some physical act by the player, in such manner that, depending upon elements of chance, it may eject something of value. A device so constructed, or readily adaptable or convertible to such use, is no less a slot machine because it is not in working order or because some mechanical act of manipulation or repair is required to accomplish its adaptation, conversion or workability. Nor is it any less a slot machine because, apart from its use or adaptability as such, it may also sell or deliver something of value on a basis other than chance. A machine which sells items of merchandise which are of equivalent value, is not a slot machine merely because such items differ from each other in composition, size, shape or color. 9. "Bookmaking" means advancing gambling activity by unlawfully accepting bets from members of the public as a business, rather than in a casual or personal fashion, upon the outcomes of future contingent events. 10. "Lottery" means an unlawful gambling scheme in which (a) the players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other media, one or more of which chances are to be designated the winning ones; and (b) the winning chances are to be determined by a drawing or by some other method based upon the element of chance; and (c) the holders of the winning chances are to receive something of value provided, however, that in no event shall the provisions of this subdivision be construed to include a raffle as such term is defined in subdivision three-b of section one hundred eighty-six of the general municipal law. 11. "Policy" or "the numbers game" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme. 12. "Unlawful" means not specifically authorized by law. 13. "Authorized gaming establishment" means any structure, structure and adjacent or attached structure, or grounds adjacent to a structure in which casino gaming, conducted pursuant to article thirteen of the racing, pari-mutuel wagering and breeding law, or Class III gaming, as authorized pursuant to a compact reached between the state of New York and a federally recognized Indian nation or tribe under the federal Indian Gaming Regulatory Act of 1988, is conducted and shall include all public and non-public areas of any such building, except for such areas of a building where either Class I or II gaming are conducted or any building or

grounds known as a video gaming entertainment facility, including facilities where food and drink are served, as well as those areas not normally open to the public, such as where records related to video lottery gaming operations are kept, except shall not include the racetracks or such areas where such video lottery gaming operations or facilities do not take place or exist, such as racetrack areas or fairgrounds which are wholly unrelated to video lottery gaming operations, pursuant to section sixteen hundred seventeen-a and paragraph five of subdivision a of section sixteen hundred twelve of the tax law, as amended and implemented. 14. "Authorized gaming operator" means an enterprise or business entity authorized by state or federal law to operate casino or video lottery gaming. 15. "Casino gaming" means games authorized to be played pursuant to a license granted under article thirteen of the racing, pari-mutuel wagering and breeding law or by federally recognized Indian nations or tribes pursuant to a gaming compact reached in accordance with the federal Indian Gaming Regulatory Act of 1988, Pub. L. 100-497, 102 Stat. 2467, codified at 25 U.S.C. §§ 2701-21 and 18 U.S.C. §§ 1166-68. 16. "Cash equivalent" means a treasury check, a travelers check, wire transfer of funds, transfer check, money order, certified check, cashiers check, payroll check, a check drawn on the account of the authorized gaming operator payable to the patron or to the authorized gaming establishment, a promotional coupon, promotional chip, promotional cheque, promotional token, or a voucher recording cash drawn against a credit card or charge card. 17. "Cheques" or "chips" or "tokens" means nonmetal, metal or partly metal representatives of value, redeemable for cash or cash equivalent, and issued and sold by an authorized casino operator for use at an authorized gaming establishment. The value of such cheques or chips or tokens shall be considered equivalent in value to the cash or cash equivalent exchanged for such cheques or chips or tokens upon purchase or redemption. 18. "Class I gaming" and "Class II gaming" means those forms of gaming that are not Class III gaming, as defined in subsection eight of section four of the federal Indian Gaming Regulatory Act, 25 U.S.C. § 2703. 19. "Class III gaming" means those forms of gaming that are not Class I or Class II gaming, as defined in subsections six and seven of section four of the federal Indian Gaming Regulatory Act, 25 U.S.C. § 2703 and those games enumerated in the Appendix of a gaming compact. 20. "Compact" or "gaming compact" means the agreement between a federally recognized Indian tribe and the state of New York regarding Class III gaming activities entered into pursuant to the federal Indian Gaming Regulatory Act, Pub. L. 100-497, 102 Stat. 2467, codified at 25 U.S.C. §§ 2701-21 and 18 U.S.C. §§ 1166-68 (1988 & Supp. II). 21. "Gaming equipment or device" means any machine or device which is specially designed or manufactured for use in the operation of any Class III or video lottery game. 22. "Gaming regulatory authority" means, with respect to any authorized gaming establishment on Indian lands, territory or reservation, the Indian nation or tribal gaming commission, its authorized officers, agents and representatives acting in their official capacities or such other agency of a nation or tribe as the nation or tribe may designate as the agency responsible for the regulation of Class III gaming, jointly with the state gaming agency, conducted pursuant to a gaming compact between the nation or tribe and the state of New York, or with respect to any casino gaming authorized pursuant to article thirteen of the racing, pari-mutuel wagering and breeding law or video lottery gaming conducted pursuant to section sixteen hundred seventeen-a and paragraph five of subdivision a of section sixteen hundred twelve of the tax law, as amended and implemented. 23. "Premises" includes any structure, parking lot, building, vehicle, watercraft, and any real property. 24. "Sell" means to sell, exchange, give or dispose of to another. 25. "State gaming agency" shall mean the New York state gaming commission, its authorized officials, agents, and representatives acting in their official capacities as the regulatory agency of the state which has responsibility for regulation with respect to video lottery gaming or casino gaming. 26. "Unfair gaming equipment" means loaded dice, marked cards, substituted cards or dice, or fixed roulette wheels or other gaming equipment which has been altered in a way that tends to deceive or tends to alter the elements of chance or normal random selection which determine the result of the game or outcome, or the amount or frequency of the payment in a game. 27. "Unlawful gaming property" means:(a) any device, not prescribed for use in casinio gaming by its rules, which is capable of assisting a player:(i) to calculate any probabilities material to the outcome of a contest of chance; or(ii) to receive or transmit information material to the outcome of a contest of chance; or(b) any object or article which, by virtue of its size, shape or any other quality, is capable of being used in casino gaming as an improper substitute for a genuine chip, cheque, token, betting coupon, debit instrument, voucher or other instrument or indicia of value; or(c) any unfair gaming equipment.28. "Video lottery gaming" has the meaning set forth in subdivision six of section sixteen hundred two of the tax law.29. "Voucher" means an instrument of value generated by a video lottery terminal representing a monetary amount and/or play value owed to a customer at a specific video lottery terminal based on video lottery gaming winnings and/or amounts not wagered. (a) any device, not prescribed for use in casinio gaming by its rules, which is capable of assisting a player: (i) to calculate any probabilities material to the outcome of a contest of chance; or (ii) to receive or transmit information material to the outcome of a contest of chance; or (b) any object or article which, by virtue of its size, shape or any other quality, is capable of being used in casino gaming as an improper substitute for a genuine chip, cheque, token, betting coupon, debit instrument, voucher or other instrument or indicia of value; or (c) any unfair gaming equipment. 28. "Video lottery gaming" has the meaning set forth in subdivision six of section sixteen hundred two of the tax law. 29. "Voucher" means an instrument of value generated by a video lottery terminal representing a monetary amount and/or play value owed to a customer at a specific video lottery terminal based on video lottery gaming winnings and/or amounts not wagered.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.05 - Promoting Gambling in the Second Degree.

A person is guilty of promoting gambling in the second degree when he knowingly advances or profits from unlawful gambling activity. Promoting gambling in the second degree is a class A misdemeanor.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.10 - Promoting Gambling in the First Degree.

A person is guilty of promoting gambling in the first degree when he knowingly advances or profits from unlawful gambling activity by: 1. Engaging in bookmaking to the extent that he receives or accepts in any one day more than five bets totaling more than five thousand dollars; or 2. Receiving, in connection with a lottery or policy scheme or enterprise, (a) money or written records from a person other than a player whose chances or plays are represented by such money or records, or (b) more than five hundred dollars in any one day of money played in such scheme or enterprise. Promoting gambling in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.15 - Possession of Gambling Records in the Second Degree.

A person is guilty of possession of gambling records in the second degree when, with knowledge of the contents or nature thereof, he possesses any writing, paper, instrument or article: 1. Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise; or 2. Of a kind commonly used in the operation, promotion or playing of a lottery or policy scheme or enterprise; except that in any prosecution under this subdivision, it is a defense that the writing, paper, instrument or article possessed by the defendant constituted, reflected or represented plays, bets or chances of the defendant himself in a number not exceeding ten. 3. Of any paper or paper product in sheet form chemically converted to nitrocellulose having explosive characteristics. 4. Of any water soluble paper or paper derivative in sheet form. Possession of gambling records in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.20 - Possession of Gambling Records in the First Degree.

A person is guilty of possession of gambling records in the first degree when, with knowledge of the contents thereof, he possesses any writing, paper, instrument or article: 1. Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise, and constituting, reflecting or representing more than five bets totaling more than five thousand dollars; or 2. Of a kind commonly used in the operation, promotion or playing of a lottery or policy scheme or enterprise, and constituting, reflecting or representing more than five hundred plays or chances therein. Possession of gambling records in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.25 - Possession of Gambling Records; Defense.

In any prosecution for possession of gambling records, it is a defense that the writing, paper, instrument or article possessed by the defendant was neither used nor intended to be used in the operation or promotion of a bookmaking scheme or enterprise, or in the operation, promotion or playing of a lottery or policy scheme or enterprise.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.30 - Possession of a Gambling Device.

a. A person is guilty of possession of a gambling device when, with knowledge of the character thereof, he or she manufactures, sells, transports, places or possesses, or conducts or negotiates any transaction affecting or designed to affect ownership, custody or use of: 1. A slot machine, unless such possession is permitted pursuant to article nine-A of the general municipal law; or 2. Any other gambling device, believing that the same is to be used in the advancement of unlawful gambling activity; or 3. A coin operated gambling device with intent to use such device in the advancement of unlawful gambling activity. b. Possession of a slot machine shall not be unlawful where such possession and use is pursuant to a gaming compact, duly executed by the governor and an Indian tribe or Nation, under the Indian Gaming Regulatory Act, as codified at 25 U.S.C. §§§§ 2701-2721 and 18 U.S.C §§§§ 1166-1168, where the use of such slot machine or machines is consistent with such gaming compact and where the state receives a negotiated percentage of the net drop (defined as gross money wagered after payout, but before expenses) from any such slot machine or machines. c. Transportation and possession of a slot machine shall not be unlawful where such transportation and possession is necessary to facilitate the training of persons in the repair and reconditioning of such machines as are used or are to be used for operations in those casinos authorized pursuant to a tribal-state compact as provided for pursuant to section eleven hundred seventy-two of title fifteen of the United States Code in the state of New York. d. Transportation and possession of a slot machine shall not be unlawful where such slot machine was transported into this state in a sealed container and possessed for the purpose of product development, research, or additional manufacture or assembly, and such slot machine will be or has been transported in a sealed container to a jurisdiction outside of this state for purposes which are lawful in such outside jurisdiction. e. Transportation and possession of a gambling device shall not be unlawful where (i) the manufacturer or distributor of the gambling device has filed a statement with the state gaming commission required by subdivision twenty-one of section one hundred four of the racing, pari-mutuel wagering and breeding law, (ii) such gambling device was transported into this state in a sealed container and possessed for the purpose of exhibition or marketing in accordance with such statement, and (iii) such device is thereafter transported in a sealed container to a jurisdiction outside of this state for purposes that are lawful in such outside jurisdiction. Possession of a

gambling device is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.32 - Possession of a Gambling Device; Defenses.

1. In any prosecution for possession of a gambling device specified in subdivision one of section 225.30 of this article, it is an affirmative defense that: (a) the slot machine possessed by the defendant was neither used nor intended to be used in the operation or promotion of unlawful gambling activity or enterprise and that such slot machine is an antique; for purposes of this section proof that a slot machine was manufactured prior to nineteen hundred forty-one shall be conclusive proof that such a machine is an antique; (b) the slot machine possessed by the defendant was manufactured or assembled by the defendant for the sole purpose of transporting such slot machine in a sealed container to a jurisdiction outside this state for purposes which are lawful in such outside jurisdiction; or (c) the slot machine possessed by the defendant was neither used nor intended to be used in the operation or promotion of unlawful gambling activity or enterprise, is more than thirty years old, and such possession takes place in the defendant's home. 2. Where a defendant raises an affirmative defense provided by subdivision one hereof, any slot machine seized from the defendant shall not be destroyed, or otherwise altered until a final court determination is rendered. In a final court determination rendered in favor of said defendant, such slot machine shall be returned, forthwith, to said defendant, notwithstanding any provisions of law to the contrary.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.35 - Gambling Offenses; Presumptions.

1. Proof of possession of any gambling device or of any gambling record specified in sections 225.15 and 225.20, is presumptive evidence of possession thereof with knowledge of its character or contents. 2. In any prosecution under this article in which it is necessary to prove the occurrence of a sporting event, a published report of its occurrence in any daily newspaper, magazine or other periodically printed publication of general circulation shall be admissible in evidence and shall constitute presumptive proof of the occurrence of such event. 3. Possession of three or more coin operated gambling devices or possession of a coin operated gambling device in a public place shall be presumptive evidence of intent to use in the advancement of unlawful gambling activity.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.40 - Lottery Offenses; No Defense.

Any offense defined in this article which consists of the commission of acts relating to a lottery is no less criminal because the lottery itself is drawn or conducted without the state and is not violative of the laws of the jurisdiction in which it was so drawn or conducted.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.55 - Gaming Fraud in the Second Degree.

A person is guilty of gaming fraud in the second degree when he or she: 1. with intent to defraud and in violation of the rules of the casino gaming, misrepresents, changes the amount bet or wagered on, or the outcome or possible outcome of the contest or event which is the subject of the bet or wager, or the amount or frequency of payment in the casino gaming; or 2. with intent to defraud, obtains anything of value from casino gaming without having won such amount by a bet or wager contingent thereon. Gaming fraud in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.60 - Gaming Fraud in the First Degree.

A person is guilty of gaming fraud in the first degree when he or she commits a gaming fraud in the second degree, and: 1. The value of the benefit obtained exceeds one thousand dollars; or 2. He or she has been previously convicted within the preceding five years of any offense of which an essential element is the commission of a gaming fraud. Gaming fraud in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.65 - Use of Counterfeit, Unapproved or Unlawful Wagering Instruments.

instruments. A person is guilty of use of counterfeit, unapproved or unlawful wagering instruments when in playing or using any casino gaming designed to be played with, received or be operated by chips, cheques, tokens, vouchers or other wagering instruments approved by the appropriate gaming regulatory authority, he or she knowingly uses chips, cheques, tokens, vouchers or other wagering instruments other than those approved by the appropriate gaming regulating authority and the state gaming agency or lawful coin or legal tender of the United States of America. Possession of more than one counterfeit, unapproved or unlawful wagering instrument described in this section is presumptive evidence of possession thereof with knowledge of its character or contents. Use of counterfeit, unapproved or unlawful wagering instruments is a class A misdemeanor.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.70 - Possession of Unlawful Gaming Property in the Third Degree.

A person is guilty of possession of unlawful gaming property in the third degree when he or she possesses, with intent to use such property to commit gaming fraud, unlawful gaming property at a premises being used for casino gaming. Possession of unlawful gaming property in the third degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.75 - Possession of Unlawful Gaming Property in the Second Degree.

A person is guilty of possession of unlawful gaming property in the second degree when: 1. He or she makes, sells, or possesses with intent to sell, any unlawful gaming property at a casino gaming facility, the value of which exceeds three hundred dollars, with intent that it be made available to a person for unlawful use; or 2. He or she commits possession of unlawful gaming property in the third degree as defined in section 225.70 of this article, and the face value of the improper substitute property exceeds five hundred dollars; or 3. He or she commits the offense of possession of unlawful gaming property in the third degree and has been previously convicted within the preceding five years of any offense of which an essential element is possession of unlawful gaming property. Possession of unlawful gaming property in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.80 - Possession of Unlawful Gaming Property in the First Degree.

A person is guilty of possession of unlawful gaming property in the first degree when: 1. He or she commits the crime of unlawful possession of gaming property in the third degree as defined in section 225.70 of this article and the face value of the improper substitute property exceeds one thousand dollars; or 2. He or she commits the offense of possession of unlawful gaming property in the second degree as defined in subdivision one or two of section 225.75 of this article and has been previously convicted within the preceding five years of any offense of which an essential element is possession of unlawful gaming property. Possession of unlawful gaming property in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.85 - Use of Unlawful Gaming Property.

A person is guilty of use of unlawful gaming property when he or she knowingly with intent to defraud uses unlawful gaming property at a premises being used for casino gaming. Use of unlawful gaming property is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.90 - Manipulation of Gaming Outcomes at an Authorized Gaming Establishment.

establishment. A person is guilty of manipulation of gaming outcomes at an authorized gaming establishment when he or she: 1. Knowingly conducts, operates, deals or otherwise manipulates, or knowingly allows to be conducted, operated, dealt or otherwise manipulated, cards, dice or gaming equipment or device, for themselves or for another, through any trick or sleight of hand performance, with the intent of deceiving or altering the elements of chance or normal random selection which determines the result or outcome of the game, or the amount or frequency of the payment in a game; or 2. Knowingly uses, conducts, operates, deals, or exposes for play, or knowingly allows to be used, conducted, operated, dealt or exposed for play any cards, dice or gaming equipment or device, or any combination of gaming equipment or devices, which have in any manner been altered, marked or tampered with, or placed in a condition, or operated in a manner, the result of which tends to deceive or tends to alter the elements of chance or normal random selection which determine the result of the game or outcome, or the amount or frequency of the payment in a game; or 3. Knowingly uses, or possesses with the intent to use, any cards, dice or other gaming equipment or devices other than that provided by an authorized gaming operator for current use in a permitted gaming activity; or 4. Alters or misrepresents the outcome of a game or other event on which bets or wagers have been made after the outcome is made sure but before it is revealed to players. Possession of altered, marked or tampered with dice, cards, or gaming equipment or devices at an authorized gambling establishment is presumptive evidence of possession thereof with knowledge of its character or contents and intention to use such altered, marked or tampered with dice, cards, or gaming equipment or devices in violation of this section. Manipulation of gaming outcomes at an authorized gaming establishment is a class A misdemeanor provided, however, that if the person has previously been convicted of this crime within the past five years this crim shall be a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 225 - Gambling Offenses225.95 - Unlawful Manufacture, Sale, Distribution, Marking, Altering or Modification of Equipment and Devices Associated With Gaming.

modification of equipment and devices associated with gaming. A person is guilty of unlawful manufacture, sale, distribution, marking, altering or modification of equipment and devices associated with gaming when if he or she: 1. Manufactures, sells or distributes any cards, chips, cheques, tokens, dice, vouchers, game or device and he or she knew or reasonably should have known it

was intended to be used to violate any provision of this article; or 2. Marks, alters or otherwise modifies any associated gaming equipment or device in a manner that either affects the result of the wager by determining win or loss or alters the normal criteria of random selection in a manner that affects the operation of a game or determines the outcome of a game, and he or she knew or reasonably should have known that it was intended to be used to violate any provision of this article. Unlawful manufacture, sale, distribution, marking, altering or modification of equipment and devices associated with gaming is a class A misdemeanor provided, however, that if the person has previously been convicted of this crime within the past five years this crim shall be a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.00 - Prostitution.

A person is guilty of prostitution when such person engages or agrees or offers to engage in sexual conduct with another person in return for a fee. Prostitution is a class B Misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.01 - Prostitution; Affirmative Defense.

In any prosecution under section 230.00, section 230.03, section 230.19, section 230.20, subdivision 2 of section 230.25, subdivision 2 of section 230.30 or section 230.34-a of this article, it is an affirmative defense that the defendant's participation in the offense was a result of having been a victim of compelling prostitution under section 230.33 of this article, a victim of sex trafficking under section 230.34 of this article, a victim of sex trafficking of a child under section 230.34-a of this article or a victim of trafficking in persons under the trafficking victims protection act (United States Code, Title 22, Chapter 78).

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.02 - Patronizing a Person for Prostitution; Definitions.

1. A person patronizes a person for prostitution when:(a) Pursuant to a prior understanding, he or she pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with him or her; or(b) He or she pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such person or a third person will engage in sexual conduct with him or her; or(c) He or she solicits or requests another person to engage in sexual conduct with him or her in return for a fee.2. As used in this article, "person who is patronized" means the person with whom the defendant engaged in sexual conduct or was to have engaged in sexual conduct pursuant to the understanding, or the person who was solicited or requested by the defendant to engage in sexual conduct. (a) Pursuant to a prior understanding, he or she pays a fee to another person as compensation for such person or a third person having engaged in sexual conduct with him or her; or (b) He or she pays or agrees to pay a fee to another person pursuant to an understanding that in return therefor such person or a third person will engage in sexual conduct with him or her; or (c) He or she solicits or requests another person to engage in sexual conduct with him or her in return for a fee. 2. As used in this article, "person who is patronized" means the person with whom the defendant engaged in sexual conduct or was to have engaged in sexual conduct pursuant to the understanding, or the person who was solicited or requested by the defendant to engage in sexual conduct.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.03 - Prostitution in a School Zone.

1. A person is guilty of prostitution in a school zone when, being nineteen years of age or older, and acting during the hours that school is in session, he or she commits the crime of prostitution in violation of section 230.00 of this article at a place that he or she knows, or reasonably should know, is in a school zone, and he or she knows, or reasonably should know, that such act of prostitution is within the direct view of children attending such school. 2. For the purposes of this section, section 230.08 and section 230.19 of this article, "school zone" means (a) in or on or within any building, structure, athletic playing field, playground or land contained within the real property boundary line of a public or private elementary, parochial, intermediate, junior high, vocational, or high school, or (b) any public sidewalk, street, parking lot, park, playground or private land, located immediately adjacent to the boundary line of such school. Prostitution in a school zone is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.04 - Patronizing a Person for Prostitution in the Third Degree.

A person is guilty of patronizing a person for prostitution in the third degree when he or she patronizes a person for prostitution. Patronizing a person for prostitution in the third degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.05 - Patronizing a Person for Prostitution in the Second Degree.

A person is guilty of patronizing a person for prostitution in the second degree when, being eighteen years old or more, he or she patronizes a person for prostitution and the person patronized is less than fifteen years old. Patronizing a person for prostitution in the second degree is a class E felony.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.06 - Patronizing a Person for Prostitution in the First Degree.

A person is guilty of patronizing a person for prostitution in the first degree when: 1. He or she patronizes a person for prostitution and the person patronized is less than eleven years old; or 2. Being eighteen years old or more, he or she patronizes a person for prostitution and the person patronized is less than thirteen years old. Patronizing a person for prostitution in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.07 - Patronizing a Person for Prostitution; Defense.

In any prosecution for patronizing a person for prostitution in the first or second degrees or patronizing a person for prostitution in a school zone, it is a defense that the defendant did not have reasonable grounds to believe that the person was less than the age specified.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.08 - Patronizing a Person for Prostitution in a School Zone.

1. A person is guilty of patronizing a person for prostitution in a school zone when, being twenty-one years old or more, he or she patronizes a person for prostitution and the person patronized is less than eighteen years old at a place that he or she knows, or reasonably should know, is in a school zone. 2. For purposes of this section, "school zone" shall mean "school zone" as defined in subdivision two of section 230.03 of this article. Patronizing a person for prostitution in a school zone is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.10 - Prostitution and Patronizing a Person for Prostitution; No Defense.

defense. In any prosecution for prostitution or patronizing a person for prostitution, the sex of the two parties or prospective parties to the sexual conduct engaged in, contemplated or solicited is immaterial, and it is no defense that: 1. Such persons were of the same sex; or 2. The person who received, agreed to receive or solicited a fee was a male and the person who paid or agreed or offered to pay such fee was a female.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.11 - Aggravated Patronizing a Minor for Prostitution in the Third Degree.

degree. A person is guilty of aggravated patronizing a minor for prostitution in the third degree when, being twenty-one years old or more, he or she patronizes a person for prostitution and the person patronized is less than seventeen years old and the person guilty of patronizing engages in vaginal sexual contact, oral sexual contact, anal sexual contact, or aggravated sexual contact as those terms are defined in section 130.00 of this part, with the person patronized. Aggravated patronizing a minor for prostitution in the third degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.12 - Aggravated Patronizing a Minor for Prostitution in the Second Degree.

degree. A person is guilty of aggravated patronizing a minor for prostitution in the second degree when, being eighteen years old or more, he or she patronizes a person for prostitution and the person patronized is less than fifteen years old and the person guilty of patronizing engages in vaginal sexual contact, oral sexual contact, anal sexual contact, or aggravated sexual contact as those terms are defined in section 130.00 of this part, with the person patronized. Aggravated patronizing a minor for prostitution in the second degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.13 - Aggravated Patronizing a Minor for Prostitution in the First Degree.

degree. A person is guilty of aggravated patronizing a minor for prostitution in the first degree when he or she patronizes a person for prostitution and the person patronized is less than eleven years old, or being eighteen years old or more, he or she patronizes a person for prostitution and the person patronized is less than thirteen years old, and the person guilty of patronizing engages in vaginal sexual contact, oral sexual contact, anal sexual contact, or aggravated sexual contact as those terms are defined in section 130.00 of this part, with the person patronized. Aggravated patronizing a minor for prostitution in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.15 - Promoting Prostitution; Definitions of Terms.

The following definitions are applicable to this article: 1. "Advance prostitution." A person "advances prostitution" when, acting other than as a person in prostitution or as a patron thereof, he or she knowingly causes or aids a person to commit or engage in prostitution, procures or solicits patrons for prostitution, provides persons or premises for prostitution purposes, operates or assists in

the operation of a house of prostitution or a prostitution enterprise, or engages in any other conduct designed to institute, aid or facilitate an act or enterprise of prostitution. 2. "Profit from prostitution." A person "profits from prostitution" when, acting other than as a person in prostitution receiving compensation for personally rendered prostitution services, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he or she participates or is to participate in the proceeds of prostitution activity.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.19 - Promoting Prostitution in a School Zone.

1. A person is guilty of promoting prostitution in a school zone when, being nineteen years old or more, he or she knowingly advances or profits from prostitution that he or she knows or reasonably should know is or will be committed in violation of section 230.03 of this article in a school zone during the hours that school is in session. 2. For purposes of this section, "school zone" shall mean "school zone" as defined in subdivision two of section 230.03 of this article. Promoting prostitution in a school zone is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.20 - Promoting Prostitution in the Fourth Degree.

A person is guilty of promoting prostitution in the fourth degree when he or she knowingly: 1. Advances or profits from prostitution; or 2. With intent to advance or profit from prostitution, distributes or disseminates to ten or more people in a public place obscene material, as such terms are defined by subdivisions one and two of section 235.00 of this title, or material that depicts nudity, as such term is defined by subdivision one of section 245.10 of this part. Promoting prostitution in the fourth degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.25 - Promoting Prostitution in the Third Degree.

A person is guilty of promoting prostitution in the third degree when he or she knowingly: 1. Advances or profits from prostitution by managing, supervising, controlling or owning, either alone or in association with others, a house of prostitution or a prostitution business or enterprise involving prostitution activity by two or more persons in prostitution, or a business that sells travel-related services knowing that such services include or are intended to facilitate travel for the purpose of patronizing a person for prostitution, including to a foreign jurisdiction and regardless of the legality of prostitution in said foreign jurisdiction; or 2. Advances or profits from prostitution of a person less than nineteen years old. Promoting prostitution in the third degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.30 - Promoting Prostitution in the Second Degree.

A person is guilty of promoting prostitution in the second degree when he or she knowingly: 1. Advances prostitution by compelling a person by force or intimidation to engage in prostitution, or profits from such coercive conduct by another; or 2. Advances or profits from prostitution of a person less than eighteen years old. Promoting prostitution in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.32 - Promoting Prostitution in the First Degree.

A person is guilty of promoting prostitution in the first degree when he or she: 1. knowingly advances or profits from prostitution of a person less than thirteen years old; or 2. being twenty-one years old or more, he or she knowingly advances or profits from prostitution of a person less than fifteen years old. Promoting prostitution in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.33 - Compelling Prostitution.

A person is guilty of compelling prostitution when, being eighteen years old or more, he or she knowingly advances prostitution by compelling a person less than eighteen years old, by force or intimidation, to engage in prostitution. Compelling prostitution is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.34-A - Sex Trafficking of a Child.

1. A person is guilty of sex trafficking of a child when he or she, being twenty-one years old or more, intentionally advances or profits from prostitution of another person and such person is a child less than eighteen years old. Knowledge by the defendant of the age of such child is not an element of this offense and it is not a defense to a prosecution therefor that the defendant did not know the age of the child or believed such age to be eighteen or over. 2. For purposes of this section:(a) A person "advances prostitution" when, acting other than as a person in prostitution or as a patron thereof, and with intent to cause prostitution, he or she directly engages in conduct that facilitates an act or enterprise of prostitution.(b) A person "profits from prostitution" when, acting

other than as a person in prostitution receiving compensation for personally rendered prostitution services, and with intent to facilitate prostitution, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he or she participates in the proceeds of prostitution activity.Sex trafficking of a child is a class B felony. (a) A person "advances prostitution" when, acting other than as a person in prostitution or as a patron thereof, and with intent to cause prostitution, he or she directly engages in conduct that facilitates an act or enterprise of prostitution. (b) A person "profits from prostitution" when, acting other than as a person in prostitution receiving compensation for personally rendered prostitution services, and with intent to facilitate prostitution, he or she accepts or receives money or other property pursuant to an agreement or understanding with any person whereby he or she participates in the proceeds of prostitution activity. Sex trafficking of a child is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.34 - Sex Trafficking.

A person is guilty of sex trafficking if he or she intentionally advances or profits from prostitution by: 1. unlawfully providing to a person who is patronized, with intent to impair said person's judgment: (a) a narcotic drug or a narcotic preparation; (b) concentrated cannabis as defined in paragraph (a) of subdivision four of section thirty-three hundred two of the public health law; (c) methadone; or (d) gamma-hydroxybutyrate (GHB) or flunitrazepan, also known as Rohypnol; 2. making material false statements, misstatements, or omissions to induce or maintain the person being patronized to engage in or continue to engage in prostitution activity; 3. withholding, destroying, or confiscating any actual or purported passport, immigration document, or any other actual or purported government identification document of another person with intent to impair said person's freedom of movement; provided, however, that this subdivision shall not apply to an attempt to correct a social security administration record or immigration agency record in accordance with any local, state, or federal agency requirement, where such attempt is not made for the purpose of any express or implied threat; 4. requiring that prostitution be performed to retire, repay, or service a real or purported debt; 5. using force or engaging in any scheme, plan or pattern to compel or induce the person being patronized to engage in or continue to engage in prostitution activity by means of instilling a fear in the person being patronized that, if the demand is not complied with, the actor or another will do one or more of the following:(a) cause physical injury, serious physical injury, or death to a person; or(b) cause damage to property, other than the property of the actor; or(c) engage in other conduct constituting a felony or unlawful imprisonment in the second degree in violation of section 135.05 of this chapter; or(d) accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against some person; provided, however, that it shall be an affirmative defense to this subdivision that the defendant reasonably believed the threatened charge to be true and that his or her sole purpose was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of such threatened charge; or(e) expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or(f) testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or(g) use or abuse his or her position as a public servant by performing some act within or related to his or her official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or(h) perform any other act which would not in itself materially benefit the actor but which is calculated to harm the person who is patronized materially with respect to his or her health, safety, or immigration status.Sex trafficking is a class B felony (a) cause physical injury, serious physical injury, or death to a person; or (b) cause damage to property, other than the property of the actor; or (c) engage in other conduct constituting a felony or unlawful imprisonment in the second degree in violation of section 135.05 of this chapter; or (d) accuse some person of a crime or cause criminal charges or deportation proceedings to be instituted against some person; provided, however, that it shall be an affirmative defense to this subdivision that the defendant reasonably believed the threatened charge to be true and that his or her sole purpose was to compel or induce the victim to take reasonable action to make good the wrong which was the subject of such threatened charge; or (e) expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or (f) testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or (g) use or abuse his or her position as a public servant by performing some act within or related to his or her official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or (h) perform any other act which would not in itself materially benefit the actor but which is calculated to harm the person who is patronized materially with respect to his or her health, safety, or immigration status. Sex trafficking is a class B felony

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.35 - Promoting or Compelling Prostitution; Accomplice.

In a prosecution for promoting prostitution or compelling prostitution, a person less than eighteen years old from whose prostitution activity another person is alleged to have advanced or attempted to advance or profited or attempted to profit shall not be deemed to be an accomplice.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.36 - Sex Trafficking; Accomplice.

In a prosecution for sex trafficking, a person from whose prostitution activity another person is alleged to have advanced or attempted to advance or profited or attempted to profit shall not be deemed to be an accomplice.

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2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 230 - Prostitution Offenses230.40 - Permitting Prostitution.

A person is guilty of permitting prostitution when, having possession or control of premises or vehicle which he or she knows are being used for prostitution purposes or for the purpose of advancing prostitution, he or she fails to make reasonable effort to halt or abate such use. Permitting prostitution is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 235 - Obscenity and Related Offenses235.00 - Obscenity; Definitions of Terms.

The following definitions are applicable to sections 235.05, 235.10 and 235.15: 1. "Obscene." Any material or performance is "obscene" if (a) the average person, applying contemporary community standards, would find that considered as a whole, its predominant appeal is to the prurient interest in sex, and (b) it depicts or describes in a patently offensive manner, actual or simulated: vaginal sexual contact, a crime under the former sections 130.50, 130.45, and 130.40 of the penal law, oral sexual contact, anal sexual contact, sexual bestiality, masturbation, sadism, masochism, excretion or lewd exhibition of the genitals, and (c) considered as a whole, it lacks serious literary, artistic, political, and scientific value. Predominant appeal shall be judged with reference to ordinary adults unless it appears from the character of the material or the circumstances of its dissemination to be designed for children or other especially susceptible audience. 2. "Material" means anything tangible which is capable of being used or adapted to arouse interest, whether through the medium of reading, observation, sound or in any other manner. 3. "Performance" means any play, motion picture, dance or other exhibition performed before an audience. 4. "Promote" means to manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit or advertise, or to offer or agree to do the same. 5. "Wholesale promote" means to manufacture, issue, sell, provide, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate or to offer or agree to do the same for purposes of resale. 6. "Simulated" means the explicit depiction or description of any of the types of conduct set forth in clause (b) of subdivision one of this section, which creates the appearance of such conduct. 7. " Criminal sexual act" means any of the types of sexual conduct defined in subdivision two of section 130.00 provided, however, that in any prosecution under this article the marital status of the persons engaged in such conduct shall be irrelevant and shall not be considered.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 235 - Obscenity and Related Offenses235.05 - Obscenity in the Third Degree.

A person is guilty of obscenity in the third degree when, knowing its content and character, he: 1. Promotes, or possesses with intent to promote, any obscene material; or 2. Produces, presents or directs an obscene performance or participates in a portion thereof which is obscene or which contributes to its obscenity. Obscenity in the third degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 235 - Obscenity and Related Offenses235.06 - Obscenity in the Second Degree.

A person is guilty of obscenity in the second degree when he commits the crime of obscenity in the third degree as defined in subdivisions one and two of section 235.05 of this chapter and has been previously convicted of obscenity in the third degree. Obscenity in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 235 - Obscenity and Related Offenses235.07 - Obscenity in the First Degree.

A person is guilty of obscenity in the first degree when, knowing its content and character, he wholesale promotes or possesses with intent to wholesale promote, any obscene material. Obscenity in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 235 - Obscenity and Related Offenses235.10 - Obscenity; Presumptions.

1. A person who promotes or wholesale promotes obscene material, or possesses the same with intent to promote or wholesale promote it, in the course of his business is presumed to do so with knowledge of its content and character. 2. A person who possesses six or more identical or similar obscene articles is presumed to possess them with intent to promote the same. The provisions of this section shall not apply to public libraries or association libraries as defined in subdivision two of section two hundred fifty-three of the education law, or trustees or employees of such public libraries or association libraries when acting in the course and scope of their duties or employment.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 235 - Obscenity and Related Offenses235.15 - Obscenity or Disseminating Indecent Material to Minors in the Second Degree; Defense.

1. In any prosecution for obscenity, or disseminating indecent material to minors in the second degree in violation of subdivision

three of section 235.21 of this article, it is an affirmative defense that the persons to whom allegedly obscene or indecent material was disseminated, or the audience to an allegedly obscene performance, consisted of persons or institutions having scientific, educational, governmental or other similar justification for possessing, disseminating or viewing the same. 2. In any prosecution for obscenity, it is an affirmative defense that the person so charged was a motion picture projectionist, stage employee or spotlight operator, cashier, doorman, usher, candy stand attendant, porter or in any other non-managerial or non-supervisory capacity in a motion picture theatre; provided he has no financial interest, other than his employment, which employment does not encompass compensation based upon any proportion of the gross receipts, in the promotion of obscene material for sale, rental or exhibition or in the promotion, presentation or direction of any obscene performance, or is in any way responsible for acquiring obscene material for sale, rental or exhibition.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 235 - Obscenity and Related Offenses235.20 - Disseminating Indecent Material to Minors; Definitions of Terms.

The following definitions are applicable to sections 235.21, 235.22, 235.23 and 235.24 of this article: 1. "Minor" means any person less than seventeen years old. 2. "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernably turgid state. 3. "Sexual conduct" means acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be a female, breast. 4. "Sexual excitement" means the condition of human male or female genitals when in a state of sexual stimulation or arousal. 5. "Sado-masochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed. 6. "Harmful to minors" means that quality of any description or representation, in whatever form, of nudity, sexual conduct, sexual excitement, or sado-masochistic abuse, when it:(a) Considered as a whole, appeals to the prurient interest in sex of minors; and(b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and(c) Considered as a whole, lacks serious literary, artistic, political and scientific value for minors.7. The term "access software" means software (including client or server software) or enabling tools that do not create or provide the content of the communication but that allow a user to do any one or more of the following:(a) filter, screen, allow or disallow content;(b) pick, choose, analyze or digest content; or(c) transmit, receive, display, forward, cache, search, subset, organize, reorganize or translate content. (a) Considered as a whole, appeals to the prurient interest in sex of minors; and (b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material for minors; and (c) Considered as a whole, lacks serious literary, artistic, political and scientific value for minors. 7. The term "access software" means software (including client or server software) or enabling tools that do not create or provide the content of the communication but that allow a user to do any one or more of the following: (a) filter, screen, allow or disallow content; (b) pick, choose, analyze or digest content; or (c) transmit, receive, display, forward, cache, search, subset, organize, reorganize or translate content.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 235 - Obscenity and Related Offenses235.21 - Disseminating Indecent Material to Minors in the Second Degree.

A person is guilty of disseminating indecent material to minors in the second degree when: 1. With knowledge of its character and content, he sells or loans to a minor for monetary consideration:(a) Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sado-masochistic abuse and which is harmful to minors; or(b) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in paragraph (a) hereof, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sado-masochistic abuse and which, taken as a whole, is harmful to minors; or2. Knowing the character and content of a motion picture, show or other presentation which, in whole or in part, depicts nudity, sexual conduct or sado-masochistic abuse, and which is harmful to minors, he:(a) Exhibits such motion picture, show or other presentation to a minor for a monetary consideration; or(b) Sells to a minor an admission ticket or pass to premises whereon there is exhibited or to be exhibited such motion picture, show or other presentation; or(c) Admits a minor for a monetary consideration to premises whereon there is exhibited or to be exhibited such motion picture show or other presentation; or3. Knowing the character and content of the communication which, in whole or in part, depicts actual or simulated nudity, sexual conduct or sado-masochistic abuse, and which is harmful to minors, he intentionally uses any computer communication system allowing the input, output, examination or transfer, of computer data or computer programs from one computer to another, to initiate or engage in such communication with a person who is a minor.Disseminating indecent material to minors in the second degree is a class E felony. (a) Any picture, photograph, drawing, sculpture, motion picture film, or similar visual representation or image of a person or portion of the human body which depicts nudity, sexual conduct or sado-masochistic abuse and which is harmful to minors; or (b) Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter enumerated in paragraph (a) hereof, or explicit and detailed verbal descriptions or narrative accounts of sexual excitement, sexual conduct or sado-masochistic abuse and which, taken as a whole, is harmful to minors; or 2. Knowing the character and content of a motion picture, show or other presentation which, in whole or in part, depicts nudity, sexual conduct or sado-masochistic abuse, and which is harmful to minors, he: (a) Exhibits such motion picture, show or other presentation to a minor for a monetary consideration; or (b) Sells to a minor an admission ticket or pass to premises whereon there is exhibited or to be exhibited such

motion picture, show or other presentation; or (c) Admits a minor for a monetary consideration to premises whereon there is exhibited or to be exhibited such motion picture show or other presentation; or 3. Knowing the character and content of the communication which, in whole or in part, depicts actual or simulated nudity, sexual conduct or sado-masochistic abuse, and which is harmful to minors, he intentionally uses any computer communication system allowing the input, output, examination or transfer, of computer data or computer programs from one computer to another, to initiate or engage in such communication with a person who is a minor. Disseminating indecent material to minors in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 235 - Obscenity and Related Offenses235.22 - Disseminating Indecent Material to Minors in the First Degree.

A person is guilty of disseminating indecent material to minors in the first degree when: 1. knowing the character and content of the communication which, in whole or in part, depicts or describes, either in words or images actual or simulated nudity, sexual conduct or sado-masochistic abuse, and which is harmful to minors, he intentionally uses any computer communication system allowing the input, output, examination or transfer, of computer data or computer programs from one computer to another, to initiate or engage in such communication with a person who is a minor; and 2. by means of such communication he importunes, invites or induces a minor to engage in vaginal sexual contact, oral sexual contact or anal sexual contact, or sexual contact with him, or to engage in a sexual performance, obscene sexual performance, or sexual conduct for his benefit. Disseminating indecent material to minors in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 235 - Obscenity and Related Offenses235.23 - Disseminating Indecent Material to Minors; Presumption and Defenses.

1. A person who engages in the conduct proscribed by section 235.21 is presumed to do so with knowledge of the character and content of the material sold or loaned, or the motion picture, show or presentation exhibited or to be exhibited. 2. In any prosecution for disseminating indecent material to minors in the second degree pursuant to subdivision one or two of section 235.21 of this article, it is an affirmative defense that:(a) The defendant had reasonable cause to believe that the minor involved was seventeen years old or more; and(b) Such minor exhibited to the defendant a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was seventeen years old or more.3. In any prosecution for disseminating indecent material to minors in the second degree pursuant to subdivision three of section 235.21 of this article or disseminating indecent material to minors in the first degree pursuant to section 235.22 of this article, it shall be a defense that:(a) The defendant made a reasonable effort to ascertain the true age of the minor and was unable to do so as a result of actions taken by the minor; or(b) The defendant has taken, in good faith, reasonable, effective and appropriate actions under the circumstances to restrict or prevent access by minors to materials specified in such subdivision, which may involve any appropriate measures to restrict minors from access to such communications, including any method which is feasible under available technology; or(c) The defendant has restricted access to such materials by requiring use of a verified credit card, debit account, adult access code or adult personal identification number; or(d) The defendant has in good faith established a mechanism such that the labelling, segregation or other mechanism enables such material to be automatically blocked or screened by software or other capabilities reasonably available to responsible adults wishing to effect such blocking or screening and the defendant has not otherwise solicited minors not subject to such screening or blocking capabilities to access that material or to circumvent any such screening or blocking. (a) The defendant had reasonable cause to believe that the minor involved was seventeen years old or more; and (b) Such minor exhibited to the defendant a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was seventeen years old or more. 3. In any prosecution for disseminating indecent material to minors in the second degree pursuant to subdivision three of section 235.21 of this article or disseminating indecent material to minors in the first degree pursuant to section 235.22 of this article, it shall be a defense that: (a) The defendant made a reasonable effort to ascertain the true age of the minor and was unable to do so as a result of actions taken by the minor; or (b) The defendant has taken, in good faith, reasonable, effective and appropriate actions under the circumstances to restrict or prevent access by minors to materials specified in such subdivision, which may involve any appropriate measures to restrict minors from access to such communications, including any method which is feasible under available technology; or (c) The defendant has restricted access to such materials by requiring use of a verified credit card, debit account, adult access code or adult personal identification number; or (d) The defendant has in good faith established a mechanism such that the labelling, segregation or other mechanism enables such material to be automatically blocked or screened by software or other capabilities reasonably available to responsible adults wishing to effect such blocking or screening and the defendant has not otherwise solicited minors not subject to such screening or blocking capabilities to access that material or to circumvent any such screening or blocking.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle M - Offenses Against Public Health and MoralsArticle 235 - Obscenity and Related Offenses235.24 - Disseminating Indecent Material to Minors; Limitations.

In any prosecution for disseminating indecent material to minors in the second degree pursuant to subdivision three of section 235.21 of this article or disseminating indecent material to minors in the first degree pursuant to section 235.22 of this article: 1. No person shall be held to have violated such provisions solely for providing access or connection to or from a facility, system, or network not under that person's control, including transmission, downloading, intermediate storage, access software, or other related capabilities that are incidental to providing such access or connection that do not include the creation of the content of the

communication.(a) The limitations provided by this subdivision shall not be applicable to a person who is a conspirator with an entity actively involved in the creation or knowing distribution of communications that violate such provisions, or who knowingly advertises the availability of such communications.(b) The limitations provided by this subdivision shall not be applicable to a person who provides access or connection to a facility, system, or network engaged in the violation of such provisions that is owned or controlled by such person.2. No employer shall be held liable under such provisions for the actions of an employee or agent unless the employee's or agent's conduct is within the scope of his employment or agency and the employer having knowledge of such conduct, authorizes or ratifies such conduct, or recklessly disregards such conduct. (a) The limitations provided by this subdivision shall not be applicable to a person who is a conspirator with an entity actively involved in the creation or knowing distribution of communications that violate such provisions, or who knowingly advertises the availability of such communications. (b) The limitations provided by this subdivision shall not be applicable to a person who provides access or connection to a facility, system, or network engaged in the violation of such provisions that is owned or controlled by such person. 2. No employer shall be held liable under such provisions for the actions of an employee or agent unless the employee's or agent's conduct is within the scope of his employment or agency and the employer having knowledge of such conduct, authorizes or ratifies such conduct, or recklessly disregards such conduct.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.00 - Offenses Against Public Order; Definitions of Terms.

The following definitions are applicable to this article: 1. "Public place" means a place to which the public or a substantial group of persons has access, and includes, but is not limited to, highways, transportation facilities, schools, places of amusement, parks, playgrounds, community centers, and hallways, lobbies and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence. 2. "Transportation facility" means any conveyance, premises or place used for or in connection with public passenger transportation, whether by air, railroad, motor vehicle or any other method. It includes aircraft, watercraft, railroad cars, buses, school buses as defined in section one hundred forty-two of the vehicle and traffic law, and air, boat, railroad and bus terminals and stations and all appurtenances thereto. 3. "School grounds" means in or on or within any building, structure, school bus as defined in section one hundred forty-two of the vehicle and traffic law, athletic playing field, playground or land contained within the real property boundary line of a public or private elementary, parochial, intermediate, junior high, vocational or high school. 4. "Hazardous substance" shall mean any physical, chemical, microbiological or radiological substance or matter which, because of its quantity, concentration, or physical, chemical or infectious characteristics, may cause or significantly contribute to an increase in mortality or an increase in serious irreversible or incapacitating reversible illness, or pose a substantial present or potential hazard to human health. 5. "Age" means sixty years old or more. 6. "Disability" means a physical or mental impairment that substantially limits a major life activity. 7. "Gender identity or expression" means a person's actual or perceived gender-related identity, appearance, behavior, expression, or other gender-related characteristic regardless of the sex assigned to that person at birth, including, but not limited to, the status of being transgender.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.05 - Riot in the Second Degree.

A person is guilty of riot in the second degree when, simultaneously with four or more other persons, he engages in tumultuous and violent conduct and thereby intentionally or recklessly causes or creates a grave risk of causing public alarm. Riot in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.06 - Riot in the First Degree.

A person is guilty of riot in the first degree when he: 1. Simultaneously with ten or more other persons, engages in tumultuous and violent conduct and thereby intentionally or recklessly causes or creates a grave risk of causing public alarm, and in the course of and as a result of such conduct, a person other than one of the participants suffers physical injury or substantial property damage occurs; or 2. While in a correctional facility or a local correctional facility, as those terms are defined in subdivisions four and sixteen, respectively, of section two of the correction law, simultaneously with ten or more other persons, engages in tumultuous and violent conduct and thereby intentionally or recklessly causes or creates a grave risk of causing alarm within such correctional facility or local correctional facility and in the course of and as a result of such conduct, a person other than one of the participants suffers physical injury or substantial property damage occurs. Riot in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.08 - Inciting to Riot.

A person is guilty of inciting to riot when he urges ten or more persons to engage in tumultuous and violent conduct of a kind likely to create public alarm. Inciting to riot is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.10 - Unlawful Assembly.

A person is guilty of unlawful assembly when he assembles with four or more other persons for the purpose of engaging or preparing to engage with them in tumultuous and violent conduct likely to cause public alarm, or when, being present at an assembly which either has or develops such purpose, he remains there with intent to advance that purpose. Unlawful assembly is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.15 - Criminal Anarchy.

A person is guilty of criminal anarchy when (a) he advocates the overthrow of the existing form of government of this state by violence, or (b) with knowledge of its contents, he publishes, sells or distributes any document which advocates such violent overthrow, or (c) with knowledge of its purpose, he becomes a member of any organization which advocates such violent overthrow. Criminal anarchy is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.20 - Disorderly Conduct.

A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof: 1. He engages in fighting or in violent, tumultuous or threatening behavior; or 2. He makes unreasonable noise; or 3. In a public place, he uses abusive or obscene language, or makes an obscene gesture; or 4. Without lawful authority, he disturbs any lawful assembly or meeting of persons; or 5. He obstructs vehicular or pedestrian traffic; or 6. He congregates with other persons in a public place and refuses to comply with a lawful order of the police to disperse; or 7. He creates a hazardous or physically offensive condition by any act which serves no legitimate purpose. Disorderly conduct is a violation.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.21 - Disruption or Disturbance of a Religious Service, Funeral, Burial or Memorial Service.

burial or memorial service. A person is guilty of disruption or disturbance of a religious service, funeral, burial or memorial service when he or she makes unreasonable noise or disturbance while at a lawfully assembled religious service, funeral, burial or memorial service, or within three hundred feet thereof, with intent to cause annoyance or alarm or recklessly creating a risk thereof. Disruption or disturbance of a religious service, funeral, burial or memorial service is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.25 - Harassment in the First Degree.

A person is guilty of harassment in the first degree when he or she intentionally and repeatedly harasses another person by following such person in or about a public place or places or by engaging in a course of conduct or by repeatedly committing acts which places such person in reasonable fear of physical injury. This section shall not apply to activities regulated by the national labor relations act, as amended, the railway labor act, as amended, or the federal employment labor management act, as amended. Harassment in the first degree is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.26 - Harassment in the Second Degree.

A person is guilty of harassment in the second degree when, with intent to harass, annoy or alarm another person: 1. He or she strikes, shoves, kicks or otherwise subjects such other person to physical contact, or attempts or threatens to do the same; or 2. He or she follows a person in or about a public place or places; or 3. He or she engages in a course of conduct or repeatedly commits acts which alarm or seriously annoy such other person and which serve no legitimate purpose. Subdivisions two and three of this section shall not apply to activities regulated by the national labor relations act, as amended, the railway labor act, as amended, or the federal employment labor management act, as amended. Harassment in the second degree is a violation.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.30 - Aggravated Harassment in the Second Degree.

A person is guilty of aggravated harassment in the second degree when: 1. With intent to harass another person, the actor either:(a) communicates, anonymously or otherwise, by telephone, by computer or any other electronic means, or by mail, or by transmitting or delivering any other form of communication, a threat to cause physical harm to, or unlawful harm to the property of, such person, or a member of such person's same family or household as defined in subdivision one of section 530.11 of the criminal procedure law, and the actor knows or reasonably should know that such communication will cause such person to reasonably fear harm to such person's physical safety or property, or to the physical safety or property of a member of such person's same family or household; or(b) causes a communication to be initiated anonymously or otherwise, by telephone, by computer or any other electronic means, or by mail, or by transmitting or delivering any other form of communication, a threat to cause physical harm to, or unlawful harm to the property of, such person, a member of such person's same family or household as defined in subdivision one of section 530.11 of the criminal procedure law, and the actor knows or reasonably should know that such communication will cause

such person to reasonably fear harm to such person's physical safety or property, or to the physical safety or property of a member of such person's same family or household; or2. With intent to harass or threaten another person, he or she makes a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication; or3. With the intent to harass, annoy, threaten or alarm another person, he or she strikes, shoves, kicks, or otherwise subjects another person to physical contact, including removing a religious clothing article or headdress from such person, or attempts or threatens to do the same because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct; or3-a. With the intent to harass, annoy, threaten or alarm another person, such person strikes, shoves, kicks, or otherwise subjects another person to physical contact, which includes spitting on such other person, and such other person is a train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner, terminal cleaner, station customer assistant, traffic checker; person whose official duties include the sale or collection of tickets, passes, vouchers, or other revenue payment media for use on a train, bus, or ferry or the collection or handling of revenues therefrom; a person whose official duties include the maintenance, repair, inspection, troubleshooting, testing or cleaning of buses or ferries, a transit signal system, elevated or underground subway tracks, transit station structure, including fare equipment, escalators, elevators and other equipment necessary to passenger service, commuter rail tracks or stations, train yard, revenue train in passenger service, a ferry station, or a train or bus station or terminal; or a supervisor of such personnel, employed by any transit agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions while such individual is performing an assigned duty; or4. With the intent to harass, annoy, threaten or alarm another person, he or she strikes, shoves, kicks or otherwise subjects another person to physical contact thereby causing physical injury to such person or to a family or household member of such person as defined in section 530.11 of the criminal procedure law; or5. He or she commits the crime of harassment in the first degree and has previously been convicted of the crime of harassment in the first degree as defined by section 240.25 of this article within the preceding ten years.Aggravated harassment in the second degree is a class A misdemeanor. (a) communicates, anonymously or otherwise, by telephone, by computer or any other electronic means, or by mail, or by transmitting or delivering any other form of communication, a threat to cause physical harm to, or unlawful harm to the property of, such person, or a member of such person's same family or household as defined in subdivision one of section 530.11 of the criminal procedure law, and the actor knows or reasonably should know that such communication will cause such person to reasonably fear harm to such person's physical safety or property, or to the physical safety or property of a member of such person's same family or household; or (b) causes a communication to be initiated anonymously or otherwise, by telephone, by computer or any other electronic means, or by mail, or by transmitting or delivering any other form of communication, a threat to cause physical harm to, or unlawful harm to the property of, such person, a member of such person's same family or household as defined in subdivision one of section 530.11 of the criminal procedure law, and the actor knows or reasonably should know that such communication will cause such person to reasonably fear harm to such person's physical safety or property, or to the physical safety or property of a member of such person's same family or household; or 2. With intent to harass or threaten another person, he or she makes a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication; or 3. With the intent to harass, annoy, threaten or alarm another person, he or she strikes, shoves, kicks, or otherwise subjects another person to physical contact, including removing a religious clothing article or headdress from such person, or attempts or threatens to do the same because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct; or 3-a. With the intent to harass, annoy, threaten or alarm another person, such person strikes, shoves, kicks, or otherwise subjects another person to physical contact, which includes spitting on such other person, and such other person is a train operator, ticket inspector, conductor, signalperson, bus operator, station agent, station cleaner, terminal cleaner, station customer assistant, traffic checker; person whose official duties include the sale or collection of tickets, passes, vouchers, or other revenue payment media for use on a train, bus, or ferry or the collection or handling of revenues therefrom; a person whose official duties include the maintenance, repair, inspection, troubleshooting, testing or cleaning of buses or ferries, a transit signal system, elevated or underground subway tracks, transit station structure, including fare equipment, escalators, elevators and other equipment necessary to passenger service, commuter rail tracks or stations, train yard, revenue train in passenger service, a ferry station, or a train or bus station or terminal; or a supervisor of such personnel, employed by any transit agency, authority or company, public or private, whose operation is authorized by New York state or any of its political subdivisions while such individual is performing an assigned duty; or 4. With the intent to harass, annoy, threaten or alarm another person, he or she strikes, shoves, kicks or otherwise subjects another person to physical contact thereby causing physical injury to such person or to a family or household member of such person as defined in section 530.11 of the criminal procedure law; or 5. He or she commits the crime of harassment in the first degree and has previously been convicted of the crime of harassment in the first degree as defined by section 240.25 of this article within the preceding ten years. Aggravated harassment in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.31 - Aggravated Harassment in the First Degree.

A person is guilty of aggravated harassment in the first degree when with intent to harass, annoy, threaten or alarm another person, because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct, he or she: 1. Damages premises primarily used for religious purposes, or acquired pursuant to section six of the religious corporation law and

maintained for purposes of religious instruction, and the damage to the premises exceeds fifty dollars; or 2. Commits the crime of aggravated harassment in the second degree in the manner proscribed by the provisions of subdivision three of section 240.30 of this article and has been previously convicted of the crime of aggravated harassment in the second degree for the commission of conduct proscribed by the provisions of subdivision three of section 240.30 or he or she has been previously convicted of the crime of aggravated harassment in the first degree within the preceding ten years; or 3. Etches, paints, draws upon or otherwise places a swastika, commonly exhibited as the emblem of Nazi Germany, on any building or other real property, public or private, owned by any person, firm or corporation or any public agency or instrumentality, without express permission of the owner or operator of such building or real property; 4. Sets on fire a cross in public view; or 5. Etches, paints, draws upon or otherwise places or displays a noose, commonly exhibited as a symbol of racism and intimidation, on any building or other real property, public or private, owned by any person, firm or corporation or any public agency or instrumentality, without express permission of the owner or operator of such building or real property. Aggravated harassment in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.32 - Aggravated Harassment of an Employee by an Incarcerated Individual.

individual. An incarcerated individual or respondent is guilty of aggravated harassment of an employee by an incarcerated individual when, with intent to harass, annoy, threaten or alarm a person in a facility whom he or she knows or reasonably should know to be an employee of such facility or the board of parole or the office of mental health, or a probation department, bureau or unit or a police officer, he or she causes or attempts to cause such employee to come into contact with blood, seminal fluid, urine, feces, or the contents of a toilet bowl, by throwing, tossing or expelling such fluid or material. For purposes of this section, "incarcerated individual" means an incarcerated individual or detainee in a correctional facility, local correctional facility or a hospital, as such term is defined in subdivision two of section four hundred of the correction law. For purposes of this section, "respondent" means a juvenile in a secure facility operated and maintained by the office of children and family services who is placed with or committed to the office of children and family services. For purposes of this section, "facility" means a correctional facility or local correctional facility, hospital, as such term is defined in subdivision two of section four hundred of the correction law, or a secure facility operated and maintained by the office of children and family services. Aggravated harassment of an employee by an incarcerated individual is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.33 - Aggravated Harassment of a Judge.

A person is guilty of aggravated harassment of a judge when: 1. With intent to harass another person, the actor either:(a) communicates, anonymously or otherwise, by telephone, by computer or any other electronic means, or by mail, or by transmitting or delivering any other form of communication, a threat to cause physical harm to, or unlawful harm to the property of, a person the actor knows or reasonably should know is a judge, or a member of such judge's immediate family, and the actor knows or reasonably should know that such communication will cause such judge to reasonably fear harm to such judge's physical safety or property, or to the physical safety or property of a member of such judge's immediate family; or(b) causes a communication to be initiated anonymously or otherwise, by telephone, by computer or any other electronic means, or by mail, or by transmitting or delivering any other form of communication, a threat to cause physical harm to, or unlawful harm to the property of, a person the actor knows or reasonably should know is a judge, or a member of such judge's immediate family, and the actor knows or reasonably should know that such communication will cause such judge to reasonably fear harm to such person's physical safety or property, or to the physical safety or property of a member of such judge's immediate family; or2. With intent to harass or threaten a person the actor knows or reasonably should know is a judge or a member of such judge's immediate family, the actor makes a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication; or3. With the intent to harass, annoy, threaten or alarm a person the actor knows or reasonably should know is a judge or a member of such judge's immediate family, the actor strikes, shoves, kicks, or otherwise subjects another person to physical contact, or attempts or threatens to do the same because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct; or4. With the intent to harass, annoy, threaten or alarm a person the actor knows or reasonably should know is a judge or a member of such judge's immediate family, the actor strikes, shoves, kicks or otherwise subjects another person to physical contact thereby causing physical injury to such person or to an immediate family member of such person; or5. The actor commits the crime of harassment in the first degree against a person the actor knows or reasonably should know is a judge or a member of such judge's immediate family and has previously been convicted of the crime of harassment in the first degree as defined by section 240.25 of this article within the preceding ten years.For purposes of this section: "judge" shall mean a judge of a court of record or a justice court; and "immediate family" shall have the same meaning as defined in section 120.40 of this chapter.Aggravated harassment of a judge is a class E felony. (a) communicates, anonymously or otherwise, by telephone, by computer or any other electronic means, or by mail, or by transmitting or delivering any other form of communication, a threat to cause physical harm to, or unlawful harm to the property of, a person the actor knows or reasonably should know is a judge, or a member of such judge's immediate family, and the actor knows or reasonably should know that such communication will cause such judge to reasonably fear harm to such judge's physical safety or property, or to the physical safety or property of a member of such judge's immediate family; or (b) causes a

communication to be initiated anonymously or otherwise, by telephone, by computer or any other electronic means, or by mail, or by transmitting or delivering any other form of communication, a threat to cause physical harm to, or unlawful harm to the property of, a person the actor knows or reasonably should know is a judge, or a member of such judge's immediate family, and the actor knows or reasonably should know that such communication will cause such judge to reasonably fear harm to such person's physical safety or property, or to the physical safety or property of a member of such judge's immediate family; or 2. With intent to harass or threaten a person the actor knows or reasonably should know is a judge or a member of such judge's immediate family, the actor makes a telephone call, whether or not a conversation ensues, with no purpose of legitimate communication; or 3. With the intent to harass, annoy, threaten or alarm a person the actor knows or reasonably should know is a judge or a member of such judge's immediate family, the actor strikes, shoves, kicks, or otherwise subjects another person to physical contact, or attempts or threatens to do the same because of a belief or perception regarding such person's race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation, regardless of whether the belief or perception is correct; or 4. With the intent to harass, annoy, threaten or alarm a person the actor knows or reasonably should know is a judge or a member of such judge's immediate family, the actor strikes, shoves, kicks or otherwise subjects another person to physical contact thereby causing physical injury to such person or to an immediate family member of such person; or 5. The actor commits the crime of harassment in the first degree against a person the actor knows or reasonably should know is a judge or a member of such judge's immediate family and has previously been convicted of the crime of harassment in the first degree as defined by section 240.25 of this article within the preceding ten years. For purposes of this section: "judge" shall mean a judge of a court of record or a justice court; and "immediate family" shall have the same meaning as defined in section 120.40 of this chapter. Aggravated harassment of a judge is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.35 - Loitering.

A person is guilty of loitering when he: 2. Loiters or remains in a public place for the purpose of gambling with cards, dice or other gambling paraphernalia; or 5. Loiters or remains in or about school grounds, a college or university building or grounds or a children's overnight camp as defined in section one thousand three hundred ninety-two of the public health law or a summer day camp as defined in section one thousand three hundred ninety-two of the public health law, or loiters, remains in or enters a school bus as defined in section one hundred forty-two of the vehicle and traffic law, not having any reason or relationship involving custody of or responsibility for a pupil or student, or any other specific, legitimate reason for being there, and not having written permission from anyone authorized to grant the same or loiters or remains in or about such children's overnight camp or summer day camp in violation of conspicuously posted rules or regulations governing entry and use thereof; or 6. Loiters or remains in any transportation facility, unless specifically authorized to do so, for the purpose of soliciting or engaging in any business, trade or commercial transactions involving the sale of merchandise or services, or for the purpose of entertaining persons by singing, dancing or playing any musical instrument; or Loitering is a violation.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.36 - Loitering in the First Degree.

A person is guilty of loitering in the first degree when he loiters or remains in any place with one or more persons for the purpose of unlawfully using or possessing a controlled substance, as defined in section 220.00 of this chapter. Loitering in the first degree is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.40 - Appearance in Public Under the Influence of Narcotics or a Drug Other Than Alcohol.

other than alcohol. A person is guilty of appearance in public under the influence of narcotics or a drug other than alcohol when he appears in a public place under the influence of narcotics or a drug other than alcohol to the degree that he may endanger himself or other persons or property, or annoy persons in his vicinity. Appearance in public under the influence of narcotics or a drug other than alcohol is a violation.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.45 - Criminal Nuisance in the Second Degree.

A person is guilty of criminal nuisance in the second degree when: 1. By conduct either unlawful in itself or unreasonable under all the circumstances, he knowingly or recklessly creates or maintains a condition which endangers the safety or health of a considerable number of persons; or 2. He knowingly conducts or maintains any premises, place or resort where persons gather for purposes of engaging in unlawful conduct. Criminal nuisance in the second degree is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.46 - Criminal Nuisance in the First Degree.

A person is guilty of criminal nuisance in the first degree when he knowingly conducts or maintains any premises, place or resort

where persons come or gather for purposes of engaging in the unlawful sale of controlled substances in violation of section 220.39, 220.41, or 220.43 of this chapter, and thereby derives the benefit from such unlawful conduct. Criminal nuisance in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.48 - Disseminating a False Registered Sex Offender Notice.

A person is guilty of disseminating a false registered sex offender notice when, knowing the information he or she disseminates or causes to be disseminated to be false or baseless, such person disseminates or causes to be disseminated any notice which purports to be an official notice from a government agency or a law enforcement agency and such notice asserts that an individual is a registered sex offender. Disseminating a false registered sex offender notice is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.50 - Falsely Reporting an Incident in the Third Degree.

A person is guilty of falsely reporting an incident in the third degree when, knowing the information reported, conveyed or circulated to be false or baseless, he or she: 1. Initiates or circulates a false report or warning of an alleged occurrence or impending occurrence of a crime, catastrophe or emergency under circumstances in which it is not unlikely that public alarm or inconvenience will result; or 2. Reports, by word or action, to an official or quasi-official agency or organization having the function of dealing with emergencies involving danger to life or property, an alleged occurrence or impending occurrence of a catastrophe or emergency which did not in fact occur or does not in fact exist; or 3. Gratuitously reports to a law enforcement officer or agency (a) the alleged occurrence of an offense or incident which did not in fact occur; or (b) an allegedly impending occurrence of an offense or incident which in fact is not about to occur; or (c) false information relating to an actual offense or incident or to the alleged implication of some person therein; or 4. Reports, by word or action, an alleged occurrence or condition of child abuse or maltreatment or abuse or neglect of a vulnerable person which did not in fact occur or exist to:(a) the statewide central register of child abuse and maltreatment, as defined in title six of article six of the social services law or the vulnerable persons' central register as defined in article eleven of such law, or(b) any person required to report cases of suspected child abuse or maltreatment pursuant to subdivision one of section four hundred thirteen of the social services law or to report cases of suspected abuse or neglect of a vulnerable person pursuant to section four hundred ninety-one of such law, knowing that the person is required to report such cases, and with the intent that such an alleged occurrence be reported to the statewide central register or vulnerable persons' central register.Falsely reporting an incident in the third degree is a class A misdemeanor. (a) the statewide central register of child abuse and maltreatment, as defined in title six of article six of the social services law or the vulnerable persons' central register as defined in article eleven of such law, or (b) any person required to report cases of suspected child abuse or maltreatment pursuant to subdivision one of section four hundred thirteen of the social services law or to report cases of suspected abuse or neglect of a vulnerable person pursuant to section four hundred ninety-one of such law, knowing that the person is required to report such cases, and with the intent that such an alleged occurrence be reported to the statewide central register or vulnerable persons' central register. Falsely reporting an incident in the third degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.55 - Falsely Reporting an Incident in the Second Degree.

A person is guilty of falsely reporting an incident in the second degree when, knowing the information reported, conveyed or circulated to be false or baseless, he or she: 1. Initiates or circulates a false report or warning of an alleged occurrence or impending occurrence of a fire, explosion, or the release of a hazardous substance under circumstances in which it is not unlikely that public alarm or inconvenience will result; 2. Reports, by word or action, to any official or quasi-official agency or organization having the function of dealing with emergencies involving danger to life or property, an alleged occurrence or impending occurrence of a fire, explosion, or the release of a hazardous substance which did not in fact occur or does not in fact exist; or 3. Knowing the information reported, conveyed or circulated to be false or baseless and under circumstances in which it is likely public alarm or inconvenience will result, he or she initiates or circulates a report or warning of an alleged occurrence or an impending occurrence of a fire, an explosion, or the release of a hazardous substance upon any private premises. Falsely reporting an incident in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.60 - Falsely Reporting an Incident in the First Degree.

A person is guilty of falsely reporting an incident in the first degree when he: 1. commits the crime of falsely reporting an incident in the second degree as defined in section 240.55 of this article, and has previously been convicted of that crime; or 2. commits the crime of falsely reporting an incident in the third degree as defined in subdivisions one and two of section 240.50 of this article or falsely reporting an incident in the second degree as defined in subdivisions one and two of section 240.55 of this article and another person who is an employee or member of any official or quasi-official agency having the function of dealing with emergencies involving danger to life or property; or who is a volunteer firefighter with a fire department, fire company, or any unit thereof as

defined in the volunteer firefighters' benefit law; or who is a volunteer ambulance worker with a volunteer ambulance corporation or any unit thereof as defined in the volunteer ambulance workers' benefit law suffers serious physical injury or is killed in the performance of his or her official duties in traveling to or working at or returning to a firehouse, police station, quarters or other base facility from the location identified in such report; or 3. commits the crime of falsely reporting an incident in the third degree as defined in subdivisions one and two of section 240.50 of this article or falsely reporting an incident in the second degree as defined in subdivisions one and two of section 240.55 of this article and another person suffers serious physical injury or is killed as a result of any vehicular or other accident involving any emergency vehicle which is responding to, operating at, or returning from the location identified in such report. 4. An emergency vehicle as referred to in subdivision three of this section shall include any vehicle operated by any employee or member of any official or quasi-official agency having the function of dealing with emergencies involving danger to life or property and shall include, but not necessarily be limited to, an emergency vehicle which is operated by a volunteer firefighter with a fire department, fire company, or any unit thereof as defined in the volunteer firefighters' benefit law; or by a volunteer ambulance worker with a volunteer ambulance corporation, or any unit thereof as defined in the volunteer ambulance workers' benefit law. 5. Knowing the information reported, conveyed or circulated to be false or baseless and under circumstances in which it is likely public alarm or inconvenience will result, he or she initiates or circulates a report or warning of an alleged occurrence or an impending occurrence of a fire, an explosion, or the release of a hazardous substance upon school grounds and it is likely that persons are present on said grounds. 6. Knowing the information reported, conveyed or circulated to be false or baseless and under circumstances in which it is likely public alarm or inconvenience will result, he or she initiates or circulates a report or warning of an alleged occurrence or impending occurrence of a fire, explosion or the release of a hazardous substance in or upon a sports stadium or arena, mass transportation facility, enclosed shopping mall, any public building or any public place, and it is likely that persons are present. For purposes of this subdivision, the terms "sports stadium or arena, mass transportation facility or enclosed shopping mall" shall have their natural meaning and the term "public building" shall have the meaning set forth in section four hundred one of the executive law. Falsely reporting an incident in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.61 - Placing a False Bomb or Hazardous Substance in the Second Degree.

degree. A person is guilty of placing a false bomb or hazardous substance in the second degree when he or she places, or causes to be placed, any device or object that by its design, construction, content or characteristics appears to be or to contain, a bomb, destructive device, explosive or hazardous substance, but is, in fact, an inoperative facsimile or imitation of such a bomb, destructive device, explosive or hazardous substance and which he or she knows, intends or reasonably believes will appear to be a bomb, destructive device, explosive or hazardous substance under circumstances in which it is likely to cause public alarm or inconvenience. Placing a false bomb or hazardous substance in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.62 - Placing a False Bomb or Hazardous Substance in the First Degree.

degree. A person is guilty of placing a false bomb or hazardous substance in the first degree when he or she places, or causes to be placed, in or upon school grounds, a public building, or a public place any device or object that by its design, construction, content or characteristics appears to be or to contain, a bomb, destructive device, explosive or hazardous substance, but is, in fact, an inoperative facsimile or imitation of such a bomb, destructive device, explosive or hazardous substance and which he or she knows, intends or reasonably believes will appear to be a bomb, destructive device, explosive or hazardous substance under circumstances in which it is likely to cause public alarm or inconvenience. For purposes of this section the term "public building" shall have the meaning set forth in section four hundred one of the executive law. Placing a false bomb or hazardous substance in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.63 - Placing a False Bomb or Hazardous Substance in a Sports Stadium or Arena, Mass Transportation Facility or Enclosed Shopping Mall.

or arena, mass transportation facility or enclosed shopping mall. A person is guilty of placing a false bomb or hazardous substance in a sports stadium or arena, mass transportation facility or enclosed shopping mall when he or she places, or causes to be placed, in a sports stadium or arena, mass transportation facility or enclosed shopping mall, in which it is likely that persons are present, any device or object that by its design, construction, content or characteristics appears to be or to contain a bomb, destructive device, explosive or hazardous substance, but is, in fact, an inoperative facsimile or imitation of such a bomb, destructive device, explosive or hazardous substance and which he or she knows, intends or reasonably believes will appear to be a bomb, destructive device, explosive or hazardous substance under circumstances in which it is likely to cause public alarm or inconvenience. For purposes of this section, "sports stadium or arena, mass transportation facility or enclosed shopping mall" shall have its natural meaning. Placing a false bomb or hazardous substance in a sports stadium or arena, mass transportation facility or enclosed shopping mall is a class D felony.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.65 - Unlawful Prevention of Public Access to Records.

A person is guilty of unlawful prevention of public access to records when, with intent to prevent the public inspection of a record pursuant to article six of the public officers law, he willfully conceals or destroys any such record. Unlawful prevention of public access to records is a violation.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.70 - Criminal Interference With Health Care Services or Religious Worship in the Second Degree.

worship in the second degree. 1. A person is guilty of criminal interference with health services or religious worship in the second degree when:(a) by force or threat of force or by physical obstruction, he or she intentionally injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with, another person because such other person was or is obtaining or providing reproductive health services; or(b) by force or threat of force or by physical obstruction, he or she intentionally injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with, another person in order to discourage such other person or any other person or persons from obtaining or providing reproductive health services; or(c) by force or threat of force or by physical obstruction, he or she intentionally injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with, another person because such person was or is seeking to exercise the right of religious freedom at a place of religious worship; or(d) he or she intentionally damages the property of a health care facility, or attempts to do so, because such facility provides reproductive health services, or intentionally damages the property of a place of religious worship.2. A parent or legal guardian of a minor shall not be subject to prosecution for conduct otherwise prohibited by paragraph (a) or (b) of subdivision one of this section which is directed exclusively at such minor.3. For purposes of this section:(a) the term "health care facility" means a hospital, clinic, physician's office or other facility that provides reproductive health services, and includes the building or structure in which the facility is located;(b) the term "interferes with" means to restrict a person's freedom of movement;(c) the term "intimidates" means to place a person in reasonable apprehension of physical injury to himself or herself or to another person;(d) the term "physical obstruction" means rendering impassable ingress to or egress from a facility that provides reproductive health services or to or from a place of religious worship, or rendering passage to or from such a facility or place of religious worship unreasonably difficult or hazardous; and(e) the term "reproductive health services" means health care services provided in a hospital, clinic, physician's office or other facility and includes medical, surgical, counseling or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy.Criminal interference with health care services or religious worship in the second degree is a class A misdemeanor. (a) by force or threat of force or by physical obstruction, he or she intentionally injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with, another person because such other person was or is obtaining or providing reproductive health services; or (b) by force or threat of force or by physical obstruction, he or she intentionally injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with, another person in order to discourage such other person or any other person or persons from obtaining or providing reproductive health services; or (c) by force or threat of force or by physical obstruction, he or she intentionally injures, intimidates or interferes with, or attempts to injure, intimidate or interfere with, another person because such person was or is seeking to exercise the right of religious freedom at a place of religious worship; or (d) he or she intentionally damages the property of a health care facility, or attempts to do so, because such facility provides reproductive health services, or intentionally damages the property of a place of religious worship. 2. A parent or legal guardian of a minor shall not be subject to prosecution for conduct otherwise prohibited by paragraph (a) or (b) of subdivision one of this section which is directed exclusively at such minor. 3. For purposes of this section: (a) the term "health care facility" means a hospital, clinic, physician's office or other facility that provides reproductive health services, and includes the building or structure in which the facility is located; (b) the term "interferes with" means to restrict a person's freedom of movement; (c) the term "intimidates" means to place a person in reasonable apprehension of physical injury to himself or herself or to another person; (d) the term "physical obstruction" means rendering impassable ingress to or egress from a facility that provides reproductive health services or to or from a place of religious worship, or rendering passage to or from such a facility or place of religious worship unreasonably difficult or hazardous; and (e) the term "reproductive health services" means health care services provided in a hospital, clinic, physician's office or other facility and includes medical, surgical, counseling or referral services relating to the human reproductive system, including services relating to pregnancy or the termination of a pregnancy. Criminal interference with health care services or religious worship in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.71 - Criminal Interference With Health Care Services or Religious Worship in the First Degree.

worship in the first degree. A person is guilty of criminal interference with health care services or religious worship in the first degree when he or she commits the crime of criminal interference with health care services or religious worship in the second degree and has been previously convicted of the crime of criminal interference with health care services or religious worship in the first or second degree or aggravated interference with health care services in the first or second degree. Criminal interference with health

care services or religious worship in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.72 - Aggravated Interference With Health Care Services in the Second Degree.

degree. A person is guilty of the crime of aggravated interference with health care services in the second degree when he or she commits the crime of criminal interference with health care services or religious worship in violation of paragraph (a) of subdivision one of section 240.70 of this article and thereby causes physical injury to such other person who was obtaining or providing, or was assisting another person to obtain or provide reproductive health services. Aggravated interference with health care services in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.73 - Aggravated Interference With Health Care Services in the First Degree.

degree. A person is guilty of the crime of aggravated interference with health care services in the first degree when he or she commits the crime of criminal interference with health care services or religious worship in violation of paragraph (a) of subdivision one of section 240.70 of this article and thereby causes serious physical injury to such other person who was obtaining or providing, or who was assisting another person to obtain or provide reproductive health services. Aggravated interference with health care services in the first degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.75 - Aggravated Family Offense.

1. A person is guilty of aggravated family offense when he or she commits a misdemeanor defined in subdivision two of this section as a specified offense and he or she has been convicted of one or more specified offenses within the immediately preceding five years. For the purposes of this subdivision, in calculating the five year period, any period of time during which the defendant was incarcerated for any reason between the time of the commission of any of such previous offenses and the time of commission of the present crime shall be excluded and such five year period shall be extended by a period or periods equal to the time served under such incarceration. 2. A "specified offense" is an offense defined in section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.10 (assault in the first degree); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); section 121.11 (criminal obstruction of breathing or blood circulation); section 121.12 (strangulation in the second degree); section 121.13 (strangulation in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 130.20 (sexual misconduct); section 130.25 (rape in the third degree); section 130.30 (rape in the second degree); section 130.35 (rape in the first degree); formerly defined in section 130.40; formerly defined in section 130.45; formerly defined in section 130.50; defined in section 130.52 (forcible touching); section 130.53 (persistent sexual abuse); section 130.55 (sexual abuse in the third degree); section 130.60 (sexual abuse in the second degree); section 130.65 (sexual abuse in the first degree); section 130.66 (aggravated sexual abuse in the third degree); section 130.67 (aggravated sexual abuse in the second degree); section 130.70 (aggravated sexual abuse in the first degree); section 130.91 (sexually motivated felony); section 130.95 (predatory sexual assault); section 130.96 (predatory sexual assault against a child); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.60 (coercion in the third degree); section 135.61 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 145.14 (criminal tampering in the third degree); section 215.50 (criminal contempt in the second degree); section 215.51 (criminal contempt in the first degree); section 215.52 (aggravated criminal contempt); section 240.25 (harassment in the first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree); aggravated family offense as defined in this section or any attempt or conspiracy to commit any of the foregoing offenses where the defendant and the person against whom the offense was committed were members of the same family or household as defined in subdivision one of section 530.11 of the criminal procedure law. 3. The person against whom the current specified offense is committed may be different from the person against whom the previous specified offense was committed and such persons do not need to be members of the same family or household. Aggravated family offense is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.76 - Directing a Laser at an Aircraft in the Second Degree.

A person is guilty of directing a laser at an aircraft in the second degree when, with intent to disrupt safe air travel, he or she directs the beam of a laser: 1. onto a specific aircraft intending to thereby disrupt or interfere with such aircraft in the special aircraft jurisdiction of the United States; or 2. in the immediate vicinity of an aircraft in the special aircraft jurisdiction of the United States, and:(a) the calculated or measured beam irradiance on the aircraft, or in the immediate vicinity of the aircraft, exceeds limits set by the FAA for the FAA-specified laser flight zone (normal, sensitive, critical, or laser-free) where the aircraft was located; and (b) a pilot in the illuminated aircraft files a laser incident report with the FAA.3. As used in this section:(a) the term "laser" shall mean any device designed or used to amplify electromagnetic radiation by stimulated emission that emits a beam; and(b) the term "FAA" shall mean the Federal Aviation Administration.4. This section does not prohibit directing a laser beam at an aircraft, or in the immediate vicinity of an aircraft, by:(a) an authorized individual in the conduct of research and development or flight test operations conducted by an aircraft manufacturer, the FAA, or any other person authorized by the FAA to conduct such research and development or flight test operations; or(b) members or elements of the United States department of defense or the United States department of homeland security acting in an official capacity for the purpose of research, development, operations, testing or training; or(c) an individual in an emergency situation using a laser to attract the attention of an aircraft for bona fide rescue purposes; or(d) an individual whose laser operations have been submitted to and reviewed by the FAA, when:(i) the FAA has issued a letter not objecting to the laser use; and(ii) the laser is operated in conformity with the FAA submission.Directing a laser at an aircraft is a class A misdemeanor. (a) the calculated or measured beam irradiance on the aircraft, or in the immediate vicinity of the aircraft, exceeds limits set by the FAA for the FAA-specified laser flight zone (normal, sensitive, critical, or laser-free) where the aircraft was located; and (b) a pilot in the illuminated aircraft files a laser incident report with the FAA. 3. As used in this section: (a) the term "laser" shall mean any device designed or used to amplify electromagnetic radiation by stimulated emission that emits a beam; and (b) the term "FAA" shall mean the Federal Aviation Administration. 4. This section does not prohibit directing a laser beam at an aircraft, or in the immediate vicinity of an aircraft, by: (a) an authorized individual in the conduct of research and development or flight test operations conducted by an aircraft manufacturer, the FAA, or any other person authorized by the FAA to conduct such research and development or flight test operations; or (b) members or elements of the United States department of defense or the United States department of homeland security acting in an official capacity for the purpose of research, development, operations, testing or training; or (c) an individual in an emergency situation using a laser to attract the attention of an aircraft for bona fide rescue purposes; or (d) an individual whose laser operations have been submitted to and reviewed by the FAA, when: (i) the FAA has issued a letter not objecting to the laser use; and (ii) the laser is operated in conformity with the FAA submission. Directing a laser at an aircraft is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.77 - Directing a Laser at an Aircraft in the First Degree.

A person is guilty of directing a laser at an aircraft in the first degree when he or she commits the crime of directing a laser at an aircraft in the second degree in violation of section 240.76 of this article and thereby causes a significant change of course or other serious disruption to the safe travel of an aircraft that threatens the physical safety of the aircraft's passengers or crew. Directing a laser at an aircraft in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.78 - Making a Threat of Mass Harm.

1. A person is guilty of making a threat of mass harm when with the intent to intimidate a group of people or to create public alarm, such person threatens to inflict or cause to be inflicted, serious physical injury or death at a school, place of worship, business, government building, or other place of assembly, and thereby causes a reasonable expectation or fear of serious physical injury or death, or causes the evacuation or lockdown of a school, place of worship, business, government building, or other place of assembly. 2. It shall be no defense to a prosecution pursuant to this section that the defendant did not have the intent or capability of committing the conduct threatened. Making a threat of mass harm is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 240 - Offenses Against Public Order240.79 - Aggravated Threat of Mass Harm.

1. A person is guilty of aggravated threat of mass harm when such person engages in conduct as defined in section 240.78 of this article and has made any overt act in furtherance of the commission of such crime. 2. For purposes of this section, an overt act may include making a plan to carry out such threat, compiling a list of targets, possession of any weapon or device that can be used to carry out such threat, or other preparatory action. Aggravated threat of mass harm is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 241 - Harassment of Rent Regulated Tenants241.00 - Harassment of a Rent Regulated Tenant; Definition of Terms.

As used in this article: 1. "Rent regulated tenant" shall mean a person occupying a housing accommodation or any lawful successor to the tenancy which is subject to the regulations and control of residential rents and evictions pursuant to the emergency housing rent control law, the local emergency housing rent control act, the emergency tenant protection act of nineteen seventy-four, the

New York city rent and rehabilitation law or the New York city rent stabilization law of nineteen hundred sixty-nine, and such person is either a party to a lease or rental agreement for such housing accommodation, a statutory tenant or a person who lawfully occupies such housing accommodation with such party to a lease or rental agreement or with such statutory tenant. The definition of "rent regulated tenant" as used in this subdivision shall be applicable only to the provisions of this article and shall not be applicable to any other provision of law. 2. "Housing accommodations" shall mean housing accommodations which are subject to the regulations and control of residential rents and evictions pursuant to the emergency housing rent control law, the local emergency housing rent control act, the emergency tenant protection act of nineteen seventy-four, the New York city rent and rehabilitation law or the New York city rent stabilization law of nineteen hundred sixty-nine. 3. "Owner" shall mean an owner, lessor, sublessor, assignee, net lessee, or a proprietary lessee of a housing accommodation in a structure or premises owned by a cooperative corporation or association, or an owner of a condominium unit or the sponsor of such cooperative corporation or association or condominium development, or any other person or entity receiving or entitled to receive rent for the use or occupation of any housing accommodation, or an agent of or any person acting on behalf of any of the foregoing.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 241 - Harassment of Rent Regulated Tenants241.02 - Harassment of a Rent Regulated Tenant in the Second Degree.

An owner is guilty of harassment of a rent regulated tenant in the second degree when, with intent to induce a rent regulated tenant to vacate a housing accommodation, such owner intentionally engages in a course of conduct that: 1. impairs the habitability of a housing accommodation; or 2. creates or maintains a condition which endangers the safety or health of the dwelling's tenant; or 3. is reasonably likely to interfere with or disturb, and does interfere with or disturb, the comfort, repose, peace or quiet of such rent regulated tenant in his or her use and occupancy of such housing accommodation including, but not limited to, the interruption or discontinuance of essential services. The good faith commencement and pursuit of a lawful eviction action by an owner against a rent regulated tenant in a court of competent jurisdiction shall not, by itself, constitute a "course of conduct" in violation of this subdivision. Harassment of a rent regulated tenant in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 241 - Harassment of Rent Regulated Tenants241.05 - Harassment of a Rent Regulated Tenant in the First Degree.

An owner is guilty of harassment of a rent regulated tenant in the first degree when: 1. With intent to induce a rent regulated tenant to vacate a housing accommodation, such owner:(a) With intent to cause physical injury to such tenant, causes such injury to such tenant or to a third person; or(b) Recklessly causes physical injury to such tenant or to a third person; or2. With intent to induce two or more rent regulated tenants occupying different housing accommodations to vacate such housing accommodations, such owner intentionally engages in a systematic ongoing course of conduct that:(a) impairs the habitability of such housing accommodations; or(b) creates or maintains a condition which endangers the safety or health of one or more of the dwellings' rent regulated tenants; or(c) is reasonably likely to interfere with or disturb, and does interfere with or disturb, the comfort, repose, peace or quiet of one or more of such rent regulated tenants in their use and occupancy of such housing accommodations including, but not limited to, the interruption or discontinuance of essential services; or3. Such owner commits the crime of harassment of a rent regulated tenant in the second degree as defined in section 241.02 of this article and has previously been convicted within the preceding five years of such crime or the crime of harassment of a rent regulated tenant in the first degree.The good faith commencement and pursuit of a lawful eviction action by an owner against a rent regulated tenant in a court of competent jurisdiction shall not, by itself, constitute a "systematic ongoing course of conduct" in violation of paragraph (c) of subdivision two of this section.Harassment of a rent regulated tenant in the first degree is a class E felony. (a) With intent to cause physical injury to such tenant, causes such injury to such tenant or to a third person; or (b) Recklessly causes physical injury to such tenant or to a third person; or 2. With intent to induce two or more rent regulated tenants occupying different housing accommodations to vacate such housing accommodations, such owner intentionally engages in a systematic ongoing course of conduct that: (a) impairs the habitability of such housing accommodations; or (b) creates or maintains a condition which endangers the safety or health of one or more of the dwellings' rent regulated tenants; or (c) is reasonably likely to interfere with or disturb, and does interfere with or disturb, the comfort, repose, peace or quiet of one or more of such rent regulated tenants in their use and occupancy of such housing accommodations including, but not limited to, the interruption or discontinuance of essential services; or 3. Such owner commits the crime of harassment of a rent regulated tenant in the second degree as defined in section 241.02 of this article and has previously been convicted within the preceding five years of such crime or the crime of harassment of a rent regulated tenant in the first degree. The good faith commencement and pursuit of a lawful eviction action by an owner against a rent regulated tenant in a court of competent jurisdiction shall not, by itself, constitute a "systematic ongoing course of conduct" in violation of paragraph (c) of subdivision two of this section. Harassment of a rent regulated tenant in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 242 - Offenses Against Service Animals and Handlers242.00 - Definitions.

For purposes of this article: 1. "Service animal" shall mean any animal that has been partnered with a person who has a disability and has been trained or is being trained, by a qualified person, to aid or guide a person with a disability. 2. "Disability" shall have

the same meaning as provided in section two hundred ninety-two of the executive law. 3. "Handler" shall mean a disabled person using a service animal. 4. "Formal training program" or "certified trainer" shall mean an institution, group or individual who has documentation and community recognition as a provider of service animals.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 242 - Offenses Against Service Animals and Handlers242.05 - Interference, Harassment or Intimidation of a Service Animal.

A person is guilty of interference, harassment or intimidation of a service animal when he or she commits an act with intent to and which does make it impractical, dangerous or impossible for a service animal to perform its assigned responsibilities of assisting a person with a disability. Interference, harassment or intimidation of a service animal is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 242 - Offenses Against Service Animals and Handlers242.10 - Harming a Service Animal in the Second Degree.

A person is guilty of harming a service animal in the second degree when, with the intent to do so, he or she causes physical injury, or causes such injury that results in the death, of a service animal. Harming a service animal in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 242 - Offenses Against Service Animals and Handlers242.15 - Harming a Service Animal in the First Degree.

A person is guilty of harming a service animal in the first degree when, he or she commits the crime of harming a service animal in the second degree, and has been convicted of harming a service animal in the first or second degree within the prior five years. Harming a service animal in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 245 - Offenses Against Public Sensibilities245.00 - Public Lewdness.

A person is guilty of public lewdness when he or she intentionally exposes the private or intimate parts of his or her body in a lewd manner or commits any other lewd act: (a) in a public place, or (b) (i) in private premises under circumstances in which he or she may readily be observed from either a public place or from other private premises, and with intent that he or she be so observed, or (ii) while trespassing, as defined in section 140.05 of this part, in a dwelling as defined in subdivision three of section 140.00 of this part, under circumstances in which he or she is observed by a lawful occupant. Public lewdness is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 245 - Offenses Against Public Sensibilities245.01 - Exposure of a Person.

A person is guilty of exposure if he appears in a public place in such a manner that the private or intimate parts of his body are unclothed or exposed. For purposes of this section, the private or intimate parts of a female person shall include that portion of the breast which is below the top of the areola. This section shall not apply to the breastfeeding of infants or to any person entertaining or performing in a play, exhibition, show or entertainment. Exposure of a person is a violation. Nothing in this section shall prevent the adoption by a city, town or village of a local law prohibiting exposure of a person as herein defined in a public place, at any time, whether or not such person is entertaining or performing in a play, exhibition, show or entertainment.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 245 - Offenses Against Public Sensibilities245.02 - Promoting the Exposure of a Person.

A person is guilty of promoting the exposure of a person when he knowingly conducts, maintains, owns, manages, operates or furnishes any public premise or place where a person in a public place appears in such a manner that the private or intimate parts of his body are unclothed or exposed. For purposes of this section, the private or intimate parts of a female person shall include that portion of the breast which is below the top of the areola. This section shall not apply to the breastfeeding of infants or to any person entertaining or performing in a play, exhibition, show or entertainment. Promoting the exposure of a person is a violation. Nothing in this section shall prevent the adoption by a city, town or village of a local law prohibiting the exposure of a person substantially as herein defined in a public place, at any time, whether or not such person is entertaining or performing in a play, exhibition, show or entertainment.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 245 - Offenses Against Public Sensibilities245.03 - Public Lewdness in the First Degree.

A person is guilty of public lewdness in the first degree when: 1. being nineteen years of age or older and intending to be observed by a person less than sixteen years of age in a place described in subdivision (a) or (b) of section 245.00 of this article, he or she intentionally exposes the private or intimate parts of his or her body in a lewd manner for the purpose of alarming or seriously

annoying such person, and he or she is thereby observed by such person in such place; or 2. he or she commits the crime of public lewdness, as defined in section 245.00 of this article, and within the preceding year has been convicted of an offense defined in such section 245.00 or this section. Public lewdness in the first degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 245 - Offenses Against Public Sensibilities245.05 - Offensive Exhibition.

A person is guilty of offensive exhibition when he knowingly produces, operates, manages or furnishes premises for, or in any way promotes or participates in, an exhibition in the nature of public entertainment or amusement in which: 1. A person competes continuously without respite for a period of more than eight consecutive hours in a dance contest, bicycle race or other contest involving physical endurance; or 2. A person is held up to ridicule or contempt by voluntarily submitting to indignities such as the throwing of balls or other articles at his head or body; or 3. A firearm is discharged or a knife, arrow or other sharp or dangerous instrument is thrown or propelled at or toward a person. Offensive exhibition is a violation.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 245 - Offenses Against Public Sensibilities245.10 - Public Display of Offensive Sexual Material; Definitions of Terms.

terms. The following definitions are applicable to section 245.11: 1. "Nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple, or the depiction of covered male genitals in a discernibly turgid state. 2. "Sexual conduct" means an act of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks or, if such person be a female, breast. 3. "Sado-masochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizzare costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed. 4. "Transportation facility" means any conveyance, premises or place used for or in connection with public passenger transportation, whether by air, railroad, motor vehicle or any other method. It includes aircraft, watercraft, railroad cars, buses, and air, boat, railroad and bus terminals and stations and all appurtenances thereto.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 245 - Offenses Against Public Sensibilities245.11 - Public Display of Offensive Sexual Material.

A person is guilty of public display of offensive sexual material when, with knowledge of its character and content, he displays or permits to be displayed in or on any window, showcase, newsstand, display rack, wall, door, billboard, display board, viewing screen, moving picture screen, marquee or similar place, in such manner that the display is easily visible from or in any: public street, sidewalk or thoroughfare; transportation facility; or any place accessible to members of the public without fee or other limit or condition of admission such as a minimum age requirement and including but not limited to schools, places of amusement, parks and playgrounds but excluding rooms or apartments designed for actual residence; any pictorial, three-dimensional or other visual representation of a person or a portion of the human body that predominantly appeals to prurient interest in sex, and that:(a) depicts nudity, or actual or simulated sexual conduct or sado-masochistic abuse; or(b) depicts or appears to depict nudity, or actual or simulated sexual conduct or sado-masochistic abuse, with the area of the male or female subject's unclothed or apparently unclothed genitals, pubic area or buttocks, or of the female subject's unclothed or apparently unclothed breast, obscured by a covering or mark placed or printed on or in front of the material displayed, or obscured or altered in any other manner.Public display of offensive sexual material is a Class A misdemeanor. (a) depicts nudity, or actual or simulated sexual conduct or sado-masochistic abuse; or (b) depicts or appears to depict nudity, or actual or simulated sexual conduct or sado-masochistic abuse, with the area of the male or female subject's unclothed or apparently unclothed genitals, pubic area or buttocks, or of the female subject's unclothed or apparently unclothed breast, obscured by a covering or mark placed or printed on or in front of the material displayed, or obscured or altered in any other manner. Public display of offensive sexual material is a Class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 245 - Offenses Against Public Sensibilities245.15 - Unlawful Dissemination or Publication of an Intimate Image.

1. A person is guilty of unlawful dissemination or publication of an intimate image when:(a) with intent to cause harm to the emotional, financial or physical welfare of another person, they intentionally disseminate or publish a still or video image depicting such other person with one or more intimate parts exposed or engaging in sexual conduct with another person, including an image created or altered by digitization, where such person may reasonably be identified from the still or video image itself or from information displayed in connection with the still or video image; and(b) the actor knew or reasonably should have known that the person depicted did not consent to such dissemination or publication, including the dissemination or publication of an image taken with the consent of the person depicted when such person had a reasonable expectation that the image would remain private, regardless of whether the actor was present when such image was taken.2. For purposes of this section the following terms shall have the following meanings:(a) "intimate part" means the naked genitals, pubic area, anus or female nipple of the person;(b)

"disseminate" and "publish" shall have the same meaning as defined in section 250.40 of this title;(c) "sexual conduct" shall have the same meaning as defined in subdivision ten of section 130.00 of this chapter; and(d) "digitization" shall mean to alter an image in a realistic manner utilizing an image or images of a person, other than the person depicted, or computer generated images.3. This section shall not apply to the following:(a) the reporting of unlawful conduct;(b) dissemination or publication of an intimate image made during lawful and common practices of law enforcement, legal proceedings or medical treatment;(c) images involving voluntary exposure in a public or commercial setting; or(d) dissemination or publication of an intimate image made for a legitimate public purpose.4. Nothing in this section shall be construed to limit, or to enlarge, the protections that 47 U.S.C § 230 confers on an interactive computer service for content provided by another information content provider, as such terms are defined in 47 U.S.C. § 230.Unlawful dissemination or publication of an intimate image is a class A misdemeanor. (a) with intent to cause harm to the emotional, financial or physical welfare of another person, they intentionally disseminate or publish a still or video image depicting such other person with one or more intimate parts exposed or engaging in sexual conduct with another person, including an image created or altered by digitization, where such person may reasonably be identified from the still or video image itself or from information displayed in connection with the still or video image; and (b) the actor knew or reasonably should have known that the person depicted did not consent to such dissemination or publication, including the dissemination or publication of an image taken with the consent of the person depicted when such person had a reasonable expectation that the image would remain private, regardless of whether the actor was present when such image was taken. 2. For purposes of this section the following terms shall have the following meanings: (a) "intimate part" means the naked genitals, pubic area, anus or female nipple of the person; (b) "disseminate" and "publish" shall have the same meaning as defined in section 250.40 of this title; (c) "sexual conduct" shall have the same meaning as defined in subdivision ten of section 130.00 of this chapter; and (d) "digitization" shall mean to alter an image in a realistic manner utilizing an image or images of a person, other than the person depicted, or computer generated images. 3. This section shall not apply to the following: (a) the reporting of unlawful conduct; (b) dissemination or publication of an intimate image made during lawful and common practices of law enforcement, legal proceedings or medical treatment; (c) images involving voluntary exposure in a public or commercial setting; or (d) dissemination or publication of an intimate image made for a legitimate public purpose. 4. Nothing in this section shall be construed to limit, or to enlarge, the protections that 47 U.S.C § 230 confers on an interactive computer service for content provided by another information content provider, as such terms are defined in 47 U.S.C. § 230. Unlawful dissemination or publication of an intimate image is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 250 - Offenses Against the Right to Privacy250.00 - Eavesdropping; Definitions of Terms.

The following definitions are applicable to this article: 1. "Wiretapping" means the intentional overhearing or recording of a telephonic or telegraphic communication by a person other than a sender or receiver thereof, without the consent of either the sender or receiver, by means of any instrument, device or equipment. The normal operation of a telephone or telegraph corporation and the normal use of the services and facilities furnished by such corporation pursuant to its tariffs or necessary to protect the rights or property of said corporation shall not be deemed "wiretapping." 2. "Mechanical overhearing of a conversation" means the intentional overhearing or recording of a conversation or discussion, without the consent of at least one party thereto, by a person not present thereat, by means of any instrument, device or equipment. 3. "Telephonic communication" means any aural transfer made in whole or in part through the use of facilities for the transmission of communications by the aid of wire, cable or other like connection between the point of origin and the point of reception (including the use of such connection in a switching station) furnished or operated by any person engaged in providing or operating such facilities for the transmission of communications and such term includes any electronic storage of such communications. 4. "Aural transfer" means a transfer containing the human voice at any point between and including the point of origin and the point of reception. 5. "Electronic communication" means any transfer of signs, signals, writing, images, sounds, data, or intelligence of any nature transmitted in whole or in part by a wire, radio, electromagnetic, photoelectronic or photo-optical system, but does not include:(a) any telephonic or telegraphic communication; or(b) any communication made through a tone only paging device; or(c) any communication made through a tracking device consisting of an electronic or mechanical device which permits the tracking of the movement of a person or object; or(d) any communication that is disseminated by the sender through a method of transmission that is configured so that such communication is readily accessible to the general public.6. "Intercepting or accessing of an electronic communication" and "intentionally intercepted or accessed" mean the intentional acquiring, receiving, collecting, overhearing, or recording of an electronic communication, without the consent of the sender or intended receiver thereof, by means of any instrument, device or equipment, except when used by a telephone company in the ordinary course of its business or when necessary to protect the rights or property of such company.7. "Electronic communication service" means any service which provides to users thereof the ability to send or receive wire or electronic communications.8. "Unlawfully" means not specifically authorized pursuant to article seven hundred or seven hundred five of the criminal procedure law for the purposes of this section and sections 250.05, 250.10, 250.15, 250.20, 250.25, 250.30 and 250.35 of this article. (a) any telephonic or telegraphic communication; or (b) any communication made through a tone only paging device; or (c) any communication made through a tracking device consisting of an electronic or mechanical device which permits the tracking of the movement of a person or object; or (d) any communication that is disseminated by the sender through a method of transmission that is configured so that such communication is readily accessible to the general public. 6. "Intercepting or accessing of an electronic communication" and "intentionally intercepted or accessed" mean the intentional acquiring, receiving, collecting, overhearing, or recording of an electronic communication, without the consent of the sender or

intended receiver thereof, by means of any instrument, device or equipment, except when used by a telephone company in the ordinary course of its business or when necessary to protect the rights or property of such company. 7. "Electronic communication service" means any service which provides to users thereof the ability to send or receive wire or electronic communications. 8. "Unlawfully" means not specifically authorized pursuant to article seven hundred or seven hundred five of the criminal procedure law for the purposes of this section and sections 250.05, 250.10, 250.15, 250.20, 250.25, 250.30 and 250.35 of this article.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 250 - Offenses Against the Right to Privacy250.05 - Eavesdropping.

A person is guilty of eavesdropping when he unlawfully engages in wiretapping, mechanical overhearing of a conversation, or intercepting or accessing of an electronic communication. Eavesdropping is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 250 - Offenses Against the Right to Privacy250.10 - Possession of Eavesdropping Devices.

A person is guilty of possession of eavesdropping devices when, under circumstances evincing an intent to use or to permit the same to be used in violation of section 250.05, he possesses any instrument, device or equipment designed for, adapted to or commonly used in wiretapping or mechanical overhearing of a conversation. Possession of eavesdropping devices is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 250 - Offenses Against the Right to Privacy250.15 - Failure to Report Wiretapping.

A telephone or telegraph corporation is guilty of failure to report wiretapping when, having knowledge of the occurrence of unlawful wiretapping, it does not report such matter to an appropriate law enforcement officer or agency. Failure to report wiretapping is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 250 - Offenses Against the Right to Privacy250.20 - Divulging an Eavesdropping Warrant.

A person is guilty of divulging an eavesdropping warrant when, possessing information concerning the existence or content of an eavesdropping warrant issued pursuant to article seven hundred of the criminal procedure law, or concerning any circumstances attending an application for such a warrant, he discloses such information to another person; except that such disclosure is not criminal or unlawful when permitted by section 700.65 of the criminal procedure law or when made to a state or federal agency specifically authorized by law to receive reports concerning eavesdropping warrants, or when made in a legal proceeding, or to a law enforcement officer or agency connected with the application for such warrant, or to a legislative committee or temporary state commission, or to the telephone or telegraph corporation whose facilities are involved, or to any entity operating an electronic communications service whose facilities are involved. Divulging an eavesdropping warrant is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 250 - Offenses Against the Right to Privacy250.25 - Tampering With Private Communications.

A person is guilty of tampering with private communications when: 1. Knowing that he does not have the consent of the sender or receiver, he opens or reads a sealed letter or other sealed private communication; or 2. Knowing that a sealed letter or other sealed private communication has been opened or read in violation of subdivision one of this section, he divulges without the consent of the sender or receiver, the contents of such letter or communication, in whole or in part, or a resume of any portion of the contents thereof; or 3. Knowing that he does not have the consent of the sender or receiver, he obtains or attempts to obtain from an employee, officer or representative of a telephone or telegraph corporation, by connivance, deception, intimidation or in any other manner, information with respect to the contents or nature thereof of a telephonic or telegraphic communication; except that the provisions of this subdivision do not apply to a law enforcement officer who obtains information from a telephone or telegraph corporation pursuant to section 250.35; or 4. Knowing that he does not have the consent of the sender or receiver, and being an employee, officer or representative of a telephone or telegraph corporation, he knowingly divulges to another person the contents or nature thereof of a telephonic or telegraphic communication; except that the provisions of this subdivision do not apply to such person when he acts pursuant to section 250.35. Tampering with private communications is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 250 - Offenses Against the Right to Privacy250.30 - Unlawfully Obtaining Communications Information.

A person is guilty of unlawfully obtaining communications information when, knowing that he does not have the authorization of a telephone or telegraph corporation, he obtains or attempts to obtain, by deception, stealth or in any other manner, from such corporation or from any employee, officer or representative thereof: 1. Information concerning identification or location of any wires, cables, lines, terminals or other apparatus used in furnishing telephone or telegraph service; or 2. Information concerning a record of any communication passing over telephone or telegraph lines of any such corporation. Unlawfully obtaining communications information is a class B misdemeanor.

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2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 250 - Offenses Against the Right to Privacy250.35 - Failing to Report Criminal Communications.

1. It shall be the duty of a telephone or telegraph corporation, or an entity operating an electronic communications service, and of any employee, officer or representative thereof having knowledge that the facilities of such corporation or entity are being used to conduct any criminal business, traffic or transaction, to furnish or attempt to furnish to an appropriate law enforcement officer or agency all pertinent information within his possession relating to such matter, and to cooperate fully with any law enforcement officer or agency investigating such matter. 2. A person is guilty of failing to report criminal communications when he knowingly violates any duty prescribed in subdivision one of this section. Failing to report criminal communications is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 250 - Offenses Against the Right to Privacy250.40 - Unlawful Surveillance; Definitions.

The following definitions shall apply to sections 250.45, 250.50, 250.55 and 250.60 of this article: 1. "Place and time when a person has a reasonable expectation of privacy" means a place and time when a reasonable person would believe that he or she could fully disrobe in privacy. 2. "Imaging device" means any mechanical, digital or electronic viewing device, camera, cellular phone or any other instrument capable of recording, storing or transmitting visual images that can be utilized to observe a person. 3. "Sexual or other intimate parts" means the human male or female genitals, pubic area or buttocks, or the female breast below the top of the nipple, and shall include such part or parts which are covered only by an undergarment. 4. "Broadcast" means electronically transmitting a visual image with the intent that it be viewed by a person. 5. "Disseminate" means to give, provide, lend, deliver, mail, send, forward, transfer or transmit, electronically or otherwise to another person. 6. "Publish" means to (a) disseminate, as defined in subdivision five of this section, with the intent that such image or images be disseminated to ten or more persons; or (b) disseminate with the intent that such images be sold by another person; or (c) post, present, display, exhibit, circulate, advertise or allows access, electronically or otherwise, so as to make an image or images available to the public; or (d) disseminate with the intent that an image or images be posted, presented, displayed, exhibited, circulated, advertised or made accessible, electronically or otherwise and to make such image or images available to the public. 7. "Sell" means to disseminate to another person, as defined in subdivision five of this section, or to publish, as defined in subdivision six of this section, in exchange for something of value.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 250 - Offenses Against the Right to Privacy250.45 - Unlawful Surveillance in the Second Degree.

A person is guilty of unlawful surveillance in the second degree when: 1. For his or her own, or another person's amusement, entertainment, or profit, or for the purpose of degrading or abusing a person, he or she intentionally uses or installs, or permits the utilization or installation of an imaging device to surreptitiously view, broadcast or record a person dressing or undressing or the sexual or other intimate parts of such person at a place and time when such person has a reasonable expectation of privacy, without such person's knowledge or consent; or 2. For his or her own, or another person's sexual arousal or sexual gratification, he or she intentionally uses or installs, or permits the utilization or installation of an imaging device to surreptitiously view, broadcast or record a person dressing or undressing or the sexual or other intimate parts of such person at a place and time when such person has a reasonable expectation of privacy, without such person's knowledge or consent; or 3. (a) For no legitimate purpose, he or she intentionally uses or installs, or permits the utilization or installation of an imaging device to surreptitiously view, broadcast or record a person in a bedroom, changing room, fitting room, restroom, toilet, bathroom, washroom, shower or any room assigned to guests or patrons in a motel, hotel or inn, without such person's knowledge or consent.(b) For the purposes of this subdivision, when a person uses or installs, or permits the utilization or installation of an imaging device in a bedroom, changing room, fitting room, restroom, toilet, bathroom, washroom, shower or any room assigned to guests or patrons in a hotel, motel or inn, there is a rebuttable presumption that such person did so for no legitimate purpose; or4. Without the knowledge or consent of a person, he or she intentionally uses or installs, or permits the utilization or installation of an imaging device to surreptitiously view, broadcast or record, under the clothing being worn by such person, the sexual or other intimate parts of such person; or5. For his or her own, or another individual's amusement, entertainment, profit, sexual arousal or gratification, or for the purpose of degrading or abusing a person, the actor intentionally uses or installs or permits the utilization or installation of an imaging device to surreptitiously view, broadcast, or record such person in an identifiable manner:(a) engaging in sexual conduct, as defined in subdivision ten of section 130.00 of this part;(b) in the same image with the sexual or intimate part of any other person; and(c) at a place and time when such person has a reasonable expectation of privacy, without such person's knowledge or consent.Unlawful surveillance in the second degree is a class E felony. (b) For the purposes of this subdivision, when a person uses or installs, or permits the utilization or installation of an imaging device in a bedroom, changing room, fitting room, restroom, toilet, bathroom, washroom, shower or any room assigned to guests or patrons in a hotel, motel or inn, there is a rebuttable presumption that such person did so for no legitimate purpose; or 4. Without the knowledge or consent of a person, he or she intentionally uses or installs, or permits the utilization or installation of an imaging device to surreptitiously view, broadcast or record, under the clothing being worn by such person, the sexual or other intimate parts of such person; or 5. For his or her own, or another individual's amusement, entertainment, profit, sexual arousal or gratification, or for the purpose of degrading or abusing a person, the actor intentionally uses or installs or permits the utilization or installation of an imaging device to surreptitiously view, broadcast, or record such person in an identifiable

manner: (a) engaging in sexual conduct, as defined in subdivision ten of section 130.00 of this part; (b) in the same image with the sexual or intimate part of any other person; and (c) at a place and time when such person has a reasonable expectation of privacy, without such person's knowledge or consent. Unlawful surveillance in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 250 - Offenses Against the Right to Privacy250.50 - Unlawful Surveillance in the First Degree.

A person is guilty of unlawful surveillance in the first degree when he or she commits the crime of unlawful surveillance in the second degree and has been previously convicted within the past ten years of unlawful surveillance in the first or second degree. Unlawful surveillance in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 250 - Offenses Against the Right to Privacy250.55 - Dissemination of an Unlawful Surveillance Image in the Second Degree.

degree. A person is guilty of dissemination of an unlawful surveillance image in the second degree when he or she, with knowledge of the unlawful conduct by which an image or images of the sexual or other intimate parts of another person or persons were obtained and such unlawful conduct would satisfy the essential elements of the crime of unlawful surveillance in the first or second degree, as defined, respectively, in section 250.50 or 250.45 of this article, intentionally disseminates such image or images. Dissemination of an unlawful surveillance image in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 250 - Offenses Against the Right to Privacy250.60 - Dissemination of an Unlawful Surveillance Image in the First Degree.

degree. A person is guilty of dissemination of an unlawful surveillance image in the first degree when: 1. He or she, with knowledge of the unlawful conduct by which an image or images of the sexual or other intimate parts of another person or persons were obtained and such unlawful conduct would satisfy the essential elements of the crime of unlawful surveillance in the first or second degree, as defined, respectively, in section 250.50 or 250.45 of this article, sells or publishes such image or images; or 2. Having created a surveillance image in violation of section 250.45 or 250.50 of this article, or in violation of the law in any other jurisdiction which includes all of the essential elements of either such crime, or having acted as an accomplice to such crime, or acting as an agent to the person who committed such crime, he or she intentionally disseminates such unlawfully created image; or 3. He or she commits the crime of dissemination of an unlawful surveillance image in the second degree and has been previously convicted within the past ten years of dissemination of an unlawful surveillance image in the first or second degree. Dissemination of an unlawful surveillance image in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 250 - Offenses Against the Right to Privacy250.65 - Additional Provisions.

1. The provisions of sections 250.45, 250.50, 250.55 and 250.60 of this article do not apply with respect to any: (a) law enforcement personnel engaged in the conduct of their authorized duties; (b) security system wherein a written notice is conspicuously posted on the premises stating that a video surveillance system has been installed for the purpose of security; or (c) video surveillance devices installed in such a manner that their presence is clearly and immediately obvious. 2. With respect to sections 250.55 and 250.60 of this article, the provisions of subdivision two of section 235.15 and subdivisions one and two of section 235.24 of this chapter shall apply.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 250 - Offenses Against the Right to Privacy250.70 - Unlawful Dissemination of a Personal Image; Definitions, Application.

application. 1. The following definitions shall apply to section 250.71 of this article:(a) "broadcast" means electronically transmitting a visual image with the intent that it be viewed by a person;(b) "disseminate" means to give, provide, lend, deliver, mail, send, forward, transfer or transmit, electronically or otherwise to another person;(c) "publish" means to: (i) disseminate, as defined in paragraph (b) of this subdivision, with the intent that such image or images be disseminated to ten or more persons; (ii) disseminate with the intent that such images be sold by another person; (iii) post, present, display, exhibit, circulate, advertise or allows access, electronically or otherwise, so as to make an image or images available to the public; or (iv) disseminate with the intent that an image or images be posted, presented, displayed, exhibited, circulated, advertised or made accessible, electronically or otherwise and to make such image or images available to the public;(d) "family" means a parent or guardian, sibling, spouse, or child of a person depicted in an image disseminated in violation of section 250.71 of this article.(e) "social media platform" means a website, online or mobile application, or online service that is designed primarily to enable a user to generate or share content that can be viewed by other users on the platform or to interact with other user-generated content on such platform. "Social media platform" does not include a website, online or mobile application, or online service that is designed primarily to enable a user to access content on the platform that is not user-generated and is preselected or organized by the provider; or a website, online or

mobile application, or online service that includes any chat, comment, or other interactive functionality that is incidental to the provision of such website, application, or service.2. The following provisions shall apply to section 250.71 of this article:(a) The provisions of section 270.71 of this article shall not apply to the following:(i) the reporting of suspected unlawful conduct to law enforcement;(ii) the dissemination or publication of an image made in the course of official law enforcement duties, legal proceedings or criminal prosecution, or medical treatment; or(iii) the dissemination or publication of an image made for a legitimate public discourse concerning local, national, or worldwide events or other matters of public concern or public interest or affecting the public welfare; any work of public interest, educational or newsworthy value, including comment, criticism, parody or satire, and works of entertainment, regardless of the degree of fictionalization; or an advertisement or commercial announcement for any of the foregoing works.(b) Nothing in these sections shall be construed to limit, or to enlarge, the protections that 47 U.S.C. § 230 confers on an interactive computer service for content provided by another information content provider, as such terms are defined in 47 U.S.C. § 230.3. With respect to section 250.71 of this article, the provisions of subdivision two of section 235.15 and subdivisions one and two of section 235.24 of this part shall apply. (a) "broadcast" means electronically transmitting a visual image with the intent that it be viewed by a person; (b) "disseminate" means to give, provide, lend, deliver, mail, send, forward, transfer or transmit, electronically or otherwise to another person; (c) "publish" means to: (i) disseminate, as defined in paragraph (b) of this subdivision, with the intent that such image or images be disseminated to ten or more persons; (ii) disseminate with the intent that such images be sold by another person; (iii) post, present, display, exhibit, circulate, advertise or allows access, electronically or otherwise, so as to make an image or images available to the public; or (iv) disseminate with the intent that an image or images be posted, presented, displayed, exhibited, circulated, advertised or made accessible, electronically or otherwise and to make such image or images available to the public; (d) "family" means a parent or guardian, sibling, spouse, or child of a person depicted in an image disseminated in violation of section 250.71 of this article. (e) "social media platform" means a website, online or mobile application, or online service that is designed primarily to enable a user to generate or share content that can be viewed by other users on the platform or to interact with other user-generated content on such platform. "Social media platform" does not include a website, online or mobile application, or online service that is designed primarily to enable a user to access content on the platform that is not user-generated and is preselected or organized by the provider; or a website, online or mobile application, or online service that includes any chat, comment, or other interactive functionality that is incidental to the provision of such website, application, or service. 2. The following provisions shall apply to section 250.71 of this article: (a) The provisions of section 270.71 of this article shall not apply to the following: (i) the reporting of suspected unlawful conduct to law enforcement; (ii) the dissemination or publication of an image made in the course of official law enforcement duties, legal proceedings or criminal prosecution, or medical treatment; or (iii) the dissemination or publication of an image made for a legitimate public discourse concerning local, national, or worldwide events or other matters of public concern or public interest or affecting the public welfare; any work of public interest, educational or newsworthy value, including comment, criticism, parody or satire, and works of entertainment, regardless of the degree of fictionalization; or an advertisement or commercial announcement for any of the foregoing works. (b) Nothing in these sections shall be construed to limit, or to enlarge, the protections that 47 U.S.C. § 230 confers on an interactive computer service for content provided by another information content provider, as such terms are defined in 47 U.S.C. § 230. 3. With respect to section 250.71 of this article, the provisions of subdivision two of section 235.15 and subdivisions one and two of section 235.24 of this part shall apply.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle N - Offenses Against Public Order, Public Sensibilities and the Right to PrivacyArticle 250 - Offenses Against the Right to Privacy250.71 - Unlawful Dissemination of a Personal Image.

A person is guilty of unlawful dissemination of a personal image when, with the intent of degrading or abusing a person who has been the victim of a crime described in title H of this part, or otherwise causing harm to the emotional, financial or physical welfare of such victim or such victim's family, the person intentionally: 1. (a) creates and disseminates or publishes a still or video image of such victim on a social media platform, without the victim's consent, in a manner that has no or minimal cultural or social value;(b) the victim is identifiable from the still or video image itself or from information displayed in connection with the still or video image;(c) the victim suffered physical injury as a result of a sex offense as defined by article one hundred thirty of this part, serious physical injury as a result of any non-sex offense, or death, and this injury or death is depicted in the image; and(d) the actor committed, participated in the commission of, or conspired to commit the crime that resulted in such injury to such victim; or2. acting as an agent of the actor who created an image in violation of subdivision one of this section, he or she knowingly disseminates or publishes such image.Unlawful dissemination of a personal image in the second degree is a class A misdemeanor. (b) the victim is identifiable from the still or video image itself or from information displayed in connection with the still or video image; (c) the victim suffered physical injury as a result of a sex offense as defined by article one hundred thirty of this part, serious physical injury as a result of any non-sex offense, or death, and this injury or death is depicted in the image; and (d) the actor committed, participated in the commission of, or conspired to commit the crime that resulted in such injury to such victim; or 2. acting as an agent of the actor who created an image in violation of subdivision one of this section, he or she knowingly disseminates or publishes such image. Unlawful dissemination of a personal image in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 255 - Offenses Affecting the Marital Relationship255.00 - Unlawfully Solemnizing a Marriage.

A person is guilty of unlawfully solemnizing a marriage when: 1. Knowing that he is not authorized by the laws of this state to do so, he performs a marriage ceremony or presumes to solemnize a marriage; or 2. Being authorized by the laws of this state to perform marriage ceremonies and to solemnize marriages, he performs a marriage ceremony or solemnizes a marriage knowing that a legal impediment to such marriage exists. Unlawfully solemnizing a marriage is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 255 - Offenses Affecting the Marital Relationship255.05 - Unlawfully Issuing a Dissolution Decree.

A person is guilty of unlawfully issuing a dissolution decree when, not being a judicial officer authorized to issue decrees of divorce or annulment, he issues a written instrument reciting or certifying that he or some other purportedly but not actually authorized person has issued a valid decree of civil divorce, annulment or other dissolution of a marriage. Unlawfully issuing a dissolution decree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 255 - Offenses Affecting the Marital Relationship255.10 - Unlawfully Procuring a Marriage License.

A person is guilty of unlawfully procuring a marriage license when he procures a license to marry another person at a time when he has a living spouse, or the other person has a living spouse. Unlawfully procuring a marriage license is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 255 - Offenses Affecting the Marital Relationship255.15 - Bigamy.

A person is guilty of bigamy when he contracts or purports to contract a marriage with another person at a time when he has a living spouse, or the other person has a living spouse. Bigamy is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 255 - Offenses Affecting the Marital Relationship255.20 - Unlawfully Procuring a Marriage License, Bigamy, Adultery: Defense.

defense. In any prosecution for unlawfully procuring a marriage license, bigamy, or adultery, it is an affirmative defense that the defendant acted under a reasonable belief that both he and the other person to the marriage or prospective marriage or to the sexual intercourse, as the case may be, were unmarried.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 255 - Offenses Affecting the Marital Relationship255.25 - Incest in the Third Degree.

A person is guilty of incest in the third degree when he or she marries or engages in vaginal sexual contact, oral sexual contact or anal sexual contact with a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece. Incest in the third degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 255 - Offenses Affecting the Marital Relationship255.26 - Incest in the Second Degree.

A person is guilty of incest in the second degree when he or she commits the crime of rape in the second degree, as defined in section 130.30 of this part, or a crime formerly defined in section 130.45 of this part, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or the half blood, uncle, aunt, nephew or niece. Incest in the second degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 255 - Offenses Affecting the Marital Relationship255.27 - Incest in the First Degree.

A person is guilty of incest in the first degree when he or she commits the crime of rape in the first degree, as defined in paragraph (c) or (d) of subdivision one, paragraph (c) or (d) of subdivision two or paragraph (c) or (d) of subdivision three of section 130.35 of this part, rape in the first degree as defined in former subdivision three or four of section 130.35 of this part, or a crime formerly defined in subdivision three or four of section 130.50 of this part, against a person whom he or she knows to be related to him or her, whether through marriage or not, as an ancestor, descendant, brother or sister of either the whole or half blood, uncle, aunt, nephew or niece. Incest in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 255 - Offenses Affecting the Marital Relationship255.30 - Adultery and Incest; Corroboration.

1. A person shall not be convicted of adultery or of an attempt to commit adultery solely upon the testimony of the other party to the

adulterous act or attempted act, unsupported by other evidence tending to establish that the defendant attempted to engage with the other party in sexual intercourse, and that the defendant or the other party had a living spouse at the time of the adulterous act or attempted act. 2. A person shall not be convicted of incest or of an attempt to commit incest solely upon the testimony of the other party unsupported by other evidence tending to establish that the defendant married the other party, or that the defendant was a relative of the other party of a kind specified in section 255.25.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 260 - Offenses Relating to Children, Disabled Persons and Vulnerable Elderly Persons260.00 - Abandonment of a Child.

1. A person is guilty of abandonment of a child when, being a parent, guardian or other person legally charged with the care or custody of a child less than fourteen years old, he or she deserts such child in any place with intent to wholly abandon such child. 2. A person is not guilty of the provisions of this section when he or she engages in the conduct described in subdivision one of this section: (a) with the intent that the child be safe from physical injury and cared for in an appropriate manner; (b) the child is left with an appropriate person, or in a suitable location and the person who leaves the child promptly notifies an appropriate person of the child's location; and (c) the child is not more than thirty days old. Abandonment of a child is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 260 - Offenses Relating to Children, Disabled Persons and Vulnerable Elderly Persons260.05 - Non-Support of a Child in the Second Degree.

A person is guilty of non-support of a child when: 1. being a parent, guardian or other person legally charged with the care or custody of a child less than sixteen years old, he or she fails or refuses without lawful excuse to provide support for such child when he or she is able to do so, or becomes unable to do so, when, though employable, he or she voluntarily terminates his or her employment, voluntarily reduces his or her earning capacity, or fails to diligently seek employment; or 2. being a parent, guardian or other person obligated to make child support payments by an order of child support entered by a court of competent jurisdiction for a child less than eighteen years old, he or she knowingly fails or refuses without lawful excuse to provide support for such child when he or she is able to do so, or becomes unable to do so, when, though employable, he or she voluntarily terminates his or her employment, voluntarily reduces his or her earning capacity, or fails to diligently seek employment. Non-support of a child in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 260 - Offenses Relating to Children, Disabled Persons and Vulnerable Elderly Persons260.06 - Non-Support of a Child in the First Degree.

A person is guilty of non-support of a child in the first degree when: 1. (a) being a parent, guardian or other person legally charged with the care or custody of a child less than sixteen years old, he or she fails or refuses without lawful excuse to provide support for such child when he or she is able to do so; or(b) being a parent, guardian or other person obligated to make child support payments by an order of child support entered by a court of competent jurisdiction for a child less than eighteen years old, he or she fails or refuses without lawful excuse to provide support for such child when he or she is able to do so; and2. he or she has previously been convicted in the preceding five years of a crime defined in section 260.05 of this article or a crime defined by the provisions of this section.Non-support of a child in the first degree is a class E felony. (b) being a parent, guardian or other person obligated to make child support payments by an order of child support entered by a court of competent jurisdiction for a child less than eighteen years old, he or she fails or refuses without lawful excuse to provide support for such child when he or she is able to do so; and 2. he or she has previously been convicted in the preceding five years of a crime defined in section 260.05 of this article or a crime defined by the provisions of this section. Non-support of a child in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 260 - Offenses Relating to Children, Disabled Persons and Vulnerable Elderly Persons260.10 - Endangering the Welfare of a Child.

A person is guilty of endangering the welfare of a child when: 1. He or she knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of a child less than seventeen years old or directs or authorizes such child to engage in an occupation involving a substantial risk of danger to his or her life or health; or 2. Being a parent, guardian or other person legally charged with the care or custody of a child less than eighteen years old, he or she fails or refuses to exercise reasonable diligence in the control of such child to prevent him or her from becoming an "abused child," a "neglected child," a "juvenile delinquent" or a "person in need of supervision," as those terms are defined in articles ten, three and seven of the family court act. 3. A person is not guilty of the provisions of this section when he or she engages in the conduct described in subdivision one of section 260.00 of this article: (a) with the intent to wholly abandon the child by relinquishing responsibility for and right to the care and custody of such child; (b) with the intent that the child be safe from physical injury and cared for in an appropriate manner; (c) the child is left with an appropriate person, or in a suitable location and the person who leaves the child promptly notifies an appropriate person of the child's location; and (d) the child is not more than thirty days old. Endangering the welfare of a child is a class A misdemeanor.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 260 - Offenses Relating to Children, Disabled Persons and Vulnerable Elderly Persons260.11 - Endangering the Welfare of a Child; Corroboration.

A person shall not be convicted of endangering the welfare of a child, or of an attempt to commit the same, upon the testimony of a victim who is incapable of consent because of mental defect or mental incapacity as to conduct that constitutes an offense or an attempt to commit an offense referred to in section 130.16, without additional evidence sufficient pursuant to section 130.16 to sustain a conviction of an offense referred to in section 130.16, or of an attempt to commit the same.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 260 - Offenses Relating to Children, Disabled Persons and Vulnerable Elderly Persons260.15 - Endangering the Welfare of a Child; Defense.

In any prosecution for endangering the welfare of a child, pursuant to section 260.10 of this article, based upon an alleged failure or refusal to provide proper medical care or treatment to an ill child, it is an affirmative defense that the defendant (a) is a parent, guardian or other person legally charged with the care or custody of such child; and (b) is a member or adherent of an organized church or religious group the tenets of which prescribe prayer as the principal treatment for illness; and (c) treated or caused such ill child to be treated in accordance with such tenets.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 260 - Offenses Relating to Children, Disabled Persons and Vulnerable Elderly Persons260.20 - Unlawfully Dealing With a Child in the First Degree.

A person is guilty of unlawfully dealing with a child in the first degree when: 1. He knowingly permits a child less than eighteen years old to enter or remain in or upon a place, premises or establishment where sexual activity as defined by article one hundred thirty, two hundred thirty or two hundred sixty-three of this part or activity involving controlled substances as defined by article two hundred twenty of this part is maintained or conducted, and he knows or has reason to know that such activity is being maintained or conducted; or 2. He gives or sells or causes to be given or sold any alcoholic beverage, as defined by section three of the alcoholic beverage control law, to a person less than twenty-one years old; except that this subdivision does not apply to the parent or guardian of such a person or to a person who gives or causes to be given any such alcoholic beverage to a person under the age of twenty-one years, who is a student in a curriculum licensed or registered by the state education department, where the tasting or imbibing of alcoholic beverages is required in courses that are part of the required curriculum, provided such alcoholic beverages are given only for instructional purposes during classes conducted pursuant to such curriculum. It is no defense to a prosecution pursuant to subdivision two of this section that the child acted as the agent or representative of another person or that the defendant dealt with the child as such. It is an affirmative defense to a prosecution pursuant to subdivision two of this section that the defendant who sold, caused to be sold or attempted to sell such alcoholic beverage to a person less than twenty-one years old, had not been, at the time of such sale or attempted sale, convicted of a violation of this section or section 260.21 of this article within the preceding five years, and such defendant, subsequent to the commencement of the present prosecution, has completed an alcohol training awareness program established pursuant to subdivision twelve of section seventeen of the alcoholic beverage control law. A defendant otherwise qualifying pursuant to this paragraph may request and shall be afforded a reasonable adjournment of the proceedings to enable him or her to complete such alcohol training awareness program. Unlawfully dealing with a child in the first degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 260 - Offenses Relating to Children, Disabled Persons and Vulnerable Elderly Persons260.21 - Unlawfully Dealing With a Child in the Second Degree.

A person is guilty of unlawfully dealing with a child in the second degree when: 1. Being an owner, lessee, manager or employee of a place where alcoholic beverages are sold or given away, he permits a child less than sixteen years old to enter or remain in such place unless:(a) The child is accompanied by his parent, guardian or an adult authorized by a parent or guardian; or(b) The entertainment or activity is being conducted for the benefit or under the auspices of a non-profit school, church or other educational or religious institution; or(c) Otherwise permitted by law to do so; or(d) The establishment is closed to the public for a specified period of time to conduct an activity or entertainment, during which the child is in or remains in such establishment, and no alcoholic beverages are sold, served, given away or consumed at such establishment during such period. The state liquor authority shall be notified in writing by the licensee of such establishment, of the intended closing of such establishment, to conduct any such activity or entertainment, not less than ten days prior to any such closing; or2. He marks the body of a child less than eighteen years old with indelible ink or pigments by means of tattooing; or3. He or she sells or causes to be sold tobacco in any form to a child less than twenty-one years old.It is no defense to a prosecution pursuant to subdivision three of this section that the child acted as the agent or representative of another person or that the defendant dealt with the child as such.Unlawfully dealing with a child in the second degree is a class B misdemeanor. (a) The child is accompanied by his parent, guardian or an adult authorized by a parent or guardian; or (b) The entertainment or activity is being conducted for the benefit or under the auspices of a non-profit school, church

or other educational or religious institution; or (c) Otherwise permitted by law to do so; or (d) The establishment is closed to the public for a specified period of time to conduct an activity or entertainment, during which the child is in or remains in such establishment, and no alcoholic beverages are sold, served, given away or consumed at such establishment during such period. The state liquor authority shall be notified in writing by the licensee of such establishment, of the intended closing of such establishment, to conduct any such activity or entertainment, not less than ten days prior to any such closing; or 2. He marks the body of a child less than eighteen years old with indelible ink or pigments by means of tattooing; or 3. He or she sells or causes to be sold tobacco in any form to a child less than twenty-one years old. It is no defense to a prosecution pursuant to subdivision three of this section that the child acted as the agent or representative of another person or that the defendant dealt with the child as such. Unlawfully dealing with a child in the second degree is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 260 - Offenses Relating to Children, Disabled Persons and Vulnerable Elderly Persons260.22 - Facilitating Female Genital Mutilation.

A person is guilty of facilitating female genital mutilation when, knowing that a person intends to engage in the circumcising, excising or infibulating of the whole or any part of the labia majora or labia minora or clitoris of a person under eighteen years of age, and except as provided in subdivision two of section 130.85 of this chapter, he or she intentionally aids the commission or attempted commission of such conduct. Facilitating female genital mutilation is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 260 - Offenses Relating to Children, Disabled Persons and Vulnerable Elderly Persons260.24 - Endangering the Welfare of an Incompetent or Physically Disabled Person in the Second Degree.

disabled person in the second degree. A person is guilty of endangering the welfare of an incompetent or physically disabled person in the second degree when he or she recklessly engages in conduct which is likely to be injurious to the physical, mental or moral welfare of a person who is unable to care for himself or herself because of physical disability, mental disease or defect. Endangering the welfare of an incompetent or physically disabled person in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 260 - Offenses Relating to Children, Disabled Persons and Vulnerable Elderly Persons260.25 - Endangering the Welfare of an Incompetent or Physically Disabled Person in the First Degree.

disabled person in the first degree. A person is guilty of endangering the welfare of an incompetent or physically disabled person in the first degree when he knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of a person who is unable to care for himself or herself because of physical disability, mental disease or defect. Endangering the welfare of an incompetent or physically disabled person in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 260 - Offenses Relating to Children, Disabled Persons and Vulnerable Elderly Persons260.31*2 - Misrepresentation by a Child Day Care Provider.

A person is guilty of misrepresentation by a child day care provider when, being a child day care provider or holding himself or herself out as such, he or she makes any willful and intentional misrepresentation, by act or omission, to a parent or guardian of a child in the care of such provider (or a child whose prospective placement in such care is being considered by such parent or guardian) to any state or local official having jurisdiction over child day care providers, or to any police officer or peace officer as to the facts pertaining to such child day care provider, including, but not limited to: (i) the number of children in the facility or home where such number is in violation of the provisions of section three hundred ninety of the social services law, (ii) the area of the facility, home, or center used for child day care, or (iii) the credentials or qualifications of any child day care provider, assistant, employee, or volunteer. A misrepresentation subject to the provisions of this section must substantially place at risk the health or safety of a child in the care of a child day care provider. Misrepresentation by a child day care provider is a class A misdemeanor. * NB There are 2 § 260.31's

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 260 - Offenses Relating to Children, Disabled Persons and Vulnerable Elderly Persons260.31 - Vulnerable Elderly Persons; Definitions.

For the purpose of sections 260.32 and 260.34 of this article, the following definitions shall apply: 1. "Caregiver" means a person who (i) assumes responsibility for the care of a vulnerable elderly person, or an incompetent or physically disabled person pursuant to a court order; or (ii) receives monetary or other valuable consideration for providing care for a vulnerable elderly person, or an incompetent or physically disabled person. 2. "Sexual contact" means any touching of the sexual or other intimate parts of a person for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing, as well as the emission of ejaculate by the actor upon any part of the victim, clothed or unclothed. 3. "Vulnerable elderly person" means a person sixty years of age or older who is suffering from a

disease or infirmity associated with advanced age and manifested by demonstrable physical, mental or emotional dysfunction to the extent that the person is incapable of adequately providing for his or her own health or personal care. 4. "Incompetent or physically disabled person" means an individual who is unable to care for himself or herself because of physical disability, mental disease or defect. * NB There are 2 § 260.31's

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 260 - Offenses Relating to Children, Disabled Persons and Vulnerable Elderly Persons260.32 - Endangering the Welfare of a Vulnerable Elderly Person, or an Incompetent or Physically Disabled Person in the Second Degree.

incompetent or physically disabled person in the second degree. A person is guilty of endangering the welfare of a vulnerable elderly person, or an incompetent or physically disabled person in the second degree when, being a caregiver for a vulnerable elderly person, or an incompetent or physically disabled person: 1. With intent to cause physical injury to such person, he or she causes such injury to such person; or 2. He or she recklessly causes physical injury to such person; or 3. With criminal negligence, he or she causes physical injury to such person by means of a deadly weapon or a dangerous instrument; or 4. He or she subjects such person to sexual contact without the latter's consent. Lack of consent under this subdivision results from forcible compulsion or incapacity to consent, as those terms are defined in article one hundred thirty of this chapter, or any other circumstances in which the vulnerable elderly person, or an incompetent or physically disabled person does not expressly or impliedly acquiesce in the caregiver's conduct. In any prosecution under this subdivision in which the victim's alleged lack of consent results solely from incapacity to consent because of the victim's mental disability or mental incapacity, the provisions of section 130.16 of this chapter shall apply. In addition, in any prosecution under this subdivision in which the victim's lack of consent is based solely upon his or her incapacity to consent because he or she was mentally disabled, mentally incapacitated or physically helpless, it is an affirmative defense that the defendant, at the time he or she engaged in the conduct constituting the offense, did not know of the facts or conditions responsible for such incapacity to consent. Endangering the welfare of a vulnerable elderly person, or an incompetent or physically disabled person in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 260 - Offenses Relating to Children, Disabled Persons and Vulnerable Elderly Persons260.34 - Endangering the Welfare of a Vulnerable Elderly Person, or an Incompetent or Physically Disabled Person in the First Degree.

incompetent or physically disabled person in the first degree. A person is guilty of endangering the welfare of a vulnerable elderly person, or an incompetent or physically disabled person in the first degree when, being a caregiver for a vulnerable elderly person, or an incompetent or physically disabled person: 1. With intent to cause physical injury to such person, he or she causes serious physical injury to such person; or 2. He or she recklessly causes serious physical injury to such person. Endangering the welfare of a vulnerable elderly person, or an incompetent or physically disabled person in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 260 - Offenses Relating to Children, Disabled Persons and Vulnerable Elderly Persons260.35 - Misrepresentation By, or on Behalf Of, a Caregiver for a Child or Children.

or children. 1. A person is guilty of misrepresentation by, or on behalf of, a caregiver for a child or children when he or she:(a) intentionally makes a false written statement about himself, herself, or another person while he or she, or such other person, is being considered for employment, or while under employment as a caregiver to a parent or guardian of a child or children, or the agent of a parent or guardian, and(b) such statement contains a materially false representation regarding the caregiver's background related to the ability to safely care for a child or children, and(c) a reasonable person would have relied upon such statement in making an employment decision.2. For the purposes of this section, "caregiver" shall mean a person employed by or being considered for employment to provide fifteen or more hours of care per week to a child or children in the home of such child or children or in the home of such caregiver, provided that such term shall not apply to a child day care provider required to be licensed pursuant to the social services law.Misrepresentation by, or on behalf of, a caregiver for a child or children is a class A misdemeanor, provided, however, that if any sentence of imprisonment is imposed for a conviction under this section, term of imprisonment shall not exceed six months. (a) intentionally makes a false written statement about himself, herself, or another person while he or she, or such other person, is being considered for employment, or while under employment as a caregiver to a parent or guardian of a child or children, or the agent of a parent or guardian, and (b) such statement contains a materially false representation regarding the caregiver's background related to the ability to safely care for a child or children, and (c) a reasonable person would have relied upon such statement in making an employment decision. 2. For the purposes of this section, "caregiver" shall mean a person employed by or being considered for employment to provide fifteen or more hours of care per week to a child or children in the home of such child or children or in the home of such caregiver, provided that such term shall not apply to a child day care provider required to be licensed pursuant to the social services law. Misrepresentation by, or on behalf of, a caregiver for a child or children is a class A misdemeanor, provided, however, that if any sentence of imprisonment is imposed for a conviction under this section, term of imprisonment shall not exceed six months.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 263 - Sexual Performance by a Child263.00 - Definitions.

As used in this article the following definitions shall apply: 1. "Sexual performance" means any performance or part thereof which, for purposes of section 263.16 of this article, includes sexual conduct by a child less than sixteen years of age or, for purposes of section 263.05 or 263.15 of this article, includes sexual conduct by a child less than seventeen years of age. 2. "Obscene sexual performance" means any performance which, for purposes of section 263.11 of this article, includes sexual conduct by a child less than sixteen years of age or, for purposes of section 263.10 of this article, includes sexual conduct by a child less than seventeen years of age, in any material which is obscene, as such term is defined in section 235.00 of this chapter. 3. "Sexual conduct" means actual or simulated vaginal sexual contact, oral sexual contact, anal sexual contact, sexual bestiality, masturbation, sado-masochistic abuse, or lewd exhibition of the genitals. 4. "Performance" means any play, motion picture, photograph or dance. Performance also means any other visual representation exhibited before an audience. 5. "Promote" means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit or advertise, or to offer or agree to do the same. 6. "Simulated" means the explicit depiction of any of the conduct set forth in subdivision three of this section which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals or buttocks. 7. "Oral sexual conduct" and "anal sexual conduct" mean the conduct defined by subdivision two of section 130.00 of this chapter. 8. "Sado-masochistic abuse" means the conduct defined in subdivision five of section 235.20 of this chapter. 9. For purposes of sections 263.10, 263.11, 263.15 and 263.16 of this article, the terms "possession," "control" and "promotion" shall not include conduct by an attorney when the performance was provided to such attorney in relation to the representation of a person under investigation or charged under this chapter or as a respondent pursuant to the family court act, and is limited in use for the purpose of representation for the period of such representation.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 263 - Sexual Performance by a Child263.05 - Use of a Child in a Sexual Performance.

A person is guilty of the use of a child in a sexual performance if knowing the character and content thereof he employs, authorizes or induces a child less than seventeen years of age to engage in a sexual performance or being a parent, legal guardian or custodian of such child, he consents to the participation by such child in a sexual performance. Use of a child in a sexual performance is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 263 - Sexual Performance by a Child263.10 - Promoting an Obscene Sexual Performance by a Child.

A person is guilty of promoting an obscene sexual performance by a child when, knowing the character and content thereof, he produces, directs or promotes any obscene performance which includes sexual conduct by a child less than seventeen years of age. Promoting an obscene sexual performance by a child is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 263 - Sexual Performance by a Child263.11 - Possessing an Obscene Sexual Performance by a Child.

A person is guilty of possessing an obscene sexual performance by a child when, knowing the character and content thereof, he knowingly has in his possession or control, or knowingly accesses with intent to view, any obscene performance which includes sexual conduct by a child less than sixteen years of age. Possessing an obscene sexual performance by a child is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 263 - Sexual Performance by a Child263.15 - Promoting a Sexual Performance by a Child.

A person is guilty of promoting a sexual performance by a child when, knowing the character and content thereof, he produces, directs or promotes any performance which includes sexual conduct by a child less than seventeen years of age. Promoting a sexual performance by a child is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 263 - Sexual Performance by a Child263.16 - Possessing a Sexual Performance by a Child.

A person is guilty of possessing a sexual performance by a child when, knowing the character and content thereof, he knowingly has in his possession or control, or knowingly accesses with intent to view, any performance which includes sexual conduct by a child less than sixteen years of age. Possessing a sexual performance by a child is a class E felony.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 263 - Sexual Performance by a Child263.20 - Sexual Performance by a Child; Affirmative Defenses.

1. Under this article, it shall be an affirmative defense that the defendant in good faith reasonably believed the person appearing in the performance was, for purposes of section 263.11 or 263.16 of this article, sixteen years of age or over or, for purposes of section 263.05, 263.10 or 263.15 of this article, seventeen years of age or over. 2. In any prosecution for any offense pursuant to this article, it is an affirmative defense that the person so charged was a librarian engaged in the normal course of his employment, a motion picture projectionist, stage employee or spotlight operator, cashier, doorman, usher, candy stand attendant, porter or in any other non-managerial or non-supervisory capacity in a motion picture theatre; provided he has no financial interest, other than his employment, which employment does not encompass compensation based upon any proportion of the gross receipts, in the promotion of a sexual performance for sale, rental or exhibition or in the promotion, presentation or direction of any sexual performance, or is in any way responsible for acquiring such material for sale, rental or exhibition.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 263 - Sexual Performance by a Child263.25 - Proof of Age of Child.

Whenever it becomes necessary for the purposes of this article to determine whether a child who participated in a sexual performance was under an age specified in this article, the court or jury may make such determination by any of the following: personal inspection of the child; inspection of a photograph or motion picture which constituted the sexual performance; oral testimony by a witness to the sexual performance as to the age of the child based upon the child's appearance; expert medical testimony based upon the appearance of the child in the sexual performance; and any other method authorized by any applicable provision of law or by the rules of evidence at common law.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle O - Offenses Against Marriage, the Family, and the Welfare of Children and IncompetentsArticle 263 - Sexual Performance by a Child263.30 - Facilitating a Sexual Performance by a Child With a Controlled Substance or Alcohol.

substance or alcohol. 1. A person is guilty of facilitating a sexual performance by a child with a controlled substance or alcohol when he or she:(a) (i) knowingly and unlawfully possesses a controlled substance as defined in section thirty-three hundred six of the public health law or any controlled substance that requires a prescription to obtain, (ii) administers that substance to a person under the age of seventeen without such person's consent, (iii) intends to commit against such person conduct constituting a felony as defined in section 263.05, 263.10, or 263.15 of this article, and (iv) does so commit or attempt to commit such conduct against such person; or(b) (i) administers alcohol to a person under the age of seventeen without such person's consent, (ii) intends to commit against such person conduct constituting a felony defined in section 263.05, 263.10, or 263.15 of this article, and (iii) does so commit or attempt to commit such conduct against such person.2. For the purposes of this section, "controlled substance" means any substance or preparation, compound, mixture, salt, or isomer of any substance defined in section thirty-three hundred six of the public health law.Facilitating a sexual performance by a child with a controlled substance or alcohol is a class B felony. (a) (i) knowingly and unlawfully possesses a controlled substance as defined in section thirty-three hundred six of the public health law or any controlled substance that requires a prescription to obtain, (ii) administers that substance to a person under the age of seventeen without such person's consent, (iii) intends to commit against such person conduct constituting a felony as defined in section 263.05, 263.10, or 263.15 of this article, and (iv) does so commit or attempt to commit such conduct against such person; or (b) (i) administers alcohol to a person under the age of seventeen without such person's consent, (ii) intends to commit against such person conduct constituting a felony defined in section 263.05, 263.10, or 263.15 of this article, and (iii) does so commit or attempt to commit such conduct against such person. 2. For the purposes of this section, "controlled substance" means any substance or preparation, compound, mixture, salt, or isomer of any substance defined in section thirty-three hundred six of the public health law. Facilitating a sexual performance by a child with a controlled substance or alcohol is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.00 - Definitions.

As used in this article and in article four hundred, the following terms shall mean and include: 1. "Machine-gun" means a weapon of any description, irrespective of size, by whatever name known, loaded or unloaded, from which a number of shots or bullets may be rapidly or automatically discharged from a magazine with one continuous pull of the trigger and includes a sub-machine gun. 2. "Firearm silencer" means any instrument, attachment, weapon or appliance for causing the firing of any gun, revolver, pistol or other firearms to be silent, or intended to lessen or muffle the noise of the firing of any gun, revolver, pistol or other firearms. 3. "Firearm" means (a) any pistol or revolver; or (b) a shotgun having one or more barrels less than eighteen inches in length; or (c) a rifle having one or more barrels less than sixteen inches in length; or (d) any weapon made from a shotgun or rifle whether by alteration, modification, or otherwise if such weapon as altered, modified, or otherwise has an overall length of less than twenty-six inches; or (e) an assault weapon; or (f) any other weapon that is not otherwise defined in this section containing any component that provides housing or a structure designed to hold or integrate any fire control component that is designed to or may readily be converted to

expel a projectile by action of explosive. For the purpose of this subdivision the length of the barrel on a shotgun or rifle shall be determined by measuring the distance between the muzzle and the face of the bolt, breech, or breechlock when closed and when the shotgun or rifle is cocked; the overall length of a weapon made from a shotgun or rifle is the distance between the extreme ends of the weapon measured along a line parallel to the center line of the bore. Firearm does not include an antique firearm. 3-a. "Major component of a firearm, rifle or shotgun" means the barrel, the slide or cylinder, the frame, or receiver of the firearm, rifle, or shotgun. 4. "Switchblade knife" means any knife which has a blade which opens automatically by hand pressure applied to a button, spring or other device in the handle of the knife. 5. "Gravity knife" means any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force which, when released, is locked in place by means of a button, spring, lever or other device. 5-a. "Pilum ballistic knife" means any knife which has a blade which can be projected from the handle by hand pressure applied to a button, lever, spring or other device in the handle of the knife. 5-b. "Metal knuckle knife" means a weapon that, when closed, cannot function as a set of plastic knuckles or metal knuckles, nor as a knife and when open, can function as both a set of plastic knuckles or metal knuckles as well as a knife. 5-c. "Automatic knife" includes a stiletto, a switchblade knife, a cane sword, a pilum ballistic knife, and a metal knuckle knife. 5-d. "Undetectable knife" means any knife or other instrument, which does not utilize materials that are detectable by a metal detector or magnetometer when set at a standard calibration, that is capable of ready use as a stabbing or cutting weapon and was commercially manufactured to be used as a weapon. 6. "Dispose of" means to dispose of, give, give away, lease, loan, keep for sale, offer, offer for sale, sell, transfer and otherwise dispose of. 7. "Deface" means to remove, deface, cover, alter or destroy the manufacturer's serial number or any other distinguishing number or identification mark. 8. "Gunsmith" means any person, firm, partnership, corporation or company who engages in the business of repairing, altering, assembling, manufacturing, cleaning, polishing, engraving or trueing, or who performs any mechanical operation on, any firearm, large capacity ammunition feeding device or machine-gun. 8-a. "Serialized" means bearing a visible identification number and/or symbol in accordance with the requirements imposed on licensed importers and licensed manufacturers pursuant to subsection (i) of Section 923 of Title 18 of the United States Code and regulations issued pursuant thereto in effect at the time of assembly, except for antique firearms as defined in subdivision fourteen of this section, as added by chapter nine hundred eighty-six of the laws of nineteen hundred seventy-four, or any firearm, rifle or shotgun manufactured prior to nineteen hundred sixty-eight. 9. "Dealer in firearms" means any person, firm, partnership, corporation or company who engages in the business of purchasing, selling, keeping for sale, loaning, leasing, or in any manner disposing of, any assault weapon, large capacity ammunition feeding device, pistol, revolver, or semiautomatic rifle. 10. "Licensing officer" means in the city of New York the police commissioner of that city; in the county of Nassau the commissioner of police of that county; in the county of Suffolk the sheriff of that county except in the towns of Babylon, Brookhaven, Huntington, Islip and Smithtown, the commissioner of police of that county; for the purposes of section 400.01 of this chapter the superintendent of state police; and elsewhere in the state a judge or justice of a court of record having his office in the county of issuance. 11. "Rifle" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive to fire only a single projectile through a rifled bore for each single pull of the trigger using either: (a) fixed metallic cartridge; or (b) each projectile and explosive charge are loaded individually for each shot discharged. In addition to common, modern usage, rifles include those using obsolete ammunition not commonly available in commercial trade, or that load through the muzzle and fire a single projectile with each discharge, or loading, including muzzle loading rifles, flintlock rifles, and black powder rifles. 12. "Shotgun" means a weapon designed or redesigned, made or remade, and intended to be fired from the shoulder and designed or redesigned and made or remade to use the energy of the explosive to fire through a smooth or rifled bore either a number of ball shot or a single projectile for each single pull of the trigger using either: (a) a fixed shotgun shell; or (b) a projectile or number of ball shot and explosive charge are loaded individually for each shot discharged. In addition to common, modern usage, shotguns include those using obsolete ammunition not commonly available in commercial trade, or that load through the muzzle and fires ball shot with each discharge, or loading, including muzzle loading shotguns, flintlock shotguns, and black powder shotguns. 13. "Cane Sword" means a cane or swagger stick having concealed within it a blade that may be used as a sword or stilletto. * 14. "Antique firearm" means: Any unloaded muzzle loading pistol or revolver with a matchlock, flintlock, percussion cap, or similar type of ignition system, or a pistol or revolver which uses fixed cartridges which are no longer available in the ordinary channels of commercial trade. * NB There are 2 sb 14's * 14. "Chuka stick" means any device designed primarily as a weapon, consisting of two or more lengths of a rigid material joined together by a thong, rope or chain in such a manner as to allow free movement of a portion of the device while held in the hand and capable of being rotated in such a manner as to inflict serious injury upon a person by striking or choking. These devices are also known as nunchakus and centrifugal force sticks. * NB There are 2 sb 14's 15. "Loaded firearm" means any firearm loaded with ammunition or any firearm which is possessed by one who, at the same time, possesses a quantity of ammunition which may be used to discharge such firearm. 15-a. "Electronic dart gun" means any device designed primarily as a weapon, the purpose of which is to momentarily stun, knock out or paralyze a person by passing an electrical shock to such person by means of a dart or projectile. 15-b. "Throwing star" or "shuriken" means a disc-like object with sharpened points on the circumference thereof and is designed for use primarily as a weapon to be thrown. 15-c. "Electronic stun gun" means any device designed primarily as a weapon, the purpose of which is to stun, cause mental disorientation, knock out or paralyze a person by passing a high voltage electrical shock to such person. 16. "Certified not suitable to possess a self-defense spray device, a rifle or shotgun" means that the director or physician in charge of any hospital or institution for mental illness, public or private, has certified to the superintendent of state police or to any organized police department of a county, city, town or village of this state, that a person who has been judicially adjudicated incompetent, or who has been confined to such institution for mental

illness pursuant to judicial authority, is not suitable to possess a self-defense spray device, as defined in section 265.20 of this article, or a rifle or shotgun. 17. "Serious offense" means (a) any of the following offenses defined in the current penal law and any offense in any jurisdiction or the former penal law that includes all of the essential elements of any of the following offenses: illegally using, carrying or possessing a pistol or other dangerous weapon; possession of burglar's tools; criminal possession of stolen property in the third degree; escape in the third degree; jostling; fraudulent accosting; endangering the welfare of a child; obscenity in the third degree; issuing abortional articles; permitting prostitution; promoting prostitution in the third degree; stalking in the fourth degree; stalking in the third degree; sexual misconduct; forcible touching; sexual abuse in the third degree; sexual abuse in the second degree; criminal possession of a controlled substance in the seventh degree; criminally possessing a hypodermic instrument; criminally using drug paraphernalia in the second degree; criminal possession of methamphetamine manufacturing material in the second degree; and a hate crime defined in article four hundred eighty-five of this chapter.(b) any of the following offenses defined in the current penal law and any offense in any jurisdiction or in the former penal law that includes all of the essential elements of any of the following offenses, where the defendant and the person against whom the offense was committed were members of the same family or household as defined in subdivision one of section 530.11 of the criminal procedure law and as established pursuant to section 370.15 of the criminal procedure law: assault in the third degree; menacing in the third degree; menacing in the second degree; criminal obstruction of breathing or blood circulation; unlawful imprisonment in the second degree; coercion in the third degree; criminal tampering in the third degree; criminal contempt in the second degree; harassment in the first degree; aggravated harassment in the second degree; criminal trespass in the third degree; criminal trespass in the second degree; arson in the fifth degree; or attempt to commit any of the above-listed offenses.(c) any misdemeanor offense in any jurisdiction or in the former penal law that includes all of the essential elements of a felony offense as defined in the current penal law.18. "Armor piercing ammunition" means any ammunition capable of being used in pistols or revolvers containing a projectile or projectile core, or a projectile or projectile core for use in such ammunition, that is constructed entirely (excluding the presence of traces of other substances) from one or a combination of any of the following: tungsten alloys, steel, iron, brass, bronze, beryllium copper, or uranium.19. "Duly authorized instructor" means (a) a duly commissioned officer of the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York; or (b) a duly qualified adult citizen of the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy or marine corps, or by the adjutant general of this state, or by the division of criminal justice services, or by the national rifle association of America, a not-for-profit corporation duly organized under the laws of this state; (c) by a person duly qualified and designated by the department of environmental conservation as its agent in the giving of instruction and the making of certifications of qualification in responsible hunting practices; or (d) a New York state 4-H certified shooting sports instructor.20. "Disguised gun" means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive and is designed and intended to appear to be either; (a) something other than a gun; or (b) a toy gun that shall include, but not be limited to, any firearm, rifle, shotgun or machine-gun displaying a color finish other than the original manufacture color, a decorative pattern or plastic like surface; provided, however, that any rifle or shotgun displaying a camouflage color finish or pattern that is intended for hunting, as defined by article eleven of the environmental conservation law, shall not be considered a "disguised gun" for purposes of this section.21. "Semiautomatic" means any repeating rifle, shotgun or pistol, regardless of barrel or overall length, which utilizes a portion of the energy of a firing cartridge or shell to extract the fired cartridge case or spent shell and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge or shell.22. "Assault weapon" means(a) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least one of the following characteristics:(i) a folding or telescoping stock;(ii) a pistol grip that protrudes conspicuously beneath the action of the weapon;(iii) a thumbhole stock;(iv) a second handgrip or a protruding grip that can be held by the non-trigger hand;(v) a bayonet mount;(vi) a flash suppressor, muzzle break, muzzle compensator, or threaded barrel designed to accommodate a flash suppressor, muzzle break, or muzzle compensator;(vii) a grenade launcher; or(b) a semiautomatic shotgun that has at least one of the following characteristics:(i) a folding or telescoping stock;(ii) a thumbhole stock;(iii) a second handgrip or a protruding grip that can be held by the non-trigger hand;(iv) a fixed magazine capacity in excess of seven rounds;(v) an ability to accept a detachable magazine; or(c) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least one of the following characteristics:(i) a folding or telescoping stock;(ii) a thumbhole stock;(iii) a second handgrip or a protruding grip that can be held by the non-trigger hand;(iv) capacity to accept an ammunition magazine that attaches to the pistol outside of the pistol grip;(v) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer;(vi) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the non-trigger hand without being burned;(vii) a manufactured weight of fifty ounces or more when the pistol is unloaded; or(viii) a semiautomatic version of an automatic rifle, shotgun or firearm;(d) a revolving cylinder shotgun;(e) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic pistol or weapon defined in subparagraph (v) of paragraph (e) of subdivision twenty-two of section 265.00 of this chapter as added by chapter one hundred eighty-nine of the laws of two thousand and otherwise lawfully possessed pursuant to such chapter of the laws of two thousand prior to September fourteenth, nineteen hundred ninety-four;(f) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic pistol or weapon defined in paragraph (a), (b) or (c) of this subdivision, possessed prior to the date of enactment of the chapter of the laws of two thousand thirteen which added this paragraph;(g) provided, however, that such term does not include:(i) any rifle, shotgun or pistol that (A) is manually operated by bolt, pump, lever or slide action; (B) has been rendered permanently inoperable; or (C) is an antique firearm as defined in 18 U.S.C. 921(a)(16);(ii) a semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition;(iii) a semiautomatic shotgun that cannot hold

more than five rounds of ammunition in a fixed or detachable magazine; or(iv) a rifle, shotgun or pistol, or a replica or a duplicate thereof, specified in Appendix A to 18 U.S.C. 922 as such weapon was manufactured on October first, nineteen hundred ninety-three. The mere fact that a weapon is not listed in Appendix A shall not be construed to mean that such weapon is an assault weapon;(v) any weapon validly registered pursuant to subdivision sixteen-a of section 400.00 of this chapter. Such weapons shall be subject to the provisions of paragraph (h) of this subdivision;(vi) any firearm, rifle, or shotgun that was manufactured at least fifty years prior to the current date, but not including replicas thereof that is validly registered pursuant to subdivision sixteen-a of section 400.00 of this chapter;(h) Any weapon defined in paragraph (e) or (f) of this subdivision may only be sold to, exchanged with or disposed of to a purchaser authorized to possess such weapons or to an individual or entity outside of the state provided that any such transfer to an individual or entity outside of the state must be reported to the entity wherein the weapon is registered within seventy-two hours of such transfer. An individual who transfers any such weapon to an individual inside New York state or without complying with the provisions of this paragraph shall be guilty of a class A misdemeanor.23. "Large capacity ammunition feeding device" means a magazine, belt, drum, feed strip, or similar device, that has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition; provided, however, that such term does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition or a feeding device that is a curio or relic. A feeding device that is a curio or relic is defined as a device that (i) was manufactured at least fifty years prior to the current date, (ii) is only capable of being used exclusively in a firearm, rifle, or shotgun that was manufactured at least fifty years prior to the current date, but not including replicas thereof, (iii) is possessed by an individual who is not prohibited by state or federal law from possessing a firearm and (iv) is registered with the division of state police pursuant to subdivision sixteen-a of section 400.00 of this chapter, except such feeding devices transferred into the state may be registered at any time, provided they are registered within thirty days of their transfer into the state. Notwithstanding paragraph (h) of subdivision twenty-two of this section, such feeding devices may be transferred provided that such transfer shall be subject to the provisions of section 400.03 of this chapter including the check required to be conducted pursuant to such section.24. "Seller of ammunition" means any person, firm, partnership, corporation or company who engages in the business of purchasing, selling or keeping ammunition.25. "Qualified retired New York or federal law enforcement officer" means an individual who is a retired police officer as police officer is defined in subdivision thirty-four of section 1.20 of the criminal procedure law, a retired peace officer as peace officer is defined in section 2.10 of the criminal procedure law or a retired federal law enforcement officer as federal law enforcement officer is defined in section 2.15 of the criminal procedure law, who: (a) separated from service in good standing from a public agency located in New York state in which such person served as either a police officer, peace officer or federal law enforcement officer; and (b) before such separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest, pursuant to their official duties, under the criminal procedure law; and (c) (i) before such separation, served as either a police officer, peace officer or federal law enforcement officer for five years or more and at the time of separation, is such an officer; or (ii) separated from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency at or before the time of separation; and (d)(i) has not been found by a qualified medical professional employed by such agency to be unqualified for reasons relating to mental health; or (ii) has not entered into an agreement with such agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified for reasons relating to mental health; and (e) is not otherwise prohibited by New York or federal law from possessing any firearm.26. "Rapid-fire modification device" means any bump stock, trigger crank, binary trigger system, burst trigger system, or any other device that is designed to accelerate the rate of fire of a semi-automatic firearm, rifle or shotgun.27. "Bump stock" means any device or instrument that increases the rate of fire achievable with a semi-automatic firearm, rifle or shotgun by using energy from the recoil of the weapon to generate a reciprocating action that facilitates repeated activation of the trigger.28. "Trigger crank" means any device or instrument that repeatedly activates the trigger of a semi-automatic firearm, rifle or shotgun through the use of a lever or other part that is turned in a circular motion and thereby accelerates the rate of fire of such firearm, rifle or shotgun, provided, however, that "trigger crank" shall not include any weapon initially designed and manufactured to fire through the use of a crank or lever.29. "Binary trigger system" means any device that, when installed in or attached to a semi-automatic firearm rifle, or shotgun causes that weapon to fire once when the trigger is pulled and again when the trigger is released.30. "Burst trigger system" means any device that, when installed in or attached to a semi-automatic firearm, rifle, or shot gun, allows that weapon to discharge two or more shots with a single pull or the trigger by altering the trigger reset.31. "New York state 4-H certified shooting instructor" means a certified shooting sports instructor of the National 4-H Shooting Sports, a non-profit organization, engaged in shooting education and youth development programming that is administered by the National Institute of Food and Agriculture of the United States department of agriculture.* 32. "Unfinished frame or receiver" means any unserialized material that does not constitute the frame or receiver of a firearm, rifle or shotgun but that has been shaped or formed in any way for the purpose of becoming the frame or receiver of a firearm, rifle or shotgun, and which may readily be made into a functional frame or receiver through milling, drilling or other means.* NB There are 2 sb 32's* 32. "Ghost gun" means a firearm, rifle or shotgun that does not comply with the provisions of section 265.07 of this article and is not serialized.* NB There are 2 sb 32's33. "Microstamp" means a unique alphanumeric or geometric code that identifies the make, model, and serial number of a firearm.34. "Microstamping component" means a component part of a semi-automatic pistol that will produce a microstamp on at least one location of the expended cartridge case each time the pistol is fired.35. "Microstamping-enabled pistol" means any semiautomatic pistol that contains a microstamping component.36. "Pistol converter" means any device or instrument that when installed in or attached to the slide of a semi-automatic pistol interferes

with the trigger mechanism and thereby enables the pistol to discharge a number of shots or bullets rapidly or automatically with one continuous pull of the trigger. (b) any of the following offenses defined in the current penal law and any offense in any jurisdiction or in the former penal law that includes all of the essential elements of any of the following offenses, where the defendant and the person against whom the offense was committed were members of the same family or household as defined in subdivision one of section 530.11 of the criminal procedure law and as established pursuant to section 370.15 of the criminal procedure law: assault in the third degree; menacing in the third degree; menacing in the second degree; criminal obstruction of breathing or blood circulation; unlawful imprisonment in the second degree; coercion in the third degree; criminal tampering in the third degree; criminal contempt in the second degree; harassment in the first degree; aggravated harassment in the second degree; criminal trespass in the third degree; criminal trespass in the second degree; arson in the fifth degree; or attempt to commit any of the above-listed offenses. (c) any misdemeanor offense in any jurisdiction or in the former penal law that includes all of the essential elements of a felony offense as defined in the current penal law. 18. "Armor piercing ammunition" means any ammunition capable of being used in pistols or revolvers containing a projectile or projectile core, or a projectile or projectile core for use in such ammunition, that is constructed entirely (excluding the presence of traces of other substances) from one or a combination of any of the following: tungsten alloys, steel, iron, brass, bronze, beryllium copper, or uranium. 19. "Duly authorized instructor" means (a) a duly commissioned officer of the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York; or (b) a duly qualified adult citizen of the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy or marine corps, or by the adjutant general of this state, or by the division of criminal justice services, or by the national rifle association of America, a not-for-profit corporation duly organized under the laws of this state; (c) by a person duly qualified and designated by the department of environmental conservation as its agent in the giving of instruction and the making of certifications of qualification in responsible hunting practices; or (d) a New York state 4-H certified shooting sports instructor. 20. "Disguised gun" means any weapon or device capable of being concealed on the person from which a shot can be discharged through the energy of an explosive and is designed and intended to appear to be either; (a) something other than a gun; or (b) a toy gun that shall include, but not be limited to, any firearm, rifle, shotgun or machine-gun displaying a color finish other than the original manufacture color, a decorative pattern or plastic like surface; provided, however, that any rifle or shotgun displaying a camouflage color finish or pattern that is intended for hunting, as defined by article eleven of the environmental conservation law, shall not be considered a "disguised gun" for purposes of this section. 21. "Semiautomatic" means any repeating rifle, shotgun or pistol, regardless of barrel or overall length, which utilizes a portion of the energy of a firing cartridge or shell to extract the fired cartridge case or spent shell and chamber the next round, and which requires a separate pull of the trigger to fire each cartridge or shell. 22. "Assault weapon" means (a) a semiautomatic rifle that has an ability to accept a detachable magazine and has at least one of the following characteristics: (i) a folding or telescoping stock; (ii) a pistol grip that protrudes conspicuously beneath the action of the weapon; (iii) a thumbhole stock; (iv) a second handgrip or a protruding grip that can be held by the non-trigger hand; (v) a bayonet mount; (vi) a flash suppressor, muzzle break, muzzle compensator, or threaded barrel designed to accommodate a flash suppressor, muzzle break, or muzzle compensator; (vii) a grenade launcher; or (b) a semiautomatic shotgun that has at least one of the following characteristics: (i) a folding or telescoping stock; (ii) a thumbhole stock; (iii) a second handgrip or a protruding grip that can be held by the non-trigger hand; (iv) a fixed magazine capacity in excess of seven rounds; (v) an ability to accept a detachable magazine; or (c) a semiautomatic pistol that has an ability to accept a detachable magazine and has at least one of the following characteristics: (i) a folding or telescoping stock; (ii) a thumbhole stock; (iii) a second handgrip or a protruding grip that can be held by the non-trigger hand; (iv) capacity to accept an ammunition magazine that attaches to the pistol outside of the pistol grip; (v) a threaded barrel capable of accepting a barrel extender, flash suppressor, forward handgrip, or silencer; (vi) a shroud that is attached to, or partially or completely encircles, the barrel and that permits the shooter to hold the firearm with the non-trigger hand without being burned; (vii) a manufactured weight of fifty ounces or more when the pistol is unloaded; or (viii) a semiautomatic version of an automatic rifle, shotgun or firearm; (d) a revolving cylinder shotgun; (e) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic pistol or weapon defined in subparagraph (v) of paragraph (e) of subdivision twenty-two of section 265.00 of this chapter as added by chapter one hundred eighty-nine of the laws of two thousand and otherwise lawfully possessed pursuant to such chapter of the laws of two thousand prior to September fourteenth, nineteen hundred ninety-four; (f) a semiautomatic rifle, a semiautomatic shotgun or a semiautomatic pistol or weapon defined in paragraph (a), (b) or (c) of this subdivision, possessed prior to the date of enactment of the chapter of the laws of two thousand thirteen which added this paragraph; (g) provided, however, that such term does not include: (i) any rifle, shotgun or pistol that (A) is manually operated by bolt, pump, lever or slide action; (B) has been rendered permanently inoperable; or (C) is an antique firearm as defined in 18 U.S.C. 921(a)(16); (ii) a semiautomatic rifle that cannot accept a detachable magazine that holds more than five rounds of ammunition; (iii) a semiautomatic shotgun that cannot hold more than five rounds of ammunition in a fixed or detachable magazine; or (iv) a rifle, shotgun or pistol, or a replica or a duplicate thereof, specified in Appendix A to 18 U.S.C. 922 as such weapon was manufactured on October first, nineteen hundred ninety-three. The mere fact that a weapon is not listed in Appendix A shall not be construed to mean that such weapon is an assault weapon; (v) any weapon validly registered pursuant to subdivision sixteen-a of section 400.00 of this chapter. Such weapons shall be subject to the provisions of paragraph (h) of this subdivision; (vi) any firearm, rifle, or shotgun that was manufactured at least fifty years prior to the current date, but not including replicas thereof that is validly registered pursuant to subdivision sixteen-a of section 400.00 of this chapter; (h) Any weapon defined in paragraph (e) or (f) of this subdivision may only be sold to, exchanged with or disposed of to a purchaser authorized to possess such weapons or to an individual or entity outside of the state provided that any such transfer to an individual or entity outside of the state must be reported

to the entity wherein the weapon is registered within seventy-two hours of such transfer. An individual who transfers any such weapon to an individual inside New York state or without complying with the provisions of this paragraph shall be guilty of a class A misdemeanor. 23. "Large capacity ammunition feeding device" means a magazine, belt, drum, feed strip, or similar device, that has a capacity of, or that can be readily restored or converted to accept, more than ten rounds of ammunition; provided, however, that such term does not include an attached tubular device designed to accept, and capable of operating only with, .22 caliber rimfire ammunition or a feeding device that is a curio or relic. A feeding device that is a curio or relic is defined as a device that (i) was manufactured at least fifty years prior to the current date, (ii) is only capable of being used exclusively in a firearm, rifle, or shotgun that was manufactured at least fifty years prior to the current date, but not including replicas thereof, (iii) is possessed by an individual who is not prohibited by state or federal law from possessing a firearm and (iv) is registered with the division of state police pursuant to subdivision sixteen-a of section 400.00 of this chapter, except such feeding devices transferred into the state may be registered at any time, provided they are registered within thirty days of their transfer into the state. Notwithstanding paragraph (h) of subdivision twenty-two of this section, such feeding devices may be transferred provided that such transfer shall be subject to the provisions of section 400.03 of this chapter including the check required to be conducted pursuant to such section. 24. "Seller of ammunition" means any person, firm, partnership, corporation or company who engages in the business of purchasing, selling or keeping ammunition. 25. "Qualified retired New York or federal law enforcement officer" means an individual who is a retired police officer as police officer is defined in subdivision thirty-four of section 1.20 of the criminal procedure law, a retired peace officer as peace officer is defined in section 2.10 of the criminal procedure law or a retired federal law enforcement officer as federal law enforcement officer is defined in section 2.15 of the criminal procedure law, who: (a) separated from service in good standing from a public agency located in New York state in which such person served as either a police officer, peace officer or federal law enforcement officer; and (b) before such separation, was authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of, or the incarceration of any person for, any violation of law, and had statutory powers of arrest, pursuant to their official duties, under the criminal procedure law; and (c) (i) before such separation, served as either a police officer, peace officer or federal law enforcement officer for five years or more and at the time of separation, is such an officer; or (ii) separated from service with such agency, after completing any applicable probationary period of such service, due to a service-connected disability, as determined by such agency at or before the time of separation; and (d)(i) has not been found by a qualified medical professional employed by such agency to be unqualified for reasons relating to mental health; or (ii) has not entered into an agreement with such agency from which the individual is separating from service in which that individual acknowledges he or she is not qualified for reasons relating to mental health; and (e) is not otherwise prohibited by New York or federal law from possessing any firearm. 26. "Rapid-fire modification device" means any bump stock, trigger crank, binary trigger system, burst trigger system, or any other device that is designed to accelerate the rate of fire of a semi-automatic firearm, rifle or shotgun. 27. "Bump stock" means any device or instrument that increases the rate of fire achievable with a semi-automatic firearm, rifle or shotgun by using energy from the recoil of the weapon to generate a reciprocating action that facilitates repeated activation of the trigger. 28. "Trigger crank" means any device or instrument that repeatedly activates the trigger of a semi-automatic firearm, rifle or shotgun through the use of a lever or other part that is turned in a circular motion and thereby accelerates the rate of fire of such firearm, rifle or shotgun, provided, however, that "trigger crank" shall not include any weapon initially designed and manufactured to fire through the use of a crank or lever. 29. "Binary trigger system" means any device that, when installed in or attached to a semi-automatic firearm rifle, or shotgun causes that weapon to fire once when the trigger is pulled and again when the trigger is released. 30. "Burst trigger system" means any device that, when installed in or attached to a semi-automatic firearm, rifle, or shot gun, allows that weapon to discharge two or more shots with a single pull or the trigger by altering the trigger reset. 31. "New York state 4-H certified shooting instructor" means a certified shooting sports instructor of the National 4-H Shooting Sports, a non-profit organization, engaged in shooting education and youth development programming that is administered by the National Institute of Food and Agriculture of the United States department of agriculture. * 32. "Unfinished frame or receiver" means any unserialized material that does not constitute the frame or receiver of a firearm, rifle or shotgun but that has been shaped or formed in any way for the purpose of becoming the frame or receiver of a firearm, rifle or shotgun, and which may readily be made into a functional frame or receiver through milling, drilling or other means. * NB There are 2 sb 32's * 32. "Ghost gun" means a firearm, rifle or shotgun that does not comply with the provisions of section 265.07 of this article and is not serialized. * NB There are 2 sb 32's 33. "Microstamp" means a unique alphanumeric or geometric code that identifies the make, model, and serial number of a firearm. 34. "Microstamping component" means a component part of a semi-automatic pistol that will produce a microstamp on at least one location of the expended cartridge case each time the pistol is fired. 35. "Microstamping-enabled pistol" means any semiautomatic pistol that contains a microstamping component. 36. "Pistol converter" means any device or instrument that when installed in or attached to the slide of a semi-automatic pistol interferes with the trigger mechanism and thereby enables the pistol to discharge a number of shots or bullets rapidly or automatically with one continuous pull of the trigger.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.01-A - Criminal Possession of a Weapon on School Grounds.

A person is guilty of criminal possession of a weapon on school grounds when he or she knowingly has in his or her possession a rifle, shotgun, or firearm in or upon a building or grounds, used for educational purposes, of any school, college, or university, except the forestry lands, wherever located, owned, maintained or held in trust for the benefit of the New York State College of Forestry at Syracuse University, now known as the State University of New York college of environmental science and forestry, or

upon a school bus as defined in section one hundred forty-two of the vehicle and traffic law, without the written authorization of such educational institution; provided, however no school, as defined in subdivision ten of section eleven hundred twenty-five of the education law, shall issue such written authorization to any teacher, school administrator, or other person employed at the school who is not primarily employed as a school resource officer, police officer, peace officer, or security guard who has been issued a special armed guard registration card as defined in section eighty-nine-f of the general business law, regardless of whether the person is employed directly by such school or by a third party. Criminal possession of a weapon on school grounds is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.01-B - Criminal Possession of a Firearm.

A person is guilty of criminal possession of a firearm when he or she: (1) possesses any firearm or; (2) lawfully possesses a firearm prior to the effective date of the chapter of the laws of two thousand thirteen which added this section subject to the registration requirements of subdivision sixteen-a of section 400.00 of this chapter and knowingly fails to register such firearm pursuant to such subdivision. Criminal possession of a firearm is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.01-C - Criminal Possession of a Rapid-Fire Modification Device.

A person is guilty of criminal possession of a rapid-fire modification device when he or she knowingly possesses any rapid-fire modification device. Criminal possession of a rapid-fire modification device is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.01-D - Criminal Possession of a Weapon in a Restricted Location.

1. A person is guilty of criminal possession of a weapon in a restricted location when such person possesses a firearm, rifle, or shotgun and enters into or remains on or in private property where such person knows or reasonably should know that the owner or lessee of such property has not permitted such possession by clear and conspicuous signage indicating that the carrying of firearms, rifles, or shotguns on their property is permitted or by otherwise giving express consent. 2. This section shall not apply to:(a) police officers as defined in section 1.20 of the criminal procedure law;(b) persons who are designated peace officers as defined in section 2.10 of the criminal procedure law;(c) qualified law enforcement officers who are authorized to carry concealed firearms pursuant to 18 U.S.C. 926B, or qualified retired law enforcement officers who are authorized to carry concealed firearms pursuant to 18 U.S.C. 926C;(d) security guards as defined by and registered under article seven-A of the general business law who has been granted a special armed registration card, while at the location of their employment and during their work hours as such a security guard;(e) active-duty military personnel;(f) persons licensed under paragraph (c), (d) or (e) of subdivision two of section 400.00 of this chapter while in the course of his or her official duties;(g) persons while lawfully engaged in taking of wildlife or attempts to take wildlife pursuant to a hunting permit or license issued by the department of environmental conservation, or as otherwise authorized pursuant to section 11-0707 and 11-0709 of the environmental conservation law; or(h) persons, while acting in the scope of their official duties, who are employed in the revenue control and security departments of the metropolitan transportation authority, or the New York city transit authority or an affiliate or subsidiary thereof, who are authorized to carry a firearm as part of their employment.Criminal possession of a weapon in a restricted location is a class E felony. (a) police officers as defined in section 1.20 of the criminal procedure law; (b) persons who are designated peace officers as defined in section 2.10 of the criminal procedure law; (c) qualified law enforcement officers who are authorized to carry concealed firearms pursuant to 18 U.S.C. 926B, or qualified retired law enforcement officers who are authorized to carry concealed firearms pursuant to 18 U.S.C. 926C; (d) security guards as defined by and registered under article seven-A of the general business law who has been granted a special armed registration card, while at the location of their employment and during their work hours as such a security guard; (e) active-duty military personnel; (f) persons licensed under paragraph (c), (d) or (e) of subdivision two of section 400.00 of this chapter while in the course of his or her official duties; (g) persons while lawfully engaged in taking of wildlife or attempts to take wildlife pursuant to a hunting permit or license issued by the department of environmental conservation, or as otherwise authorized pursuant to section 11-0707 and 11-0709 of the environmental conservation law; or (h) persons, while acting in the scope of their official duties, who are employed in the revenue control and security departments of the metropolitan transportation authority, or the New York city transit authority or an affiliate or subsidiary thereof, who are authorized to carry a firearm as part of their employment. Criminal possession of a weapon in a restricted location is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.01-E - Criminal Possession of a Firearm, Rifle or Shotgun in a Sensitive Location.

sensitive location. 1. A person is guilty of criminal possession of a firearm, rifle or shotgun in a sensitive location when such person possesses a firearm, rifle or shotgun in or upon a sensitive location, and such person knows or reasonably should know such location is a sensitive location. 2. For the purposes of this section, a sensitive location shall mean:(a) any place owned or under the control of federal, state or local government, for the purpose of government administration, including courts;(b) any location providing health, behavioral health, or chemical dependance care or services;(c) any place of worship, except for those persons responsible for

security at such place of worship;(d) libraries, public playgrounds, public parks, and zoos, provided that for the purposes of this section a "public park" shall not include (i) any privately held land within a public park not dedicated to public use or (ii) the forest preserve as defined in subdivision six of section 9-0101 of the environmental conservation law;(e) the location of any program licensed, regulated, certified, funded, or approved by the office of children and family services that provides services to children, youth, or young adults, any legally exempt childcare provider; a childcare program for which a permit to operate such program has been issued by the department of health and mental hygiene pursuant to the health code of the city of New York;(f) nursery schools, preschools, and summer camps; provided that for the purposes of this section, nothing shall prohibit the activity permitted under subdivisions seven-c, seven-d, and seven-e of section 265.20 of this article where such activity occurs at a summer camp in accordance with all applicable local, state, and federal laws, rules, and regulations;(g) the location of any program licensed, regulated, certified, operated, or funded by the office for people with developmental disabilities;(h) the location of any program licensed, regulated, certified, operated, or funded by office of addiction services and supports;(i) the location of any program licensed, regulated, certified, operated, or funded by the office of mental health;(j) the location of any program licensed, regulated, certified, operated, or funded by the office of temporary and disability assistance;(k) homeless shelters, runaway homeless youth shelters, family shelters, shelters for adults, domestic violence shelters, and emergency shelters, and residential programs for victims of domestic violence;(l) residential settings licensed, certified, regulated, funded, or operated by the department of health;(m) in or upon any building or grounds, owned or leased, of any educational institutions, colleges and universities, licensed private career schools, school districts, public schools, private schools licensed under article one hundred one of the education law, charter schools, non-public schools, board of cooperative educational services, special act schools, preschool special education programs, private residential or non-residential schools for the education of students with disabilities, and any state-operated or state-supported schools;(n) any place, conveyance, or vehicle used for public transportation or public transit, subway cars, train cars, buses, ferries, railroad, omnibus, marine or aviation transportation; or any facility used for or in connection with service in the transportation of passengers, airports, train stations, subway and rail stations, and bus terminals;(o) any establishment holding an active license for on-premise consumption pursuant to article four, four-A, five, or six of the alcoholic beverage control law where alcohol is consumed and any establishment licensed under article four of the cannabis law for on-premise consumption;(p) any place used for the performance, art entertainment, gaming, or sporting events such as theaters, stadiums, racetracks, museums, amusement parks, performance venues, concerts, exhibits, conference centers, banquet halls, and gaming facilities and video lottery terminal facilities as licensed by the gaming commission;(q) any location being used as a polling place;(r) any public sidewalk or other public area restricted from general public access for a limited time or special event that has been issued a permit for such time or event by a governmental entity, or subject to specific, heightened law enforcement protection, or has otherwise had such access restricted by a governmental entity, provided such location is identified as such by clear and conspicuous signage;(s) any gathering of individuals to collectively express their constitutional rights to protest or assemble;(t) the area commonly known as Times Square, as such area is determined and identified by the city of New York; provided such area shall be clearly and conspicuously identified with signage.3. This section shall not apply to:(a) qualified law enforcement officers who are authorized to carry concealed firearms pursuant to 18 U.S.C 926B, or qualified retired law enforcement officers who are authorized to carry concealed firearms pursuant to 18 U.S.C. 926C;(b) persons who are police officers as defined in subdivision thirty-four of section 1.20 of the criminal procedure law;(c) persons who are designated peace officers by section 2.10 of the criminal procedure law;(d) persons who were employed as police officers as defined in subdivision thirty-four of section 1.20 of the criminal procedure law but are retired;(e) security guards as defined by and registered under article seven-A of the general business law, who have been granted a special armed registration card, while at the location of their employment and during their work hours as such a security guard;(f) active-duty military personnel;(g) persons licensed under paragraph (c), (d) or (e) of subdivision two of section 400.00 of this chapter while in the course of his or her official duties;(h) a government employee under the express written consent of such employee's supervising government entity for the purposes of natural resource protection and management;(i) persons while lawfully engaged in taking of wildlife or attempts to take wildlife pursuant to a hunting permit or license issued by the department of environmental conservation, or as otherwise authorized pursuant to the environmental conservation law, and persons while lawfully engaged in hunter education training, marksmanship practice, marksmanship competition or training, or training in the safe handling and use of firearms, in accordance with all applicable local, state, and federal laws, rules, and regulations;(j) persons operating a program in a sensitive location out of their residence, which is licensed, certified, authorized, or funded by the state or a municipality, so long as such possession is in compliance with any rules or regulations applicable to the operation of such program and use or storage of firearms;(k) persons, while acting in the scope of their official duties, who are employed in the revenue control and security departments of the metropolitan transportation authority, or the New York city transit authority or an affiliate or subsidiary thereof, who are authorized to carry a firearm as part of their employment;(l) persons while lawfully engaged in historical reenactments, educational programming involving historical weapons of warfare, or motion picture or theatrical productions, in accordance with all applicable local, state, and federal laws, rules and regulations;(m) persons, while acting within the scope of their official duties, who are responsible for the storage or display of antique firearms, rifles or shotguns at museums and historic sites;(n) persons while participating in military ceremonies, funerals, and honor guards; or(o) persons while lawfully engaging in learning, practicing, training for, competing in, or travelling into or within the state to learn, practice, train for, or compete in, the sport of biathlon, in accordance with all applicable local, state, and federal laws, rules, and regulations.Criminal possession of a firearm, rifle or shotgun in a sensitive location is a class E felony. (a) any place owned or under the control of federal, state or local government, for the purpose of government administration, including courts; (b) any location providing health, behavioral health, or chemical

dependance care or services; (c) any place of worship, except for those persons responsible for security at such place of worship; (d) libraries, public playgrounds, public parks, and zoos, provided that for the purposes of this section a "public park" shall not include (i) any privately held land within a public park not dedicated to public use or (ii) the forest preserve as defined in subdivision six of section 9-0101 of the environmental conservation law; (e) the location of any program licensed, regulated, certified, funded, or approved by the office of children and family services that provides services to children, youth, or young adults, any legally exempt childcare provider; a childcare program for which a permit to operate such program has been issued by the department of health and mental hygiene pursuant to the health code of the city of New York; (f) nursery schools, preschools, and summer camps; provided that for the purposes of this section, nothing shall prohibit the activity permitted under subdivisions seven-c, seven-d, and seven-e of section 265.20 of this article where such activity occurs at a summer camp in accordance with all applicable local, state, and federal laws, rules, and regulations; (g) the location of any program licensed, regulated, certified, operated, or funded by the office for people with developmental disabilities; (h) the location of any program licensed, regulated, certified, operated, or funded by office of addiction services and supports; (i) the location of any program licensed, regulated, certified, operated, or funded by the office of mental health; (j) the location of any program licensed, regulated, certified, operated, or funded by the office of temporary and disability assistance; (k) homeless shelters, runaway homeless youth shelters, family shelters, shelters for adults, domestic violence shelters, and emergency shelters, and residential programs for victims of domestic violence; (l) residential settings licensed, certified, regulated, funded, or operated by the department of health; (m) in or upon any building or grounds, owned or leased, of any educational institutions, colleges and universities, licensed private career schools, school districts, public schools, private schools licensed under article one hundred one of the education law, charter schools, non-public schools, board of cooperative educational services, special act schools, preschool special education programs, private residential or non-residential schools for the education of students with disabilities, and any state-operated or state-supported schools; (n) any place, conveyance, or vehicle used for public transportation or public transit, subway cars, train cars, buses, ferries, railroad, omnibus, marine or aviation transportation; or any facility used for or in connection with service in the transportation of passengers, airports, train stations, subway and rail stations, and bus terminals; (o) any establishment holding an active license for on-premise consumption pursuant to article four, four-A, five, or six of the alcoholic beverage control law where alcohol is consumed and any establishment licensed under article four of the cannabis law for on-premise consumption; (p) any place used for the performance, art entertainment, gaming, or sporting events such as theaters, stadiums, racetracks, museums, amusement parks, performance venues, concerts, exhibits, conference centers, banquet halls, and gaming facilities and video lottery terminal facilities as licensed by the gaming commission; (q) any location being used as a polling place; (r) any public sidewalk or other public area restricted from general public access for a limited time or special event that has been issued a permit for such time or event by a governmental entity, or subject to specific, heightened law enforcement protection, or has otherwise had such access restricted by a governmental entity, provided such location is identified as such by clear and conspicuous signage; (s) any gathering of individuals to collectively express their constitutional rights to protest or assemble; (t) the area commonly known as Times Square, as such area is determined and identified by the city of New York; provided such area shall be clearly and conspicuously identified with signage. 3. This section shall not apply to: (a) qualified law enforcement officers who are authorized to carry concealed firearms pursuant to 18 U.S.C 926B, or qualified retired law enforcement officers who are authorized to carry concealed firearms pursuant to 18 U.S.C. 926C; (b) persons who are police officers as defined in subdivision thirty-four of section 1.20 of the criminal procedure law; (c) persons who are designated peace officers by section 2.10 of the criminal procedure law; (d) persons who were employed as police officers as defined in subdivision thirty-four of section 1.20 of the criminal procedure law but are retired; (e) security guards as defined by and registered under article seven-A of the general business law, who have been granted a special armed registration card, while at the location of their employment and during their work hours as such a security guard; (f) active-duty military personnel; (g) persons licensed under paragraph (c), (d) or (e) of subdivision two of section 400.00 of this chapter while in the course of his or her official duties; (h) a government employee under the express written consent of such employee's supervising government entity for the purposes of natural resource protection and management; (i) persons while lawfully engaged in taking of wildlife or attempts to take wildlife pursuant to a hunting permit or license issued by the department of environmental conservation, or as otherwise authorized pursuant to the environmental conservation law, and persons while lawfully engaged in hunter education training, marksmanship practice, marksmanship competition or training, or training in the safe handling and use of firearms, in accordance with all applicable local, state, and federal laws, rules, and regulations; (j) persons operating a program in a sensitive location out of their residence, which is licensed, certified, authorized, or funded by the state or a municipality, so long as such possession is in compliance with any rules or regulations applicable to the operation of such program and use or storage of firearms; (k) persons, while acting in the scope of their official duties, who are employed in the revenue control and security departments of the metropolitan transportation authority, or the New York city transit authority or an affiliate or subsidiary thereof, who are authorized to carry a firearm as part of their employment; (l) persons while lawfully engaged in historical reenactments, educational programming involving historical weapons of warfare, or motion picture or theatrical productions, in accordance with all applicable local, state, and federal laws, rules and regulations; (m) persons, while acting within the scope of their official duties, who are responsible for the storage or display of antique firearms, rifles or shotguns at museums and historic sites; (n) persons while participating in military ceremonies, funerals, and honor guards; or (o) persons while lawfully engaging in learning, practicing, training for, competing in, or travelling into or within the state to learn, practice, train for, or compete in, the sport of biathlon, in accordance with all applicable local, state, and federal laws, rules, and regulations. Criminal possession of a firearm, rifle or shotgun in a sensitive location is a class E felony.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.01 - Criminal Possession of a Weapon in the Fourth Degree.

A person is guilty of criminal possession of a weapon in the fourth degree when:(1) He or she possesses any firearm, electronic dart gun, electronic stun gun, switchblade knife, pilum ballistic knife, metal knuckle knife, cane sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, wrist-brace type slingshot or slungshot, shuriken, or throwing star;(2) He or she possesses any dagger, dangerous knife, dirk, machete, razor, stiletto, imitation pistol, undetectable knife or any other dangerous or deadly instrument or weapon with intent to use the same unlawfully against another; or(3); or(4) He possesses a rifle, shotgun, antique firearm, black powder rifle, black powder shotgun, or any muzzle-loading firearm, and has been convicted of a felony or serious offense; or(5) He possesses any dangerous or deadly weapon and is not a citizen of the United States; or(6) He is a person who has been certified not suitable to possess a rifle or shotgun, as defined in subdivision sixteen of section 265.00, and refuses to yield possession of such rifle or shotgun upon the demand of a police officer. Whenever a person is certified not suitable to possess a rifle or shotgun, a member of the police department to which such certification is made, or of the state police, shall forthwith seize any rifle or shotgun possessed by such person. A rifle or shotgun seized as herein provided shall not be destroyed, but shall be delivered to the headquarters of such police department, or state police, and there retained until the aforesaid certificate has been rescinded by the director or physician in charge, or other disposition of such rifle or shotgun has been ordered or authorized by a court of competent jurisdiction.(7) He knowingly possesses a bullet containing an explosive substance designed to detonate upon impact.(8) Such person possesses any armor piercing ammunition with intent to use the same unlawfully against another.* (9) Such person possesses a major component of a firearm, rifle, or shotgun and such person is prohibited from possessing a shotgun or rifle pursuant to:(i) this article;(ii) subsection (g) of section 922 of title 18 of the United States Code; or(iii) a temporary or final extreme risk protection order issued under article sixty-three-A of the civil practice law and rules; or* NB There are 2 sb (9)'s* (9) Such person is not licensed as a gunsmith or a dealer in firearms pursuant to section 400.00 of this chapter and, knowing it is a ghost gun, such person possesses a ghost gun, provided that a person shall not be guilty under this subdivision when he or she (a) voluntarily surrenders such ghost gun to any law enforcement official designated pursuant to subparagraph (f) of paragraph one of subdivision (a) of section 265.20 of this article; or (b) for a period of six months after the effective date of this section possesses a ghost gun prior to serialization and registration of such ghost gun pursuant to section 265.07 of this article.* NB There are 2 sb (9)'s(10) Such person is not licensed as a gunsmith or dealer in firearms pursuant to section 400.00 of this chapter and, knowing it is an unserialized frame or receiver or unfinished frame or receiver, such person possesses an unserialized frame or receiver or unfinished frame or receiver, provided that for a period of six months after the effective date of this subdivision, a person shall not be guilty under this subdivision when such person: (a) voluntarily surrenders such unserialized frame or receiver or unfinished frame or receiver to any law enforcement official designated pursuant to subparagraph (f) of paragraph one of subdivision (a) of section 265.20 of this article; or (b) possesses such unserialized frame or receiver or unfinished frame or receiver prior to serialization of such unserialized frame or receiver or unfinished frame or receiver in accordance with the requirements imposed on licensed importers and licensed manufacturers pursuant to subsection (i) of Section 923 of Title 18 of the United States Code and regulations issued pursuant thereto, except for antique firearms as defined in subdivision fourteen of section 265.00 of this article, as added by chapter nine hundred eighty-six of the laws of nineteen hundred seventy-four, or any firearm, rifle or shotgun manufactured prior to nineteen hundred sixty-eight.Criminal possession of a weapon in the fourth degree is a class A misdemeanor. (1) He or she possesses any firearm, electronic dart gun, electronic stun gun, switchblade knife, pilum ballistic knife, metal knuckle knife, cane sword, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, chuka stick, sand bag, sandclub, wrist-brace type slingshot or slungshot, shuriken, or throwing star; (2) He or she possesses any dagger, dangerous knife, dirk, machete, razor, stiletto, imitation pistol, undetectable knife or any other dangerous or deadly instrument or weapon with intent to use the same unlawfully against another; or (3); or (4) He possesses a rifle, shotgun, antique firearm, black powder rifle, black powder shotgun, or any muzzle-loading firearm, and has been convicted of a felony or serious offense; or (5) He possesses any dangerous or deadly weapon and is not a citizen of the United States; or (6) He is a person who has been certified not suitable to possess a rifle or shotgun, as defined in subdivision sixteen of section 265.00, and refuses to yield possession of such rifle or shotgun upon the demand of a police officer. Whenever a person is certified not suitable to possess a rifle or shotgun, a member of the police department to which such certification is made, or of the state police, shall forthwith seize any rifle or shotgun possessed by such person. A rifle or shotgun seized as herein provided shall not be destroyed, but shall be delivered to the headquarters of such police department, or state police, and there retained until the aforesaid certificate has been rescinded by the director or physician in charge, or other disposition of such rifle or shotgun has been ordered or authorized by a court of competent jurisdiction. (7) He knowingly possesses a bullet containing an explosive substance designed to detonate upon impact. (8) Such person possesses any armor piercing ammunition with intent to use the same unlawfully against another. * (9) Such person possesses a major component of a firearm, rifle, or shotgun and such person is prohibited from possessing a shotgun or rifle pursuant to: (i) this article; (ii) subsection (g) of section 922 of title 18 of the United States Code; or (iii) a temporary or final extreme risk protection order issued under article sixty-three-A of the civil practice law and rules; or * NB There are 2 sb (9)'s * (9) Such person is not licensed as a gunsmith or a dealer in firearms pursuant to section 400.00 of this chapter and, knowing it is a ghost gun, such person possesses a ghost gun, provided that a person shall not be guilty under this subdivision when he or she (a) voluntarily surrenders such ghost gun to any law enforcement official designated pursuant to subparagraph (f) of paragraph one of subdivision (a) of section 265.20 of this article; or (b) for a period of six months

after the effective date of this section possesses a ghost gun prior to serialization and registration of such ghost gun pursuant to section 265.07 of this article. * NB There are 2 sb (9)'s (10) Such person is not licensed as a gunsmith or dealer in firearms pursuant to section 400.00 of this chapter and, knowing it is an unserialized frame or receiver or unfinished frame or receiver, such person possesses an unserialized frame or receiver or unfinished frame or receiver, provided that for a period of six months after the effective date of this subdivision, a person shall not be guilty under this subdivision when such person: (a) voluntarily surrenders such unserialized frame or receiver or unfinished frame or receiver to any law enforcement official designated pursuant to subparagraph (f) of paragraph one of subdivision (a) of section 265.20 of this article; or (b) possesses such unserialized frame or receiver or unfinished frame or receiver prior to serialization of such unserialized frame or receiver or unfinished frame or receiver in accordance with the requirements imposed on licensed importers and licensed manufacturers pursuant to subsection (i) of Section 923 of Title 18 of the United States Code and regulations issued pursuant thereto, except for antique firearms as defined in subdivision fourteen of section 265.00 of this article, as added by chapter nine hundred eighty-six of the laws of nineteen hundred seventy-four, or any firearm, rifle or shotgun manufactured prior to nineteen hundred sixty-eight. Criminal possession of a weapon in the fourth degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.02 - Criminal Possession of a Weapon in the Third Degree.

A person is guilty of criminal possession of a weapon in the third degree when:(1) Such person commits the crime of criminal possession of a weapon in the fourth degree as defined in subdivision one, two, three or five of section 265.01, and has been previously convicted of any crime; or(2) Such person possesses any explosive or incendiary bomb, bombshell, firearm silencer, machine-gun or any other firearm or weapon simulating a machine-gun and which is adaptable for such use; or(3) Such person knowingly possesses a machine-gun, firearm, rifle or shotgun which has been defaced for the purpose of concealment or prevention of the detection of a crime or misrepresenting the identity of such machine-gun, firearm, rifle or shotgun; or(5) (i) Such person possesses three or more firearms; or (ii) such person possesses a firearm and has been previously convicted of a felony or a class A misdemeanor defined in this chapter within the five years immediately preceding the commission of the offense and such possession did not take place in the person's home or place of business; or(6) Such person knowingly possesses any disguised gun; or(7) Such person possesses an assault weapon; or(8) Such person possesses a large capacity ammunition feeding device; or(9) Such person possesses an unloaded firearm and also commits a drug trafficking felony as defined in subdivision twenty-one of section 10.00 of this chapter as part of the same criminal transaction; or(10) Such person possesses an unloaded firearm and also commits any violent felony offense as defined in subdivision one of section 70.02 of this chapter as part of the same criminal transaction.Criminal possession of a weapon in the third degree is a class D felony. (1) Such person commits the crime of criminal possession of a weapon in the fourth degree as defined in subdivision one, two, three or five of section 265.01, and has been previously convicted of any crime; or (2) Such person possesses any explosive or incendiary bomb, bombshell, firearm silencer, machine-gun or any other firearm or weapon simulating a machine-gun and which is adaptable for such use; or (3) Such person knowingly possesses a machine-gun, firearm, rifle or shotgun which has been defaced for the purpose of concealment or prevention of the detection of a crime or misrepresenting the identity of such machine-gun, firearm, rifle or shotgun; or (5) (i) Such person possesses three or more firearms; or (ii) such person possesses a firearm and has been previously convicted of a felony or a class A misdemeanor defined in this chapter within the five years immediately preceding the commission of the offense and such possession did not take place in the person's home or place of business; or (6) Such person knowingly possesses any disguised gun; or (7) Such person possesses an assault weapon; or (8) Such person possesses a large capacity ammunition feeding device; or (9) Such person possesses an unloaded firearm and also commits a drug trafficking felony as defined in subdivision twenty-one of section 10.00 of this chapter as part of the same criminal transaction; or (10) Such person possesses an unloaded firearm and also commits any violent felony offense as defined in subdivision one of section 70.02 of this chapter as part of the same criminal transaction. Criminal possession of a weapon in the third degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.03 - Criminal Possession of a Weapon in the Second Degree.

A person is guilty of criminal possession of a weapon in the second degree when:(1) with intent to use the same unlawfully against another, such person:(a) possesses a machine-gun; or(b) possesses a loaded firearm; or(c) possesses a disguised gun; or(2) such person possesses five or more firearms; or(3) such person possesses any loaded firearm. Such possession shall not, except as provided in subdivision one or seven of section 265.02 of this article, constitute a violation of this subdivision if such possession takes place in such person's home or place of business.Criminal possession of a weapon in the second degree is a class C felony. (1) with intent to use the same unlawfully against another, such person: (a) possesses a machine-gun; or (b) possesses a loaded firearm; or (c) possesses a disguised gun; or (2) such person possesses five or more firearms; or (3) such person possesses any loaded firearm. Such possession shall not, except as provided in subdivision one or seven of section 265.02 of this article, constitute a violation of this subdivision if such possession takes place in such person's home or place of business. Criminal possession of a weapon in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.04 - Criminal Possession of a Weapon in the First Degree.

A person is guilty of criminal possession of a weapon in the first degree when such person:(1) possesses any explosive substance with intent to use the same unlawfully against the person or property of another; or(2) possesses ten or more firearms.Criminal possession of a weapon in the first degree is a class B felony. (1) possesses any explosive substance with intent to use the same unlawfully against the person or property of another; or (2) possesses ten or more firearms. Criminal possession of a weapon in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.05 - Unlawful Possession of Weapons by Persons Under Sixteen.

It shall be unlawful for any person under the age of sixteen to possess any air-gun, spring-gun or other instrument or weapon in which the propelling force is a spring or air, or any gun or any instrument or weapon in or upon which any loaded or blank cartridges may be used, or any loaded or blank cartridges or ammunition therefor, or any dangerous knife; provided that the possession of rifle or shotgun or ammunition therefor by the holder of a hunting license or permit issued pursuant to article eleven of the environmental conservation law and used in accordance with said law shall not be governed by this section. A person who violates the provisions of this section shall be adjudged a juvenile delinquent.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.06 - Unlawful Possession of a Weapon Upon School Grounds.

It shall be unlawful for any person age sixteen or older to knowingly possess any air-gun, spring-gun or other instrument or weapon in which the propelling force is a spring, air, piston or CO2 cartridge in or upon a building or grounds, used for educational purposes, of any school, college or university, without the written authorization of such educational institution. Unlawful possession of a weapon upon school grounds is a violation.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.07 - Registration and Serialization of Firearms, Rifles, Shotguns, Finished Frames or Receivers, and Unfinished Frames or Receivers.

finished frames or receivers, and unfinished frames or receivers.(1) For the purposes of this section, "unfinished frame or receiver" means any unserialized material that does not constitute the frame or receiver of a firearm, rifle or shotgun but that has been shaped or formed in any way for the purpose of becoming the frame or receiver of a firearm, rifle or shotgun, and which may readily be made into a functional frame or receiver through milling, drilling or other means.(2) On or before the effective date of this section, and promptly upon taking possession thereof at any time thereafter, any person licensed as a gunsmith, or required to be, or a dealer in firearms pursuant to section 400.00 of this chapter, who is in possession of an unserialized firearm, rifle, shotgun, finished frame or receiver, or unfinished frame or receiver shall:(a) engrave, cast, stamp or otherwise conspicuously place both a unique serial number and his or her name (or recognized abbreviation) on such firearm, rifle, shotgun, finished frame or receiver, or unfinished frame or receiver, in a manner that satisfies or exceeds the requirements imposed on licensed importers and manufacturers pursuant to section (i) of Section 923 of Title 18 of the United States Code and regulations issued pursuant thereto at the time of such assembly; and(b) register with the division of criminal justice services in accordance with regulations promulgated by such division any such firearm, rifle or shotgun, finished frame or receiver, or unfinished frame or receiver.Any person licensed as a gunsmith, or required to be, or a dealer in firearms pursuant to section 400.00 of this chapter who fails to comply with the provisions of this section shall be guilty of a class E felony. (1) For the purposes of this section, "unfinished frame or receiver" means any unserialized material that does not constitute the frame or receiver of a firearm, rifle or shotgun but that has been shaped or formed in any way for the purpose of becoming the frame or receiver of a firearm, rifle or shotgun, and which may readily be made into a functional frame or receiver through milling, drilling or other means. (2) On or before the effective date of this section, and promptly upon taking possession thereof at any time thereafter, any person licensed as a gunsmith, or required to be, or a dealer in firearms pursuant to section 400.00 of this chapter, who is in possession of an unserialized firearm, rifle, shotgun, finished frame or receiver, or unfinished frame or receiver shall: (a) engrave, cast, stamp or otherwise conspicuously place both a unique serial number and his or her name (or recognized abbreviation) on such firearm, rifle, shotgun, finished frame or receiver, or unfinished frame or receiver, in a manner that satisfies or exceeds the requirements imposed on licensed importers and manufacturers pursuant to section (i) of Section 923 of Title 18 of the United States Code and regulations issued pursuant thereto at the time of such assembly; and (b) register with the division of criminal justice services in accordance with regulations promulgated by such division any such firearm, rifle or shotgun, finished frame or receiver, or unfinished frame or receiver. Any person licensed as a gunsmith, or required to be, or a dealer in firearms pursuant to section 400.00 of this chapter who fails to comply with the provisions of this section shall be guilty of a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.08 - Criminal Use of a Firearm in the Second Degree.

A person is guilty of criminal use of a firearm in the second degree when he commits any class C violent felony offense as defined in paragraph (b) of subdivision one of section 70.02 and he either:(1) possesses a deadly weapon, if the weapon is a loaded weapon from which a shot, readily capable of producing death or other serious injury may be discharged; or(2) displays what appears to be a

pistol, revolver, rifle, shotgun, machine gun or other firearm.Criminal use of a firearm in the second degree is a class C felony. (1) possesses a deadly weapon, if the weapon is a loaded weapon from which a shot, readily capable of producing death or other serious injury may be discharged; or (2) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm. Criminal use of a firearm in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.09 - Criminal Use of a Firearm in the First Degree.

(1) A person is guilty of criminal use of a firearm in the first degree when he commits any class B violent felony offense as defined in paragraph (a) of subdivision one of section 70.02 and he either: (a) possesses a deadly weapon, if the weapon is a loaded weapon from which a shot, readily capable of producing death or other serious injury may be discharged; or (b) displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm. Criminal use of a firearm in the first degree is a class B felony. (2) Sentencing. Notwithstanding any other provision of law to the contrary, when a person is convicted of criminal use of a firearm in the first degree as defined in subdivision one of this section, the court shall impose an additional consecutive sentence of five years to the sentence imposed on the underlying class B violent felony offense where the person convicted of such crime displays a loaded weapon from which a shot, readily capable of producing death or other serious injury may be discharged, in furtherance of the commission of such crime, provided, however, that such additional sentence shall not be imposed if the court, having regard to the nature and circumstances of the crime and to the history and character of the defendant, finds on the record that such additional consecutive sentence would be unduly harsh and that not imposing such sentence would be consistent with the public safety and would not deprecate the seriousness of the crime. Notwithstanding any other provision of law to the contrary, the aggregate of the five year consecutive term imposed pursuant to this subdivision and the minimum term of the indeterminate sentence imposed on the underlying class B violent felony shall constitute the new aggregate minimum term of imprisonment, and a person subject to such term shall be required to serve the entire aggregate minimum term and shall not be eligible for release on parole or conditional release during such term. This subdivision shall not apply where the defendant's criminal liability for displaying a loaded weapon from which a shot, readily capable of producing death or other serious injury may be discharged, in furtherance of the commission of crime is based on the conduct of another pursuant to section 20.00 of this chapter.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.10 - Manufacture, Transport, Disposition and Defacement of Weapons and Dangerous Instruments and Appliances.

and dangerous instruments and appliances. 1. Any person who manufactures or causes to be manufactured any machine-gun, assault weapon, large capacity ammunition feeding device or disguised gun is guilty of a class D felony. Any person who manufactures or causes to be manufactured any rapid-fire modification device is guilty of a class E felony. Any person who manufactures or causes to be manufactured any switchblade knife, pilum ballistic knife, metal knuckle knife, undetectable knife, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, throwing star, chuka stick, sandbag, sandclub or slungshot is guilty of a class A misdemeanor. 2. Any person who transports or ships any machine-gun, firearm silencer, assault weapon or large capacity ammunition feeding device or disguised gun, or who transports or ships as merchandise five or more firearms, is guilty of a class D felony. Any person who transports or ships any rapid-fire modification device is guilty of a class E felony. Any person who transports or ships as merchandise any firearm, other than an assault weapon, switchblade knife, pilum ballistic knife, undetectable knife, billy, blackjack, bludgeon, plastic knuckles, metal knuckles, throwing star, chuka stick, sandbag or slungshot is guilty of a class A misdemeanor. 3. Any person who disposes of any machine-gun, assault weapon, large capacity ammunition feeding device or firearm silencer is guilty of a class D felony. Any person who disposes of any rapid-fire modification device is guilty of a class E felony. Any person who knowingly buys, receives, disposes of, or conceals a machine-gun, firearm, large capacity ammunition feeding device, rifle or shotgun which has been defaced for the purpose of concealment or prevention of the detection of a crime or misrepresenting the identity of such machine-gun, firearm, large capacity ammunition feeding device, rifle or shotgun is guilty of a class D felony. 4. Any person who disposes of any of the weapons, instruments or appliances specified in subdivision one of section 265.01, except a firearm, is guilty of a class A misdemeanor, and he is guilty of a class D felony if he has previously been convicted of any crime. 5. Any person who disposes of any of the weapons, instruments, appliances or substances specified in section 265.05 to any other person under the age of sixteen years is guilty of a class A misdemeanor. 6. Any person who wilfully defaces any machine-gun, large capacity ammunition feeding device or firearm is guilty of a class D felony. 7. Any person, other than a wholesale dealer, or gunsmith or dealer in firearms duly licensed pursuant to section 400.00 of this chapter, lawfully in possession of a firearm or semiautomatic rifle, who disposes of the same without first notifying in writing the licensing officer in the city of New York and counties of Nassau and Suffolk and elsewhere in the state the executive department, division of state police, Albany, is guilty of a class A misdemeanor. 8. Any person, dealer, firm, partnership or corporation who intentionally designs or transforms a firearm, rifle, shotgun or machine-gun to resemble a toy gun by either altering or concealing the original color or surface of the gun with the purpose of selling such weapon is guilty of a class D felony. 9. Any person who modifies a microstamping-enabled pistol or microstamping component with the intent to prevent the production of a microstamp is, for a first offense, guilty of a class B misdemeanor, and for a second or subsequent offense, is guilty of a class A misdemeanor. For the purposes of this subdivision, it shall not be unlawful to replace the microstamping component of a microstamping-enabled pistol when the component is damaged or in need of replacement with another valid microstamping component for the safe use of the firearm or replacing such pin for a

legitimate sporting purpose that is only used for that legitimate purpose.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.11 - Criminal Sale of a Firearm in the Third Degree.

A person is guilty of criminal sale of a firearm in the third degree when such person is not authorized pursuant to law to possess a firearm and such person unlawfully either:(1) sells, exchanges, gives or disposes of a firearm or large capacity ammunition feeding device to another person; or(2) possesses a firearm with the intent to sell it.Criminal sale of a firearm in the third degree is a class D felony. (1) sells, exchanges, gives or disposes of a firearm or large capacity ammunition feeding device to another person; or (2) possesses a firearm with the intent to sell it. Criminal sale of a firearm in the third degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.12 - Criminal Sale of a Firearm in the Second Degree.

A person is guilty of criminal sale of a firearm in the second degree when such person:(1) unlawfully sells, exchanges, gives or disposes of to another five or more firearms; or(2) unlawfully sells, exchanges, gives or disposes of to another person or persons a total of two or more firearms in a period of not more than one year.Criminal sale of a firearm in the second degree is a class C felony. (1) unlawfully sells, exchanges, gives or disposes of to another five or more firearms; or (2) unlawfully sells, exchanges, gives or disposes of to another person or persons a total of two or more firearms in a period of not more than one year. Criminal sale of a firearm in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.13 - Criminal Sale of a Firearm in the First Degree.

A person is guilty of criminal sale of a firearm in the first degree when such person:(1) unlawfully sells, exchanges, gives or disposes of to another ten or more firearms; or(2) unlawfully sells, exchanges, gives or disposes of to another person or persons a total of three or more firearms in a period of not more than one year.Criminal sale of a firearm in the first degree is a class B felony. (1) unlawfully sells, exchanges, gives or disposes of to another ten or more firearms; or (2) unlawfully sells, exchanges, gives or disposes of to another person or persons a total of three or more firearms in a period of not more than one year. Criminal sale of a firearm in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.14 - Criminal Sale of a Firearm With the Aid of a Minor.

A person over the age of eighteen years of age is guilty of criminal sale of a weapon with the aid of a minor when a person under sixteen years of age knowingly and unlawfully sells, exchanges, gives or disposes of a firearm in violation of this article, and such person over the age of eighteen years of age, acting with the mental culpability required for the commission thereof, solicits, requests, commands, importunes or intentionally aids such person under sixteen years of age to engage in such conduct. Criminal sale of a firearm with the aid of a minor is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.15 - Presumptions of Possession, Unlawful Intent and Defacement.

1. The presence in any room, dwelling, structure or vehicle of any machine-gun is presumptive evidence of its unlawful possession by all persons occupying the place where such machine-gun is found. 2. The presence in any stolen vehicle of any weapon, instrument, appliance or substance specified in sections 265.01, 265.02, 265.03, 265.04 and 265.05 is presumptive evidence of its possession by all persons occupying such vehicle at the time such weapon, instrument, appliance or substance is found. 3. The presence in an automobile, other than a stolen one or a public omnibus, of any firearm, large capacity ammunition feeding device, defaced firearm, defaced rifle or shotgun, defaced large capacity ammunition feeding device, firearm silencer, explosive or incendiary bomb, bombshell, switchblade knife, pilum ballistic knife, metal knuckle knife, dagger, dirk, stiletto, billy, blackjack, plastic knuckles, metal knuckles, chuka stick, sandbag, sandclub or slungshot is presumptive evidence of its possession by all persons occupying such automobile at the time such weapon, instrument or appliance is found, except under the following circumstances: (a) if such weapon, instrument or appliance is found upon the person of one of the occupants therein; (b) if such weapon, instrument or appliance is found in an automobile which is being operated for hire by a duly licensed driver in the due, lawful and proper pursuit of his or her trade, then such presumption shall not apply to the driver; or (c) if the weapon so found is a pistol or revolver and one of the occupants, not present under duress, has in his or her possession a valid license to have and carry concealed the same. 4. The possession by any person of the substance as specified in section 265.04 is presumptive evidence of possessing such substance with intent to use the same unlawfully against the person or property of another if such person is not licensed or otherwise authorized to possess such substance. The possession by any person of any dagger, dirk, stiletto, dangerous knife or any other weapon, instrument, appliance or substance designed, made or adapted for use primarily as a weapon, is presumptive evidence of intent to use the same unlawfully against another. 5. The possession by any person of a defaced machine-gun, firearm, rifle or shotgun is presumptive evidence that such person defaced the same. 6. The possession of three or more firearms by any person is presumptive evidence that such person possessed the firearms with the intent to sell same.

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2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.16 - Criminal Sale of a Firearm to a Minor.

A person is guilty of criminal sale of a firearm to a minor when he is not authorized pursuant to law to possess a firearm and he unlawfully sells, exchanges, gives or disposes of a firearm to another person who is or reasonably appears to be less than nineteen years of age who is not licensed pursuant to law to possess a firearm. Criminal sale of a firearm to a minor is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.17 - Criminal Purchase or Disposal of a Weapon.

A person is guilty of criminal purchase or disposal of a weapon when: 1. Knowing that he or she is prohibited by law from possessing a firearm, rifle or shotgun because of a prior conviction or because of some other disability which would render him or her ineligible to lawfully possess a firearm, rifle or shotgun in this state, or knowing that he or she is the subject of an outstanding warrant of arrest issued upon the alleged commission of a felony or serious offense, such person purchases or otherwise acquires a firearm, rifle or shotgun from another person; or 2. Knowing that it would be unlawful for another person to possess a firearm, rifle or shotgun, or knowing that another person is the subject of an outstanding warrant of arrest issued upon the alleged commission of a felony or serious offense, he or she purchases or otherwise acquires a firearm, rifle or shotgun for, on behalf of, or for the use of such other person; or 3. Knowing that another person is prohibited by law from possessing a firearm, rifle or shotgun because of a prior conviction or because of some other disability which would render him or her ineligible to lawfully possess a firearm, rifle or shotgun in this state, or knowing that another person is the subject of an outstanding warrant of arrest issued upon the alleged commission of a felony or serious offense, a person disposes of a firearm, rifle or shotgun to such other person. Criminal purchase or disposal of a weapon is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.19 - Aggravated Criminal Possession of a Weapon.

A person is guilty of aggravated criminal possession of a weapon when he or she commits the crime of criminal possession of a weapon in the second degree as defined in subdivision three of section 265.03 of this article and also commits any violent felony offense as defined in subdivision one of section 70.02 of this chapter or a drug trafficking felony as defined in subdivision twenty-one of section 10.00 of this chapter arising out of the same criminal transaction. Aggravated criminal possession of a weapon is a class C felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.20 - Exemptions.

a. Paragraph (h) of subdivision twenty-two of section 265.00 and sections 265.01, 265.01-a, 265.01-b, 265.01-c, 265.02, 265.03, 265.04, 265.05, 265.10, 265.11, 265.12, 265.13, 265.15, 265.36, 265.37, 265.50, 265.55 and 270.05 shall not apply to: 1. Possession of any of the weapons, instruments, appliances or substances specified in sections 265.01, 265.01-c, 265.02, 265.03, 265.04, 265.05, 265.50, 265.55 and 270.05 by the following:(a) Persons in the military service of the state of New York when duly authorized by regulations issued by the adjutant general to possess the same.(b) Police officers as defined in subdivision thirty-four of section 1.20 of the criminal procedure law.(c) Peace officers as defined by section 2.10 of the criminal procedure law.(d) Persons in the military or other service of the United States, in pursuit of official duty or when duly authorized by federal law, regulation or order to possess the same.(e) Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the same is necessary for manufacture, transport, installation and testing under the requirements of such contract.(f) A person voluntarily surrendering such weapon, instrument, appliance or substance, provided that such surrender shall be made to the superintendent of the division of state police or a member thereof designated by such superintendent, or to the sheriff of the county in which such person resides, or in the county of Nassau or in the towns of Babylon, Brookhaven, Huntington, Islip and Smithtown in the county of Suffolk to the commissioner of police or a member of the police department thereof designated by such commissioner, or if such person resides in a city, town other than one named in this subparagraph, or village to the police commissioner or head of the police force or department thereof or to a member of the force or department designated by such commissioner or head; and provided, further, that the same shall be surrendered by such person in accordance with such terms and conditions as may be established by such superintendent, sheriff, police force or department. Nothing in this paragraph shall be construed as granting immunity from prosecution for any crime or offense except that of unlawful possession of such weapons, instruments, appliances or substances surrendered as herein provided. A person who possesses any such weapon, instrument, appliance or substance as an executor or administrator or any other lawful possessor of such property of a decedent may continue to possess such property for a period not over fifteen days. If such property is not lawfully disposed of within such period the possessor shall deliver it to an appropriate official described in this paragraph or such property may be delivered to the superintendent of state police. Such officer shall hold it and shall thereafter deliver it on the written request of such executor, administrator or other lawful possessor of such property to a named person, provided such named person is licensed to or is otherwise lawfully permitted to possess the same. If no request to deliver the property is received by such official within one year of the delivery of such property, such official shall dispose of it in accordance with the provisions of section 400.05 of this chapter.2. Possession of a machine-gun,

large capacity ammunition feeding device, rapid-fire modification device, firearm, switchblade knife, pilum ballistic knife, billy or blackjack by a warden, superintendent, headkeeper or deputy of a state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or detained as witnesses in criminal cases, in pursuit of official duty or when duly authorized by regulation or order to possess the same.3. Possession of a pistol or revolver by a person to whom a license therefor has been issued as provided under section 400.00 or 400.01 of this chapter or possession of a weapon as defined in paragraph (e) or (f) of subdivision twenty-two of section 265.00 of this article which is registered pursuant to paragraph (a) of subdivision sixteen-a of section 400.00 of this chapter or is included on an amended license issued pursuant to section 400.00 of this chapter. In the event such license is revoked, other than because such licensee is no longer permitted to possess a firearm, rifle or shotgun under federal or state law, information sufficient to satisfy the requirements of subdivision sixteen-a of section 400.00 of this chapter, shall be transmitted by the licensing officer to the state police, in a form as determined by the superintendent of state police. Such transmission shall constitute a valid registration under such section. Further provided, notwithstanding any other section of this title, a failure to register such weapon by an individual who possesses such weapon before the enactment of the chapter of the laws of two thousand thirteen which amended this paragraph and may so lawfully possess it thereafter upon registration, shall only be subject to punishment pursuant to paragraph (c) of subdivision sixteen-a of section 400.00 of this chapter; provided, that such a license or registration shall not preclude a conviction for the offense defined in subdivision three of section 265.01 of this article or section 265.01-a of this article.3-a. Possession of a pistol or revolver by a person undergoing live-fire range training pursuant to section 400.00 of this chapter while such person is undergoing such training and is supervised by a duly authorized instructor.4. Possession of a rifle, shotgun, crossbow or longbow for use while hunting, trapping or fishing, by a person, not a citizen of the United States, carrying a valid license issued pursuant to section 11-0713 of the environmental conservation law.5. Possession of a rifle or shotgun by a person other than a person who has been convicted of a class A-I felony or a violent felony offense, as defined in subdivision one of section 70.02 of this chapter, who has been convicted as specified in subdivision four of section 265.01 to whom a certificate of good conduct has been issued pursuant to section seven hundred three-b of the correction law.6. Possession of a switchblade for use while hunting, trapping or fishing by a person carrying a valid license issued to him pursuant to section 11-0713 of the environmental conservation law.7. Possession, at an indoor or outdoor shooting range for the purpose of loading and firing, of a rifle or shotgun, the propelling force of which is gunpowder by a person under sixteen years of age but not under twelve, under the immediate supervision, guidance and instruction of (a) a duly commissioned officer of the United States army, navy, air force, marine corps or coast guard, or of the national guard of the state of New York; or (b) a duly qualified adult citizen of the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy, air force or marine corps, or by the adjutant general of this state, by the national rifle association of America, a not-for-profit corporation duly organized under the laws of this state, or by a New York state 4-H certified shooting sports instructor; or (c) a parent, guardian, or a person over the age of eighteen designated in writing by such parent or guardian who shall have a certificate of qualification in responsible hunting, including safety, ethics, and landowner relations-hunter relations, issued or honored by the department of environmental conservation; or (d) an agent of the department of environmental conservation appointed to conduct courses in responsible hunting practices pursuant to article eleven of the environmental conservation law.7-a. Possession and use, at an indoor or outdoor pistol range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in small arms or at a target pistol shooting competition under the auspices of or approved by the national rifle association for the purpose of loading and firing the same, by a person duly licensed to possess a pistol or revolver pursuant to section 400.00 or 400.01 of this chapter of a pistol or revolver duly so licensed to another person who is present at the time.7-b. Possession and use, at an indoor or outdoor pistol range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in small arms or at a target pistol shooting competition under the auspices of or approved by the national rifle association for the purpose of loading and firing the same, by a person who has applied for a license to possess a pistol or revolver and pre-license possession of same pursuant to section 400.00 or 400.01 of this chapter, who has not been previously denied a license, been previously convicted of a felony or serious offense, and who does not appear to be, or pose a threat to be, a danger to himself or to others, and who has been approved for possession and use herein in accordance with section 400.00 or 400.01 of this chapter; provided however, that such possession shall be of a pistol or revolver duly licensed to and shall be used under the supervision, guidance and instruction of, a person specified in paragraph seven of this subdivision and provided further that such possession and use be within the jurisdiction of the licensing officer with whom the person has made application therefor or within the jurisdiction of the superintendent of state police in the case of a retired sworn member of the division of state police who has opted to make an application pursuant to section 400.01 of this chapter.7-c. Possession for the purpose of loading and firing, of a rifle, pistol or shotgun, the propelling force of which may be either air, compressed gas or springs, by a person under sixteen years of age but not under twelve, under the immediate supervision, guidance and instruction of (a) a duly commissioned officer of the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York; or (b) a duly qualified adult citizen of the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy or marine corps, or by the adjutant general of this state, by the national rifle association of America, a not-for-profit corporation duly organized under the laws of this state, or by a New York state 4-H certified shooting sports instructor; or (c) a parent, guardian, or a person over the age of eighteen designated in writing by such parent or guardian who shall have a certificate of qualification in responsible hunting, including safety, ethics, and landowner relations-hunter relations, issued or honored by the department of environmental conservation.7-d. Possession, at an indoor or outdoor shooting range for the purpose of

loading and firing, of a rifle, pistol or shotgun, the propelling force of which may be either air, compressed gas or springs, by a person under twelve years of age, under the immediate supervision, guidance and instruction of (a) a duly commissioned officer of the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York; or (b) a duly qualified adult citizen of the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy or marine corps, or by the adjutant general of this state, by the national rifle association of America, a not-for-profit corporation duly organized under the laws of this state, or by a New York state 4-H certified shooting sports instructor; or (c) a parent, guardian, or a person over the age of eighteen designated in writing by such parent or guardian who shall have a certificate of qualification in responsible hunting, including safety, ethics, and landowner relations-hunter relations, issued or honored by the department of environmental conservation.7-e. Possession and use of a pistol or revolver, at an indoor or outdoor pistol range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in small arms or at a target pistol shooting competition under the auspices of or approved by an association or organization described in paragraph 7-a of this subdivision for the purpose of loading and firing the same by a person at least fourteen years of age but under the age of twenty-one who has not been previously convicted of a felony or serious offense, and who does not appear to be, or pose a threat to be, a danger to himself or to others; provided however, that such possession shall be of a pistol or revolver duly licensed to and shall be used under the immediate supervision, guidance and instruction of, a person specified in paragraph seven of this subdivision.7-f. Possession and use of a magazine, belt, feed strip or similar device, that contains more than seven rounds of ammunition, but that does not have a capacity of or can readily be restored or converted to accept more than ten rounds of ammunition, at an indoor or outdoor firing range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in arms; at an indoor or outdoor firing range for the purpose of firing a rifle or shotgun; at a collegiate, olympic or target shooting competition under the auspices of or approved by the national rifle association; or at an organized match sanctioned by the International Handgun Metallic Silhouette Association.8. The manufacturer of machine-guns, firearm silencers, assault weapons, large capacity ammunition feeding devices, rapid-fire modification devices, disguised guns, pilum ballistic knives, switchblade or gravity knives, billies or blackjacks as merchandise, or as a transferee recipient of the same for repair, lawful distribution or research and development, and the disposal and shipment thereof direct to a regularly constituted or appointed state or municipal police department, sheriff, police officer or other peace officer, or to a state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or held as witnesses in criminal cases, or to the military service of this state or of the United States; or for the repair and return of the same to the lawful possessor or for research and development.9. The regular and ordinary transport of firearms as merchandise, provided that the person transporting such firearms, where he knows or has reasonable means of ascertaining what he is transporting, notifies in writing the police commissioner, police chief or other law enforcement officer performing such functions at the place of delivery, of the name and address of the consignee and the place of delivery, and withholds delivery to the consignee for such reasonable period of time designated in writing by such police commissioner, police chief or other law enforcement officer as such official may deem necessary for investigation as to whether the consignee may lawfully receive and possess such firearms.9-a. a. Except as provided in subdivision b hereof, the regular and ordinary transport of pistols or revolvers by a manufacturer of firearms to whom a license as a dealer in firearms has been issued pursuant to section 400.00 of this chapter, or by an agent or employee of such manufacturer of firearms who is otherwise duly licensed to carry a pistol or revolver and who is duly authorized in writing by such manufacturer of firearms to transport pistols or revolvers on the date or dates specified, directly between places where the manufacturer of firearms regularly conducts business provided such pistols or revolvers are transported unloaded, in a locked opaque container. For purposes of this subdivision, places where the manufacturer of firearms regularly conducts business includes, but is not limited to places where the manufacturer of firearms regularly or customarily conducts development or design of pistols or revolvers, or regularly or customarily conducts tests on pistols or revolvers, or regularly or customarily participates in the exposition of firearms to the public.b. The transportation of such pistols or revolvers into, out of or within the city of New York may be done only with the consent of the police commissioner of the city of New York. To obtain such consent, the manufacturer must notify the police commissioner in writing of the name and address of the transporting manufacturer, or agent or employee of the manufacturer who is authorized in writing by such manufacturer to transport pistols or revolvers, the number, make and model number of the firearms to be transported and the place where the manufacturer regularly conducts business within the city of New York and such other information as the commissioner may deem necessary. The manufacturer must not transport such pistols and revolvers between the designated places of business for such reasonable period of time designated in writing by the police commissioner as such official may deem necessary for investigation and to give consent. The police commissioner may not unreasonably withhold his consent.10. Engaging in the business of gunsmith or dealer in firearms by a person to whom a valid license therefor has been issued pursuant to section 400.00.11. Possession of a firearm or large capacity ammunition feeding device by a police officer or sworn peace officer of another state while conducting official business within the state of New York.12. Possession of a pistol or revolver by a person who is a member or coach of an accredited college or university target pistol team while transporting the pistol or revolver into or through New York state to participate in a collegiate, olympic or target pistol shooting competition under the auspices of or approved by the national rifle association, provided such pistol or revolver is unloaded and carried in a locked carrying case and the ammunition therefor is carried in a separate locked container.12-a. Possession and use of a pistol or revolver, at an indoor or outdoor shooting range, by a registered student of a higher education institution chartered by the state of New York, who is participating in a course in gun safety and proficiency offered by such institution, under the immediate supervision, guidance, and instruction of a person specified in paragraph seven of this

subdivision.13. Possession of pistols and revolvers by a person who is a nonresident of this state while attending or traveling to or from, an organized competitive pistol match or league competition under auspices of, or approved by, the National Rifle Association and in which he is a competitor, within forty-eight hours of such event or by a person who is a non-resident of the state while attending or traveling to or from an organized match sanctioned by the International Handgun Metallic Silhouette Association and in which he is a competitor, within forty-eight hours of such event, provided that he has not been previously convicted of a felony or a crime which, if committed in New York, would constitute a felony, and further provided that the pistols or revolvers are transported unloaded in a locked opaque container together with a copy of the match program, match schedule or match registration card. Such documentation shall constitute prima facie evidence of exemption, providing that such person also has in his possession a pistol license or firearms registration card issued in accordance with the laws of his place of residence. For purposes of this subdivision, a person licensed in a jurisdiction which does not authorize such license by a person who has been previously convicted of a felony shall be presumed to have no prior conviction. The superintendent of state police shall annually review the laws of jurisdictions within the United States and Canada with respect to the applicable requirements for licensing or registration of firearms and shall publish a list of those jurisdictions which prohibit possession of a firearm by a person previously convicted of a felony or crimes which if committed in New York state would constitute a felony.13-a. Except in cities not wholly contained within a single county of the state, possession of pistols and revolvers by a person who is a nonresident of this state while attending or traveling to or from, an organized convention or exhibition for the display of or education about firearms, which is conducted under auspices of, or approved by, the National Rifle Association and in which he is a registered participant, within forty-eight hours of such event, provided that he has not been previously convicted of a felony or a crime which, if committed in New York, would constitute a felony, and further provided that the pistols or revolvers are transported unloaded in a locked opaque container together with a copy of the convention or exhibition program, convention or exhibition schedule or convention or exhibition registration card. Such documentation shall constitute prima facie evidence of exemption, providing that such person also has in his possession a pistol license or firearms registration card issued in accordance with the laws of his place of residence. For purposes of this paragraph, a person licensed in a jurisdiction which does not authorize such license by a person who has been previously convicted of a felony shall be presumed to have no prior conviction. The superintendent of state police shall annually review the laws of jurisdictions within the United States and Canada with respect to the applicable requirements for licensing or registration of firearms and shall publish a list of those jurisdictions which prohibit possession of a firearm by a person previously convicted of a felony or crimes which if committed in New York state would constitute a felony.14. Possession in accordance with the provisions of this paragraph of a self-defense spray device as defined herein for the protection of a person or property and use of such self-defense spray device under circumstances which would justify the use of physical force pursuant to article thirty-five of this chapter.(a) As used in this section "self-defense spray device" shall mean a pocket sized spray device which contains and releases a chemical or organic substance which is intended to produce temporary physical discomfort or disability through being vaporized or otherwise dispensed in the air or any like device containing tear gas, pepper or similar disabling agent.(b) The exemption under this paragraph shall not apply to a person who:(i) is less than eighteen years of age; or(ii) has been previously convicted in this state of a felony or any assault; or(iii) has been convicted of a crime outside the state of New York which if committed in New York would constitute a felony or any assault crime.(c) The department of health, with the cooperation of the division of criminal justice services and the superintendent of state police, shall develop standards and promulgate regulations regarding the type of self-defense spray device which may lawfully be purchased, possessed and used pursuant to this paragraph. The regulations shall include a requirement that every self-defense spray device which may be lawfully purchased, possessed or used pursuant to this paragraph have a label which states: "WARNING: The use of this substance or device for any purpose other than self-defense is a criminal offense under the law. The contents are dangerous - use with care. This device shall not be sold by anyone other than a licensed or authorized dealer. Possession of this device by any person under the age of eighteen or by anyone who has been convicted of a felony or assault is illegal. Violators may be prosecuted under the law."15. Possession and sale of a self-defense spray device as defined in paragraph fourteen of this subdivision by a dealer in firearms licensed pursuant to section 400.00 of this chapter, a pharmacist licensed pursuant to article one hundred thirty-seven of the education law or by such other vendor as may be authorized and approved by the superintendent of state police.(a) Every self-defense spray device shall be accompanied by an insert or inserts which include directions for use, first aid information, safety and storage information and which shall also contain a toll free telephone number for the purpose of allowing any purchaser to call and receive additional information regarding the availability of local courses in self-defense training and safety in the use of a self-defense spray device.(b) Before delivering a self-defense spray device to any person, the licensed or authorized dealer shall require proof of age and a sworn statement on a form approved by the superintendent of state police that such person has not been convicted of a felony or any crime involving an assault. Such forms shall be forwarded to the division of state police at such intervals as directed by the superintendent of state police. Absent any such direction the forms shall be maintained on the premises of the vendor and shall be open at all reasonable hours for inspection by any peace officer or police officer, acting pursuant to his or her special duties. No more than two self-defense spray devices may be sold at any one time to a single purchaser.16. The terms "rifle," "shotgun," "pistol," "revolver," and "firearm" as used in paragraphs three, four, five, seven, seven-a, seven-b, nine, nine-a, ten, twelve, thirteen and thirteen-a of this subdivision shall not include a disguised gun or an assault weapon.b. Section 265.01 shall not apply to possession of that type of billy commonly known as a "police baton" which is twenty-four to twenty-six inches in length and no more than one and one-quarter inches in thickness by members of an auxiliary police force of a city with a population in excess of one million persons or the county of Suffolk when duly authorized by regulation or order issued by the police commissioner of such city or such county respectively. Such regulations shall require training in the

use of the police baton including but not limited to the defensive use of the baton and instruction in the legal use of deadly physical force pursuant to article thirty-five of this chapter. Notwithstanding the provisions of this section or any other provision of law, possession of such baton shall not be authorized when used intentionally to strike another person except in those situations when the use of deadly physical force is authorized by such article thirty-five.c. Sections 265.01, 265.10 and 265.15 shall not apply to possession of billies or blackjacks by persons:1. while employed in fulfilling contracts with New York state, its agencies or political subdivisions for the purchase of billies or blackjacks; or2. while employed in fulfilling contracts with sister states, their agencies or political subdivisions for the purchase of billies or blackjacks; or3. while employed in fulfilling contracts with foreign countries, their agencies or political subdivisions for the purchase of billies or blackjacks as permitted under federal law.d. Subdivision one of section 265.01 and subdivision four of section 265.15 of this article shall not apply to possession or ownership of automatic knives by any cutlery and knife museum established pursuant to section two hundred sixteen-c of the education law or by any director, officer, employee, or agent thereof when he or she is in possession of an automatic knife and acting in furtherance of the business of such museum.e. Subdivision eight of section 265.02 and sections 265.36 and 265.37 of this chapter shall not apply to a qualified retired New York or federal law enforcement officer as defined in subdivision twenty-five of section 265.00 of this article, with respect to large capacity ammunition feeding devices issued to such officer or purchased by such officer in the course of his or her official duties and owned by such officer at the time of his or her retirement or comparable replacements for such devices, if: (i) the agency that employed the officer qualified such officer in the use of the weapon which accepts such device in accordance with applicable state or federal standards for active duty law enforcement officers within twelve months prior to his or her retirement; and (ii) such retired officer meets, at his or her own expense, such applicable standards for such weapon at least once within three years after his or her retirement date and at least once every three years thereafter, provided, however, that any such qualified officer who has been retired for eighteen months or more on the effective date of this subdivision shall have eighteen months from such effective date to qualify in the use of the weapon which accepts such large capacity ammunition feeding device according to the provisions of this subdivision, notwithstanding that such officer did not qualify within three years after his or her retirement date, provided that such officer is otherwise qualified and maintains compliance with the provisions of this subdivision. (a) Persons in the military service of the state of New York when duly authorized by regulations issued by the adjutant general to possess the same. (b) Police officers as defined in subdivision thirty-four of section 1.20 of the criminal procedure law. (c) Peace officers as defined by section 2.10 of the criminal procedure law. (d) Persons in the military or other service of the United States, in pursuit of official duty or when duly authorized by federal law, regulation or order to possess the same. (e) Persons employed in fulfilling defense contracts with the government of the United States or agencies thereof when possession of the same is necessary for manufacture, transport, installation and testing under the requirements of such contract. (f) A person voluntarily surrendering such weapon, instrument, appliance or substance, provided that such surrender shall be made to the superintendent of the division of state police or a member thereof designated by such superintendent, or to the sheriff of the county in which such person resides, or in the county of Nassau or in the towns of Babylon, Brookhaven, Huntington, Islip and Smithtown in the county of Suffolk to the commissioner of police or a member of the police department thereof designated by such commissioner, or if such person resides in a city, town other than one named in this subparagraph, or village to the police commissioner or head of the police force or department thereof or to a member of the force or department designated by such commissioner or head; and provided, further, that the same shall be surrendered by such person in accordance with such terms and conditions as may be established by such superintendent, sheriff, police force or department. Nothing in this paragraph shall be construed as granting immunity from prosecution for any crime or offense except that of unlawful possession of such weapons, instruments, appliances or substances surrendered as herein provided. A person who possesses any such weapon, instrument, appliance or substance as an executor or administrator or any other lawful possessor of such property of a decedent may continue to possess such property for a period not over fifteen days. If such property is not lawfully disposed of within such period the possessor shall deliver it to an appropriate official described in this paragraph or such property may be delivered to the superintendent of state police. Such officer shall hold it and shall thereafter deliver it on the written request of such executor, administrator or other lawful possessor of such property to a named person, provided such named person is licensed to or is otherwise lawfully permitted to possess the same. If no request to deliver the property is received by such official within one year of the delivery of such property, such official shall dispose of it in accordance with the provisions of section 400.05 of this chapter. 2. Possession of a machine-gun, large capacity ammunition feeding device, rapid-fire modification device, firearm, switchblade knife, pilum ballistic knife, billy or blackjack by a warden, superintendent, headkeeper or deputy of a state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or detained as witnesses in criminal cases, in pursuit of official duty or when duly authorized by regulation or order to possess the same. 3. Possession of a pistol or revolver by a person to whom a license therefor has been issued as provided under section 400.00 or 400.01 of this chapter or possession of a weapon as defined in paragraph (e) or (f) of subdivision twenty-two of section 265.00 of this article which is registered pursuant to paragraph (a) of subdivision sixteen-a of section 400.00 of this chapter or is included on an amended license issued pursuant to section 400.00 of this chapter. In the event such license is revoked, other than because such licensee is no longer permitted to possess a firearm, rifle or shotgun under federal or state law, information sufficient to satisfy the requirements of subdivision sixteen-a of section 400.00 of this chapter, shall be transmitted by the licensing officer to the state police, in a form as determined by the superintendent of state police. Such transmission shall constitute a valid registration under such section. Further provided, notwithstanding any other section of this title, a failure to register such weapon by an individual who possesses such weapon before the enactment of the chapter of the laws of two thousand thirteen which amended this paragraph and may so lawfully possess it thereafter upon registration, shall only be subject to punishment pursuant to paragraph (c) of subdivision

sixteen-a of section 400.00 of this chapter; provided, that such a license or registration shall not preclude a conviction for the offense defined in subdivision three of section 265.01 of this article or section 265.01-a of this article. 3-a. Possession of a pistol or revolver by a person undergoing live-fire range training pursuant to section 400.00 of this chapter while such person is undergoing such training and is supervised by a duly authorized instructor. 4. Possession of a rifle, shotgun, crossbow or longbow for use while hunting, trapping or fishing, by a person, not a citizen of the United States, carrying a valid license issued pursuant to section 11-0713 of the environmental conservation law. 5. Possession of a rifle or shotgun by a person other than a person who has been convicted of a class A-I felony or a violent felony offense, as defined in subdivision one of section 70.02 of this chapter, who has been convicted as specified in subdivision four of section 265.01 to whom a certificate of good conduct has been issued pursuant to section seven hundred three-b of the correction law. 6. Possession of a switchblade for use while hunting, trapping or fishing by a person carrying a valid license issued to him pursuant to section 11-0713 of the environmental conservation law. 7. Possession, at an indoor or outdoor shooting range for the purpose of loading and firing, of a rifle or shotgun, the propelling force of which is gunpowder by a person under sixteen years of age but not under twelve, under the immediate supervision, guidance and instruction of (a) a duly commissioned officer of the United States army, navy, air force, marine corps or coast guard, or of the national guard of the state of New York; or (b) a duly qualified adult citizen of the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy, air force or marine corps, or by the adjutant general of this state, by the national rifle association of America, a not-for-profit corporation duly organized under the laws of this state, or by a New York state 4-H certified shooting sports instructor; or (c) a parent, guardian, or a person over the age of eighteen designated in writing by such parent or guardian who shall have a certificate of qualification in responsible hunting, including safety, ethics, and landowner relations-hunter relations, issued or honored by the department of environmental conservation; or (d) an agent of the department of environmental conservation appointed to conduct courses in responsible hunting practices pursuant to article eleven of the environmental conservation law. 7-a. Possession and use, at an indoor or outdoor pistol range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in small arms or at a target pistol shooting competition under the auspices of or approved by the national rifle association for the purpose of loading and firing the same, by a person duly licensed to possess a pistol or revolver pursuant to section 400.00 or 400.01 of this chapter of a pistol or revolver duly so licensed to another person who is present at the time. 7-b. Possession and use, at an indoor or outdoor pistol range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in small arms or at a target pistol shooting competition under the auspices of or approved by the national rifle association for the purpose of loading and firing the same, by a person who has applied for a license to possess a pistol or revolver and pre-license possession of same pursuant to section 400.00 or 400.01 of this chapter, who has not been previously denied a license, been previously convicted of a felony or serious offense, and who does not appear to be, or pose a threat to be, a danger to himself or to others, and who has been approved for possession and use herein in accordance with section 400.00 or 400.01 of this chapter; provided however, that such possession shall be of a pistol or revolver duly licensed to and shall be used under the supervision, guidance and instruction of, a person specified in paragraph seven of this subdivision and provided further that such possession and use be within the jurisdiction of the licensing officer with whom the person has made application therefor or within the jurisdiction of the superintendent of state police in the case of a retired sworn member of the division of state police who has opted to make an application pursuant to section 400.01 of this chapter. 7-c. Possession for the purpose of loading and firing, of a rifle, pistol or shotgun, the propelling force of which may be either air, compressed gas or springs, by a person under sixteen years of age but not under twelve, under the immediate supervision, guidance and instruction of (a) a duly commissioned officer of the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York; or (b) a duly qualified adult citizen of the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy or marine corps, or by the adjutant general of this state, by the national rifle association of America, a not-for-profit corporation duly organized under the laws of this state, or by a New York state 4-H certified shooting sports instructor; or (c) a parent, guardian, or a person over the age of eighteen designated in writing by such parent or guardian who shall have a certificate of qualification in responsible hunting, including safety, ethics, and landowner relations-hunter relations, issued or honored by the department of environmental conservation. 7-d. Possession, at an indoor or outdoor shooting range for the purpose of loading and firing, of a rifle, pistol or shotgun, the propelling force of which may be either air, compressed gas or springs, by a person under twelve years of age, under the immediate supervision, guidance and instruction of (a) a duly commissioned officer of the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York; or (b) a duly qualified adult citizen of the United States who has been granted a certificate as an instructor in small arms practice issued by the United States army, navy or marine corps, or by the adjutant general of this state, by the national rifle association of America, a not-for-profit corporation duly organized under the laws of this state, or by a New York state 4-H certified shooting sports instructor; or (c) a parent, guardian, or a person over the age of eighteen designated in writing by such parent or guardian who shall have a certificate of qualification in responsible hunting, including safety, ethics, and landowner relations-hunter relations, issued or honored by the department of environmental conservation. 7-e. Possession and use of a pistol or revolver, at an indoor or outdoor pistol range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in small arms or at a target pistol shooting competition under the auspices of or approved by an association or organization described in paragraph 7-a of this subdivision for the purpose of loading and firing the same by a person at least fourteen years of age but under the age of twenty-one who has not been previously convicted of a felony or serious offense, and who does not appear to be, or pose a threat to be, a danger to himself or to others; provided however, that such possession shall be of a

pistol or revolver duly licensed to and shall be used under the immediate supervision, guidance and instruction of, a person specified in paragraph seven of this subdivision. 7-f. Possession and use of a magazine, belt, feed strip or similar device, that contains more than seven rounds of ammunition, but that does not have a capacity of or can readily be restored or converted to accept more than ten rounds of ammunition, at an indoor or outdoor firing range located in or on premises owned or occupied by a duly incorporated organization organized for conservation purposes or to foster proficiency in arms; at an indoor or outdoor firing range for the purpose of firing a rifle or shotgun; at a collegiate, olympic or target shooting competition under the auspices of or approved by the national rifle association; or at an organized match sanctioned by the International Handgun Metallic Silhouette Association. 8. The manufacturer of machine-guns, firearm silencers, assault weapons, large capacity ammunition feeding devices, rapid-fire modification devices, disguised guns, pilum ballistic knives, switchblade or gravity knives, billies or blackjacks as merchandise, or as a transferee recipient of the same for repair, lawful distribution or research and development, and the disposal and shipment thereof direct to a regularly constituted or appointed state or municipal police department, sheriff, police officer or other peace officer, or to a state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or held as witnesses in criminal cases, or to the military service of this state or of the United States; or for the repair and return of the same to the lawful possessor or for research and development. 9. The regular and ordinary transport of firearms as merchandise, provided that the person transporting such firearms, where he knows or has reasonable means of ascertaining what he is transporting, notifies in writing the police commissioner, police chief or other law enforcement officer performing such functions at the place of delivery, of the name and address of the consignee and the place of delivery, and withholds delivery to the consignee for such reasonable period of time designated in writing by such police commissioner, police chief or other law enforcement officer as such official may deem necessary for investigation as to whether the consignee may lawfully receive and possess such firearms. 9-a. a. Except as provided in subdivision b hereof, the regular and ordinary transport of pistols or revolvers by a manufacturer of firearms to whom a license as a dealer in firearms has been issued pursuant to section 400.00 of this chapter, or by an agent or employee of such manufacturer of firearms who is otherwise duly licensed to carry a pistol or revolver and who is duly authorized in writing by such manufacturer of firearms to transport pistols or revolvers on the date or dates specified, directly between places where the manufacturer of firearms regularly conducts business provided such pistols or revolvers are transported unloaded, in a locked opaque container. For purposes of this subdivision, places where the manufacturer of firearms regularly conducts business includes, but is not limited to places where the manufacturer of firearms regularly or customarily conducts development or design of pistols or revolvers, or regularly or customarily conducts tests on pistols or revolvers, or regularly or customarily participates in the exposition of firearms to the public. b. The transportation of such pistols or revolvers into, out of or within the city of New York may be done only with the consent of the police commissioner of the city of New York. To obtain such consent, the manufacturer must notify the police commissioner in writing of the name and address of the transporting manufacturer, or agent or employee of the manufacturer who is authorized in writing by such manufacturer to transport pistols or revolvers, the number, make and model number of the firearms to be transported and the place where the manufacturer regularly conducts business within the city of New York and such other information as the commissioner may deem necessary. The manufacturer must not transport such pistols and revolvers between the designated places of business for such reasonable period of time designated in writing by the police commissioner as such official may deem necessary for investigation and to give consent. The police commissioner may not unreasonably withhold his consent. 10. Engaging in the business of gunsmith or dealer in firearms by a person to whom a valid license therefor has been issued pursuant to section 400.00. 11. Possession of a firearm or large capacity ammunition feeding device by a police officer or sworn peace officer of another state while conducting official business within the state of New York. 12. Possession of a pistol or revolver by a person who is a member or coach of an accredited college or university target pistol team while transporting the pistol or revolver into or through New York state to participate in a collegiate, olympic or target pistol shooting competition under the auspices of or approved by the national rifle association, provided such pistol or revolver is unloaded and carried in a locked carrying case and the ammunition therefor is carried in a separate locked container. 12-a. Possession and use of a pistol or revolver, at an indoor or outdoor shooting range, by a registered student of a higher education institution chartered by the state of New York, who is participating in a course in gun safety and proficiency offered by such institution, under the immediate supervision, guidance, and instruction of a person specified in paragraph seven of this subdivision. 13. Possession of pistols and revolvers by a person who is a nonresident of this state while attending or traveling to or from, an organized competitive pistol match or league competition under auspices of, or approved by, the National Rifle Association and in which he is a competitor, within forty-eight hours of such event or by a person who is a non-resident of the state while attending or traveling to or from an organized match sanctioned by the International Handgun Metallic Silhouette Association and in which he is a competitor, within forty-eight hours of such event, provided that he has not been previously convicted of a felony or a crime which, if committed in New York, would constitute a felony, and further provided that the pistols or revolvers are transported unloaded in a locked opaque container together with a copy of the match program, match schedule or match registration card. Such documentation shall constitute prima facie evidence of exemption, providing that such person also has in his possession a pistol license or firearms registration card issued in accordance with the laws of his place of residence. For purposes of this subdivision, a person licensed in a jurisdiction which does not authorize such license by a person who has been previously convicted of a felony shall be presumed to have no prior conviction. The superintendent of state police shall annually review the laws of jurisdictions within the United States and Canada with respect to the applicable requirements for licensing or registration of firearms and shall publish a list of those jurisdictions which prohibit possession of a firearm by a person previously convicted of a felony or crimes which if committed in New York state would constitute a felony. 13-a. Except in cities not wholly contained within a single county of the state, possession

of pistols and revolvers by a person who is a nonresident of this state while attending or traveling to or from, an organized convention or exhibition for the display of or education about firearms, which is conducted under auspices of, or approved by, the National Rifle Association and in which he is a registered participant, within forty-eight hours of such event, provided that he has not been previously convicted of a felony or a crime which, if committed in New York, would constitute a felony, and further provided that the pistols or revolvers are transported unloaded in a locked opaque container together with a copy of the convention or exhibition program, convention or exhibition schedule or convention or exhibition registration card. Such documentation shall constitute prima facie evidence of exemption, providing that such person also has in his possession a pistol license or firearms registration card issued in accordance with the laws of his place of residence. For purposes of this paragraph, a person licensed in a jurisdiction which does not authorize such license by a person who has been previously convicted of a felony shall be presumed to have no prior conviction. The superintendent of state police shall annually review the laws of jurisdictions within the United States and Canada with respect to the applicable requirements for licensing or registration of firearms and shall publish a list of those jurisdictions which prohibit possession of a firearm by a person previously convicted of a felony or crimes which if committed in New York state would constitute a felony. 14. Possession in accordance with the provisions of this paragraph of a self-defense spray device as defined herein for the protection of a person or property and use of such self-defense spray device under circumstances which would justify the use of physical force pursuant to article thirty-five of this chapter. (a) As used in this section "self-defense spray device" shall mean a pocket sized spray device which contains and releases a chemical or organic substance which is intended to produce temporary physical discomfort or disability through being vaporized or otherwise dispensed in the air or any like device containing tear gas, pepper or similar disabling agent. (b) The exemption under this paragraph shall not apply to a person who: (i) is less than eighteen years of age; or (ii) has been previously convicted in this state of a felony or any assault; or (iii) has been convicted of a crime outside the state of New York which if committed in New York would constitute a felony or any assault crime. (c) The department of health, with the cooperation of the division of criminal justice services and the superintendent of state police, shall develop standards and promulgate regulations regarding the type of self-defense spray device which may lawfully be purchased, possessed and used pursuant to this paragraph. The regulations shall include a requirement that every self-defense spray device which may be lawfully purchased, possessed or used pursuant to this paragraph have a label which states: "WARNING: The use of this substance or device for any purpose other than self-defense is a criminal offense under the law. The contents are dangerous - use with care. This device shall not be sold by anyone other than a licensed or authorized dealer. Possession of this device by any person under the age of eighteen or by anyone who has been convicted of a felony or assault is illegal. Violators may be prosecuted under the law." 15. Possession and sale of a self-defense spray device as defined in paragraph fourteen of this subdivision by a dealer in firearms licensed pursuant to section 400.00 of this chapter, a pharmacist licensed pursuant to article one hundred thirty-seven of the education law or by such other vendor as may be authorized and approved by the superintendent of state police. (a) Every self-defense spray device shall be accompanied by an insert or inserts which include directions for use, first aid information, safety and storage information and which shall also contain a toll free telephone number for the purpose of allowing any purchaser to call and receive additional information regarding the availability of local courses in self-defense training and safety in the use of a self-defense spray device. (b) Before delivering a self-defense spray device to any person, the licensed or authorized dealer shall require proof of age and a sworn statement on a form approved by the superintendent of state police that such person has not been convicted of a felony or any crime involving an assault. Such forms shall be forwarded to the division of state police at such intervals as directed by the superintendent of state police. Absent any such direction the forms shall be maintained on the premises of the vendor and shall be open at all reasonable hours for inspection by any peace officer or police officer, acting pursuant to his or her special duties. No more than two self-defense spray devices may be sold at any one time to a single purchaser. 16. The terms "rifle," "shotgun," "pistol," "revolver," and "firearm" as used in paragraphs three, four, five, seven, seven-a, seven-b, nine, nine-a, ten, twelve, thirteen and thirteen-a of this subdivision shall not include a disguised gun or an assault weapon. b. Section 265.01 shall not apply to possession of that type of billy commonly known as a "police baton" which is twenty-four to twenty-six inches in length and no more than one and one-quarter inches in thickness by members of an auxiliary police force of a city with a population in excess of one million persons or the county of Suffolk when duly authorized by regulation or order issued by the police commissioner of such city or such county respectively. Such regulations shall require training in the use of the police baton including but not limited to the defensive use of the baton and instruction in the legal use of deadly physical force pursuant to article thirty-five of this chapter. Notwithstanding the provisions of this section or any other provision of law, possession of such baton shall not be authorized when used intentionally to strike another person except in those situations when the use of deadly physical force is authorized by such article thirty-five. c. Sections 265.01, 265.10 and 265.15 shall not apply to possession of billies or blackjacks by persons: 1. while employed in fulfilling contracts with New York state, its agencies or political subdivisions for the purchase of billies or blackjacks; or 2. while employed in fulfilling contracts with sister states, their agencies or political subdivisions for the purchase of billies or blackjacks; or 3. while employed in fulfilling contracts with foreign countries, their agencies or political subdivisions for the purchase of billies or blackjacks as permitted under federal law. d. Subdivision one of section 265.01 and subdivision four of section 265.15 of this article shall not apply to possession or ownership of automatic knives by any cutlery and knife museum established pursuant to section two hundred sixteen-c of the education law or by any director, officer, employee, or agent thereof when he or she is in possession of an automatic knife and acting in furtherance of the business of such museum. e. Subdivision eight of section 265.02 and sections 265.36 and 265.37 of this chapter shall not apply to a qualified retired New York or federal law enforcement officer as defined in subdivision twenty-five of section 265.00 of this article, with respect to large capacity ammunition feeding devices issued to such officer or purchased by such officer in the course of his or her

official duties and owned by such officer at the time of his or her retirement or comparable replacements for such devices, if: (i) the agency that employed the officer qualified such officer in the use of the weapon which accepts such device in accordance with applicable state or federal standards for active duty law enforcement officers within twelve months prior to his or her retirement; and (ii) such retired officer meets, at his or her own expense, such applicable standards for such weapon at least once within three years after his or her retirement date and at least once every three years thereafter, provided, however, that any such qualified officer who has been retired for eighteen months or more on the effective date of this subdivision shall have eighteen months from such effective date to qualify in the use of the weapon which accepts such large capacity ammunition feeding device according to the provisions of this subdivision, notwithstanding that such officer did not qualify within three years after his or her retirement date, provided that such officer is otherwise qualified and maintains compliance with the provisions of this subdivision.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.25 - Certain Wounds to Be Reported.

Every case of a bullet wound, gunshot wound, powder burn or any other injury arising from or caused by the discharge of a gun or firearm, and every case of a wound which is likely to or may result in death and is actually or apparently inflicted by a knife, icepick or other sharp or pointed instrument, shall be reported at once to the police authorities of the city, town or village where the person reporting is located by: (a) the physician attending or treating the case; or (b) the manager, superintendent or other person in charge, whenever such case is treated in a hospital, sanitarium or other institution. Failure to make such report is a class A misdemeanor. This subdivision shall not apply to such wounds, burns or injuries received by a member of the armed forces of the United States or the state of New York while engaged in the actual performance of duty.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.26 - Burn Injury and Wounds to Be Reported.

Every case of a burn injury or wound, where the victim sustained second or third degree burns to five percent or more of the body and/or any burns to the upper respiratory tract or laryngeal edema due to the inhalation of super-heated air, and every case of a burn injury or wound which is likely to or may result in death, shall be reported at once to the office of fire prevention and control. The state fire administrator shall accept the report and notify the proper investigatory agency. A written report shall also be provided to the office of fire prevention and control within seventy-two hours. The report shall be made by (a) the physician attending or treating the case; or (b) the manager, superintendent or other person in charge, whenever such case is treated in a hospital, sanitarium, institution or other medical facility. The intentional failure to make such report is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.30 - Certain Convictions to Be Reported.

Every conviction under this article or section 400.00, of a person who is not a citizen of the United States, shall be certified to the proper officer of the United States government by the district attorney of the county in which such conviction was had.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.35 - Prohibited Use of Weapons.

1. Any person hunting with a dangerous weapon in any county wholly embraced within the territorial limits of a city is guilty of a class A misdemeanor. 2. Any person who wilfully discharges a loaded firearm or any other gun, the propelling force of which is gunpowder, at an aircraft while such aircraft is in motion in the air or in motion or stationary upon the ground, or at any railway or street railroad train as defined by the public service law, or at a locomotive, car, bus or vehicle standing or moving upon such railway, railroad or public highway, is guilty of a class D felony if thereby the safety of any person is endangered, and in every other case, of a class E felony. 3. Any person who, otherwise than in self defense or in the discharge of official duty, (a) wilfully discharges any species of firearms, air-gun or other weapon, or throws any other deadly missile, either in a public place, or in any place where there is any person to be endangered thereby, or, in Putnam county, within one-quarter mile of any occupied school building other than under supervised instruction by properly authorized instructors although no injury to any person ensues; (b) intentionally, without malice, points or aims any firearm or any other gun, the propelling force of which is gunpowder, at or toward any other person; (c) discharges, without injury to any other person, firearms or any other guns, the propelling force of which is gunpowder, while intentionally without malice, aimed at or toward any person; or (d) maims or injures any other person by the discharge of any firearm or any other gun, the propelling force of which is gunpowder, pointed or aimed intentionally, but without malice, at any such person, is guilty of a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.37 - Unlawful Possession of Certain Ammunition Feeding Devices.

It shall be unlawful for a person to knowingly possess an ammunition feeding device where such device contains more than seven rounds of ammunition. If such device containing more than seven rounds of ammunition is possessed within the home of the possessor, the person so possessing the device shall, for a first offense, be guilty of a violation and subject to a fine of two hundred dollars, and for each subsequent offense, be guilty of a class B misdemeanor and subject to a fine of two hundred dollars and a term

of up to three months imprisonment. If such device containing more than seven rounds of ammunition is possessed in any location other than the home of the possessor, the person so possessing the device shall, for a first offense, be guilty of a class B misdemeanor and subject to a fine of two hundred dollars and a term of up to six months imprisonment, and for each subsequent offense, be guilty of a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.38 - Unlawful Sale of a Non-Microstamping-Enabled Firearm.

1. It shall be unlawful for any dealer in firearms licensed under section 400.00 of this chapter, to sell, offer for sale, exchange, give, transfer or deliver any semiautomatic pistol unless such pistol has been verified as a microstamping-enabled pistol. A pistol may be verified as microstamping-enabled if it contains a microstamp component installed by its manufacturer or by a state licensed person, association, partnership, corporation, or other entity in compliance with state standards established by the commissioner of the division of criminal justice services or their designee. The provisions of this section shall not apply to a pistol manufactured prior to the effective date of this section. 2.(a) The first violation for unlawful sale of a non-microstamping-enabled pistol pursuant to this section shall be punishable only by a fine of not more than five hundred dollars and may result in a suspension or revocation of the dealer's license issued under section 400.00 of this chapter.(b) The second violation for unlawful sale of a non-microstamping-enabled pistol pursuant to this section shall be punishable only by a fine of not more than five thousand dollars and may result in a suspension or revocation of the dealer's license issued under section 400.00 of this chapter.(c) The third violation for unlawful sale of a non-microstamping-enabled pistol pursuant to this section is a class A misdemeanor and shall result in a suspension or revocation of the dealer's license issued under section 400.00 of this chapter.* NB Effective per requirements in § 5 of chapter 205/2022 (see chapter) (a) The first violation for unlawful sale of a non-microstamping-enabled pistol pursuant to this section shall be punishable only by a fine of not more than five hundred dollars and may result in a suspension or revocation of the dealer's license issued under section 400.00 of this chapter. (b) The second violation for unlawful sale of a non-microstamping-enabled pistol pursuant to this section shall be punishable only by a fine of not more than five thousand dollars and may result in a suspension or revocation of the dealer's license issued under section 400.00 of this chapter. (c) The third violation for unlawful sale of a non-microstamping-enabled pistol pursuant to this section is a class A misdemeanor and shall result in a suspension or revocation of the dealer's license issued under section 400.00 of this chapter. * NB Effective per requirements in § 5 of chapter 205/2022 (see chapter)

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.40 - Purchase of Rifles And/or Shotguns in Contiguous States.

Definitions. As used in this act: 1. "Contiguous state" shall mean any state having any portion of its border in common with a portion of the border of the state of New York; 2. All other terms herein shall be given the meaning prescribed in Public Law 90-618 known as the "Gun Control Act of l968" (18 U.S.C. 921). It shall be lawful for a person or persons residing in this state, to purchase or otherwise obtain a rifle and/or shotgun in a contiguous state, and to receive or transport such rifle and/or shotgun into this state; provided, however, such person is otherwise eligible to possess a rifle and/or shotgun under the laws of this state.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.45 - Failure to Safely Store Rifles, Shotguns, and Firearms in the First Degree.

first degree. 1. No person who owns or is custodian of a rifle, shotgun or firearm who resides with an individual who: (i) is under eighteen years of age; (ii) such person knows or has reason to know is prohibited from possessing a rifle, shotgun or firearm pursuant to a temporary or final extreme risk protection order issued under article sixty-three-A of the civil practice law and rules or 18 U.S.C. § 922(g) (1), (4), (8) or (9); or (iii) such person knows or has reason to know is prohibited from possessing a rifle, shotgun or firearm based on a conviction for a felony or a serious offense, shall store or otherwise leave such rifle, shotgun or firearm out of his or her immediate possession or control without having first securely locked such rifle, shotgun or firearm in an appropriate safe storage depository or rendered it incapable of being fired by use of a gun locking device appropriate to that weapon. 2. No person shall store or otherwise leave a rifle, shotgun, or firearm out of such person's immediate possession or control inside a vehicle without first removing the ammunition from and securely locking such rifle, shotgun, or firearm in an appropriate safe storage depository out of sight from outside of the vehicle; provided, however, this subdivision shall not apply to a police officer as such term is defined in subdivision thirty-four of section 1.20 of the criminal procedure law, a qualified law enforcement officer authorized to carry concealed firearms pursuant to 18 U.S.C. 926B, or a person in the military service of the United States or the state of New York when such police officer, qualified law enforcement officer, or person in such military service is acting in the course of such person's official duty or employment and otherwise complying with any applicable standards or requirements pertaining to the storage of such rifle, shotgun, or firearm. 3. For purposes of this section "safe storage depository" shall mean a safe or other secure container which, when locked, is incapable of being opened without the key, keypad, combination or other unlocking mechanism and is capable of preventing an unauthorized person from obtaining access to and possession of the weapon contained therein and shall be fire, impact, and tamper resistant. Nothing in this section shall be deemed to affect, impair or supersede any special or local act relating to the safe storage of rifles, shotguns or firearms which impose additional requirements on the owner or custodian of such weapons. For the purposes of subdivision two of this section, a glove compartment or glove box shall not be considered an appropriate safe storage depository. 4. It shall not be a violation of this section to allow a person less than eighteen

years of age access to: (i) a firearm, rifle or shotgun for lawful use as authorized under paragraph seven or seven-e of subdivision a of section 265.20 of this article, or (ii) a rifle or shotgun for lawful use as authorized by article eleven of the environmental conservation law when such person less than eighteen years of age is the holder of a hunting license or permit and such rifle or shotgun is used in accordance with such law. Failure to safely store rifles, shotguns, and firearms in the first degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.46 - Failure to Safely Store Rifles, Shotguns, and Firearms in the Second Degree.

second degree. No person who owns or is custodian of a rifle, shotgun or firearm and knows, or has reason to know, that a person less than sixteen years of age is likely to gain access to such rifle, shotgun or firearm shall store or otherwise leave such rifle, shotgun or firearm out of his or her immediate possession or control without having first securely locked such rifle, shotgun or firearm in an appropriate safe storage depository or rendered it incapable of being fired by use of a gun locking device appropriate to that weapon. For purposes of this section "safe storage depository" shall have the same meaning as such term is defined in section 265.45 of this article. Nothing in this section shall be deemed to affect, impair or supersede any special or local act relating to the safe storage of rifles, shotguns or firearms which impose additional requirements on the owner or custodian of such weapons. It shall not be a violation of this section to allow a person less than sixteen years of age access to: (i) a firearm, rifle or shotgun for lawful use as authorized under paragraph seven or seven-e of subdivision a of section 265.20 of this article, or (ii) a rifle or shotgun for lawful use as authorized by article eleven of the environmental conservation law when such person less than sixteen years of age is the holder of a hunting license or permit and such rifle or shotgun is used in accordance with such law. Failure to safely store rifles, shotguns, and firearms in the second degree is a violation punishable only by a fine of not more than two hundred fifty dollars.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.50 - Criminal Manufacture, Sale, or Transport of an Undetectable Firearm, Rifle or Shotgun.

firearm, rifle or shotgun. A person is guilty of criminal manufacture, sale, or transport of an undetectable firearm, rifle or shotgun when he or she knowingly manufactures, causes to be manufactured, sells, exchanges, gives, disposes of, transports, ships, or possesses with the intent to sell: 1. any firearm, rifle or shotgun that, after the removal of grips, stocks and magazines, is not detectable by a metal detector calibrated to detect the Security Exemplar, as defined pursuant to 18 U.S.C. § 922(p); or 2. any major component of a firearm, rifle or shotgun that, if subject to the types of detection devices commonly used at airports for security screening, does not generate an image that adequately displays the shape of the component. Criminal manufacture, sale, or transport of an undetectable firearm, rifle or shotgun is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.55 - Criminal Possession of an Undetectable Firearm, Rifle or Shotgun.

shotgun. A person is guilty of criminal possession of an undetectable firearm, rifle or shotgun when he or she knowingly possesses: 1. any firearm, rifle or shotgun that, after the removal of grips, stocks and magazines, is not detectable by a metal detector calibrated to detect the Security Exemplar, as defined pursuant to 18 U.S.C. § 922(p); or 2. any major component of a firearm, rifle or shotgun that, if subject to the types of detection devices commonly used at airports for security screening, does not generate an image that adequately displays the shape of the component. Criminal possession of an undetectable firearm, rifle or shotgun is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.60 - Criminal Sale of a Ghost Gun in the Second Degree.

1. A person is guilty of criminal sale of a ghost gun in the second degree when, knowing or having reason to know it is a ghost gun, he or she sells, exchanges, gives or disposes of a ghost gun to another person. 2. Notwithstanding subdivision one of this section, a person shall not be guilty of criminal sale of a ghost gun in the second degree when such person: (a) voluntarily surrenders such ghost gun to any law enforcement official designated pursuant to subparagraph (f) of paragraph one of subdivision (a) of section 265.20 of this article; or (b) within a period of six months after the effective date of this section sells, exchanges, gives, or disposes of such ghost gun to a gunsmith licensed pursuant to section 400.00 of this chapter. Criminal sale of a ghost gun in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.61 - Criminal Sale of a Ghost Gun in the First Degree.

1. A person is guilty of criminal sale of a ghost gun in the first degree when, knowing or having reason to know they are ghost guns, he or she sells, exchanges, gives or disposes of ten or more ghost guns to another person or persons. 2. Notwithstanding subdivision one of this section, a person shall not be guilty of criminal sale of a ghost gun in the first degree if he or she: (a) voluntarily surrenders such ghost guns to any law enforcement official designated pursuant to subparagraph (f) of paragraph one of subdivision (a) of section 265.20 of this article; or (b) within a period of six months after the effective date of this section sells, exchanges, gives, or disposes of such ghost guns to a gunsmith licensed pursuant to section 400.00 of this chapter. Criminal sale of a ghost gun

in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.63 - Criminal Sale of a Frame or Receiver in the Second Degree.

A person is guilty of criminal sale of a frame or receiver in the second degree when, knowing it is an unserialized frame or receiver or an unfinished frame or receiver, such person unlawfully sells, exchanges, gives or disposes of such unserialized frame or receiver or unfinished frame or receiver, provided that for a period of six months after the effective date of this section, a person shall not be guilty of criminal sale of a frame or receiver in the second degree if such person: (a) voluntarily surrenders such unserialized frame or receiver or unfinished frame or receiver to any law enforcement official designated pursuant to subparagraph (f) of paragraph one of subdivision (a) of section 265.20 of this article; or (b) sells, exchanges, gives, or disposes of such unserialized frame or receiver or unfinished frame or receiver to a gunsmith licensed pursuant to section 400.00 of this chapter. Criminal sale of a frame or receiver in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.64 - Criminal Sale of a Frame or Receiver in the First Degree.

A person is guilty of criminal sale of a frame or receiver in the first degree when, knowing they are unserialized frames or receivers or unfinished frames or receivers, such person unlawfully sells, exchanges, gives or disposes of a total of ten or more unserialized frames or receivers or unfinished frames or receivers in a period of not more than one year, provided that for a period of six months after the effective date of this section, a person shall not be guilty of criminal sale of a frame or receiver in the first degree if such person: (a) voluntarily surrenders such unserialized frames or receivers or unfinished frames or receivers to any law enforcement official designated pursuant to subparagraph (f) of paragraph one of subdivision (a) of section 265.20 of this article; or (b) sells, exchanges, gives or disposes of such unserialized frames or receivers or unfinished frames or receivers to a gunsmith licensed pursuant to section 400.00 of this chapter. Criminal sale of a frame or receiver in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.65 - Criminal Purchase of a Semiautomatic Rifle.

A person is guilty of criminal purchase of a semiautomatic rifle when he or she purchases or takes possession of a semiautomatic rifle and does not possess a license to purchase or take possession of a semiautomatic rifle as provided in subdivision two of section 400.00 of this chapter. Criminal purchase of a semiautomatic rifle is a class A misdemeanor for the first offense and a class E felony for subsequent offenses.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 265 - Firearms and Other Dangerous Weapons265.66 - Criminal Sale of a Semiautomatic Rifle.

A person is guilty of criminal sale of a semiautomatic rifle when, knowing or having reason to know it is a semiautomatic rifle, he or she sells, exchanges, gives or disposes of a semiautomatic rifle to another person and such other person does not possess a license to purchase or take possession of a semiautomatic rifle as provided in subdivision two of section 400.00 of this chapter. Criminal sale of a semiautomatic rifle is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 270 - Other Offenses Relating to Public Safety270.00 - Unlawfully Dealing With Fireworks and Dangerous Fireworks.

1. Definition of "fireworks" and "dangerous fireworks". (a) The term "fireworks," as used in this section, includes:(i) display fireworks, which means fireworks devices in a finished state, exclusive of mere ornamentation, primarily intended for commercial displays which are designed to produce visible and/or audible effects by combustion, deflagration or detonation, including, but not limited to, salutes containing more than one hundred thirty milligrams (two grains) of explosive composition, aerial shells containing more than forty grams of chemical composition exclusive of lift charge, and other exhibition display items that exceed the limits of consumer fireworks contained in the American Pyrotechnic Association (APA) Standard 87-1, 2001 edition;(ii) articles pyrotechnic, which means pyrotechnic devices for professional use similar to consumer fireworks in chemical composition and construction but not intended for consumer use and which articles meet the weight limits for consumer fireworks but are not labeled as such and are classified by the United States department of transportation in 49 CFR 172.101 as UN0431;(iii) special effects, which means any combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere, and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production, or live entertainment;(iv) consumer fireworks which are aerial in performance and are commonly referred to as sky rockets, bottle rockets, missile type rockets, helicopters, aerial spinners, roman candles, mines, shell devices, aerial shell kits, reloadables and audible ground devices which are commonly referred to as firecrackers and chasers, as well as metal wire handheld sparklers;(v) any blank cartridge, blank cartridge pistol, or toy cannon in which explosives are used, firecrackers, or any preparation containing any explosive or inflammable compound or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus or any compound containing any of the same or other explosives, or any substance or

combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, or other device containing any explosive substance, other than sparkling devices as defined in subparagraph (vi) of this paragraph; and(vi) "sparkling devices," as used in this section, includes:(1) sparkling devices which are ground-based or hand-held devices that produce a shower of white, gold, or colored sparks as their primary pyrotechnic effect. Additional effects may include a colored flame, an audible crackling effect, an audible whistle effect, and smoke. These devices do not rise into the air, do not fire inserts or projectiles into the air, and do not explode or produce a report (an audible crackling-type effect is not considered to be a report). Ground-based or hand-held devices that produce a cloud of smoke as their sole pyrotechnic effect are also included in this category. Types of devices in this category include:(A) cylindrical fountain: cylindrical tube containing not more than seventy-five grams of pyrotechnic composition that may be contained in a different shaped exterior such as a square, rectangle, cylinder or other shape but the interior tubes are cylindrical in shape. Upon ignition, a shower of colored sparks, and sometimes a whistling effect or smoke, is produced. This device may be provided with a spike for insertion into the ground (spike fountain), a wood or plastic base for placing on the ground (base fountain), or a wood or cardboard handle to be hand held (handle fountain). When more than one tube is mounted on a common base, total pyrotechnic composition may not exceed two hundred grams, and when tubes are securely attached to a base and the tubes are separated from each other on the base by a distance of at least half an inch (12.7 millimeters), a maximum total weight of five hundred grams of pyrotechnic composition shall be allowed.(B) cone fountain: cardboard or heavy paper cone containing not more than fifty grams of pyrotechnic composition. The effect is the same as that of a cylindrical fountain. When more than one cone is mounted on a common base, total pyrotechnic composition may not exceed two hundred grams, as is outlined in this subparagraph.(C) wooden sparkler/dipped stick: these devices consist of a wood dowel that has been coated with pyrotechnic composition. Upon ignition of the tip of the device, a shower of sparks is produced. Sparklers may contain up to one hundred grams of pyrotechnic composition per item.(2) novelties which do not require approval from the United States department of transportation and are not regulated as explosives, provided that they are manufactured and packaged as described below:(A) party popper: small devices with paper or plastic exteriors that are actuated by means of friction (a string or trigger is typically pulled to actuate the device). They frequently resemble champagne bottles or toy pistols in shape. Upon activation, the device expels flame-resistant paper streamers, confetti, or other novelties and produces a small report. Devices may contain not more than sixteen milligrams (0.25 grains) of explosive composition, which is limited to potassium chlorate and red phosphorus. These devices must be packaged in an inner packaging which contains a maximum of seventy-two devices.(B) snapper: small, paper-wrapped devices containing not more than one milligram of silver fulminate coated on small bits of sand or gravel. When dropped, the device explodes, producing a small report. Snappers must be in inner packages not to exceed fifty devices each, and the inner packages must contain sawdust or a similar, impact-absorbing material.(b) The term "dangerous fireworks" means any fireworks capable of causing serious physical injury and which are: firecrackers containing more than fifty milligrams of any explosive substance, torpedoes, skyrockets and rockets including all devices which employ any combustible or explosive substance and which rise in the air during discharge, Roman candles, and bombs, provided, however, that in cities with a population of one million or more, the term "dangerous fireworks" shall also include sparklers more than ten inches in length or one-fourth of one inch in diameter, or chasers including all devices which dart or travel about the surface of the ground during discharge.(c) "Fireworks" and "dangerous fireworks" shall not be deemed to include the following nor shall the purchase and use of any items listed below be subject to the provisions of section 61 of title 12 of the New York state codes, rules and regulations or section four hundred eighty, four hundred eighty-one, four hundred eighty-two or four hundred eighty-three of the general business law:(i) flares of the type used by railroads or any warning lights commonly known as red flares, or marine distress signals of a type approved by the United States coast guard, or(ii) toy pistols, toy canes, toy guns or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for use, and toy pistol paper caps which contain less than twenty-hundredths grains of explosive mixture, the sale and use of which shall be permitted at all times, or(iii) bank security devices which contain not more than fifty grams of any compound or substance or any combination thereof, together with an igniter not exceeding 0.2 gram, capable of producing a lachrymating and/or visible or audible effect, where such device is stored or used only by banks, national banking associations, trust companies, savings banks, savings and loan associations, industrial banks, or credit unions, or by any manufacturer, wholesaler, dealer, jobber or common carrier for such devices and where the total storage on any one premises does not exceed one hundred devices, or(iv) except in cities with a population of one million or more, "fireworks" and "dangerous fireworks" shall not be deemed to include "sparkling devices" as defined in subparagraph (vi) of paragraph (a) of this subdivision. The storage and retail sale of sparkling devices shall be regulated in a manner that is not in conflict with the provisions of NFPA 1124, 2006 edition.2. Offense. (a) Except as herein otherwise provided, or except where a permit is obtained pursuant to section 405.00 of this chapter:(i) any person who shall offer or expose for sale, sell or furnish, any fireworks or dangerous fireworks is guilty of a class B misdemeanor;(ii) any person who shall offer or expose for sale, sell or furnish any fireworks or dangerous fireworks valued at five hundred dollars or more shall be guilty of a class A misdemeanor;(iii) any person who shall possess, use, explode or cause to explode any fireworks or dangerous fireworks is guilty of a violation;(iv) any person who shall offer or expose for sale, sell or furnish, any dangerous fireworks, fireworks or sparkling devices to any person who is under the age of eighteen is guilty of a class A misdemeanor.(b) A person who has previously been convicted of a violation of subparagraph (iv) of paragraph (a) of this subdivision within the preceding five years and who shall offer or expose for sale, sell or furnish, any dangerous fireworks to any person who is under the age of eighteen, shall be guilty of a class E felony.(c) Possession of fireworks or dangerous fireworks valued at one hundred fifty dollars or more shall be a presumption that such fireworks were intended to be offered or exposed for

sale.3. Exceptions. (a) The provisions of this section shall not apply to:(i) fireworks, dangerous fireworks, and sparkling devices while in possession of railroads, common or contract carriers, retailers, wholesalers, distributors, jobbers and transportation companies or transportation agencies for the purpose of transportation to points without the state, the shipment of which is not prohibited by interstate commerce commission regulations as formulated and published from time to time, unless they be held voluntarily by such railroads, common or contract carriers, retailers, wholesalers, distributors, jobbers and transportation agencies or transporting companies as warehousemen for delivery to points within the state;(ii) signaling devices used by railroad companies or motor vehicles referred to in subdivision seventeen of section three hundred seventy-five of the vehicle and traffic law;(iii) high explosives for blasting or similar purposes;(iv) fireworks, dangerous fireworks and sparkling devices for the use thereof by the United States military, and departments of the state and federal government;(v) the use, transportation and storage of fireworks, dangerous fireworks and sparkling devices and special effects materials in connection with the production of motion pictures, television programs, commercials, and all entertainment media recorded in any current or to be designed format when such use, transportation and storage has been appropriately permitted by the local governmental subdivision having jurisdiction.(b) Nothing in this article shall be construed to prohibit:(i) any manufacturer, wholesaler, retailer, dealer or jobber from manufacturing, possessing or selling at wholesale a sparkling device to municipalities, religious or civic organizations, fair associations, amusement parks, or other organizations authorized by the state to store, transport, possess and use or to individuals to store, transport, possess and use;(ii) the sale or use of blank cartridges for a motion picture, television program, commercial and all entertainment media, or for signal purposes in athletic sports, or for dog trials or dog training;(iii) the use, storage, transportation or sale or transfer for use of fireworks and sparkling devices in the preparation for or in connection with motion pictures, television programs, commercials, and all entertainment media recorded in any current or to be designed format when such use, transportation and storage has been appropriately permitted by the local governmental subdivision having jurisdiction;(iv) the manufacture or sale of sparkling devices provided they are to be shipped directly out of such city and any such items are sold in accordance with the provisions of this article; or(v) except in cities with a population of one million or more, possession of sparkling devices lawfully obtained in another jurisdiction.4. Sales of ammunition not prohibited. Nothing contained in this section shall be construed to prevent, or interfere in any way with, the sale of ammunition for revolvers or pistols of any kind, or for rifles, shot guns, or other arms, belonging or which may belong to any persons whether as sporting or hunting weapons or for the purpose of protection to them in their homes, or, as they may go abroad; and manufacturers are authorized to continue to manufacture, and wholesalers and dealers to continue to deal in and freely to sell ammunition to all such persons for such purposes.5. Notwithstanding the provisions of subdivision four of this section, it shall be unlawful for any dealer in firearms to sell any ammunition designed exclusively for use in a pistol or revolver to any person, not authorized to possess a pistol or revolver. The violation of this section shall constitute a class B misdemeanor. (i) display fireworks, which means fireworks devices in a finished state, exclusive of mere ornamentation, primarily intended for commercial displays which are designed to produce visible and/or audible effects by combustion, deflagration or detonation, including, but not limited to, salutes containing more than one hundred thirty milligrams (two grains) of explosive composition, aerial shells containing more than forty grams of chemical composition exclusive of lift charge, and other exhibition display items that exceed the limits of consumer fireworks contained in the American Pyrotechnic Association (APA) Standard 87-1, 2001 edition; (ii) articles pyrotechnic, which means pyrotechnic devices for professional use similar to consumer fireworks in chemical composition and construction but not intended for consumer use and which articles meet the weight limits for consumer fireworks but are not labeled as such and are classified by the United States department of transportation in 49 CFR 172.101 as UN0431; (iii) special effects, which means any combination of chemical elements or chemical compounds capable of burning independently of the oxygen of the atmosphere, and designed and intended to produce an audible, visual, mechanical, or thermal effect as an integral part of a motion picture, radio, television, theatrical, or opera production, or live entertainment; (iv) consumer fireworks which are aerial in performance and are commonly referred to as sky rockets, bottle rockets, missile type rockets, helicopters, aerial spinners, roman candles, mines, shell devices, aerial shell kits, reloadables and audible ground devices which are commonly referred to as firecrackers and chasers, as well as metal wire handheld sparklers; (v) any blank cartridge, blank cartridge pistol, or toy cannon in which explosives are used, firecrackers, or any preparation containing any explosive or inflammable compound or any tablets or other device commonly used and sold as fireworks containing nitrates, chlorates, oxalates, sulphides of lead, barium, antimony, arsenic, mercury, nitroglycerine, phosphorus or any compound containing any of the same or other explosives, or any substance or combination of substances, or article prepared for the purpose of producing a visible or an audible effect by combustion, explosion, deflagration or detonation, or other device containing any explosive substance, other than sparkling devices as defined in subparagraph (vi) of this paragraph; and (vi) "sparkling devices," as used in this section, includes: (1) sparkling devices which are ground-based or hand-held devices that produce a shower of white, gold, or colored sparks as their primary pyrotechnic effect. Additional effects may include a colored flame, an audible crackling effect, an audible whistle effect, and smoke. These devices do not rise into the air, do not fire inserts or projectiles into the air, and do not explode or produce a report (an audible crackling-type effect is not considered to be a report). Ground-based or hand-held devices that produce a cloud of smoke as their sole pyrotechnic effect are also included in this category. Types of devices in this category include: (A) cylindrical fountain: cylindrical tube containing not more than seventy-five grams of pyrotechnic composition that may be contained in a different shaped exterior such as a square, rectangle, cylinder or other shape but the interior tubes are cylindrical in shape. Upon ignition, a shower of colored sparks, and sometimes a whistling effect or smoke, is produced. This device may be provided with a spike for insertion into the ground (spike fountain), a wood or plastic base for placing on the ground (base fountain), or a wood or cardboard handle to be hand held (handle fountain). When more than one tube is mounted on a common base, total pyrotechnic composition may not exceed two

hundred grams, and when tubes are securely attached to a base and the tubes are separated from each other on the base by a distance of at least half an inch (12.7 millimeters), a maximum total weight of five hundred grams of pyrotechnic composition shall be allowed. (B) cone fountain: cardboard or heavy paper cone containing not more than fifty grams of pyrotechnic composition. The effect is the same as that of a cylindrical fountain. When more than one cone is mounted on a common base, total pyrotechnic composition may not exceed two hundred grams, as is outlined in this subparagraph. (C) wooden sparkler/dipped stick: these devices consist of a wood dowel that has been coated with pyrotechnic composition. Upon ignition of the tip of the device, a shower of sparks is produced. Sparklers may contain up to one hundred grams of pyrotechnic composition per item. (2) novelties which do not require approval from the United States department of transportation and are not regulated as explosives, provided that they are manufactured and packaged as described below: (A) party popper: small devices with paper or plastic exteriors that are actuated by means of friction (a string or trigger is typically pulled to actuate the device). They frequently resemble champagne bottles or toy pistols in shape. Upon activation, the device expels flame-resistant paper streamers, confetti, or other novelties and produces a small report. Devices may contain not more than sixteen milligrams (0.25 grains) of explosive composition, which is limited to potassium chlorate and red phosphorus. These devices must be packaged in an inner packaging which contains a maximum of seventy-two devices. (B) snapper: small, paper-wrapped devices containing not more than one milligram of silver fulminate coated on small bits of sand or gravel. When dropped, the device explodes, producing a small report. Snappers must be in inner packages not to exceed fifty devices each, and the inner packages must contain sawdust or a similar, impact-absorbing material. (b) The term "dangerous fireworks" means any fireworks capable of causing serious physical injury and which are: firecrackers containing more than fifty milligrams of any explosive substance, torpedoes, skyrockets and rockets including all devices which employ any combustible or explosive substance and which rise in the air during discharge, Roman candles, and bombs, provided, however, that in cities with a population of one million or more, the term "dangerous fireworks" shall also include sparklers more than ten inches in length or one-fourth of one inch in diameter, or chasers including all devices which dart or travel about the surface of the ground during discharge. (c) "Fireworks" and "dangerous fireworks" shall not be deemed to include the following nor shall the purchase and use of any items listed below be subject to the provisions of section 61 of title 12 of the New York state codes, rules and regulations or section four hundred eighty, four hundred eighty-one, four hundred eighty-two or four hundred eighty-three of the general business law: (i) flares of the type used by railroads or any warning lights commonly known as red flares, or marine distress signals of a type approved by the United States coast guard, or (ii) toy pistols, toy canes, toy guns or other devices in which paper caps containing twenty-five hundredths grains or less of explosive compound are used, providing they are so constructed that the hand cannot come in contact with the cap when in place for use, and toy pistol paper caps which contain less than twenty-hundredths grains of explosive mixture, the sale and use of which shall be permitted at all times, or (iii) bank security devices which contain not more than fifty grams of any compound or substance or any combination thereof, together with an igniter not exceeding 0.2 gram, capable of producing a lachrymating and/or visible or audible effect, where such device is stored or used only by banks, national banking associations, trust companies, savings banks, savings and loan associations, industrial banks, or credit unions, or by any manufacturer, wholesaler, dealer, jobber or common carrier for such devices and where the total storage on any one premises does not exceed one hundred devices, or (iv) except in cities with a population of one million or more, "fireworks" and "dangerous fireworks" shall not be deemed to include "sparkling devices" as defined in subparagraph (vi) of paragraph (a) of this subdivision. The storage and retail sale of sparkling devices shall be regulated in a manner that is not in conflict with the provisions of NFPA 1124, 2006 edition. 2. Offense. (a) Except as herein otherwise provided, or except where a permit is obtained pursuant to section 405.00 of this chapter: (i) any person who shall offer or expose for sale, sell or furnish, any fireworks or dangerous fireworks is guilty of a class B misdemeanor; (ii) any person who shall offer or expose for sale, sell or furnish any fireworks or dangerous fireworks valued at five hundred dollars or more shall be guilty of a class A misdemeanor; (iii) any person who shall possess, use, explode or cause to explode any fireworks or dangerous fireworks is guilty of a violation; (iv) any person who shall offer or expose for sale, sell or furnish, any dangerous fireworks, fireworks or sparkling devices to any person who is under the age of eighteen is guilty of a class A misdemeanor. (b) A person who has previously been convicted of a violation of subparagraph (iv) of paragraph (a) of this subdivision within the preceding five years and who shall offer or expose for sale, sell or furnish, any dangerous fireworks to any person who is under the age of eighteen, shall be guilty of a class E felony. (c) Possession of fireworks or dangerous fireworks valued at one hundred fifty dollars or more shall be a presumption that such fireworks were intended to be offered or exposed for sale. 3. Exceptions. (a) The provisions of this section shall not apply to: (i) fireworks, dangerous fireworks, and sparkling devices while in possession of railroads, common or contract carriers, retailers, wholesalers, distributors, jobbers and transportation companies or transportation agencies for the purpose of transportation to points without the state, the shipment of which is not prohibited by interstate commerce commission regulations as formulated and published from time to time, unless they be held voluntarily by such railroads, common or contract carriers, retailers, wholesalers, distributors, jobbers and transportation agencies or transporting companies as warehousemen for delivery to points within the state; (ii) signaling devices used by railroad companies or motor vehicles referred to in subdivision seventeen of section three hundred seventy-five of the vehicle and traffic law; (iii) high explosives for blasting or similar purposes; (iv) fireworks, dangerous fireworks and sparkling devices for the use thereof by the United States military, and departments of the state and federal government; (v) the use, transportation and storage of fireworks, dangerous fireworks and sparkling devices and special effects materials in connection with the production of motion pictures, television programs, commercials, and all entertainment media recorded in any current or to be designed format when such use, transportation and storage has been appropriately permitted by the local governmental subdivision having jurisdiction. (b) Nothing in this article shall be construed to prohibit: (i) any manufacturer, wholesaler, retailer, dealer or jobber from manufacturing,

possessing or selling at wholesale a sparkling device to municipalities, religious or civic organizations, fair associations, amusement parks, or other organizations authorized by the state to store, transport, possess and use or to individuals to store, transport, possess and use; (ii) the sale or use of blank cartridges for a motion picture, television program, commercial and all entertainment media, or for signal purposes in athletic sports, or for dog trials or dog training; (iii) the use, storage, transportation or sale or transfer for use of fireworks and sparkling devices in the preparation for or in connection with motion pictures, television programs, commercials, and all entertainment media recorded in any current or to be designed format when such use, transportation and storage has been appropriately permitted by the local governmental subdivision having jurisdiction; (iv) the manufacture or sale of sparkling devices provided they are to be shipped directly out of such city and any such items are sold in accordance with the provisions of this article; or (v) except in cities with a population of one million or more, possession of sparkling devices lawfully obtained in another jurisdiction. 4. Sales of ammunition not prohibited. Nothing contained in this section shall be construed to prevent, or interfere in any way with, the sale of ammunition for revolvers or pistols of any kind, or for rifles, shot guns, or other arms, belonging or which may belong to any persons whether as sporting or hunting weapons or for the purpose of protection to them in their homes, or, as they may go abroad; and manufacturers are authorized to continue to manufacture, and wholesalers and dealers to continue to deal in and freely to sell ammunition to all such persons for such purposes. 5. Notwithstanding the provisions of subdivision four of this section, it shall be unlawful for any dealer in firearms to sell any ammunition designed exclusively for use in a pistol or revolver to any person, not authorized to possess a pistol or revolver. The violation of this section shall constitute a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 270 - Other Offenses Relating to Public Safety270.05 - Unlawfully Possessing or Selling Noxious Material.

§ 270.05 Unlawfully possessing or selling noxious material. 1. As used in this section, "noxious material" means any container which contains any drug or other substance capable of generating offensive, noxious or suffocating fumes, gases or vapors, or capable of immobilizing a person. 2. A person is guilty of unlawfully possessing noxious material when he possesses such material under circumstances evincing an intent to use it or to cause it to be used to inflict physical injury upon or to cause annoyance to a person, or to damage property of another, or to disturb the public peace. 3. Possession of noxious material is presumptive evidence of intent to use it or cause it to be used in violation of this section. 4. Bank security devices not prohibited. Notwithstanding the provisions of subdivision one of this section, it shall not be unlawful for any bank, national banking association, trust company, savings bank, savings and loan association, industrial bank, or credit union to store, possess, transport, use or cause to discharge any bank security device as described in subdivision one of section 270.00 of this chapter; nor shall it be unlawful for any manufacturer, wholesaler, dealer, jobber or common carrier to manufacture, store, possess, transport, or sell such a device to banks, national banking associations, trust companies, savings banks, savings and loan associations, industrial banks or credit unions. 5. Self-defense spray devices not prohibited. Notwithstanding the provisions of subdivisions two and three of this section, it shall not be unlawful for a person eighteen years of age or older to possess a self-defense spray device as defined in paragraph fourteen of subdivision a of section 265.20 of this chapter in accordance with the provisions set forth therein. 6. A person is guilty of unlawfully selling a noxious material when he or she sells a self-defense spray device as defined in paragraph fourteen of subdivision a of section 265.20 of this chapter and such sale was not authorized in accordance with the provisions of paragraph fifteen of subdivision a of section 265.20 of this chapter. Unlawfully possessing or selling noxious material is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 270 - Other Offenses Relating to Public Safety270.10 - Creating a Hazard.

A person is guilty of creating a hazard when: 1. Having discarded in any place where it might attract children, a container which has a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot easily be opened from the inside, he fails to remove the door, lid, locking or fastening device; or 2. Being the owner or otherwise having possession of property upon which an abandoned well or cesspool is located, he fails to cover the same with suitable protective construction. Creating a hazard is a class B misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 270 - Other Offenses Relating to Public Safety270.15 - Unlawfully Refusing to Yield a Party Line.

1. As used in this section:(a) "Party line" means a subscriber's line telephone circuit, consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number.(b) "Emergency call" means a telephone call to a police or fire department, or for medical aid or ambulance service, necessitated by a situation in which human life or property is in jeopardy and prompt summoning of aid is essential.2. A person is guilty of unlawfully refusing to yield a party line when, being informed that a party line is needed for an emergency call, he refuses immediately to relinquish such line.Unlawfully refusing to yield a party line is a class B misdemeanor. (a) "Party line" means a subscriber's line telephone circuit, consisting of two or more main telephone stations connected therewith, each station with a distinctive ring or telephone number. (b) "Emergency call" means a telephone call to a police or fire department, or for medical aid or ambulance service, necessitated by a situation in which human life or property is in jeopardy and prompt summoning of aid is essential. 2. A person is guilty of unlawfully refusing to yield a party line when, being informed that a party line is needed for an emergency call, he refuses immediately to relinquish such line. Unlawfully refusing to yield a party line is a class B misdemeanor.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 270 - Other Offenses Relating to Public Safety270.20 - Unlawful Wearing of Body Armor.

1. A person is guilty of the unlawful wearing of body armor when acting either alone or with one or more other persons he commits any violent felony offense defined in section 70.02 while possessing a firearm, rifle or shotgun and in the course of and in furtherance of such crime he or she wears body armor. 2. For the purposes of this section "body armor" means any product that is a personal protective body covering intended to protect against gunfire, regardless of whether such product is to be worn alone or is sold as a complement to another product or garment. The unlawful wearing of body armor is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 270 - Other Offenses Relating to Public Safety270.21 - Unlawful Purchase of Body Armor.

A person is guilty of the unlawful purchase of body armor when, not being engaged or employed in an eligible profession, they knowingly purchase or take possession of body armor, as such term is defined in subdivision two of section 270.20 of this article. This section shall not apply to individuals or entities engaged or employed in eligible professions, which shall include police officers as defined in section 1.20 of the criminal procedure law, peace officers as defined in section 2.10 of the criminal procedure law, persons in military service in the state of New York or military or other service for the United States, and such other professions designated by the department of state in accordance with section one hundred forty-four-a of the executive law. Unlawful purchase of body armor is a class A misdemeanor for a first offense and a class E felony for any subsequent offense.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 270 - Other Offenses Relating to Public Safety270.22 - Unlawful Sale of Body Armor.

A person is guilty of the unlawful sale of body armor when they sell, exchange, give or dispose of body armor, as such term is defined in subdivision two of section 270.20 of this article, to an individual whom they know or reasonably should have known is not engaged or employed in an eligible profession, as such term is defined in section 270.21 of this article. Unlawful sale of body armor is a class A misdemeanor for the first offense and a class E felony for any subsequent offense.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 270 - Other Offenses Relating to Public Safety270.25 - Unlawful Fleeing a Police Officer in a Motor Vehicle in the Third Degree.

third degree. A person is guilty of unlawful fleeing a police officer in a motor vehicle in the third degree when, knowing that he or she has been directed to stop his or her motor vehicle by a uniformed police officer or a marked police vehicle by the activation of either the lights or the lights and siren of such vehicle, he or she thereafter attempts to flee such officer or such vehicle by driving at speeds which equal or exceed twenty-five miles per hour above the speed limit or engaging in reckless driving as defined by section twelve hundred twelve of the vehicle and traffic law. Unlawful fleeing a police officer in a motor vehicle in the third degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 270 - Other Offenses Relating to Public Safety270.30 - Unlawful Fleeing a Police Officer in a Motor Vehicle in the Second Degree.

second degree. A person is guilty of unlawful fleeing a police officer in a motor vehicle in the second degree when he or she commits the offense of unlawful fleeing a police officer in a motor vehicle in the third degree, as defined in section 270.25 of this article, and as a result of such conduct a police officer or a third person suffers serious physical injury. Unlawful fleeing a police officer in a motor vehicle in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 270 - Other Offenses Relating to Public Safety270.35 - Unlawful Fleeing a Police Officer in a Motor Vehicle in the First Degree.

first degree. A person is guilty of unlawful fleeing a police officer in a motor vehicle in the first degree when he or she commits the offense of unlawful fleeing a police officer in a motor vehicle in the third degree, as defined in section 270.25 of this article, and as a result of such conduct a police officer or a third person is killed. Unlawful fleeing a police officer in a motor vehicle in the first degree is a class D felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 270 - Other Offenses Relating to Public Safety270.40 - Unlawfully Installing a Gas Meter.

1. As used in this section "gas meter" means any gas meter that measures usage of any end use customer of gas services. 2. A person is guilty of unlawfully installing a gas meter when he or she installs the gas meter or is the owner of the premises where the meter is unlawfully installed and knows that such gas meter was unlawfully installed. A gas meter is unlawfully installed when it is installed by any person other than a person acting on behalf of a utility corporation subject to the jurisdiction of the public service commission, unless such person has received a permit to install the gas meter from the appropriate permitting authority. Unlawfully installing a gas meter is a class B misdemeanor.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 275 - Offenses Relating to Unauthorized Recording275.00 - Definitions.

The following definitions are applicable to this article: 1. "Person" means any individual, firm, partnership, corporation or association. 2. "Owner" means (a) the person who owns, or has the exclusive license in the United States to reproduce or the exclusive license in the United States to distribute to the public copies of the sounds fixed in a master phonograph record, master disc, master tape, master film or any other device used for reproducing sounds on phonograph records, discs, tapes, films, videocassettes, or any other articles upon which sound is recorded, and from which the transferred recorded sounds are directly derived; or (b) the person who owns the rights to record or authorize the recording of a live performance. 3. "Fixed" means embodied in a recording by or under the authority of the author, so that the matter embodied is sufficiently permanent or stable to permit it to be perceived, reproduced, or otherwise communicated for a period of more than transitory duration. 4. "Performer" means the person or persons appearing in a performance. 5. "Performance" means, whether live before an audience or transmitted by wire or through the air by radio or television, a recitation, rendering, or playing of a series of images, musical, spoken, or other sounds, or a combination of images and sounds, in an audible sequence. 6. "Recording" means an original phonograph record, disc, tape, audio or video cassette, wire, film, hard drive, flash drive, memory card or other data storage device or any other medium on which such sounds, images, or both sounds and images are or can be recorded or otherwise stored, or a copy or reproduction that duplicates in whole or in part the original.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 275 - Offenses Relating to Unauthorized Recording275.05 - Manufacture of Unauthorized Recordings in the Second Degree.

A person is guilty of the manufacture of unauthorized recordings in the second degree when such person: 1. knowingly, and without the consent of the owner, transfers or causes to be transferred any sound recording, with the intent to rent or sell, or cause to be rented or sold for profit, or used to promote the sale of any product, such article to which such recording was transferred, or 2. transports within this state, for commercial advantage or private financial gain, a recording, knowing that the sounds have been reproduced or transferred without the consent of the owner; provided, however, that this section shall only apply to sound recordings initially fixed prior to February fifteenth, nineteen hundred seventy-two. Manufacture of unauthorized recordings in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 275 - Offenses Relating to Unauthorized Recording275.10 - Manufacture of Unauthorized Recordings in the First Degree.

A person is guilty of manufacture of unauthorized recordings in the first degree when he commits the crime of manufacture of unauthorized recordings in the second degree as defined in section 275.05 of this article and either: 1. has previously been convicted of that crime within the past five years; or 2. commits that crime by the manufacture of one thousand unauthorized sound recordings; provided, however, that this section shall only apply to sound recordings initially fixed prior to February fifteenth, nineteen hundred seventy-two. Manufacture of unauthorized recordings in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 275 - Offenses Relating to Unauthorized Recording275.15 - Manufacture or Sale of an Unauthorized Recording of a Performance in the Second Degree.

performance in the second degree. A person commits the crime of manufacture or sale of an unauthorized recording of a performance in the second degree when he knowingly, and without the consent of the performer, records or fixes or causes to be recorded or fixed on a recording a performance, with the intent to sell or rent or cause to be sold or rented such recording, or with the intent to use such recording to promote the sale of any product; or when he knowingly possesses, transports or advertises, for purposes of sale, resale or rental or sells, resells, rents or offers for rental, sale or resale, any recording that the person knows has been produced in violation of this section. Manufacture or sale of an unauthorized recording of a performance in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 275 - Offenses Relating to Unauthorized Recording275.20 - Manufacture or Sale of an Unauthorized Recording of a Performance in the First Degree.

performance in the first degree. A person commits the crime of unauthorized recording of a performance in the first degree when he commits the crime of manufacture or sale of an unauthorized recording of a performance in the second degree as defined in section 275.15 of this article and either: 1. such person has previously been convicted of that crime within the past five years; or 2. commission of that crime involves at least one thousand unauthorized sound recordings or at least one hundred unauthorized audio-visual recordings. Manufacture or sale of an unauthorized recording of a performance in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 275 - Offenses Relating to Unauthorized Recording275.25 - Advertisement or Sale of Unauthorized Recordings in the Second Degree.

degree. A person is guilty of the advertisement or sale of unauthorized recordings in the second degree when such person knowingly advertises, offers for sale, resale, or rental, or sells, resells, rents, distributes or possesses for any such purposes, any recording that has been produced or transferred without the consent of the owner; provided, however, that this section shall only apply to sound recordings initially fixed prior to February fifteenth, nineteen hundred seventy-two. Advertisement or sale of unauthorized recordings in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 275 - Offenses Relating to Unauthorized Recording275.30 - Advertisement or Sale of Unauthorized Recordings in the First Degree.

degree. A person is guilty of the advertisement or sale of unauthorized recordings in the first degree when such person commits the crime of advertisement or sale of unauthorized recordings in the second degree as defined in section 275.25 of this article and either: 1. such person has previously been convicted of that crime within the past five years; or 2. commission of that crime involves at least one thousand unauthorized sound recordings or at least one hundred unauthorized audiovisual recordings. Advertisement and sale of unauthorized recordings in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 275 - Offenses Relating to Unauthorized Recording275.32 - Unlawful Operation of a Recording Device in a Motion Picture or Live Theater in the Third Degree.

live theater in the third degree. 1. A person is guilty of unlawful operation of a recording device in a motion picture or live theater in the third degree when without authority or written permission from the operator of a motion picture theater or live theater, the person operates a recording device in such theater. 2. As used in this section (a) "recording device" means a photographic or video camera, or any audiovisual recording function of any device used for recording the sound or picture of a motion picture;(b) "operator" means the owner or lessee of a motion picture theater or live theater or the authorized agent or employee of such owner or lessee;(c) "motion picture theater" means a theater, screening room, auditorium or other venue that is being utilized primarily for the exhibition of a motion picture at the time of the offense; and(d) "live theater" means a concert hall, recital hall, theater, or auditorium in which a presentation is rendered, consisting in whole or in part of a musical, dramatic, dance, or other stage rendition by one or more professional performers who appear in person in the immediate presence of their audiences, and admission to which is limited by its operator to persons holding an admission ticket or who have other authority or written permission to enter. Live theater shall not mean or include a musical, dramatic, dance, or other stage rendition that is performed by students enrolled in a school or college or as a part of a children's camp or similar program.Unlawful operation of a recording device in a motion picture or live theater in the third degree is a violation. (b) "operator" means the owner or lessee of a motion picture theater or live theater or the authorized agent or employee of such owner or lessee; (c) "motion picture theater" means a theater, screening room, auditorium or other venue that is being utilized primarily for the exhibition of a motion picture at the time of the offense; and (d) "live theater" means a concert hall, recital hall, theater, or auditorium in which a presentation is rendered, consisting in whole or in part of a musical, dramatic, dance, or other stage rendition by one or more professional performers who appear in person in the immediate presence of their audiences, and admission to which is limited by its operator to persons holding an admission ticket or who have other authority or written permission to enter. Live theater shall not mean or include a musical, dramatic, dance, or other stage rendition that is performed by students enrolled in a school or college or as a part of a children's camp or similar program. Unlawful operation of a recording device in a motion picture or live theater in the third degree is a violation.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 275 - Offenses Relating to Unauthorized Recording275.33 - Unlawful Operation of a Recording Device in a Motion Picture or Live Theater in the Second Degree.

live theater in the second degree. A person is guilty of unlawful operation of a recording device in a motion picture or live theater in the second degree when he or she violates section 275.32 of this article: 1. for financial profit or commercial purposes; or 2. in circumstances where the material recorded is fifteen or more minutes, or all or a substantial portion, of the motion picture or live theatrical performance; or 3. in circumstances where such person has previously been convicted within the past five years of violating section 275.32 or 275.34 of this article or this section. Unlawful operation of a recording device in a motion picture or live theater in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 275 - Offenses Relating to Unauthorized Recording275.34 - Unlawful Operation of a Recording Device in a Motion Picture or Live Theater in the First Degree.

live theater in the first degree. A person is guilty of unlawful operation of a recording device in a motion picture or live theater in the first degree when he or she commits the crime of unlawful operation of a recording device in a motion picture or live theater in the second degree as defined in section 275.33 of this article and has previously been convicted within the past ten years of violating section 275.33 of this article or this section. Unlawful operation of a recording device in a motion picture or live theatre in the first degree is a class E felony.

Title: pen

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 275 - Offenses Relating to Unauthorized Recording275.35 - Failure to Disclose the Origin of a Recording in the Second Degree.

degree. A person is guilty of failure to disclose the origin of a recording in the second degree when, for commercial advantage or private financial gain, he knowingly advertises or offers for sale, resale, or rental, or sells, resells, or rents, or possesses for such purposes, a recording the cover, box, jacket or label does not clearly and conspicuously disclose the actual name and address of the manufacturer or the name of the performer or principal artist. The omission of the actual name and address of the manufacturer, or the omission of the name of the performer or principal artist, or the omission of both, shall constitute the failure to disclose the origin of a recording. Failure to disclose the origin of a recording in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 275 - Offenses Relating to Unauthorized Recording275.40 - Failure to Disclose the Origin of a Recording in the First Degree.

degree. A person is guilty of failure to disclose the origin of a recording in the first degree when such person commits the crime of failure to disclose the origin of a recording in the second degree as defined in section 275.35 of this article and either: 1. such person has been convicted of failure to disclose the origin of a recording in the first or second degree within the past five years; or 2. commission of the crime involves at least one hundred unauthorized sound recordings or at least one hundred unauthorized audiovisual recordings. Failure to disclose the origin of a recording in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 3 - Specific OffensesTitle P - Offenses Against Public SafetyArticle 275 - Offenses Relating to Unauthorized Recording275.45 - Limitations of Application.

1. This article does not apply to:(a) any broadcaster who, in connection with or as part of a radio, television, or cable broadcast transmission, or for the purpose of archival preservation, transfers any such recorded sounds or images; or(b) any person who transfers such sounds or images for personal use, and without profit for such transfer.2. This article shall neither enlarge nor diminish the rights of parties in civil litigation. (a) any broadcaster who, in connection with or as part of a radio, television, or cable broadcast transmission, or for the purpose of archival preservation, transfers any such recorded sounds or images; or (b) any person who transfers such sounds or images for personal use, and without profit for such transfer. 2. This article shall neither enlarge nor diminish the rights of parties in civil litigation.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle W - Provisions Relating to Firearms, Fireworks, Pornography Equipment and Vehicles Used in the Transportation of Gambling RecordsArticle 400 - Licensing and Other Provisions Relating to Firearms400.00 - Licensing and Other Provisions Relating to Firearms.

1. Eligibility. No license shall be issued or renewed pursuant to this section except by the licensing officer, and then only after investigation and finding that all statements in a proper application for a license are true. No license shall be issued or renewed except for an applicant (a) twenty-one years of age or older, provided, however, that where such applicant has been honorably discharged from the United States army, navy, marine corps, air force or coast guard, or the national guard of the state of New York, no such age restriction shall apply; (b) of good moral character, which, for the purposes of this article, shall mean having the essential character, temperament and judgement necessary to be entrusted with a weapon and to use it only in a manner that does not endanger oneself or others; (c) who has not been convicted anywhere of a felony or a serious offense or who is not the subject of an outstanding warrant of arrest issued upon the alleged commission of a felony or serious offense; (d) who is not a fugitive from justice; (e) who is not an unlawful user of or addicted to any controlled substance as defined in section 21 U.S.C. 802; (f) who being a noncitizen (i) is not illegally or unlawfully in the United States or (ii) has not been admitted to the United States under a nonimmigrant visa subject to the exception in 18 U.S.C. 922(y)(2); (g) who has not been discharged from the Armed Forces under dishonorable conditions; (h) who, having been a citizen of the United States, has not renounced his or her citizenship; (i) who has stated whether he or she has ever suffered any mental illness; (j) who has not been involuntarily committed to a facility under the jurisdiction of an office of the department of mental hygiene pursuant to article nine or fifteen of the mental hygiene law, article seven hundred thirty or section 330.20 of the criminal procedure law or substantially similar laws of any other state, section four hundred two or five hundred eight of the correction law, section 322.2 or 353.4 of the family court act, has not been civilly confined in a secure treatment facility pursuant to article ten of the mental hygiene law, or has not been the subject of a report made pursuant to section 9.46 of the mental hygiene law; (k) who has not had a license revoked or who is not under a suspension or ineligibility order issued pursuant to the provisions of section 530.14 of the criminal procedure law or section eight hundred forty-two-a of the family court act; (l) in the county of Westchester, who has successfully completed a firearms safety course and test as evidenced by a certificate of completion issued in his or her name and endorsed and affirmed under the penalties of perjury by a duly authorized instructor, except that: (i) persons who are honorably discharged from the United States army, navy, marine corps or coast guard, or of the national guard of the state of New York, and produce evidence of official qualification in firearms during the term of service are not required to have completed those hours of a firearms safety course pertaining to the safe use, carrying, possession, maintenance and storage of a firearm; (ii) persons who were licensed to possess a pistol or revolver prior to the effective date of this paragraph are not required to have completed a firearms safety course and test, provided, however, persons with a license issued under paragraph (f) of subdivision two of this section prior to the effective date of the laws of two thousand twenty-two which

amended this paragraph shall be required to complete the training required by subdivision nineteen of this section prior to the recertification of such license; and (iii) persons applying for a license under paragraph (f) of subdivision two of this section on or after the effective date of the chapter of the laws of two thousand twenty-two which amended this paragraph who shall be required to complete the training required under subdivision nineteen of this section for such license; (m) who has not had a guardian appointed for him or her pursuant to any provision of state law, based on a determination that as a result of marked subnormal intelligence, mental illness, incompetency, incapacity, condition or disease, he or she lacks the mental capacity to contract or manage his or her own affairs; (n) for a license issued under paragraph (f) of subdivision two of this section, that the applicant has not been convicted within five years of the date of the application of any of the following: (i) assault in the third degree, as defined in section 120.00 of this chapter; (ii) misdemeanor driving while intoxicated, as defined in section eleven hundred ninety-two of the vehicle and traffic law; or (iii) menacing, as defined in section 120.15 of this chapter; and (o) for a license issued under paragraph (f) of subdivision two of this section, the applicant shall meet in person with the licensing officer for an interview and shall, in addition to any other information or forms required by the license application submit to the licensing officer the following information: (i) names and contact information for the applicant's current spouse, or domestic partner, any other adults residing in the applicant's home, including any adult children of the applicant, and whether or not there are minors residing, full time or part time, in the applicant's home; (ii) names and contact information of no less than four character references who can attest to the applicant's good moral character and that such applicant has not engaged in any acts, or made any statements that suggest they are likely to engage in conduct that would result in harm to themselves or others; (iii) certification of completion of the training required in subdivision nineteen of this section; (iv) a list of former and current social media accounts of the applicant from the past three years to confirm the information regarding the applicants character and conduct as required in subparagraph (ii) of this paragraph; and (v) such other information required by the licensing officer that is reasonably necessary and related to the review of the licensing application. 1-a. No person shall engage in the business of gunsmith or dealer in firearms unless licensed pursuant to this section. An applicant to engage in such business shall also be a citizen of the United States, more than twenty-one years of age and shall be required to maintain a place of business in the city or county where the license is issued. For such business, if the applicant is a firm or partnership, each member thereof shall comply with all of the requirements set forth in this subdivision and if the applicant is a corporation, each officer thereof shall so comply. 1-b. For purposes of subdivision one of this section, serious offense shall include an offense in any jurisdiction or the former penal law that includes all of the essential elements of a serious offense as defined by subdivision seventeen of section 265.00 of this chapter. Nothing in this subdivision shall preclude the denial of a license based on the commission of, arrest for or conviction of an offense in any other jurisdiction which does not include all of the essential elements of a serious offense. 2. Types of licenses. A license for gunsmith or dealer in firearms shall be issued to engage in such business. A license for a semiautomatic rifle, other than an assault weapon or disguised gun, shall be issued to purchase or take possession of such a semiautomatic rifle when such transfer of ownership occurs on or after the effective date of chapter two hundred twelve of the laws of two thousand twenty-two that amended this subdivision. A license for a pistol or revolver, other than an assault weapon or a disguised gun, shall be issued to (a) have and possess in his dwelling by a householder; (b) have and possess in his place of business by a merchant or storekeeper; (c) have and carry concealed while so employed by a messenger employed by a banking institution or express company; (d) have and carry concealed by a justice of the supreme court in the first or second judicial departments, or by a judge of the New York city civil court or the New York city criminal court; (e) have and carry concealed while so employed by a regular employee of an institution of the state, or of any county, city, town or village, under control of a commissioner of correction of the city or any warden, superintendent or head keeper of any state prison, penitentiary, workhouse, county jail or other institution for the detention of persons convicted or accused of crime or held as witnesses in criminal cases, provided that application is made therefor by such commissioner, warden, superintendent or head keeper; (f) have and carry concealed, without regard to employment or place of possession subject to the restrictions of state and federal law, by any person; and (g) have, possess, collect and carry antique pistols which are defined as follows: (i) any single shot, muzzle loading pistol with a matchlock, flintlock, percussion cap, or similar type of ignition system manufactured in or before 1898, which is not designed for using rimfire or conventional centerfire fixed ammunition; and (ii) any replica of any pistol described in clause (i) hereof if such replica;(1) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or(2) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade.3. Applications. (a) Applications shall be made and renewed, in the case of a license to carry or possess a pistol or revolver or to purchase or take possession of a semiautomatic rifle, to the licensing officer in the city or county, as the case may be, where the applicant resides, is principally employed or has his or her principal place of business as merchant or storekeeper; and, in the case of a license as gunsmith or dealer in firearms, to the licensing officer where such place of business is located. Blank applications shall, except in the city of New York, be approved as to form by the superintendent of state police. An application shall state the full name, date of birth, residence, present occupation of each person or individual signing the same, whether or not he or she is a citizen of the United States, whether or not he or she complies with each requirement for eligibility specified in subdivision one of this section and such other facts as may be required to show the good character, competency and integrity of each person or individual signing the application. An application shall be signed and verified by the applicant. Each individual signing an application shall submit one photograph of himself or herself and a duplicate for each required copy of the application. Such photographs shall have been taken within thirty days prior to filing the application. In case of a license as gunsmith or dealer in firearms, the photographs submitted shall be two inches square, and the application shall also state the previous occupation of each individual signing the same and the location of the place of such business, or of the bureau, agency,

subagency, office or branch office for which the license is sought, specifying the name of the city, town or village, indicating the street and number and otherwise giving such apt description as to point out reasonably the location thereof. In such case, if the applicant is a firm, partnership or corporation, its name, date and place of formation, and principal place of business shall be stated. For such firm or partnership, the application shall be signed and verified by each individual composing or intending to compose the same, and for such corporation, by each officer thereof.(b) Application for an exemption under paragraph seven-b of subdivision a of section 265.20 of this chapter. Each applicant desiring to obtain the exemption set forth in paragraph seven-b of subdivision a of section 265.20 of this chapter shall make such request in writing of the licensing officer with whom his application for a license is filed, at the time of filing such application. Such request shall include a signed and verified statement by the person authorized to instruct and supervise the applicant, that has met with the applicant and that he has determined that, in his judgment, said applicant does not appear to be or poses a threat to be, a danger to himself or to others. He shall include a copy of his certificate as an instructor in small arms, if he is required to be certified, and state his address and telephone number. He shall specify the exact location by name, address and telephone number where such instruction will take place. Such licensing officer shall, no later than ten business days after such filing, request the duly constituted police authorities of the locality where such application is made to investigate and ascertain any previous criminal record of the applicant pursuant to subdivision four of this section. Upon completion of this investigation, the police authority shall report the results to the licensing officer without unnecessary delay. The licensing officer shall no later than ten business days after the receipt of such investigation, determine if the applicant has been previously denied a license, been convicted of a felony, or been convicted of a serious offense, and either approve or disapprove the applicant for exemption purposes based upon such determinations. If the applicant is approved for the exemption, the licensing officer shall notify the appropriate duly constituted police authorities and the applicant. Such exemption shall terminate if the application for the license is denied, or at any earlier time based upon any information obtained by the licensing officer or the appropriate police authorities which would cause the license to be denied. The applicant and appropriate police authorities shall be notified of any such terminations.4. Investigation. Before a license is issued or renewed, there shall be an investigation of all statements required in the application by the duly constituted police authorities of the locality where such application is made, including but not limited to such records as may be accessible to the division of state police or division of criminal justice services pursuant to section 400.02 of this article. For that purpose, the records of the appropriate office of the department of mental hygiene concerning previous or present mental illness of the applicant shall be available for inspection by the investigating officer of the police authority. Where the applicant is domiciled in a foreign state, the investigation shall include inquiry of the foreign state for records concerning the previous or present mental illness of the applicant, and, to the extent necessary for inspection by the investigating officer, the applicant shall execute a waiver of confidentiality of such record in such form as may be required by the foreign state. In order to ascertain any previous criminal record, the investigating officer shall take the fingerprints and physical descriptive data in quadruplicate of each individual by whom the application is signed and verified. Two copies of such fingerprints shall be taken on standard fingerprint cards eight inches square, and one copy may be taken on a card supplied for that purpose by the federal bureau of investigation; provided, however, that in the case of a corporate applicant that has already been issued a dealer in firearms license and seeks to operate a firearm dealership at a second or subsequent location, the original fingerprints on file may be used to ascertain any criminal record in the second or subsequent application unless any of the corporate officers have changed since the prior application, in which case the new corporate officer shall comply with procedures governing an initial application for such license. When completed, one standard card shall be forwarded to and retained by the division of criminal justice services in the executive department, at Albany. A search of the files of such division and written notification of the results of the search shall be forwarded to the investigating officer and shall be made without unnecessary delay. Thereafter, such division shall notify the licensing officer and the executive department, division of state police, Albany, of any criminal record of the applicant filed therein subsequent to the search of its files. A second standard card, or the one supplied by the federal bureau of investigation, as the case may be, shall be forwarded to that bureau at Washington with a request that the files of the bureau be searched and notification of the results of the search be made to the investigating police authority. Of the remaining two fingerprint cards, one shall be filed with the executive department, division of state police, Albany, within ten days after issuance of the license, and the other shall remain on file with the investigating police authority. No such fingerprints may be inspected by any person other than a peace officer, who is acting pursuant to his or her special duties, or a police officer, except on order of a judge or justice of a court of record either upon notice to the licensee or without notice, as the judge or justice may deem appropriate. Upon completion of the investigation, the police authority shall report the results to the licensing officer without unnecessary delay.4-a. Appeals from denial of an application, renewal, recertification or license revocation. If an application for a license is denied, not renewed, not recertified, or revoked, the licensing officer shall issue a written notice to the applicant setting forth the reasons for such denial. An applicant may, within ninety days of receipt of such notice, request a hearing to appeal the denial to the appeals board created by the division of criminal justice services and the superintendent of state police. An individual may be represented by counsel at any appearance before the appeals board and shall be afforded an opportunity to present additional evidence in support of their application. The commissioner of criminal justice services and the superintendent of state police shall promulgate rules and regulations governing such appeals process.4-b. Processing of license applications. Applications for licenses shall be accepted for processing by the licensing officer at the time of presentment. Except upon written notice to the applicant specifically stating the reasons for any delay, in each case the licensing officer shall act upon any application for a license pursuant to this section within six months of the date of presentment of such an application to the appropriate authority. Such delay may only be for good cause and with respect to the applicant. In acting upon an application, the licensing officer shall either deny the application for reasons specifically and concisely stated in writing or

grant the application and issue the license applied for.4-c. Westchester county firearms safety course certificate. In the county of Westchester, at the time of application, the licensing officer to which the license application is made shall provide a copy of the safety course booklet to each license applicant. Before such license is issued, such licensing officer shall require that the applicant submit a certificate of successful completion of a firearms safety course and test issued in his or her name and endorsed and affirmed under the penalties of perjury by a duly authorized instructor.5. Filing of approved applications. (a) The application for any license, if granted, shall be filed by the licensing officer with the clerk of the county of issuance, except that in the city of New York and, in the counties of Nassau and Suffolk, the licensing officer shall designate the place of filing in the appropriate division, bureau or unit of the police department thereof, and in the county of Suffolk the county clerk is hereby authorized to transfer all records or applications relating to firearms to the licensing authority of that county. Except as provided in paragraphs (b) through (f) of this subdivision, the name and address of any person to whom an application for any license has been granted shall be a public record. Upon application by a licensee who has changed his place of residence such records or applications shall be transferred to the appropriate officer at the licensee's new place of residence. A duplicate copy of such application shall be filed by the licensing officer in the executive department, division of state police, Albany, within ten days after issuance of the license. The superintendent of state police may designate that such application shall be transmitted to the division of state police electronically. In the event the superintendent of the division of state police determines that it lacks any of the records required to be filed with the division, it may request that such records be provided to it by the appropriate clerk, department or authority and such clerk, department or authority shall provide the division with such records. In the event such clerk, department or authority lacks such records, the division may request the license holder provide information sufficient to constitute such record and such license holder shall provide the division with such information. Such information shall be limited to the license holder's name, date of birth, gender, race, residential address, social security number and firearms possessed by said license holder. Nothing in this subdivision shall be construed to change the expiration date or term of such licenses if otherwise provided for in law. Records assembled or collected for purposes of inclusion in the database established by this section shall be released pursuant to a court order. Records assembled or collected for purposes of inclusion in the database created pursuant to section 400.02 of this chapter shall not be subject to disclosure pursuant to article six of the public officers law.(b) Each application for a license pursuant to paragraph (a) of this subdivision shall include, on a separate written form prepared by the division of state police within thirty days of the effective date of the chapter of the laws of two thousand thirteen, which amended this section, and provided to the applicant at the same time and in the same manner as the application for a license, an opportunity for the applicant to request an exception from his or her application information becoming public record pursuant to paragraph (a) of this subdivision. Such forms, which shall also be made available to individuals who had applied for or been granted a license prior to the effective date of the chapter of the laws of two thousand thirteen which amended this section, shall notify applicants that, upon discovery that an applicant knowingly provided false information, such applicant may be subject to penalties pursuant to section 175.30 of this chapter, and further, that his or her request for an exception shall be null and void, provided that written notice containing such determination is provided to the applicant. Further, such forms shall provide each applicant an opportunity to specify the grounds on which he or she believes his or her application information should not be publicly disclosed. These grounds, which shall be identified on the application with a box beside each for checking, as applicable, by the applicant, shall be as follows:(i) the applicant's life or safety may be endangered by disclosure because:(A) the applicant is an active or retired police officer, peace officer, probation officer, parole officer, or corrections officer;(B) the applicant is a protected person under a currently valid order of protection;(C) the applicant is or was a witness in a criminal proceeding involving a criminal charge;(D) the applicant is participating or previously participated as a juror in a criminal proceeding, or is or was a member of a grand jury; or(E) the applicant is a spouse, domestic partner or household member of a person identified in this subparagraph or subparagraph (ii) of this paragraph, specifying which subparagraph or subparagraphs and clauses apply.(ii) the applicant has reason to believe his or her life or safety may be endangered by disclosure due to reasons stated by the applicant.(iii) the applicant has reason to believe he or she may be subject to unwarranted harassment upon disclosure of such information.(c) Each form provided for recertification pursuant to paragraph (b) of subdivision ten of this section shall include an opportunity for the applicant to request an exception from the information provided on such form becoming public record pursuant to paragraph (a) of this subdivision. Such forms shall notify applicants that, upon discovery that an applicant knowingly provided false information, such applicant may be subject to penalties pursuant to section 175.30 of this chapter, and further, that his or her request for an exception shall be null and void, provided that written notice containing such determination is provided to the applicant. Further, such forms shall provide each applicant an opportunity to either decline to request the grant or continuation of an exception, or specify the grounds on which he or she believes his or her information should not be publicly disclosed. These grounds, which shall be identified in the application with a box beside each for checking, as applicable, by the applicant, shall be the same as provided in paragraph (b) of this subdivision.(d) Information submitted on the forms described in paragraph (b) of this subdivision shall be excepted from disclosure and maintained by the entity retaining such information separate and apart from all other records.(e) (i) Upon receiving a request for exception from disclosure, the licensing officer shall grant such exception, unless the request is determined to be null and void, pursuant to paragraph (b) or (c) of this subdivision.(ii) A request for an exception from disclosure may be submitted at any time, including after a license or recertification has been granted.(iii) If an exception is sought and granted pursuant to paragraph (b) of this subdivision, the application information shall not be public record, unless the request is determined to be null and void. If an exception is sought and granted pursuant to paragraph (c) of this subdivision, the information concerning such recertification application shall not be public record, unless the request is determined to be null and void. Notwithstanding the foregoing provisions of this subparagraph, local and state law enforcement shall, upon request, be granted access to and copies of such application

information provided that such information obtained by law enforcement pursuant to this subparagraph shall not be considered a public record of such law enforcement agency.(f) The information of licensees or applicants for a license shall not be disclosed to the public during the first one hundred twenty days following the effective date of the chapter of the laws of two thousand thirteen, which amended this section. After such period, the information of those who had applied for or been granted a license prior to the preparation of the form for requesting an exception, pursuant to paragraph (b) of this subdivision, may be released only if such individuals did not file a request for such an exception during the first sixty days following such preparation; provided, however, that no information contained in an application for licensure or recertification shall be disclosed by an entity that has not completed processing any such requests received during such sixty days.(g) If a request for an exception is determined to be null and void pursuant to paragraph (b) or (c) of this subdivision, an applicant may request review of such determination pursuant to article seventy-eight of the civil practice laws and rules. Such proceeding must commence within thirty days after service of the written notice containing the adverse determination. Notice of the right to commence such a petition, and the time period therefor, shall be included in the notice of the determination. Disclosure following such a petition shall not be made prior to the disposition of such review.6. License: validity. Any license issued pursuant to this section shall be valid notwithstanding the provisions of any local law or ordinance. No license shall be transferable to any other person or premises. A license to carry or possess a pistol or revolver, or to purchase or take possession of a semiautomatic rifle, not otherwise limited as to place or time of possession, shall be effective throughout the state, except that the same shall not be valid within the city of New York unless a special permit granting validity is issued by the police commissioner of that city. Such license to carry or possess shall be valid within the city of New York in the absence of a permit issued by the police commissioner of that city, provided that (a) the firearms covered by such license have been purchased from a licensed dealer within the city of New York and are being transported out of said city forthwith and immediately from said dealer by the licensee in a locked container during a continuous and uninterrupted trip; or provided that (b) the firearms covered by such license are being transported by the licensee in a locked container and the trip through the city of New York is continuous and uninterrupted; or provided that (c) the firearms covered by such license are carried by armored car security guards transporting money or other valuables, in, to, or from motor vehicles commonly known as armored cars, during the course of their employment; or provided that (d) the licensee is a retired police officer as police officer is defined pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law or a retired federal law enforcement officer, as defined in section 2.15 of the criminal procedure law, who has been issued a license by an authorized licensing officer as defined in subdivision ten of section 265.00 of this chapter; provided, further, however, that if such license was not issued in the city of New York it must be marked "Retired Police Officer" or "Retired Federal Law Enforcement Officer", as the case may be, and, in the case of a retired officer the license shall be deemed to permit only police or federal law enforcement regulations weapons; or provided that (e) the licensee is a peace officer described in subdivision four of section 2.10 of the criminal procedure law and the license, if issued by other than the city of New York, is marked "New York State Tax Department Peace Officer" and in such case the exemption shall apply only to the firearm issued to such licensee by the department of taxation and finance. A license as gunsmith or dealer in firearms shall not be valid outside the city or county, as the case may be, where issued. Notwithstanding any inconsistent provision of state or local law or rule or regulation, the premises limitation set forth in any license to have and possess a pistol or revolver in the licensee's dwelling or place of business pursuant to paragraph (a) or (b) of subdivision two of this section shall not prevent the transport of such pistol or revolver directly to or from (i) another dwelling or place of business of the licensee where the licensee is authorized to have and possess such pistol or revolver, (ii) an indoor or outdoor shooting range that is authorized by law to operate as such, (iii) a shooting competition at which the licensee may possess such pistol or revolver consistent with the provisions of subdivision a of section 265.20 of this chapter or consistent with the law applicable at the place of such competition, or (iv) any other location where the licensee is lawfully authorized to have and possess such pistol or revolver; provided however, that during such transport to or from a location specified in clauses (i) through (iv) of this paragraph, the pistol or revolver shall be unloaded and carried in a locked container, and the ammunition therefor shall be carried separately; provided further, however, that a license to have and possess a pistol or revolver in the licensee's dwelling or place of business pursuant to paragraph (a) or (b) of subdivision two of this section that is issued by a licensing officer other than the police commissioner of the city of New York shall not authorize transport of a pistol or revolver into the city of New York in the absence of written authorization to do so by the police commissioner of that city. The term "locked container" shall not include the glove compartment or console of a vehicle.7. License: form. Any license issued pursuant to this section shall, except in the city of New York, be approved as to form by the superintendent of state police. A license to carry or possess a pistol or revolver or to purchase or take possession of a semiautomatic rifle shall have attached the licensee's photograph, and a coupon which shall be removed and retained by any person disposing of a firearm to the licensee. A license to carry or possess a pistol or revolver shall specify the weapon covered by calibre, make, model, manufacturer's name and serial number, or if none, by any other distinguishing number or identification mark, and shall indicate whether issued to carry on the person or possess on the premises, and if on the premises shall also specify the place where the licensee shall possess the same. If such license is issued to a noncitizen, or to a person not a citizen of and usually a resident in the state, the licensing officer shall state in the license the particular reason for the issuance and the names of the persons certifying to the good character of the applicant. Any license as gunsmith or dealer in firearms shall mention and describe the premises for which it is issued and shall be valid only for such premises.8. License: exhibition and display. Every licensee while carrying a pistol or revolver shall have on his or her person a license to carry the same. Every person licensed to possess a pistol or revolver on particular premises shall have the license for the same on such premises. Every person licensed to purchase or take possession of a semiautomatic rifle shall have the license for the same on his or her person while purchasing or taking possession of such weapon. Upon demand, the license shall be

exhibited for inspection to any peace officer, who is acting pursuant to his or her special duties, or police officer. A license as gunsmith or dealer in firearms shall be prominently displayed on the licensed premises. A gunsmith or dealer of firearms may conduct business temporarily at a location other than the location specified on the license if such temporary location is the location for a gun show or event sponsored by any national, state, or local organization, or any affiliate of any such organization devoted to the collection, competitive use or other sporting use of firearms. Any sale or transfer at a gun show must also comply with the provisions of article thirty-nine-DD of the general business law. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and shall be entered in the permanent records of the gunsmith or dealer of firearms and retained on the location specified on the license. Nothing in this section shall authorize any licensee to conduct business from any motorized or towed vehicle. A separate fee shall not be required of a licensee with respect to business conducted under this subdivision. Any inspection or examination of inventory or records under this section at such temporary location shall be limited to inventory consisting of, or records related to, firearms held or disposed at such temporary locations. Failure of any licensee to so exhibit or display his or her license, as the case may be, shall be presumptive evidence that he or she is not duly licensed.9. License: amendment. Elsewhere than in the city of New York, a person licensed to carry or possess a pistol or revolver or to purchase or take possession of a semiautomatic rifle may apply at any time to his or her licensing officer for amendment of his or her license to include one or more such weapons or to cancel weapons held under license. If granted, a record of the amendment describing the weapons involved shall be filed by the licensing officer in the executive department, division of state police, Albany. The superintendent of state police may authorize that such amendment be completed and transmitted to the state police in electronic form. Notification of any change of residence shall be made in writing by any licensee within ten days after such change occurs, and a record of such change shall be inscribed by such licensee on the reverse side of his or her license. Elsewhere than in the city of New York, and in the counties of Nassau and Suffolk, such notification shall be made to the executive department, division of state police, Albany, and in the city of New York to the police commissioner of that city, and in the county of Nassau to the police commissioner of that county, and in the county of Suffolk to the licensing officer of that county, who shall, within ten days after such notification shall be received by him or her, give notice in writing of such change to the executive department, division of state police, at Albany.10. License: expiration, certification and renewal. (a) Any license for gunsmith or dealer in firearms and, in the city of New York, any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, nineteen hundred sixty-three and not limited to expire on an earlier date fixed in the license, shall, except as otherwise provided in paragraph (d) of this subdivision, expire not more than three years after the date of issuance. In the counties of Nassau, Suffolk and Westchester, any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, nineteen hundred sixty-three and not limited to expire on an earlier date fixed in the license, shall expire not more than five years after the date of issuance; however, in the county of Westchester, any such license shall be certified prior to the first day of April, two thousand, in accordance with a schedule to be contained in regulations promulgated by the commissioner of the division of criminal justice services, and every such license shall, except as otherwise provided in paragraph (d) of this subdivision, be recertified every five years thereafter. For purposes of this section certification shall mean that the licensee shall provide to the licensing officer the following information only: current name, date of birth, current address, and the make, model, caliber and serial number of all firearms currently possessed. Such certification information shall be filed by the licensing officer in the same manner as an amendment. Elsewhere than in the city of New York and the counties of Nassau, Suffolk and Westchester, any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, nineteen hundred sixty-three and not previously revoked or cancelled, shall be in force and effect until revoked as herein provided. Any license not previously cancelled or revoked shall remain in full force and effect for thirty days beyond the stated expiration date on such license. Any application to renew a license that has not previously expired, been revoked or cancelled shall thereby extend the term of the license until disposition of the application by the licensing officer. In the case of a license for gunsmith or dealer in firearms, in counties having a population of less than two hundred thousand inhabitants, photographs and fingerprints shall be submitted on original applications and upon renewal thereafter at three year intervals. Upon satisfactory proof that a currently valid original license has been despoiled, lost or otherwise removed from the possession of the licensee and upon application containing an additional photograph of the licensee, the licensing officer shall issue a duplicate license.(b) All licensees shall be recertified to the division of state police every five years thereafter, except as otherwise provided in paragraph (d) of this subdivision. Any license issued before the effective date of the chapter of the laws of two thousand thirteen which added this paragraph shall be recertified by the licensee on or before January thirty-first, two thousand eighteen, and not less than one year prior to such date, the state police shall send a notice to all license holders who have not recertified by such time. Such recertification shall be in a form as approved by the superintendent of state police, which shall request the license holder's name, date of birth, gender, race, residential address, social security number, firearms possessed by such license holder, email address at the option of the license holder and an affirmation that such license holder is not prohibited from possessing firearms. The form may be in an electronic form if so designated by the superintendent of state police. Failure to recertify shall act as a revocation of such license. If the New York state police discover as a result of the recertification process that a licensee failed to provide a change of address, the New York state police shall not require the licensing officer to revoke such license.(c) A license to purchase or take possession of a semiautomatic rifle as defined in subdivision two of this section shall be recertified to the applicable licensing officer every five years following the issuance of such license. Failure to renew such a license shall be a violation punishable by a fine not to exceed two hundred fifty dollars, and such failure to renew shall be considered by the licensing officer when reviewing future license applications by the license holder pursuant to this chapter.(d) Licenses issued under paragraph (f) of subdivision two

of this section shall be recertified or renewed in the same form and manner as otherwise required by this subdivision, provided however, that such licenses shall be recertified or renewed every three years following the issuance of such license. For licenses issued prior to the effective date of this paragraph that were issued more than three years prior to such date, or will expire in less than one year from such date shall be recertified or renewed within one year of such date.11. License: revocation and suspension. (a) The conviction of a licensee anywhere of a felony or serious offense or a licensee at any time becoming ineligible to obtain a license, including engaging in conduct that would have resulted in the denial of a license, under this section shall operate as or be grounds for, a revocation of the license. A license may be revoked or suspended as provided for in section 530.14 of the criminal procedure law or section eight hundred forty-two-a of the family court act. Except for a license issued pursuant to section 400.01 of this article, a license may be revoked and cancelled at any time in the city of New York, and in the counties of Nassau and Suffolk, by the licensing officer, and elsewhere than in the city of New York by any judge or justice of a court of record; a license issued pursuant to section 400.01 of this article may be revoked and cancelled at any time by the licensing officer or any judge or justice of a court of record. A license to engage in the business of dealer may be revoked or suspended for any violation of the provisions of article thirty-nine-BB of the general business law. The official revoking a license shall give written notice thereof without unnecessary delay to the executive department, division of state police, Albany, and shall also notify immediately the duly constituted police authorities of the locality. The licensing officer shall revoke any license issued in which an applicant knowingly made a material false statement on the application. Notice of a revocation under this subdivision shall be issued in writing and shall include the basis for the determination, which shall be supported by a preponderance of the evidence. Such notice shall also include information regarding the ability to appeal such decision in accordance with subdivision four-a of this section.(b) Whenever the director of community services or his or her designee makes a report pursuant to section 9.46 of the mental hygiene law, the division of criminal justice services shall convey such information, whenever it determines that the person named in the report possesses a license issued pursuant to this section, to the appropriate licensing official, who shall issue an order suspending or revoking such license.(c) In any instance in which a person's license is suspended or revoked under paragraph (a) or (b) of this subdivision, such person shall surrender such license to the appropriate licensing official and any and all firearms, rifles, or shotguns owned or possessed by such person shall be surrendered to an appropriate law enforcement agency as provided in subparagraph (f) of paragraph one of subdivision a of section 265.20 of this chapter. In the event such license, firearm, shotgun, or rifle is not surrendered, such items shall be removed and declared a nuisance and any police officer or peace officer acting pursuant to his or her special duties is authorized to remove any and all such weapons.12. Records required of gunsmiths and dealers in firearms. In addition to the requirements set forth in article thirty-nine-BB of the general business law, any person licensed as gunsmith or dealer in firearms shall keep a record book approved as to form, except in the city of New York, by the superintendent of state police. In the record book shall be entered at the time of every transaction involving a firearm the date, name, age, occupation and residence of any person from whom a firearm is received or to whom a firearm is delivered, and the calibre, make, model, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark on such firearm. Before delivering a firearm to any person, the licensee shall require him to produce either a license valid under this section to carry or possess the same, or proof of lawful authority as an exempt person pursuant to section 265.20 of this chapter and either (a) the National Instant Criminal Background Check System (NICS) or its successor has issued a "proceed" response to the licensee, or (b) thirty calendar days have elapsed since the date the licensee contacted NICS to initiate a national instant criminal background check and NICS has not notified the licensee that the transfer of the firearm to such person should be denied. In addition, before delivering a firearm to a peace officer, the licensee shall verify that person's status as a peace officer with the division of state police. After completing the foregoing, the licensee shall remove and retain the attached coupon and enter in the record book the date of such license, number, if any, and name of the licensing officer, in the case of the holder of a license to carry or possess, or the shield or other number, if any, assignment and department, unit or agency, in the case of an exempt person. The original transaction report shall be forwarded to the division of state police within ten days of delivering a firearm to any person, and a duplicate copy shall be kept by the licensee. The superintendent of state police may designate that such record shall be completed and transmitted in electronic form. A dealer may be granted a waiver from transmitting such records in electronic form if the superintendent determines that such dealer is incapable of such transmission due to technological limitations that are not reasonably within the control of the dealer, or other exceptional circumstances demonstrated by the dealer, pursuant to a process established in regulation, and at the discretion of the superintendent. Records assembled or collected for purposes of inclusion in the database created pursuant to section 400.02 of this article shall not be subject to disclosure pursuant to article six of the public officers law. The record book shall be maintained on the premises mentioned and described in the license and shall be open at all reasonable hours for inspection by any peace officer, acting pursuant to his special duties, or police officer. In the event of cancellation or revocation of the license for gunsmith or dealer in firearms, or discontinuance of business by a licensee, such record book shall be immediately surrendered to the licensing officer in the city of New York, and in the counties of Nassau and Suffolk, and elsewhere in the state to the executive department, division of state police.12-a. State police regulations applicable to licensed gunsmiths engaged in the business of assembling or manufacturing firearms. The superintendent of state police is hereby authorized to issue such rules and regulations as he deems reasonably necessary to prevent the manu- facture and assembly of unsafe firearms in the state. Such rules and regulations shall establish safety standards in regard to the manu- facture and assembly of firearms in the state, including specifications as to materials and parts used, the proper storage and shipment of firearms, and minimum standards of quality control. Regulations issued by the state police pursuant to this subdivision shall apply to any person licensed as a gunsmith under this section engaged in the business of manufacturing or assembling firearms, and any violation thereof shall subject the licensee to revocation of license pursuant to

subdivision eleven of this section.12-c. Firearms records. (a) Every employee of a state or local agency, unit of local government, state or local commission, or public or private organization who possesses a firearm or machine-gun under an exemption to the licensing requirements under this chapter, shall promptly report in writing to his employer the make, model, calibre and serial number of each such firearm or machine-gun. Thereafter, within ten days of the acquisition or disposition of any such weapon, he shall furnish such information to his employer, including the name and address of the person from whom the weapon was acquired or to whom it was disposed.(b) Every head of a state or local agency, unit of local government, state or local commission, public authority or public or private organization to whom an employee has submitted a report pursuant to paragraph (a) of this subdivision shall promptly forward such report to the superintendent of state police.(c) Every head of a state or local agency, unit of local government, state or local commission, public authority, or any other agency, firm or corporation that employs persons who may lawfully possess firearms or machine-guns without the requirement of a license therefor, or that employs persons licensed to possess firearms or machine-guns, shall promptly report to the superintendent of state police, in the manner prescribed by him, the make, model, calibre and serial number of every firearm or machine-gun possessed by it on the effective date of this act for the use of such employees or for any other use. Thereafter, within ten days of the acquisition or disposition of any such weapon, such head shall report such information to the superintendent of the state police, including the name and address of the person from whom the weapon was acquired or to whom it was disposed.13. Expenses. The expense of providing a licensing officer with blank applications, licenses and record books for carrying out the provisions of this section shall be a charge against the county, and in the city of New York against the city.14. Fees. In the city of New York and the counties of Nassau and Westchester, the annual license fee shall be twenty-five dollars for gunsmiths and fifty dollars for dealers in firearms. In such city, the city council and in the counties of Nassau and Westchester the legislative body of such county shall fix the fee to be charged for a license to carry or possess a pistol or revolver or to purchase or take possession of a semiautomatic rifle and provide for the disposition of such fees. Elsewhere in the state, the licensing officer shall collect and pay into the county treasury the following fees: for each license to carry or possess a pistol or revolver or to purchase or take possession of a semiautomatic rifle, not less than three dollars nor more than ten dollars as may be determined by the legislative body of the county; for each amendment thereto, three dollars, and five dollars in the county of Suffolk; and for each license issued to a gunsmith or dealer in firearms, ten dollars. The fee for a duplicate license shall be five dollars. The fee for processing a license transfer between counties shall be five dollars. The fee for processing a license or renewal thereof for a qualified retired police officer as defined under subdivision thirty-four of section 1.20 of the criminal procedure law, or a qualified retired sheriff, undersheriff, or deputy sheriff of the city of New York as defined under subdivision two of section 2.10 of the criminal procedure law, or a qualified retired bridge and tunnel officer, sergeant or lieutenant of the triborough bridge and tunnel authority as defined under subdivision twenty of section 2.10 of the criminal procedure law, or a qualified retired uniformed court officer in the unified court system, or a qualified retired court clerk in the unified court system in the first and second judicial departments, as defined in paragraphs a and b of subdivision twenty-one of section 2.10 of the criminal procedure law or a retired correction officer as defined in subdivision twenty-five of section 2.10 of the criminal procedure law shall be waived in all counties throughout the state.15. Any violation by any person of any provision of this section is a class A misdemeanor.16. Unlawful disposal. No person shall except as otherwise authorized pursuant to law dispose of any firearm unless he is licensed as gunsmith or dealer in firearms.16-a. Registration. (a) An owner of a weapon defined in paragraph (e) or (f) of subdivision twenty-two of section 265.00 of this chapter, possessed before the date of the effective date of the chapter of the laws of two thousand thirteen which added this paragraph, must make an application to register such weapon with the superintendent of state police, in the manner provided by the superintendent, or by amending a license issued pursuant to this section within one year of the effective date of this subdivision except any weapon defined under subparagraph (vi) of paragraph (g) of subdivision twenty-two of section 265.00 of this chapter transferred into the state may be registered at any time, provided such weapons are registered within thirty days of their transfer into the state. Registration information shall include the registrant's name, date of birth, gender, race, residential address, social security number and a description of each weapon being registered. A registration of any weapon defined under subparagraph (vi) of paragraph (g) of subdivision twenty-two of section 265.00 or a feeding device as defined under subdivision twenty-three of section 265.00 of this chapter shall be transferable, provided that the seller notifies the state police within seventy-two hours of the transfer and the buyer provides the state police with information sufficient to constitute a registration under this section. Such registration shall not be valid if such registrant is prohibited or becomes prohibited from possessing a firearm pursuant to state or federal law. The superintendent shall determine whether such registrant is prohibited from possessing a firearm under state or federal law. Such check shall be limited to determining whether the factors in 18 USC 922 (g) apply or whether a registrant has been convicted of a serious offense as defined in subdivision sixteen-b of section 265.00 of this chapter, so as to prohibit such registrant from possessing a firearm, and whether a report has been issued pursuant to section 9.46 of the mental hygiene law. All registrants shall recertify to the division of state police every five years thereafter. Failure to recertify shall result in a revocation of such registration.(a-1) Notwithstanding any inconsistent provisions of paragraph (a) of this subdivision, an owner of an assault weapon as defined in subdivision twenty-two of section 265.00 of this chapter, who is a qualified retired New York or federal law enforcement officer as defined in subdivision twenty-five of section 265.00 of this chapter, where such weapon was issued to or purchased by such officer prior to retirement and in the course of his or her official duties, and for which such officer was qualified by the agency that employed such officer within twelve months prior to his or her retirement, must register such weapon within sixty days of retirement.(b) The superintendent of state police shall create and maintain an internet website to educate the public as to which semiautomatic rifle, semiautomatic shotgun or semiautomatic pistol or weapon that are illegal as a result of the enactment of the chapter of the laws of two thousand thirteen which added this paragraph,

as well as such assault weapons which are illegal pursuant to article two hundred sixty-five of this chapter. Such website shall contain information to assist the public in recognizing the relevant features proscribed by such article two hundred sixty-five, as well as which make and model of weapons that require registration.(c) A person who knowingly fails to apply to register such weapon, as required by this section, within one year of the effective date of the chapter of the laws of two thousand thirteen which added this paragraph shall be guilty of a class A misdemeanor and such person who unknowingly fails to validly register such weapon within such one year period shall be given a warning by an appropriate law enforcement authority about such failure and given thirty days in which to apply to register such weapon or to surrender it. A failure to apply or surrender such weapon within such thirty-day period shall result in such weapon being removed by an appropriate law enforcement authority and declared a nuisance.16-b. The cost of the software, programming and interface required to transmit any record that must be electronically transmitted by the dealer or licensing officer to the division of state police pursuant to this chapter shall be borne by the state.17. Applicability of section. The provisions of article two hundred sixty-five of this chapter relating to illegal possession of a firearm, shall not apply to an offense which also constitutes a violation of this section by a person holding an otherwise valid license under the provisions of this section and such offense shall only be punishable as a class A misdemeanor pursuant to this section. In addition, the provisions of such article two hundred sixty-five of this chapter shall not apply to the possession of a firearm in a place not authorized by law, by a person who holds an otherwise valid license or possession of a firearm by a person within a one year period after the stated expiration date of an otherwise valid license which has not been previously cancelled or revoked shall only be punishable as a class A misdemeanor pursuant to this section.18. Notice. Upon the issuance of a license, the licensing officer shall issue therewith, and such licensee shall attest to the receipt of, the following information and notifications: (a) the grounds for which the license issued may be revoked, which shall include but not be limited to the areas and locations for which the licenses issued under paragraph (f) of subdivision two of this section prohibits the possession of firearms, rifles, and shotguns, and that a conviction under sections 265.01-d and 265.01-e of this chapter are felonies for which licensure will be revoked;(b) a notification regarding the requirements for safe storage which shall be in conspicuous and legible twenty-four point type on eight and one-half inches by eleven inches paper stating in bold print the following:WARNING: RESPONSIBLE FIREARM STORAGE IS THE LAW IN NEW YORK STATE. WHEN STORED IN A HOME FIREARMS, RIFLES, OR SHOTGUNS MUST EITHER BE STORED WITH A GUN LOCKING DEVICE OR IN A SAFE STORAGE DEPOSITORY OR NOT BE LEFT OUTSIDE THE IMMEDIATE POSSESSION AND CONTROL OF THE OWNER OR OTHER LAWFUL POSSESSOR IF A CHILD UNDER THE AGE OF EIGHTEEN RESIDES IN THE HOME OR IS PRESENT, OR IF THE OWNER OR POSSESSOR RESIDES WITH A PERSON PROHIBITED FROM POSSESSING A FIREARM UNDER STATE OR FEDERAL LAW. FIREARMS SHOULD BE STORED BY REMOVING THE AMMUNITION FROM AND SECURELY LOCKING SUCH FIREARM IN A LOCATION SEPARATE FROM AMMUNITION. LEAVING FIREARMS ACCESSIBLE TO A CHILD OR OTHER PROHIBITED PERSON MAY SUBJECT YOU TO IMPRISONMENT, FINE, OR BOTH. WHEN STORED IN A VEHICLE OUTSIDE THE OWNER'S IMMEDIATE POSSESSION OR CONTROL, FIREARMS, RIFLES, AND SHOTGUNS MUST BE STORED IN AN APPROPRIATE SAFE STORAGE DEPOSITORY AND OUT OF SIGHT FROM OUTSIDE OF THE VEHICLE.* (c) any other information necessary to ensure such licensee is aware of their responsibilities as a license holder.* NB Effective until July 1, 2025* (c) any other information necessary to ensure such licensee is aware of their responsibilities as a license holder; and* NB Effective July 1, 2025* (d) statewide resources and information relating to safe storage of firearms, child access prevention and firearm violence prevention as well as information on county and local specific laws and regulations related to child access prevention and the safe storage of firearms.* NB Effective July 1, 2025Nothing in this subdivision shall be deemed to affect, impair or supersede any special or local law relating to providing notice regarding the safe storage of rifles, shotguns or firearms.19. Prior to the issuance or renewal of a license under paragraph (f) of subdivision two of this section, issued or renewed on or after the effective date of this subdivision, an applicant shall complete an in-person live firearms safety course conducted by a duly authorized instructor with curriculum approved by the division of criminal justice services and the superintendent of state police, and meeting the following requirements: (a) a minimum of sixteen hours of in-person live curriculum approved by the division of criminal justice services and the superintendent of state police, conducted by a duly authorized instructor approved by the division of criminal justice services, and shall include but not be limited to the following topics: (i) general firearm safety; (ii) safe storage requirements and general secure storage best practices; (iii) state and federal gun laws; (iv) situational awareness; (v) conflict de-escalation; (vi) best practices when encountering law enforcement; (vii) the statutorily defined sensitive places in subdivision two of section 265.01-e of this chapter and the restrictions on possession on restricted places under section 265.01-d of this chapter; (viii) conflict management; (ix) use of deadly force; (x) suicide prevention; and (xi) the basic principles of marksmanship; and (b) a minimum of two hours of a live-fire range training course. The applicant shall be required to demonstrate proficiency by scoring a minimum of eighty percent correct answers on a written test for the curriculum under paragraph (a) of this subdivision and the proficiency level determined by the rules and regulations promulgated by the division of criminal justice services and the superintendent of state police for the live-fire range training under paragraph (b) of this subdivision. Upon demonstration of such proficiency, a certificate of completion shall be issued to such applicant in the applicant's name and endorsed and affirmed under the penalties of perjury by such duly authorized instructor. An applicant required to complete the training required herein prior to renewal of a license issued prior to the effective date of this subdivision shall only be required to complete such training for the first renewal of such license after such effective date.20. Firearms dealers; required warnings. (a) (i) Every person licensed as a gunsmith or a dealer in firearms shall post the following notice at the site where such weapons or firearms are sold, displayed or delivered to the purchaser, at the entrance to the site and in at least one additional area where sales occur, conspicuously stating, in no smaller than twenty-six-point type on a

sign at least eight and one-half by eleven inches in bold print:WARNINGACCESS TO A WEAPON OR FIREARM IN THE HOME SIGNIFICANTLY INCREASES THERISK OF SUICIDE, DEATH DURING DOMESTIC DISPUTES, AND/OR UNINTENTIONALDEATHS TO CHILDREN, HOUSEHOLD MEMBERS AND OTHERS. IF YOU OR A LOVED ONE IS EXPERIENCING DISTRESS AND/OR DEPRESSION, CALLTHE NATIONAL SUICIDE PREVENTION LIFELINE AT 988.(ii) Every firearms dealer shall distribute a notice to the purchaser at the time of each individual sale of a weapon or firearm, conspicuously stating, in no smaller than twenty-six-point type and on paper at least eight and one-half by eleven inches in bold print the following warning:WARNINGACCESS TO A WEAPON OR FIREARM IN THE HOME SIGNIFICANTLY INCREASES THERISK OF SUICIDE, DEATH DURING DOMESTIC DISPUTES, AND/OR UNINTENTIONALDEATHS TO CHILDREN, HOUSEHOLD MEMBERS AND OTHERS. IF YOU OR A LOVED ONE IS EXPERIENCING DISTRESS AND/OR DEPRESSION, CALLTHE NATIONAL SUICIDE PREVENTION LIFELINE AT 988.(iii) Upon the issuance of or amendment to a firearm or weapon license and/or permit, the licensing officer shall provide the licensee/permittee a written copy of a warning notice conspicuously stating in no smaller than twenty-six-point type and on paper at least eight and one-half by eleven inches in bold print the following warning:WARNINGACCESS TO A WEAPON OR FIREARM IN THE HOME SIGNIFICANTLY INCREASES THERISK OF SUICIDE, DEATH DURING DOMESTIC DISPUTES, AND/OR UNINTENTIONALDEATHS TO CHILDREN, HOUSEHOLD MEMBERS AND OTHERS. IF YOU OR A LOVED ONE IS EXPERIENCING DISTRESS AND/OR DEPRESSION, CALLTHE NATIONAL SUICIDE PREVENTION LIFELINE AT 988.(b) No licensing officer, local government, or any employee thereof shall be liable to any person by reason of any injury or damage resulting from the failure of any gunsmith or firearms dealer to comply with this subdivision or in consequence of any act or omission in connection with the implementation or enforcement of this subdivision.(c) (i) Failure to comply with any provision of this subdivision shall be a violation punishable by imprisonment of not more than fifteen days or by a fine of not more than one thousand dollars, or both. Each day that a violation continues shall be deemed a separate offense.(ii) The provisions of this subdivision shall be enforced within each municipality by the applicable local police force, including town, city and village police departments which officers are authorized to issue appearance tickets. Appearance tickets shall be served personally.(d) The provisions of this subdivision shall not supersede any local law or ordinance that imposes stricter disclosure or notice requirements; and notices required by this subdivision shall be in addition to any other notices required by any other federal, state or local law, ordinance, rule or regulation. (1) is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or (2) uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade. 3. Applications. (a) Applications shall be made and renewed, in the case of a license to carry or possess a pistol or revolver or to purchase or take possession of a semiautomatic rifle, to the licensing officer in the city or county, as the case may be, where the applicant resides, is principally employed or has his or her principal place of business as merchant or storekeeper; and, in the case of a license as gunsmith or dealer in firearms, to the licensing officer where such place of business is located. Blank applications shall, except in the city of New York, be approved as to form by the superintendent of state police. An application shall state the full name, date of birth, residence, present occupation of each person or individual signing the same, whether or not he or she is a citizen of the United States, whether or not he or she complies with each requirement for eligibility specified in subdivision one of this section and such other facts as may be required to show the good character, competency and integrity of each person or individual signing the application. An application shall be signed and verified by the applicant. Each individual signing an application shall submit one photograph of himself or herself and a duplicate for each required copy of the application. Such photographs shall have been taken within thirty days prior to filing the application. In case of a license as gunsmith or dealer in firearms, the photographs submitted shall be two inches square, and the application shall also state the previous occupation of each individual signing the same and the location of the place of such business, or of the bureau, agency, subagency, office or branch office for which the license is sought, specifying the name of the city, town or village, indicating the street and number and otherwise giving such apt description as to point out reasonably the location thereof. In such case, if the applicant is a firm, partnership or corporation, its name, date and place of formation, and principal place of business shall be stated. For such firm or partnership, the application shall be signed and verified by each individual composing or intending to compose the same, and for such corporation, by each officer thereof. (b) Application for an exemption under paragraph seven-b of subdivision a of section 265.20 of this chapter. Each applicant desiring to obtain the exemption set forth in paragraph seven-b of subdivision a of section 265.20 of this chapter shall make such request in writing of the licensing officer with whom his application for a license is filed, at the time of filing such application. Such request shall include a signed and verified statement by the person authorized to instruct and supervise the applicant, that has met with the applicant and that he has determined that, in his judgment, said applicant does not appear to be or poses a threat to be, a danger to himself or to others. He shall include a copy of his certificate as an instructor in small arms, if he is required to be certified, and state his address and telephone number. He shall specify the exact location by name, address and telephone number where such instruction will take place. Such licensing officer shall, no later than ten business days after such filing, request the duly constituted police authorities of the locality where such application is made to investigate and ascertain any previous criminal record of the applicant pursuant to subdivision four of this section. Upon completion of this investigation, the police authority shall report the results to the licensing officer without unnecessary delay. The licensing officer shall no later than ten business days after the receipt of such investigation, determine if the applicant has been previously denied a license, been convicted of a felony, or been convicted of a serious offense, and either approve or disapprove the applicant for exemption purposes based upon such determinations. If the applicant is approved for the exemption, the licensing officer shall notify the appropriate duly constituted police authorities and the applicant. Such exemption shall terminate if the application for the

license is denied, or at any earlier time based upon any information obtained by the licensing officer or the appropriate police authorities which would cause the license to be denied. The applicant and appropriate police authorities shall be notified of any such terminations. 4. Investigation. Before a license is issued or renewed, there shall be an investigation of all statements required in the application by the duly constituted police authorities of the locality where such application is made, including but not limited to such records as may be accessible to the division of state police or division of criminal justice services pursuant to section 400.02 of this article. For that purpose, the records of the appropriate office of the department of mental hygiene concerning previous or present mental illness of the applicant shall be available for inspection by the investigating officer of the police authority. Where the applicant is domiciled in a foreign state, the investigation shall include inquiry of the foreign state for records concerning the previous or present mental illness of the applicant, and, to the extent necessary for inspection by the investigating officer, the applicant shall execute a waiver of confidentiality of such record in such form as may be required by the foreign state. In order to ascertain any previous criminal record, the investigating officer shall take the fingerprints and physical descriptive data in quadruplicate of each individual by whom the application is signed and verified. Two copies of such fingerprints shall be taken on standard fingerprint cards eight inches square, and one copy may be taken on a card supplied for that purpose by the federal bureau of investigation; provided, however, that in the case of a corporate applicant that has already been issued a dealer in firearms license and seeks to operate a firearm dealership at a second or subsequent location, the original fingerprints on file may be used to ascertain any criminal record in the second or subsequent application unless any of the corporate officers have changed since the prior application, in which case the new corporate officer shall comply with procedures governing an initial application for such license. When completed, one standard card shall be forwarded to and retained by the division of criminal justice services in the executive department, at Albany. A search of the files of such division and written notification of the results of the search shall be forwarded to the investigating officer and shall be made without unnecessary delay. Thereafter, such division shall notify the licensing officer and the executive department, division of state police, Albany, of any criminal record of the applicant filed therein subsequent to the search of its files. A second standard card, or the one supplied by the federal bureau of investigation, as the case may be, shall be forwarded to that bureau at Washington with a request that the files of the bureau be searched and notification of the results of the search be made to the investigating police authority. Of the remaining two fingerprint cards, one shall be filed with the executive department, division of state police, Albany, within ten days after issuance of the license, and the other shall remain on file with the investigating police authority. No such fingerprints may be inspected by any person other than a peace officer, who is acting pursuant to his or her special duties, or a police officer, except on order of a judge or justice of a court of record either upon notice to the licensee or without notice, as the judge or justice may deem appropriate. Upon completion of the investigation, the police authority shall report the results to the licensing officer without unnecessary delay. 4-a. Appeals from denial of an application, renewal, recertification or license revocation. If an application for a license is denied, not renewed, not recertified, or revoked, the licensing officer shall issue a written notice to the applicant setting forth the reasons for such denial. An applicant may, within ninety days of receipt of such notice, request a hearing to appeal the denial to the appeals board created by the division of criminal justice services and the superintendent of state police. An individual may be represented by counsel at any appearance before the appeals board and shall be afforded an opportunity to present additional evidence in support of their application. The commissioner of criminal justice services and the superintendent of state police shall promulgate rules and regulations governing such appeals process. 4-b. Processing of license applications. Applications for licenses shall be accepted for processing by the licensing officer at the time of presentment. Except upon written notice to the applicant specifically stating the reasons for any delay, in each case the licensing officer shall act upon any application for a license pursuant to this section within six months of the date of presentment of such an application to the appropriate authority. Such delay may only be for good cause and with respect to the applicant. In acting upon an application, the licensing officer shall either deny the application for reasons specifically and concisely stated in writing or grant the application and issue the license applied for. 4-c. Westchester county firearms safety course certificate. In the county of Westchester, at the time of application, the licensing officer to which the license application is made shall provide a copy of the safety course booklet to each license applicant. Before such license is issued, such licensing officer shall require that the applicant submit a certificate of successful completion of a firearms safety course and test issued in his or her name and endorsed and affirmed under the penalties of perjury by a duly authorized instructor. 5. Filing of approved applications. (a) The application for any license, if granted, shall be filed by the licensing officer with the clerk of the county of issuance, except that in the city of New York and, in the counties of Nassau and Suffolk, the licensing officer shall designate the place of filing in the appropriate division, bureau or unit of the police department thereof, and in the county of Suffolk the county clerk is hereby authorized to transfer all records or applications relating to firearms to the licensing authority of that county. Except as provided in paragraphs (b) through (f) of this subdivision, the name and address of any person to whom an application for any license has been granted shall be a public record. Upon application by a licensee who has changed his place of residence such records or applications shall be transferred to the appropriate officer at the licensee's new place of residence. A duplicate copy of such application shall be filed by the licensing officer in the executive department, division of state police, Albany, within ten days after issuance of the license. The superintendent of state police may designate that such application shall be transmitted to the division of state police electronically. In the event the superintendent of the division of state police determines that it lacks any of the records required to be filed with the division, it may request that such records be provided to it by the appropriate clerk, department or authority and such clerk, department or authority shall provide the division with such records. In the event such clerk, department or authority lacks such records, the division may request the license holder provide information sufficient to constitute such record and such license holder shall provide the division with such information. Such information shall be limited to the license holder's name, date of birth, gender, race, residential address,

social security number and firearms possessed by said license holder. Nothing in this subdivision shall be construed to change the expiration date or term of such licenses if otherwise provided for in law. Records assembled or collected for purposes of inclusion in the database established by this section shall be released pursuant to a court order. Records assembled or collected for purposes of inclusion in the database created pursuant to section 400.02 of this chapter shall not be subject to disclosure pursuant to article six of the public officers law. (b) Each application for a license pursuant to paragraph (a) of this subdivision shall include, on a separate written form prepared by the division of state police within thirty days of the effective date of the chapter of the laws of two thousand thirteen, which amended this section, and provided to the applicant at the same time and in the same manner as the application for a license, an opportunity for the applicant to request an exception from his or her application information becoming public record pursuant to paragraph (a) of this subdivision. Such forms, which shall also be made available to individuals who had applied for or been granted a license prior to the effective date of the chapter of the laws of two thousand thirteen which amended this section, shall notify applicants that, upon discovery that an applicant knowingly provided false information, such applicant may be subject to penalties pursuant to section 175.30 of this chapter, and further, that his or her request for an exception shall be null and void, provided that written notice containing such determination is provided to the applicant. Further, such forms shall provide each applicant an opportunity to specify the grounds on which he or she believes his or her application information should not be publicly disclosed. These grounds, which shall be identified on the application with a box beside each for checking, as applicable, by the applicant, shall be as follows: (i) the applicant's life or safety may be endangered by disclosure because: (A) the applicant is an active or retired police officer, peace officer, probation officer, parole officer, or corrections officer; (B) the applicant is a protected person under a currently valid order of protection; (C) the applicant is or was a witness in a criminal proceeding involving a criminal charge; (D) the applicant is participating or previously participated as a juror in a criminal proceeding, or is or was a member of a grand jury; or (E) the applicant is a spouse, domestic partner or household member of a person identified in this subparagraph or subparagraph (ii) of this paragraph, specifying which subparagraph or subparagraphs and clauses apply. (ii) the applicant has reason to believe his or her life or safety may be endangered by disclosure due to reasons stated by the applicant. (iii) the applicant has reason to believe he or she may be subject to unwarranted harassment upon disclosure of such information. (c) Each form provided for recertification pursuant to paragraph (b) of subdivision ten of this section shall include an opportunity for the applicant to request an exception from the information provided on such form becoming public record pursuant to paragraph (a) of this subdivision. Such forms shall notify applicants that, upon discovery that an applicant knowingly provided false information, such applicant may be subject to penalties pursuant to section 175.30 of this chapter, and further, that his or her request for an exception shall be null and void, provided that written notice containing such determination is provided to the applicant. Further, such forms shall provide each applicant an opportunity to either decline to request the grant or continuation of an exception, or specify the grounds on which he or she believes his or her information should not be publicly disclosed. These grounds, which shall be identified in the application with a box beside each for checking, as applicable, by the applicant, shall be the same as provided in paragraph (b) of this subdivision. (d) Information submitted on the forms described in paragraph (b) of this subdivision shall be excepted from disclosure and maintained by the entity retaining such information separate and apart from all other records. (e) (i) Upon receiving a request for exception from disclosure, the licensing officer shall grant such exception, unless the request is determined to be null and void, pursuant to paragraph (b) or (c) of this subdivision. (ii) A request for an exception from disclosure may be submitted at any time, including after a license or recertification has been granted. (iii) If an exception is sought and granted pursuant to paragraph (b) of this subdivision, the application information shall not be public record, unless the request is determined to be null and void. If an exception is sought and granted pursuant to paragraph (c) of this subdivision, the information concerning such recertification application shall not be public record, unless the request is determined to be null and void. Notwithstanding the foregoing provisions of this subparagraph, local and state law enforcement shall, upon request, be granted access to and copies of such application information provided that such information obtained by law enforcement pursuant to this subparagraph shall not be considered a public record of such law enforcement agency. (f) The information of licensees or applicants for a license shall not be disclosed to the public during the first one hundred twenty days following the effective date of the chapter of the laws of two thousand thirteen, which amended this section. After such period, the information of those who had applied for or been granted a license prior to the preparation of the form for requesting an exception, pursuant to paragraph (b) of this subdivision, may be released only if such individuals did not file a request for such an exception during the first sixty days following such preparation; provided, however, that no information contained in an application for licensure or recertification shall be disclosed by an entity that has not completed processing any such requests received during such sixty days. (g) If a request for an exception is determined to be null and void pursuant to paragraph (b) or (c) of this subdivision, an applicant may request review of such determination pursuant to article seventy-eight of the civil practice laws and rules. Such proceeding must commence within thirty days after service of the written notice containing the adverse determination. Notice of the right to commence such a petition, and the time period therefor, shall be included in the notice of the determination. Disclosure following such a petition shall not be made prior to the disposition of such review. 6. License: validity. Any license issued pursuant to this section shall be valid notwithstanding the provisions of any local law or ordinance. No license shall be transferable to any other person or premises. A license to carry or possess a pistol or revolver, or to purchase or take possession of a semiautomatic rifle, not otherwise limited as to place or time of possession, shall be effective throughout the state, except that the same shall not be valid within the city of New York unless a special permit granting validity is issued by the police commissioner of that city. Such license to carry or possess shall be valid within the city of New York in the absence of a permit issued by the police commissioner of that city, provided that (a) the firearms covered by such license have been purchased from a licensed dealer within the city of New York and are being transported out of said city forthwith and

immediately from said dealer by the licensee in a locked container during a continuous and uninterrupted trip; or provided that (b) the firearms covered by such license are being transported by the licensee in a locked container and the trip through the city of New York is continuous and uninterrupted; or provided that (c) the firearms covered by such license are carried by armored car security guards transporting money or other valuables, in, to, or from motor vehicles commonly known as armored cars, during the course of their employment; or provided that (d) the licensee is a retired police officer as police officer is defined pursuant to subdivision thirty-four of section 1.20 of the criminal procedure law or a retired federal law enforcement officer, as defined in section 2.15 of the criminal procedure law, who has been issued a license by an authorized licensing officer as defined in subdivision ten of section 265.00 of this chapter; provided, further, however, that if such license was not issued in the city of New York it must be marked "Retired Police Officer" or "Retired Federal Law Enforcement Officer", as the case may be, and, in the case of a retired officer the license shall be deemed to permit only police or federal law enforcement regulations weapons; or provided that (e) the licensee is a peace officer described in subdivision four of section 2.10 of the criminal procedure law and the license, if issued by other than the city of New York, is marked "New York State Tax Department Peace Officer" and in such case the exemption shall apply only to the firearm issued to such licensee by the department of taxation and finance. A license as gunsmith or dealer in firearms shall not be valid outside the city or county, as the case may be, where issued. Notwithstanding any inconsistent provision of state or local law or rule or regulation, the premises limitation set forth in any license to have and possess a pistol or revolver in the licensee's dwelling or place of business pursuant to paragraph (a) or (b) of subdivision two of this section shall not prevent the transport of such pistol or revolver directly to or from (i) another dwelling or place of business of the licensee where the licensee is authorized to have and possess such pistol or revolver, (ii) an indoor or outdoor shooting range that is authorized by law to operate as such, (iii) a shooting competition at which the licensee may possess such pistol or revolver consistent with the provisions of subdivision a of section 265.20 of this chapter or consistent with the law applicable at the place of such competition, or (iv) any other location where the licensee is lawfully authorized to have and possess such pistol or revolver; provided however, that during such transport to or from a location specified in clauses (i) through (iv) of this paragraph, the pistol or revolver shall be unloaded and carried in a locked container, and the ammunition therefor shall be carried separately; provided further, however, that a license to have and possess a pistol or revolver in the licensee's dwelling or place of business pursuant to paragraph (a) or (b) of subdivision two of this section that is issued by a licensing officer other than the police commissioner of the city of New York shall not authorize transport of a pistol or revolver into the city of New York in the absence of written authorization to do so by the police commissioner of that city. The term "locked container" shall not include the glove compartment or console of a vehicle. 7. License: form. Any license issued pursuant to this section shall, except in the city of New York, be approved as to form by the superintendent of state police. A license to carry or possess a pistol or revolver or to purchase or take possession of a semiautomatic rifle shall have attached the licensee's photograph, and a coupon which shall be removed and retained by any person disposing of a firearm to the licensee. A license to carry or possess a pistol or revolver shall specify the weapon covered by calibre, make, model, manufacturer's name and serial number, or if none, by any other distinguishing number or identification mark, and shall indicate whether issued to carry on the person or possess on the premises, and if on the premises shall also specify the place where the licensee shall possess the same. If such license is issued to a noncitizen, or to a person not a citizen of and usually a resident in the state, the licensing officer shall state in the license the particular reason for the issuance and the names of the persons certifying to the good character of the applicant. Any license as gunsmith or dealer in firearms shall mention and describe the premises for which it is issued and shall be valid only for such premises. 8. License: exhibition and display. Every licensee while carrying a pistol or revolver shall have on his or her person a license to carry the same. Every person licensed to possess a pistol or revolver on particular premises shall have the license for the same on such premises. Every person licensed to purchase or take possession of a semiautomatic rifle shall have the license for the same on his or her person while purchasing or taking possession of such weapon. Upon demand, the license shall be exhibited for inspection to any peace officer, who is acting pursuant to his or her special duties, or police officer. A license as gunsmith or dealer in firearms shall be prominently displayed on the licensed premises. A gunsmith or dealer of firearms may conduct business temporarily at a location other than the location specified on the license if such temporary location is the location for a gun show or event sponsored by any national, state, or local organization, or any affiliate of any such organization devoted to the collection, competitive use or other sporting use of firearms. Any sale or transfer at a gun show must also comply with the provisions of article thirty-nine-DD of the general business law. Records of receipt and disposition of firearms transactions conducted at such temporary location shall include the location of the sale or other disposition and shall be entered in the permanent records of the gunsmith or dealer of firearms and retained on the location specified on the license. Nothing in this section shall authorize any licensee to conduct business from any motorized or towed vehicle. A separate fee shall not be required of a licensee with respect to business conducted under this subdivision. Any inspection or examination of inventory or records under this section at such temporary location shall be limited to inventory consisting of, or records related to, firearms held or disposed at such temporary locations. Failure of any licensee to so exhibit or display his or her license, as the case may be, shall be presumptive evidence that he or she is not duly licensed. 9. License: amendment. Elsewhere than in the city of New York, a person licensed to carry or possess a pistol or revolver or to purchase or take possession of a semiautomatic rifle may apply at any time to his or her licensing officer for amendment of his or her license to include one or more such weapons or to cancel weapons held under license. If granted, a record of the amendment describing the weapons involved shall be filed by the licensing officer in the executive department, division of state police, Albany. The superintendent of state police may authorize that such amendment be completed and transmitted to the state police in electronic form. Notification of any change of residence shall be made in writing by any licensee within ten days after such change occurs, and a record of such change shall be inscribed by such licensee on the reverse side

of his or her license. Elsewhere than in the city of New York, and in the counties of Nassau and Suffolk, such notification shall be made to the executive department, division of state police, Albany, and in the city of New York to the police commissioner of that city, and in the county of Nassau to the police commissioner of that county, and in the county of Suffolk to the licensing officer of that county, who shall, within ten days after such notification shall be received by him or her, give notice in writing of such change to the executive department, division of state police, at Albany. 10. License: expiration, certification and renewal. (a) Any license for gunsmith or dealer in firearms and, in the city of New York, any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, nineteen hundred sixty-three and not limited to expire on an earlier date fixed in the license, shall, except as otherwise provided in paragraph (d) of this subdivision, expire not more than three years after the date of issuance. In the counties of Nassau, Suffolk and Westchester, any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, nineteen hundred sixty-three and not limited to expire on an earlier date fixed in the license, shall expire not more than five years after the date of issuance; however, in the county of Westchester, any such license shall be certified prior to the first day of April, two thousand, in accordance with a schedule to be contained in regulations promulgated by the commissioner of the division of criminal justice services, and every such license shall, except as otherwise provided in paragraph (d) of this subdivision, be recertified every five years thereafter. For purposes of this section certification shall mean that the licensee shall provide to the licensing officer the following information only: current name, date of birth, current address, and the make, model, caliber and serial number of all firearms currently possessed. Such certification information shall be filed by the licensing officer in the same manner as an amendment. Elsewhere than in the city of New York and the counties of Nassau, Suffolk and Westchester, any license to carry or possess a pistol or revolver, issued at any time pursuant to this section or prior to the first day of July, nineteen hundred sixty-three and not previously revoked or cancelled, shall be in force and effect until revoked as herein provided. Any license not previously cancelled or revoked shall remain in full force and effect for thirty days beyond the stated expiration date on such license. Any application to renew a license that has not previously expired, been revoked or cancelled shall thereby extend the term of the license until disposition of the application by the licensing officer. In the case of a license for gunsmith or dealer in firearms, in counties having a population of less than two hundred thousand inhabitants, photographs and fingerprints shall be submitted on original applications and upon renewal thereafter at three year intervals. Upon satisfactory proof that a currently valid original license has been despoiled, lost or otherwise removed from the possession of the licensee and upon application containing an additional photograph of the licensee, the licensing officer shall issue a duplicate license. (b) All licensees shall be recertified to the division of state police every five years thereafter, except as otherwise provided in paragraph (d) of this subdivision. Any license issued before the effective date of the chapter of the laws of two thousand thirteen which added this paragraph shall be recertified by the licensee on or before January thirty-first, two thousand eighteen, and not less than one year prior to such date, the state police shall send a notice to all license holders who have not recertified by such time. Such recertification shall be in a form as approved by the superintendent of state police, which shall request the license holder's name, date of birth, gender, race, residential address, social security number, firearms possessed by such license holder, email address at the option of the license holder and an affirmation that such license holder is not prohibited from possessing firearms. The form may be in an electronic form if so designated by the superintendent of state police. Failure to recertify shall act as a revocation of such license. If the New York state police discover as a result of the recertification process that a licensee failed to provide a change of address, the New York state police shall not require the licensing officer to revoke such license. (c) A license to purchase or take possession of a semiautomatic rifle as defined in subdivision two of this section shall be recertified to the applicable licensing officer every five years following the issuance of such license. Failure to renew such a license shall be a violation punishable by a fine not to exceed two hundred fifty dollars, and such failure to renew shall be considered by the licensing officer when reviewing future license applications by the license holder pursuant to this chapter. (d) Licenses issued under paragraph (f) of subdivision two of this section shall be recertified or renewed in the same form and manner as otherwise required by this subdivision, provided however, that such licenses shall be recertified or renewed every three years following the issuance of such license. For licenses issued prior to the effective date of this paragraph that were issued more than three years prior to such date, or will expire in less than one year from such date shall be recertified or renewed within one year of such date. 11. License: revocation and suspension. (a) The conviction of a licensee anywhere of a felony or serious offense or a licensee at any time becoming ineligible to obtain a license, including engaging in conduct that would have resulted in the denial of a license, under this section shall operate as or be grounds for, a revocation of the license. A license may be revoked or suspended as provided for in section 530.14 of the criminal procedure law or section eight hundred forty-two-a of the family court act. Except for a license issued pursuant to section 400.01 of this article, a license may be revoked and cancelled at any time in the city of New York, and in the counties of Nassau and Suffolk, by the licensing officer, and elsewhere than in the city of New York by any judge or justice of a court of record; a license issued pursuant to section 400.01 of this article may be revoked and cancelled at any time by the licensing officer or any judge or justice of a court of record. A license to engage in the business of dealer may be revoked or suspended for any violation of the provisions of article thirty-nine-BB of the general business law. The official revoking a license shall give written notice thereof without unnecessary delay to the executive department, division of state police, Albany, and shall also notify immediately the duly constituted police authorities of the locality. The licensing officer shall revoke any license issued in which an applicant knowingly made a material false statement on the application. Notice of a revocation under this subdivision shall be issued in writing and shall include the basis for the determination, which shall be supported by a preponderance of the evidence. Such notice shall also include information regarding the ability to appeal such decision in accordance with subdivision four-a of this section. (b) Whenever the director of community services or his or her designee makes a report pursuant to section 9.46 of the

mental hygiene law, the division of criminal justice services shall convey such information, whenever it determines that the person named in the report possesses a license issued pursuant to this section, to the appropriate licensing official, who shall issue an order suspending or revoking such license. (c) In any instance in which a person's license is suspended or revoked under paragraph (a) or (b) of this subdivision, such person shall surrender such license to the appropriate licensing official and any and all firearms, rifles, or shotguns owned or possessed by such person shall be surrendered to an appropriate law enforcement agency as provided in subparagraph (f) of paragraph one of subdivision a of section 265.20 of this chapter. In the event such license, firearm, shotgun, or rifle is not surrendered, such items shall be removed and declared a nuisance and any police officer or peace officer acting pursuant to his or her special duties is authorized to remove any and all such weapons. 12. Records required of gunsmiths and dealers in firearms. In addition to the requirements set forth in article thirty-nine-BB of the general business law, any person licensed as gunsmith or dealer in firearms shall keep a record book approved as to form, except in the city of New York, by the superintendent of state police. In the record book shall be entered at the time of every transaction involving a firearm the date, name, age, occupation and residence of any person from whom a firearm is received or to whom a firearm is delivered, and the calibre, make, model, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark on such firearm. Before delivering a firearm to any person, the licensee shall require him to produce either a license valid under this section to carry or possess the same, or proof of lawful authority as an exempt person pursuant to section 265.20 of this chapter and either (a) the National Instant Criminal Background Check System (NICS) or its successor has issued a "proceed" response to the licensee, or (b) thirty calendar days have elapsed since the date the licensee contacted NICS to initiate a national instant criminal background check and NICS has not notified the licensee that the transfer of the firearm to such person should be denied. In addition, before delivering a firearm to a peace officer, the licensee shall verify that person's status as a peace officer with the division of state police. After completing the foregoing, the licensee shall remove and retain the attached coupon and enter in the record book the date of such license, number, if any, and name of the licensing officer, in the case of the holder of a license to carry or possess, or the shield or other number, if any, assignment and department, unit or agency, in the case of an exempt person. The original transaction report shall be forwarded to the division of state police within ten days of delivering a firearm to any person, and a duplicate copy shall be kept by the licensee. The superintendent of state police may designate that such record shall be completed and transmitted in electronic form. A dealer may be granted a waiver from transmitting such records in electronic form if the superintendent determines that such dealer is incapable of such transmission due to technological limitations that are not reasonably within the control of the dealer, or other exceptional circumstances demonstrated by the dealer, pursuant to a process established in regulation, and at the discretion of the superintendent. Records assembled or collected for purposes of inclusion in the database created pursuant to section 400.02 of this article shall not be subject to disclosure pursuant to article six of the public officers law. The record book shall be maintained on the premises mentioned and described in the license and shall be open at all reasonable hours for inspection by any peace officer, acting pursuant to his special duties, or police officer. In the event of cancellation or revocation of the license for gunsmith or dealer in firearms, or discontinuance of business by a licensee, such record book shall be immediately surrendered to the licensing officer in the city of New York, and in the counties of Nassau and Suffolk, and elsewhere in the state to the executive department, division of state police. 12-a. State police regulations applicable to licensed gunsmiths engaged in the business of assembling or manufacturing firearms. The superintendent of state police is hereby authorized to issue such rules and regulations as he deems reasonably necessary to prevent the manu- facture and assembly of unsafe firearms in the state. Such rules and regulations shall establish safety standards in regard to the manu- facture and assembly of firearms in the state, including specifications as to materials and parts used, the proper storage and shipment of firearms, and minimum standards of quality control. Regulations issued by the state police pursuant to this subdivision shall apply to any person licensed as a gunsmith under this section engaged in the business of manufacturing or assembling firearms, and any violation thereof shall subject the licensee to revocation of license pursuant to subdivision eleven of this section. 12-c. Firearms records. (a) Every employee of a state or local agency, unit of local government, state or local commission, or public or private organization who possesses a firearm or machine-gun under an exemption to the licensing requirements under this chapter, shall promptly report in writing to his employer the make, model, calibre and serial number of each such firearm or machine-gun. Thereafter, within ten days of the acquisition or disposition of any such weapon, he shall furnish such information to his employer, including the name and address of the person from whom the weapon was acquired or to whom it was disposed. (b) Every head of a state or local agency, unit of local government, state or local commission, public authority or public or private organization to whom an employee has submitted a report pursuant to paragraph (a) of this subdivision shall promptly forward such report to the superintendent of state police. (c) Every head of a state or local agency, unit of local government, state or local commission, public authority, or any other agency, firm or corporation that employs persons who may lawfully possess firearms or machine-guns without the requirement of a license therefor, or that employs persons licensed to possess firearms or machine-guns, shall promptly report to the superintendent of state police, in the manner prescribed by him, the make, model, calibre and serial number of every firearm or machine-gun possessed by it on the effective date of this act for the use of such employees or for any other use. Thereafter, within ten days of the acquisition or disposition of any such weapon, such head shall report such information to the superintendent of the state police, including the name and address of the person from whom the weapon was acquired or to whom it was disposed. 13. Expenses. The expense of providing a licensing officer with blank applications, licenses and record books for carrying out the provisions of this section shall be a charge against the county, and in the city of New York against the city. 14. Fees. In the city of New York and the counties of Nassau and Westchester, the annual license fee shall be twenty-five dollars for gunsmiths and fifty dollars for dealers in firearms. In such city, the city council and in the counties of Nassau and Westchester the legislative body of such county shall fix the fee to be charged for a license to carry or

possess a pistol or revolver or to purchase or take possession of a semiautomatic rifle and provide for the disposition of such fees. Elsewhere in the state, the licensing officer shall collect and pay into the county treasury the following fees: for each license to carry or possess a pistol or revolver or to purchase or take possession of a semiautomatic rifle, not less than three dollars nor more than ten dollars as may be determined by the legislative body of the county; for each amendment thereto, three dollars, and five dollars in the county of Suffolk; and for each license issued to a gunsmith or dealer in firearms, ten dollars. The fee for a duplicate license shall be five dollars. The fee for processing a license transfer between counties shall be five dollars. The fee for processing a license or renewal thereof for a qualified retired police officer as defined under subdivision thirty-four of section 1.20 of the criminal procedure law, or a qualified retired sheriff, undersheriff, or deputy sheriff of the city of New York as defined under subdivision two of section 2.10 of the criminal procedure law, or a qualified retired bridge and tunnel officer, sergeant or lieutenant of the triborough bridge and tunnel authority as defined under subdivision twenty of section 2.10 of the criminal procedure law, or a qualified retired uniformed court officer in the unified court system, or a qualified retired court clerk in the unified court system in the first and second judicial departments, as defined in paragraphs a and b of subdivision twenty-one of section 2.10 of the criminal procedure law or a retired correction officer as defined in subdivision twenty-five of section 2.10 of the criminal procedure law shall be waived in all counties throughout the state. 15. Any violation by any person of any provision of this section is a class A misdemeanor. 16. Unlawful disposal. No person shall except as otherwise authorized pursuant to law dispose of any firearm unless he is licensed as gunsmith or dealer in firearms. 16-a. Registration. (a) An owner of a weapon defined in paragraph (e) or (f) of subdivision twenty-two of section 265.00 of this chapter, possessed before the date of the effective date of the chapter of the laws of two thousand thirteen which added this paragraph, must make an application to register such weapon with the superintendent of state police, in the manner provided by the superintendent, or by amending a license issued pursuant to this section within one year of the effective date of this subdivision except any weapon defined under subparagraph (vi) of paragraph (g) of subdivision twenty-two of section 265.00 of this chapter transferred into the state may be registered at any time, provided such weapons are registered within thirty days of their transfer into the state. Registration information shall include the registrant's name, date of birth, gender, race, residential address, social security number and a description of each weapon being registered. A registration of any weapon defined under subparagraph (vi) of paragraph (g) of subdivision twenty-two of section 265.00 or a feeding device as defined under subdivision twenty-three of section 265.00 of this chapter shall be transferable, provided that the seller notifies the state police within seventy-two hours of the transfer and the buyer provides the state police with information sufficient to constitute a registration under this section. Such registration shall not be valid if such registrant is prohibited or becomes prohibited from possessing a firearm pursuant to state or federal law. The superintendent shall determine whether such registrant is prohibited from possessing a firearm under state or federal law. Such check shall be limited to determining whether the factors in 18 USC 922 (g) apply or whether a registrant has been convicted of a serious offense as defined in subdivision sixteen-b of section 265.00 of this chapter, so as to prohibit such registrant from possessing a firearm, and whether a report has been issued pursuant to section 9.46 of the mental hygiene law. All registrants shall recertify to the division of state police every five years thereafter. Failure to recertify shall result in a revocation of such registration. (a-1) Notwithstanding any inconsistent provisions of paragraph (a) of this subdivision, an owner of an assault weapon as defined in subdivision twenty-two of section 265.00 of this chapter, who is a qualified retired New York or federal law enforcement officer as defined in subdivision twenty-five of section 265.00 of this chapter, where such weapon was issued to or purchased by such officer prior to retirement and in the course of his or her official duties, and for which such officer was qualified by the agency that employed such officer within twelve months prior to his or her retirement, must register such weapon within sixty days of retirement. (b) The superintendent of state police shall create and maintain an internet website to educate the public as to which semiautomatic rifle, semiautomatic shotgun or semiautomatic pistol or weapon that are illegal as a result of the enactment of the chapter of the laws of two thousand thirteen which added this paragraph, as well as such assault weapons which are illegal pursuant to article two hundred sixty-five of this chapter. Such website shall contain information to assist the public in recognizing the relevant features proscribed by such article two hundred sixty-five, as well as which make and model of weapons that require registration. (c) A person who knowingly fails to apply to register such weapon, as required by this section, within one year of the effective date of the chapter of the laws of two thousand thirteen which added this paragraph shall be guilty of a class A misdemeanor and such person who unknowingly fails to validly register such weapon within such one year period shall be given a warning by an appropriate law enforcement authority about such failure and given thirty days in which to apply to register such weapon or to surrender it. A failure to apply or surrender such weapon within such thirty-day period shall result in such weapon being removed by an appropriate law enforcement authority and declared a nuisance. 16-b. The cost of the software, programming and interface required to transmit any record that must be electronically transmitted by the dealer or licensing officer to the division of state police pursuant to this chapter shall be borne by the state. 17. Applicability of section. The provisions of article two hundred sixty-five of this chapter relating to illegal possession of a firearm, shall not apply to an offense which also constitutes a violation of this section by a person holding an otherwise valid license under the provisions of this section and such offense shall only be punishable as a class A misdemeanor pursuant to this section. In addition, the provisions of such article two hundred sixty-five of this chapter shall not apply to the possession of a firearm in a place not authorized by law, by a person who holds an otherwise valid license or possession of a firearm by a person within a one year period after the stated expiration date of an otherwise valid license which has not been previously cancelled or revoked shall only be punishable as a class A misdemeanor pursuant to this section. 18. Notice. Upon the issuance of a license, the licensing officer shall issue therewith, and such licensee shall attest to the receipt of, the following information and notifications: (a) the grounds for which the license issued may be revoked, which shall include but not be limited to the areas and locations for which the licenses issued under paragraph (f)

of subdivision two of this section prohibits the possession of firearms, rifles, and shotguns, and that a conviction under sections 265.01-d and 265.01-e of this chapter are felonies for which licensure will be revoked; (b) a notification regarding the requirements for safe storage which shall be in conspicuous and legible twenty-four point type on eight and one-half inches by eleven inches paper stating in bold print the following: WARNING: RESPONSIBLE FIREARM STORAGE IS THE LAW IN NEW YORK STATE. WHEN STORED IN A HOME FIREARMS, RIFLES, OR SHOTGUNS MUST EITHER BE STORED WITH A GUN LOCKING DEVICE OR IN A SAFE STORAGE DEPOSITORY OR NOT BE LEFT OUTSIDE THE IMMEDIATE POSSESSION AND CONTROL OF THE OWNER OR OTHER LAWFUL POSSESSOR IF A CHILD UNDER THE AGE OF EIGHTEEN RESIDES IN THE HOME OR IS PRESENT, OR IF THE OWNER OR POSSESSOR RESIDES WITH A PERSON PROHIBITED FROM POSSESSING A FIREARM UNDER STATE OR FEDERAL LAW. FIREARMS SHOULD BE STORED BY REMOVING THE AMMUNITION FROM AND SECURELY LOCKING SUCH FIREARM IN A LOCATION SEPARATE FROM AMMUNITION. LEAVING FIREARMS ACCESSIBLE TO A CHILD OR OTHER PROHIBITED PERSON MAY SUBJECT YOU TO IMPRISONMENT, FINE, OR BOTH. WHEN STORED IN A VEHICLE OUTSIDE THE OWNER'S IMMEDIATE POSSESSION OR CONTROL, FIREARMS, RIFLES, AND SHOTGUNS MUST BE STORED IN AN APPROPRIATE SAFE STORAGE DEPOSITORY AND OUT OF SIGHT FROM OUTSIDE OF THE VEHICLE. * (c) any other information necessary to ensure such licensee is aware of their responsibilities as a license holder. * NB Effective until July 1, 2025 * (c) any other information necessary to ensure such licensee is aware of their responsibilities as a license holder; and * NB Effective July 1, 2025 * (d) statewide resources and information relating to safe storage of firearms, child access prevention and firearm violence prevention as well as information on county and local specific laws and regulations related to child access prevention and the safe storage of firearms. * NB Effective July 1, 2025 Nothing in this subdivision shall be deemed to affect, impair or supersede any special or local law relating to providing notice regarding the safe storage of rifles, shotguns or firearms. 19. Prior to the issuance or renewal of a license under paragraph (f) of subdivision two of this section, issued or renewed on or after the effective date of this subdivision, an applicant shall complete an in-person live firearms safety course conducted by a duly authorized instructor with curriculum approved by the division of criminal justice services and the superintendent of state police, and meeting the following requirements: (a) a minimum of sixteen hours of in-person live curriculum approved by the division of criminal justice services and the superintendent of state police, conducted by a duly authorized instructor approved by the division of criminal justice services, and shall include but not be limited to the following topics: (i) general firearm safety; (ii) safe storage requirements and general secure storage best practices; (iii) state and federal gun laws; (iv) situational awareness; (v) conflict de-escalation; (vi) best practices when encountering law enforcement; (vii) the statutorily defined sensitive places in subdivision two of section 265.01-e of this chapter and the restrictions on possession on restricted places under section 265.01-d of this chapter; (viii) conflict management; (ix) use of deadly force; (x) suicide prevention; and (xi) the basic principles of marksmanship; and (b) a minimum of two hours of a live-fire range training course. The applicant shall be required to demonstrate proficiency by scoring a minimum of eighty percent correct answers on a written test for the curriculum under paragraph (a) of this subdivision and the proficiency level determined by the rules and regulations promulgated by the division of criminal justice services and the superintendent of state police for the live-fire range training under paragraph (b) of this subdivision. Upon demonstration of such proficiency, a certificate of completion shall be issued to such applicant in the applicant's name and endorsed and affirmed under the penalties of perjury by such duly authorized instructor. An applicant required to complete the training required herein prior to renewal of a license issued prior to the effective date of this subdivision shall only be required to complete such training for the first renewal of such license after such effective date. 20. Firearms dealers; required warnings. (a) (i) Every person licensed as a gunsmith or a dealer in firearms shall post the following notice at the site where such weapons or firearms are sold, displayed or delivered to the purchaser, at the entrance to the site and in at least one additional area where sales occur, conspicuously stating, in no smaller than twenty-six-point type on a sign at least eight and one-half by eleven inches in bold print: WARNING ACCESS TO A WEAPON OR FIREARM IN THE HOME SIGNIFICANTLY INCREASES THE RISK OF SUICIDE, DEATH DURING DOMESTIC DISPUTES, AND/OR UNINTENTIONAL DEATHS TO CHILDREN, HOUSEHOLD MEMBERS AND OTHERS. IF YOU OR A LOVED ONE IS EXPERIENCING DISTRESS AND/OR DEPRESSION, CALL THE NATIONAL SUICIDE PREVENTION LIFELINE AT 988. (ii) Every firearms dealer shall distribute a notice to the purchaser at the time of each individual sale of a weapon or firearm, conspicuously stating, in no smaller than twenty-six-point type and on paper at least eight and one-half by eleven inches in bold print the following warning: WARNING ACCESS TO A WEAPON OR FIREARM IN THE HOME SIGNIFICANTLY INCREASES THE RISK OF SUICIDE, DEATH DURING DOMESTIC DISPUTES, AND/OR UNINTENTIONAL DEATHS TO CHILDREN, HOUSEHOLD MEMBERS AND OTHERS. IF YOU OR A LOVED ONE IS EXPERIENCING DISTRESS AND/OR DEPRESSION, CALL THE NATIONAL SUICIDE PREVENTION LIFELINE AT 988. (iii) Upon the issuance of or amendment to a firearm or weapon license and/or permit, the licensing officer shall provide the licensee/permittee a written copy of a warning notice conspicuously stating in no smaller than twenty-six-point type and on paper at least eight and one-half by eleven inches in bold print the following warning: WARNING ACCESS TO A WEAPON OR FIREARM IN THE HOME SIGNIFICANTLY INCREASES THE RISK OF SUICIDE, DEATH DURING DOMESTIC DISPUTES, AND/OR UNINTENTIONAL DEATHS TO CHILDREN, HOUSEHOLD MEMBERS AND OTHERS. IF YOU OR A LOVED ONE IS EXPERIENCING DISTRESS AND/OR DEPRESSION, CALL THE NATIONAL SUICIDE PREVENTION LIFELINE AT 988. (b) No licensing officer, local government, or any employee thereof shall be liable to any person by reason of any injury or damage resulting from the failure of any gunsmith or firearms dealer to comply with this subdivision or in consequence of any act or omission in connection with the implementation or enforcement of this subdivision. (c) (i) Failure to

comply with any provision of this subdivision shall be a violation punishable by imprisonment of not more than fifteen days or by a fine of not more than one thousand dollars, or both. Each day that a violation continues shall be deemed a separate offense. (ii) The provisions of this subdivision shall be enforced within each municipality by the applicable local police force, including town, city and village police departments which officers are authorized to issue appearance tickets. Appearance tickets shall be served personally. (d) The provisions of this subdivision shall not supersede any local law or ordinance that imposes stricter disclosure or notice requirements; and notices required by this subdivision shall be in addition to any other notices required by any other federal, state or local law, ordinance, rule or regulation.

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of the division of state police. 1. A license to carry or possess a firearm or to purchase or take possession of a semiautomatic rifle for a retired sworn member of the division of state police shall be granted in the same manner and upon the same terms and conditions as licenses issued under section 400.00 of this article provided, however, that applications for such license may be made to, and the licensing officer may be, the superintendent of state police. 2. For purposes of this section, a "retired sworn member of the division of state police" shall mean a former sworn member of the division of state police, who upon separation from the division of state police was immediately entitled to receive retirement benefits under the provisions of the retirement and social security law. 3. The provisions of this section shall only apply to license applications made or renewals which must be made on or after the effective date of this section. A license to carry or possess a pistol or revolver or to purchase or take possession of a semiautomatic rifle issued pursuant to the provisions of section 400.00 of this article to a person covered by the provisions of this section shall be valid until such license would have expired pursuant to the provisions of section 400.00 of this article; provided that, on or after the effective date of this section, an application or renewal of such license shall be made pursuant to the provisions of this section. 4. Except for the designation of the superintendent of state police as the licensing officer for retired sworn members of the division of state police who have opted to obtain such license under this section, all of the provisions and requirements of section 400.00 of this article and any other provision of law shall be applicable to individuals licensed pursuant to this section. In addition all provisions of section 400.00 of this article, except for the designation of the superintendent of state police as licensing officer are hereby deemed applicable to individuals licensed pursuant to this section.

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1. There shall be a statewide license and record database which shall be created and maintained by the division of state police the cost of which shall not be borne by any municipality. Records assembled or collected for purposes of inclusion in such database shall not be subject to disclosure pursuant to article six of the public officers law. All records containing granted license applications from all licensing authorities shall be monthly checked by the division of criminal justice services in conjunction with the division of state police against criminal conviction, criminal indictment, mental health, extreme risk protection orders, orders of protection, and all other records as are necessary to determine their continued accuracy as well as whether an individual is no longer a valid license holder. The division of criminal justice services shall also check pending applications made pursuant to this article against such records to determine whether a license may be granted. All state and local agencies shall cooperate with the division of criminal justice services, as otherwise authorized by law, in making their records available for such checks. The division of criminal justice services, upon determining that an individual is ineligible to possess a license, or is no longer a valid license holder, shall notify the applicable licensing official of such determination and such licensing official shall not issue a license or shall revoke such license and any weapons owned or possessed by such individual shall be removed consistent with the provisions of subdivision eleven of section 400.00 of this article. Local and state law enforcement shall have access to such database in the performance of their duties. Records assembled or collected for purposes of inclusion in the database established by this section shall be released pursuant to a court order. 2. There shall be a statewide license and record database specific for ammunition sales which shall be created and maintained by the division of state police the cost of which shall not be borne by any municipality no later than thirty days upon designating the division of state police as the point of contact to perform both firearm and ammunition background checks under federal and state law. Records assembled or collected for purposes of inclusion in such database shall not be subject to disclosure pursuant to article six of the public officers law. All records containing granted license applications from all licensing authorities shall be monthly checked by the division of criminal justice services in conjunction with the division of state police against criminal conviction, criminal indictments, mental health, extreme risk protection orders, orders of protection, and all other records as are necessary to determine their continued accuracy as well as whether an individual is no longer a valid license holder. The division of criminal justice services shall also check pending applications made pursuant to this article against such records to determine whether a license may be granted. All state and local agencies shall cooperate with the division of criminal justice services, as otherwise authorized by law, in making their records available for such checks. No later than thirty days after the superintendent of the state police certifies that the statewide license and record database established pursuant to this section and the statewide license and record database established for ammunition sales are operational for the purposes of this section, a dealer in

firearms licensed pursuant to section 400.00 of this article, a seller of ammunition as defined in subdivision twenty-four of section 265.00 of this chapter shall not transfer any ammunition to any other person who is not a dealer in firearms as defined in subdivision nine of such section 265.00 or a seller of ammunition as defined in subdivision twenty-four of section 265.00 of this chapter, unless:(a) before the completion of the transfer, the licensee or seller contacts the statewide license and record database and provides the database with information sufficient to identify such dealer or seller transferee based on information on the transferee's identification document as defined in paragraph (c) of this subdivision, as well as the amount, caliber, manufacturer's name and serial number, if any, of such ammunition;(b) the licensee or seller is provided with a unique identification number; and(c) the transferor has verified the identity of the transferee by examining a valid state identification document of the transferee issued by the department of motor vehicles or if the transferee is not a resident of the state of New York, a valid identification document issued by the transferee's state or country of residence containing a photograph of the transferee. (a) before the completion of the transfer, the licensee or seller contacts the statewide license and record database and provides the database with information sufficient to identify such dealer or seller transferee based on information on the transferee's identification document as defined in paragraph (c) of this subdivision, as well as the amount, caliber, manufacturer's name and serial number, if any, of such ammunition; (b) the licensee or seller is provided with a unique identification number; and (c) the transferor has verified the identity of the transferee by examining a valid state identification document of the transferee issued by the department of motor vehicles or if the transferee is not a resident of the state of New York, a valid identification document issued by the transferee's state or country of residence containing a photograph of the transferee.

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1. A seller of ammunition as defined in subdivision twenty-four of section 265.00 of this chapter shall register with the superintendent of state police in a manner provided by the superintendent. Any dealer in firearms that is validly licensed pursuant to section 400.00 of this article shall not be required to complete such registration. 2. Any seller of ammunition or dealer in firearms shall keep either an electronic record, or dataset, or an organized collection of structured information, or data, typically stored electronically in a computer system approved as to form by the superintendent of state police. In the record shall be entered at the time of every transaction involving ammunition the date, name, age, occupation and residence of any person from whom ammunition is received or to whom ammunition is delivered, and the amount, calibre, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark on such ammunition. 3. No later than thirty days after the superintendent of the state police certifies that the statewide license and record database established pursuant to section 400.02 of this article is operational for the purposes of this section, a dealer in firearms licensed pursuant to section 400.00 of this article, a seller of ammunition as defined in subdivision twenty-four of section 265.00 of this chapter shall not transfer any ammunition to any other person who is not a dealer in firearms as defined in subdivision nine of such section 265.00 or a seller of ammunition as defined in subdivision twenty-four of section 265.00 of this chapter, unless:(a) before the completion of the transfer, the licensee or seller contacts the statewide license and record database and provides the database with information sufficient to identify such dealer or seller, transferee based on information on the transferee's identification document as defined in paragraph (c) of this subdivision, as well as the amount, calibre, manufacturer's name and serial number, if any, of such ammunition;(b) the system provides the licensee or seller with a unique identification number; and(c) the transferor has verified the identity of the transferee by examining a valid state identification document of the transferee issued by the department of motor vehicles or if the transferee is not a resident of the state of New York, a valid identification document issued by the transferee's state or country of residence containing a photograph of the transferee.4. If the database determines that the purchaser of ammunition is eligible to possess ammunition pursuant to state and federal laws, the system shall:(a) assign a unique identification number to the transfer; and(b) provide the licensee or seller with the number.5. If the statewide license and record database notifies the licensee or seller that the information available to the database does not demonstrate that the receipt of ammunition by such other person would violate 18 U.S.C. 922(g) or state law, and the licensee transfers ammunition to such other person, the licensee shall indicate to the database that such transaction has been completed at which point a record of such transaction shall be created which shall be accessible by the division of state police and maintained for no longer than one year from point of purchase, which shall not be incorporated into the database established pursuant to section 400.02 of this article or the registry established pursuant to subdivision sixteen-a of section 400.00 of this article. The division of state police may share such information with a local law enforcement agency. Evidence of the purchase of ammunition is not sufficient to establish probable cause to believe that the purchaser has committed a crime absent other information tending to prove the commission of a crime. Records assembled or accessed pursuant to this section shall not be subject to disclosure pursuant to article six of the public officers law. This requirement of this section shall not apply (i) if a background check cannot be completed because the system is not operational as determined by the superintendent of state police, or where it cannot be accessed by the practitioner due to a temporary technological or electrical failure, as set forth in regulation, or (ii) a dealer or seller has been granted a waiver from conducting such background check if the superintendent of state police determines that such dealer is incapable of such check due to technological limitations that are not reasonably within the control of the dealer, or other exceptional circumstances demonstrated by the dealer, pursuant to a process established in regulation, and at the discretion of such superintendent.6. If the superintendent of state police certifies that background checks of ammunition purchasers may be conducted through the national instant criminal background check system or through the division of state police once the division

has been designated point of contact, a dealer or seller shall contact the division of state police to conduct such check which shall be sufficient to satisfy subdivisions four and five of this section.7. No commercial transfer of ammunition shall take place unless a licensed dealer in firearms or registered seller of ammunition acts as an intermediary between the transferor and the ultimate transferee of the ammunition for the purposes of contacting the statewide license and record database pursuant to this section. Such transfer between the dealer or seller, and transferee must occur in person.8. A seller of ammunition who fails to register pursuant to this section and sells ammunition, for a first offense, shall be guilty of a violation and subject to the fine of one thousand dollars and for a second offense, shall be guilty of a class A misdemeanor.A seller of ammunition that fails to keep any record required pursuant to this section, for a first offense shall be guilty of a violation and subject to a fine of five hundred dollars, and for a second offense shall be guilty of a class B misdemeanor, and the registration of such seller shall be revoked. (a) before the completion of the transfer, the licensee or seller contacts the statewide license and record database and provides the database with information sufficient to identify such dealer or seller, transferee based on information on the transferee's identification document as defined in paragraph (c) of this subdivision, as well as the amount, calibre, manufacturer's name and serial number, if any, of such ammunition; (b) the system provides the licensee or seller with a unique identification number; and (c) the transferor has verified the identity of the transferee by examining a valid state identification document of the transferee issued by the department of motor vehicles or if the transferee is not a resident of the state of New York, a valid identification document issued by the transferee's state or country of residence containing a photograph of the transferee. 4. If the database determines that the purchaser of ammunition is eligible to possess ammunition pursuant to state and federal laws, the system shall: (a) assign a unique identification number to the transfer; and (b) provide the licensee or seller with the number. 5. If the statewide license and record database notifies the licensee or seller that the information available to the database does not demonstrate that the receipt of ammunition by such other person would violate 18 U.S.C. 922(g) or state law, and the licensee transfers ammunition to such other person, the licensee shall indicate to the database that such transaction has been completed at which point a record of such transaction shall be created which shall be accessible by the division of state police and maintained for no longer than one year from point of purchase, which shall not be incorporated into the database established pursuant to section 400.02 of this article or the registry established pursuant to subdivision sixteen-a of section 400.00 of this article. The division of state police may share such information with a local law enforcement agency. Evidence of the purchase of ammunition is not sufficient to establish probable cause to believe that the purchaser has committed a crime absent other information tending to prove the commission of a crime. Records assembled or accessed pursuant to this section shall not be subject to disclosure pursuant to article six of the public officers law. This requirement of this section shall not apply (i) if a background check cannot be completed because the system is not operational as determined by the superintendent of state police, or where it cannot be accessed by the practitioner due to a temporary technological or electrical failure, as set forth in regulation, or (ii) a dealer or seller has been granted a waiver from conducting such background check if the superintendent of state police determines that such dealer is incapable of such check due to technological limitations that are not reasonably within the control of the dealer, or other exceptional circumstances demonstrated by the dealer, pursuant to a process established in regulation, and at the discretion of such superintendent. 6. If the superintendent of state police certifies that background checks of ammunition purchasers may be conducted through the national instant criminal background check system or through the division of state police once the division has been designated point of contact, a dealer or seller shall contact the division of state police to conduct such check which shall be sufficient to satisfy subdivisions four and five of this section. 7. No commercial transfer of ammunition shall take place unless a licensed dealer in firearms or registered seller of ammunition acts as an intermediary between the transferor and the ultimate transferee of the ammunition for the purposes of contacting the statewide license and record database pursuant to this section. Such transfer between the dealer or seller, and transferee must occur in person. 8. A seller of ammunition who fails to register pursuant to this section and sells ammunition, for a first offense, shall be guilty of a violation and subject to the fine of one thousand dollars and for a second offense, shall be guilty of a class A misdemeanor. A seller of ammunition that fails to keep any record required pursuant to this section, for a first offense shall be guilty of a violation and subject to a fine of five hundred dollars, and for a second offense shall be guilty of a class B misdemeanor, and the registration of such seller shall be revoked.

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and substances. 1. Any weapon, instrument, appliance or substance specified in article two hundred sixty-five, when unlawfully possessed, manufactured, transported or disposed of, or when utilized in the commission of an offense, is hereby declared a nuisance. When the same shall come into the possession of any police officer or peace officer, it shall be surrendered immediately to the official mentioned in paragraph (f) of subdivision one of section 265.20, except that such weapon, instrument, appliance or substance coming into the possession of the state police shall be surrendered to the superintendent of state police. 2. The official to whom the weapon, instrument, appliance or substance which has subsequently been declared a nuisance pursuant to subdivision one of this section is so surrendered shall, at any time but at least once each year, destroy the same or cause it to be destroyed, or render the same or cause it to be rendered ineffective and useless for its intended purpose and harmless to human life. 3. Notwithstanding subdivision two of this section, the official to whom the weapon, instrument, appliance or substance is so surrendered shall not destroy the same if (a) a judge or justice of a court of record, or a district attorney, shall file with the official a certificate that the non-destruction thereof is necessary or proper to serve the ends of justice; or (b) the official directs that the same be retained in any laboratory conducted by any police or sheriff's department for the purpose of research, comparison, identification or other endeavor

toward the prevention and detection of crime. 4. In the case of any machine-gun or firearm taken from the possession of any person, the official to whom such weapon is surrendered pursuant to subdivision one of this section shall immediately notify the executive department, division of state police, Albany, giving the calibre, make, model, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark. A search of the files of such division and notification of the results of the search to such official shall immediately be made. 5. Before any machine-gun or firearm is destroyed pursuant to subdivision two of this section, (a) the official to whom the same has been surrendered shall forward to the executive department, division of state police, Albany, a notice of intent to destroy and the calibre, make, model, manufacturer's name and serial number, or if none, any other distinguishing number or identification mark of the machine-gun or firearm; (b) such division shall make and keep a record of such description together with the name and address of the official reporting the same and the date such notice was received; and (c) a search of the files of such division and notification of the results of the search to such official shall be made without unnecessary delay. 6. A firearm or other weapon which is surrendered, or is otherwise voluntarily delivered pursuant to section 265.20 of this chapter and which has not been declared a nuisance pursuant to subdivision one of this section, shall be retained by the official to whom it was delivered for a period not to exceed one year. Prior to the expiration of such time period, a person who surrenders a firearm shall have the right to arrange for the sale, or transfer, of such firearm to a dealer in firearms licensed in accordance with this chapter or for the transfer of such firearm to himself or herself provided that a license therefor has been issued in accordance with this chapter. If no lawful disposition of the firearm or other weapon is made within the time provided, the firearm or weapon concerned shall be declared a nuisance and shall be disposed of in accordance with the provisions of this section.

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1. Any dealer in firearms that sells, delivers or otherwise transfers any firearm shall contact the division of state police to conduct a national instant criminal background check pursuant to section two hundred twenty-eight of the executive law. 2. Failure to comply with the requirements of this section is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle W - Provisions Relating to Firearms, Fireworks, Pornography Equipment and Vehicles Used in the Transportation of Gambling RecordsArticle 400 - Licensing and Other Provisions Relating to Firearms400.10 - Report of Theft or Loss of a Firearm, Rifle or Shotgun.

1. (a) Any owner or other person lawfully in possession of: (i) a firearm, rifle or, shotgun who suffers the loss or theft of said weapon; (ii) ammunition as well as a firearm, rifle or shotgun who suffers the loss or theft of such ammunition as well as a firearm, rifle or shotgun; or (iii) ammunition and is a dealer in firearms or seller of ammunition who suffers the loss or theft of such ammunition shall within twenty-four hours of the discovery of the loss or theft report the facts and circumstances of the loss or theft to a police department or sheriff's office.(b) Whenever a person reports the theft or loss of a firearm, rifle, shotgun or ammunition to any police department or sheriff's office, the officer or department receiving such report shall forward notice of such theft or loss to the division of state police via the New York Statewide Police Information Network. The notice shall contain information in compliance with the New York Statewide Police Information Network Operating Manual, including the caliber, make, model, manufacturer's name and serial number, if any, and any other distinguishing number or identification mark on the weapon.2. The division of state police shall receive, collect and file the information referred to in subdivision one of this section. The division shall cooperate, and undertake to furnish or make available to law enforcement agencies this information, for the purpose of coordinating law enforcement efforts to locate such weapons.3. Notwithstanding any other provision of law, a violation of paragraph (a) of subdivision one of this section shall be a class A misdemeanor. (b) Whenever a person reports the theft or loss of a firearm, rifle, shotgun or ammunition to any police department or sheriff's office, the officer or department receiving such report shall forward notice of such theft or loss to the division of state police via the New York Statewide Police Information Network. The notice shall contain information in compliance with the New York Statewide Police Information Network Operating Manual, including the caliber, make, model, manufacturer's name and serial number, if any, and any other distinguishing number or identification mark on the weapon. 2. The division of state police shall receive, collect and file the information referred to in subdivision one of this section. The division shall cooperate, and undertake to furnish or make available to law enforcement agencies this information, for the purpose of coordinating law enforcement efforts to locate such weapons. 3. Notwithstanding any other provision of law, a violation of paragraph (a) of subdivision one of this section shall be a class A misdemeanor.

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rifle or shotgun. When a national instant criminal background check is required pursuant to state or federal law to be conducted through the National Instant Criminal Background Check System (NICS) or its successor in connection with the sale or transfer of a rifle or shotgun to any person, before delivering a rifle or shotgun to such person, either (a) NICS has issued a "proceed" response to the seller or transferor, or (b) thirty calendar days shall have elapsed since the date the seller or transferor contacted NICS to initiate a national instant criminal background check and NICS has not notified the seller or transferor that the transfer of the rifle or shotgun to such person should be denied.

Title: pen

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle W - Provisions Relating to Firearms, Fireworks, Pornography Equipment and Vehicles Used in the Transportation of Gambling RecordsArticle 400 - Licensing and Other Provisions Relating to Firearms400.30 - Application.

Nothing in this article shall be construed to impair or in any way prevent the enactment or application of any local law, code, ordinance, rule or regulation that is more restrictive than any requirement set forth in or established by this article.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle W - Provisions Relating to Firearms, Fireworks, Pornography Equipment and Vehicles Used in the Transportation of Gambling RecordsArticle 405 - Licensing and Other Provisions Relating to Fireworks405.00 - Permits for Public Displays of Fireworks.

1. Definition of "permit authority." The term "permit authority," as used in this section, means and includes the agency authorized to grant and issue the permits provided in this section. The permit authority on or within state property shall be the office of fire prevention and control. The permit authority for territory within a county park shall be the county park commission, or such other agency having jurisdiction, control and/or operation of the parks or parkways within which any fireworks are to be displayed. The permit authority in a city shall be the duly constituted licensing agency thereof and, in the absence of such agency, shall be an officer designated for the purpose by the legislative body thereof. The permit authority in a village shall be an officer designated for the purpose by the board of trustees thereof and the permit authority in the territory of a town outside of villages shall be an officer designated for the purpose by the town board thereof. 2. Permits for fireworks displays. Notwithstanding the provisions of section 270.00 of this chapter, the permit authority for state property, county parks, cities, villages, or towns may grant a permit for the display of fireworks to municipalities, fair associations, amusement parks, persons, or organizations of individuals that submit an application in writing. The application for such permit shall set forth:(a) The name of the body sponsoring the display and the names of the persons actually to be in charge of the firing of the display who shall possess a valid certificate of competence as a pyrotechnician as required under the general business law and article sixteen of the labor law. The permit application shall further contain a verified statement from the applicant identifying the individuals who are authorized to fire the display including their certificate numbers, and that such individuals possess a valid certificate of competence as a pyrotechnician.(b) The date and time of day at which the display is to be held.(c) The exact location planned for the display.(d) The number and kind of fireworks to be discharged.(e) The manner and place of storage of such fireworks prior to the display.(f) A diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and other lines of communication, the lines behind which the audience will be restrained and the location of all nearby trees, telegraph or telephone lines or other overhead obstructions.(g) Such other information as the permit authority may deem necessary to protect persons or property.3. Applications for permits. All applications for permits for the display of fireworks shall be made at least five days in advance of the date of the display and the permit shall contain provisions that the actual point at which the fireworks are to be fired be in accordance with the rules promulgated by the commissioner of labor pursuant to section four hundred sixty-two of the labor law and that all the persons in actual charge of firing the fireworks shall be over the age of eighteen years, competent and physically fit for the task, that there shall be at least two such operators constantly on duty during the discharge and that at least two approved type fire extinguishers shall be kept at as widely separated points as possible within the actual area of the display. For any applications made for the display of fireworks on state property, the state fire administrator shall coordinate the issuance of such permits with the head of the police or fire department or both, where there are such departments. The legislative body of a county park, city, village or town may provide for approval of such permit by the head of the police or fire department or both where there are such departments. No permit granted and issued hereunder shall be transferable. After such permit shall have been granted, sales, possession, use and distribution of fireworks for such display shall be lawful solely therefor.3-a. Notwithstanding the provisions of subdivision three of this section, no permit may be issued to conduct a display of fireworks upon any property where the boundary line of such property is less than five hundred yards from the boundary line of any property which is owned, leased or operated by any breeder as defined in subdivision four of section two hundred fifty-one of the racing, pari-mutuel wagering and breeding law.4. Bonds. Before granting and issuing a permit for a display of fireworks as herein provided, the permit authority shall require an adequate bond from the applicant therefor, unless it is a state entity, county park, city, village or town, in a sum to be fixed by the permit authority, which, however, shall not be less than one million dollars, conditioned for the payment of all damages, which may be caused to a person or persons or to property, by reason of the display so permitted and arising from any acts of the permittee, his or her agents, employees, contractors or subcontractors. Such bond shall run to the state if the permit is granted for a display on state property, or to the county park, city, village or town in which the permit is granted and issued and shall be for the use and benefit of any person or persons or any owner or owners of any property so injured or damaged, and such person or persons or such owner or owners are hereby authorized to maintain an action thereon, which right of action also shall accrue to the heirs, executors, administrators, successors or assigns of such person or persons or such owner or owners. The permit authority may accept, in lieu of such bond, an indemnity insurance policy with liability coverage and indemnity protection equivalent to the terms and conditions upon which such bond is predicated and for the purposes provided in this section.5. Local ordinances superseded. (a) All local ordinances regulating or prohibiting the display of fireworks are hereby superseded by the provisions of this section. Every city, town or village shall have the power to enact ordinances or local laws regulating or prohibiting the use, or the storage, transportation or sale for use of fireworks in the preparation for or in connection with television broadcasts.(b) Notwithstanding any inconsistent

provision of law, a county may enact a local law to prohibit the sale and use of "sparkling devices", as such term is defined in section 270.00 of this chapter, provided, however, any such local law shall not establish:(i) an offense greater than a violation for a person who shall use, explode or cause to be exploded a sparkling device; or(ii) an offense greater than a class B misdemeanor for a person who shall offer or expose for sale, sell or furnish a sparkling device valued at less than five hundred dollars unless such offer, sale or furnishing is to a person less than eighteen years of age.(c) Notwithstanding paragraph (b) of this subdivision, any city wholly contained within the county of Orange may enact a local law to prohibit the sale and use of "sparkling devices" as defined in section 270.00 of this chapter, in accordance with subparagraphs (i) and (ii) of paragraph (b) of this subdivision, notwithstanding that such county has not enacted a local law to prohibit the sale and use of such sparkling devices. (a) The name of the body sponsoring the display and the names of the persons actually to be in charge of the firing of the display who shall possess a valid certificate of competence as a pyrotechnician as required under the general business law and article sixteen of the labor law. The permit application shall further contain a verified statement from the applicant identifying the individuals who are authorized to fire the display including their certificate numbers, and that such individuals possess a valid certificate of competence as a pyrotechnician. (b) The date and time of day at which the display is to be held. (c) The exact location planned for the display. (d) The number and kind of fireworks to be discharged. (e) The manner and place of storage of such fireworks prior to the display. (f) A diagram of the grounds on which the display is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, highways and other lines of communication, the lines behind which the audience will be restrained and the location of all nearby trees, telegraph or telephone lines or other overhead obstructions. (g) Such other information as the permit authority may deem necessary to protect persons or property. 3. Applications for permits. All applications for permits for the display of fireworks shall be made at least five days in advance of the date of the display and the permit shall contain provisions that the actual point at which the fireworks are to be fired be in accordance with the rules promulgated by the commissioner of labor pursuant to section four hundred sixty-two of the labor law and that all the persons in actual charge of firing the fireworks shall be over the age of eighteen years, competent and physically fit for the task, that there shall be at least two such operators constantly on duty during the discharge and that at least two approved type fire extinguishers shall be kept at as widely separated points as possible within the actual area of the display. For any applications made for the display of fireworks on state property, the state fire administrator shall coordinate the issuance of such permits with the head of the police or fire department or both, where there are such departments. The legislative body of a county park, city, village or town may provide for approval of such permit by the head of the police or fire department or both where there are such departments. No permit granted and issued hereunder shall be transferable. After such permit shall have been granted, sales, possession, use and distribution of fireworks for such display shall be lawful solely therefor. 3-a. Notwithstanding the provisions of subdivision three of this section, no permit may be issued to conduct a display of fireworks upon any property where the boundary line of such property is less than five hundred yards from the boundary line of any property which is owned, leased or operated by any breeder as defined in subdivision four of section two hundred fifty-one of the racing, pari-mutuel wagering and breeding law. 4. Bonds. Before granting and issuing a permit for a display of fireworks as herein provided, the permit authority shall require an adequate bond from the applicant therefor, unless it is a state entity, county park, city, village or town, in a sum to be fixed by the permit authority, which, however, shall not be less than one million dollars, conditioned for the payment of all damages, which may be caused to a person or persons or to property, by reason of the display so permitted and arising from any acts of the permittee, his or her agents, employees, contractors or subcontractors. Such bond shall run to the state if the permit is granted for a display on state property, or to the county park, city, village or town in which the permit is granted and issued and shall be for the use and benefit of any person or persons or any owner or owners of any property so injured or damaged, and such person or persons or such owner or owners are hereby authorized to maintain an action thereon, which right of action also shall accrue to the heirs, executors, administrators, successors or assigns of such person or persons or such owner or owners. The permit authority may accept, in lieu of such bond, an indemnity insurance policy with liability coverage and indemnity protection equivalent to the terms and conditions upon which such bond is predicated and for the purposes provided in this section. 5. Local ordinances superseded. (a) All local ordinances regulating or prohibiting the display of fireworks are hereby superseded by the provisions of this section. Every city, town or village shall have the power to enact ordinances or local laws regulating or prohibiting the use, or the storage, transportation or sale for use of fireworks in the preparation for or in connection with television broadcasts. (b) Notwithstanding any inconsistent provision of law, a county may enact a local law to prohibit the sale and use of "sparkling devices", as such term is defined in section 270.00 of this chapter, provided, however, any such local law shall not establish: (i) an offense greater than a violation for a person who shall use, explode or cause to be exploded a sparkling device; or (ii) an offense greater than a class B misdemeanor for a person who shall offer or expose for sale, sell or furnish a sparkling device valued at less than five hundred dollars unless such offer, sale or furnishing is to a person less than eighteen years of age. (c) Notwithstanding paragraph (b) of this subdivision, any city wholly contained within the county of Orange may enact a local law to prohibit the sale and use of "sparkling devices" as defined in section 270.00 of this chapter, in accordance with subparagraphs (i) and (ii) of paragraph (b) of this subdivision, notwithstanding that such county has not enacted a local law to prohibit the sale and use of such sparkling devices.

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Fireworks possessed unlawfully may be seized by any peace officer, acting pursuant to his special duties, or police officer, who

must deliver the same to the magistrate before whom the person arrested is required to be taken. The magistrate must, upon the examination of the defendant, or if such examination is delayed or prevented, without awaiting such examination, determine whether the fireworks had been possessed by the defendant in violation of the provisions of section 270.00; and if he finds that the fireworks had been so possessed by the defendant, he must cause such fireworks to be destroyed, in a way safe for the particular type of such fireworks, or to be delivered to the district attorney of the county in which the defendant is liable to indictment or trial, as the interests of justice and public safety may, in his opinion, require. Upon the conviction of the defendant, the district attorney must cause to be destroyed, in a way safe for the particular type of such fireworks, the fireworks in respect whereof the defendant stands convicted, and which remain in the possession or under the control of the district attorney.

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1. Definitions. For the purposes of this section, the following terms have the following meanings: a. Airburst. A pyrotechnic device that is suspended in the air to simulate outdoor aerial fireworks shells without producing hazardous debris. b. Areas of public assembly. All buildings or portions of buildings used for gathering together fifty or more persons for amusement, athletic, civic, dining, educational, entertainment, patriotic, political, recreational, religious, social, or similar purposes, the entire fire area of which they are a part, and the means of egress therefrom. c. Assistant. A person who works under the supervision of the pyrotechnic operator. d. Audience. Spectators whose primary purpose is to view a performance. e. Building. A combination of any materials, whether portable or fixed, having a roof, to form a structure affording shelter for persons, animals, or property. The word "building" shall be construed for the purposes of this section as though followed by the words "or part or parts thereof", unless the context clearly requires a different meaning. f. Concussion mortar. A device specifically designed and constructed to produce a loud noise and a violent jarring shock for dramatic effect without producing any damage. g. Fallout area. The area in which any hazardous debris falls after a pyrotechnic device is fired. The fallout area is defined as a circle that, in turn, is defined by the fallout radius. h. Fallout radius. A line that defines the fallout area of a pyrotechnic device. The line is defined by two points. The first point is at the center of a pyrotechnic device. The second point is the point most distant from the center of the pyrotechnic device at which any hazardous debris from the device can fall. i. Fire area. The floor area of a story of a building within exterior walls, party walls, fire walls, or any combination thereof. j. Hazardous debris. Any debris, produced or expelled by the functioning of a pyrotechnic device, that is capable of causing personal injury or unpredicted property damage. This includes, but is not limited to, hot sparks, heavy casing fragments, and unignited components. Materials such as confetti, lightweight foam pieces, feathers, or novelties are not to be construed as hazardous debris. k. Owner. Any person, agent, firm, association, limited liability company, partnership, or corporation having a legal or equitable interest in the property. l. Performance. The enactment of a musical, dramatic, operatic, or other entertainment production. The enactment may begin and progress to its end according to a script, plan, or other preconceived list of events, or deviate therefrom. A performance includes any encores. m. Performer. Any person active in a performance during which pyrotechnics are used and who is not part of the audience or support personnel. Among others, performers include, but are not limited to, actors, singers, musicians, and acrobats. n. Permit authority. The agency authorized to grant and issue the permits provided for in this section on or within state property shall be the office of fire prevention and control, in the territory within a county park shall be the county park commission, or such other agency having jurisdiction, control, and/or operation of the parks or parkways within which any pyrotechnics are to be used, in a city shall be the duly constituted licensing agency thereof and, in the absence of such agency, shall be an officer designated for the purpose by the legislative body thereof, in a village shall be an officer designated for the purpose by the board of trustees thereof, and, in the territory of a town outside of villages, shall be an officer designated for the purpose by the town board thereof. o. Permittee. (1) The person or persons who are responsible, as provided in subparagraph two of this paragraph, for obtaining the necessary permit or permits for the use of indoor pyrotechnics in areas of public assembly or for a production, or who are responsible for obtaining such permit or permits under an applicable local law or ordinance authorized pursuant to subdivision five of this section.(2) The owner of a place of public assembly or building in which pyrotechnics are to be used shall be responsible for obtaining such permit or permits; provided, however, that such owner, in writing, by agreement or lease, may require or otherwise authorize a lessee, licensee, pyrotechnic operator, or other party to be responsible for obtaining such permit or permits, in which case such other party or parties shall be deemed responsible for obtaining such permit or permits and shall be the permittee for purposes of this article; provided further that the structure is otherwise appropriate for such use under the New York state fire prevention and building code or other such applicable code.p. Producer. An individual who has overall responsibility for the operation and management of the performance where the pyrotechnics are to be used. Generally, the producer is an employee of the promotion company, entertainment company, festival, theme park, or other entertainment group.q. Production. All the performances of a musical, dramatic, operatic, or other show or series of shows.r. Pyrotechnic device. Any device containing pyrotechnic materials and capable of producing a special effect as defined in this subdivision.s. Pyrotechnic material (Pyrotechnic special effects material). A chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation. Such a chemical mixture consists predominantly of solids capable of producing a controlled, self-sustaining, and self-contained exothermic chemical reaction that results in heat, gas, sound, light, or a combination of these effects. The chemical reaction functions without external oxygen.t. Pyrotechnic operator (Special effects operator). An individual who has responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates special effects.u. Pyrotechnic special effect. A special effect created through the use of pyrotechnic materials and devices.v.

Pyrotechnics. Controlled exothermic chemical reactions that are timed to create the effects of heat, gas, sound, dispersion of aerosols, emission of visible electromagnetic radiation, or a combination of these effects to provide the maximum effect from the least volume.w. Rocket. A pyrotechnic device that moves by the ejection of matter produced by the internal combustion of propellants.x. Special effect. A visual or audible effect used for entertainment purposes, often produced to create an illusion. For example, smoke might be produced to create the impression of fog being present, or a puff of smoke, a flash of light, and a loud sound might be produced to create the impression that a cannon has been fired.y. Support personnel. Any individual who is not a performer or member of the audience. Among others, support personnel include the road crew of any production, stage hands, property masters, security guards, fire watch officers, janitors, or any other employee.z. Venue manager. An individual who has overall responsibility for the operation and management of the facility where pyrotechnics are to be used in a performance.2. Permit requirements. a. All uses of all pyrotechnics in areas of public assembly shall be approved by the permit authority. The permit authority shall determine that appropriate measures are established to provided acceptable crowd management, security, fire protection, (including sprinklers), and other emergency services. All planning and use of pyrotechnics shall be coordinated with the venue manager and producer.b. Before the performance of any production, the permittee shall submit a plan for the use of pyrotechnics to the permit authority. After a permit has been granted, the permittee shall keep the plan available at the site for safety inspectors or other designated agents of the permit authority. Any addition of pyrotechnics to a performance or any significant change in the presentation of pyrotechnics shall require approval by the permit authority, except that reducing the number or size of pyrotechnics to be used in a performance shall not be considered to be a significant change in the presentation.c. (1) The plan for the use of pyrotechnics shall be made in writing or such other form as is required or approved by the permit authority.(2) The plan shall provide the following:(a) Name of the person, group, organization, or other entity sponsoring the production.(b) Date and time of day of the production.(c) Exact location of the production.(d) Name of the person actually in charge of firing the pyrotechnics (i.e., the pyrotechnic operator).(e) Number, names, and ages of all assistants who are to be present.(f) Qualifications of the pyrotechnic operator.(g) Pyrotechnic experience of the operator.(h) Confirmation of any applicable local, state, and federal licenses held by the operator or assistant.(i) Evidence of the permittee's insurance carrier or financial responsibility.(j) Number and types of pyrotechnic devices and materials to be used, the operator's experience with those devices and effects, and a definition of the general responsibilities of assistants.(k) Diagram of the grounds or facilities where the production is to be held. This diagram shall show the point at which the pyrotechnic devices are to be fired, the fallout radius for each pyrotechnic device used in the performance, the lines behind which the audience shall be restrained, and the placement of sprinkler systems.(l) Point of on-site assembly of pyrotechnic devices.(m) Manner and place of storage of the pyrotechnic materials and devices.(n) Material safety data sheet (MSDS) for the pyrotechnic materials to be used.(o) Certification that the set, scenery, and rigging materials are inherently flame-retardant or have been treated to achieve flame retardancy.(p) Certification that all materials worn by performers in the fallout area during use of pyrotechnic effects shall be inherently flame-retardant or have been treated to achieve flame retardancy.(3) All plans shall be submitted as soon as is possible so that the permit authority has time to be present and to notify other interested parties. In no event shall such advance notice be less than five business days.d. A walk-through and a representative demonstration of the pyrotechnics shall be approved by the permit authority before a permit is approved. The permit authority may waive this requirement based on past history, prior knowledge, and other factors; provided that the authority is confident that the discharge of pyrotechnics can be conducted safely. The demonstration shall be scheduled with sufficient time allowed to reset/reload the pyrotechnics before the arrival of the audience.e. All pyrotechnic operators shall be at least twenty-one years old and licensed or approved by the permit authority in accordance with all applicable laws, if any. All assistants shall be at least eighteen years old.3. Conduct of pyrotechnic performances. a. Two or more fire extinguishers of the proper classification and size as approved by the permit authority shall be readily accessible while the pyrotechnics are being loaded, prepared for firing, or fired. In all cases, at least two pressurized water or pump extinguishers shall be available. Additional fire extinguishing equipment shall be provided as required by the permit authority. Personnel who have a working knowledge of the use of the applicable fire extinguishers shall be present while the pyrotechnics are being handled, used, or removed. No personnel shall use or handle pyrotechnic materials or devices while under the influence of intoxicating beverages, narcotics, controlled substances, and prescription or nonprescription drugs that can impair judgment. Fire detection and life safety systems shall not be interrupted during the operation of pyrotechnic effects.b. (1) All pyrotechnic devices shall be mounted in a secure manner to maintain their proper positions and orientations so that, when they are fired, the pyrotechnic effects described in the plan submitted by the permittee are produced. Pyrotechnic devices shall be mounted so that no fallout from the device endangers human lives, results in personal injury, or damages property. Pyrotechnic materials shall be fired only from equipment specifically constructed for the purpose of firing pyrotechnic materials. The pyrotechnic operator shall be responsible for selecting equipment and materials that are compatible.(2) Where rockets are launched before an audience, performers, or support personnel, the rockets shall be attached securely to a guide wire or cable with both ends securely attached and placed on an impact-resistant surface located at the terminal end of the guide. This guide wire or cable shall be of sufficient strength and flame resistance to withstand the exhaust from the rocket. An effective arrangement to stop the rocket shall be provided.(3) Pyrotechnics shall be: (a) placed so that any hazardous debris falls into a safe, flame-resistant area; (b) fired so that the trajectory of their pyrotechnic material is not carried over the audience; and (c) placed for firing so that no flammable materials are within their fallout area.(4) Pyrotechnic devices and materials used indoors shall be specifically manufactured and marked for indoor use by the manufacturer.(5) Airbursts shall be permitted to be fired above the assembled audience, subject to the following conditions:(a) The airburst shall be suspended by a minimum 30-gauge metal wire that is attached securely to a secure support acceptable to the authority having jurisdiction.(b) The airburst shall occur at a minimum height of three times the diameter of the

effect.(c) Where the effect is demonstrated, there shall be no burning or glowing particles below the fifteen-foot level above the floor.c. Each pyrotechnic device fired during a performance shall be separated from the audience by at least fifteen feet but not by less than twice the fallout radius of the device. Concussion mortars shall be separated from the audience by a minimum of twenty-five feet. There shall be no glowing or flaming particles within ten feet of the audience.d. (1) The facility where pyrotechnic materials and devices are handled and used shall be maintained in a neat and orderly condition and shall be kept free of any conditions that can create a fire hazard.(2) Smoking shall not be permitted within twenty-five feet of the area where pyrotechnics are being handled or fired; provided that smoking by performers as part of the performance shall be permitted as blocked in rehearsals and if expressly approved by the pyrotechnic operator and the permit authority.e. (1) The pyrotechnic effect operator shall advise all performers and support personnel that they are exposed to a potentially hazardous situation when performing or otherwise carrying out their responsibilities in the vicinity of a pyrotechnic effect. Performers and support personnel familiar and experienced with the pyrotechnic effects being used shall be permitted to be in the area of a pyrotechnic effect, but only voluntarily and in the performance of their duties.(2) No part, projectile, or debris from the pyrotechnic material or device shall be propelled so that it damages overhead properties, overhead equipment, or the ceiling and walls of the facility.(3) Immediately before any performance, the pyrotechnic operator shall make a final check of wiring, positions, hook-ups, and pyrotechnic devices to ensure that they are in proper working order. The pyrotechnic operator also shall verify safety distances.(4) The placement and wiring of all pyrotechnic devices shall be designed to minimize the possibility of performers and support personnel disturbing the devices during a performance.(5) The pyrotechnic operator shall exercise extreme care throughout the performance to ensure that the pyrotechnic devices function correctly and that the performers, support personnel, and audience are clear of the devices.(6) When pyrotechnics are fired, the quantity of smoke developed shall be controlled so as not to obscure the visibility of exit signs or paths of egress.4. Bonds. Before granting and issuing a permit for a use of pyrotechnics as provided in this section, the permit authority shall require an adequate bond from the applicant therefor, unless such applicant is a state entity, county park, city, village, or town, or from the person to whom a contract for such use shall be awarded, in a sum to be fixed by the permit authority, which, however, shall not be less than five hundred thousand dollars, conditioned for the payment of all damages which may be caused to a person or persons or to property by reason of the use so permitted and arising from any acts of the permittee, his or her agents, employees, contractors, or subcontractors. Such bond shall run to the owner of the facility for which the permit is granted and issued and shall be for the use and benefit of any person or persons or any owner or owners of any property so injured or damaged, and such person or persons or such owner or owners are hereby authorized to maintain an action thereon, which right of action also shall accrue to the heirs, executors, administrators, successors, or assigns of such person or persons or such owner or owners. The permit authority may accept, in lieu of such bond, an indemnity insurance policy with liability coverage and indemnity protection equivalent to the terms and conditions upon which such bond is predicated and for the purposes herein provided.5. Local laws or ordinances superseded. All local laws or ordinances regulating the use of pyrotechnics within the contemplation of this section are hereby superseded by the provisions of this section, with the exception of:a. all laws or ordinances enacted by a city of one million or more; andb. other local laws or ordinances that prohibit the use of indoor pyrotechnics. (2) The owner of a place of public assembly or building in which pyrotechnics are to be used shall be responsible for obtaining such permit or permits; provided, however, that such owner, in writing, by agreement or lease, may require or otherwise authorize a lessee, licensee, pyrotechnic operator, or other party to be responsible for obtaining such permit or permits, in which case such other party or parties shall be deemed responsible for obtaining such permit or permits and shall be the permittee for purposes of this article; provided further that the structure is otherwise appropriate for such use under the New York state fire prevention and building code or other such applicable code. p. Producer. An individual who has overall responsibility for the operation and management of the performance where the pyrotechnics are to be used. Generally, the producer is an employee of the promotion company, entertainment company, festival, theme park, or other entertainment group. q. Production. All the performances of a musical, dramatic, operatic, or other show or series of shows. r. Pyrotechnic device. Any device containing pyrotechnic materials and capable of producing a special effect as defined in this subdivision. s. Pyrotechnic material (Pyrotechnic special effects material). A chemical mixture used in the entertainment industry to produce visible or audible effects by combustion, deflagration, or detonation. Such a chemical mixture consists predominantly of solids capable of producing a controlled, self-sustaining, and self-contained exothermic chemical reaction that results in heat, gas, sound, light, or a combination of these effects. The chemical reaction functions without external oxygen. t. Pyrotechnic operator (Special effects operator). An individual who has responsibility for pyrotechnic safety and who controls, initiates, or otherwise creates special effects. u. Pyrotechnic special effect. A special effect created through the use of pyrotechnic materials and devices. v. Pyrotechnics. Controlled exothermic chemical reactions that are timed to create the effects of heat, gas, sound, dispersion of aerosols, emission of visible electromagnetic radiation, or a combination of these effects to provide the maximum effect from the least volume. w. Rocket. A pyrotechnic device that moves by the ejection of matter produced by the internal combustion of propellants. x. Special effect. A visual or audible effect used for entertainment purposes, often produced to create an illusion. For example, smoke might be produced to create the impression of fog being present, or a puff of smoke, a flash of light, and a loud sound might be produced to create the impression that a cannon has been fired. y. Support personnel. Any individual who is not a performer or member of the audience. Among others, support personnel include the road crew of any production, stage hands, property masters, security guards, fire watch officers, janitors, or any other employee. z. Venue manager. An individual who has overall responsibility for the operation and management of the facility where pyrotechnics are to be used in a performance. 2. Permit requirements. a. All uses of all pyrotechnics in areas of public assembly shall be approved by the permit authority. The permit authority shall determine that appropriate measures are established to provided acceptable crowd management, security, fire

protection, (including sprinklers), and other emergency services. All planning and use of pyrotechnics shall be coordinated with the venue manager and producer. b. Before the performance of any production, the permittee shall submit a plan for the use of pyrotechnics to the permit authority. After a permit has been granted, the permittee shall keep the plan available at the site for safety inspectors or other designated agents of the permit authority. Any addition of pyrotechnics to a performance or any significant change in the presentation of pyrotechnics shall require approval by the permit authority, except that reducing the number or size of pyrotechnics to be used in a performance shall not be considered to be a significant change in the presentation. c. (1) The plan for the use of pyrotechnics shall be made in writing or such other form as is required or approved by the permit authority. (2) The plan shall provide the following: (a) Name of the person, group, organization, or other entity sponsoring the production. (b) Date and time of day of the production. (c) Exact location of the production. (d) Name of the person actually in charge of firing the pyrotechnics (i.e., the pyrotechnic operator). (e) Number, names, and ages of all assistants who are to be present. (f) Qualifications of the pyrotechnic operator. (g) Pyrotechnic experience of the operator. (h) Confirmation of any applicable local, state, and federal licenses held by the operator or assistant. (i) Evidence of the permittee's insurance carrier or financial responsibility. (j) Number and types of pyrotechnic devices and materials to be used, the operator's experience with those devices and effects, and a definition of the general responsibilities of assistants. (k) Diagram of the grounds or facilities where the production is to be held. This diagram shall show the point at which the pyrotechnic devices are to be fired, the fallout radius for each pyrotechnic device used in the performance, the lines behind which the audience shall be restrained, and the placement of sprinkler systems. (l) Point of on-site assembly of pyrotechnic devices. (m) Manner and place of storage of the pyrotechnic materials and devices. (n) Material safety data sheet (MSDS) for the pyrotechnic materials to be used. (o) Certification that the set, scenery, and rigging materials are inherently flame-retardant or have been treated to achieve flame retardancy. (p) Certification that all materials worn by performers in the fallout area during use of pyrotechnic effects shall be inherently flame-retardant or have been treated to achieve flame retardancy. (3) All plans shall be submitted as soon as is possible so that the permit authority has time to be present and to notify other interested parties. In no event shall such advance notice be less than five business days. d. A walk-through and a representative demonstration of the pyrotechnics shall be approved by the permit authority before a permit is approved. The permit authority may waive this requirement based on past history, prior knowledge, and other factors; provided that the authority is confident that the discharge of pyrotechnics can be conducted safely. The demonstration shall be scheduled with sufficient time allowed to reset/reload the pyrotechnics before the arrival of the audience. e. All pyrotechnic operators shall be at least twenty-one years old and licensed or approved by the permit authority in accordance with all applicable laws, if any. All assistants shall be at least eighteen years old. 3. Conduct of pyrotechnic performances. a. Two or more fire extinguishers of the proper classification and size as approved by the permit authority shall be readily accessible while the pyrotechnics are being loaded, prepared for firing, or fired. In all cases, at least two pressurized water or pump extinguishers shall be available. Additional fire extinguishing equipment shall be provided as required by the permit authority. Personnel who have a working knowledge of the use of the applicable fire extinguishers shall be present while the pyrotechnics are being handled, used, or removed. No personnel shall use or handle pyrotechnic materials or devices while under the influence of intoxicating beverages, narcotics, controlled substances, and prescription or nonprescription drugs that can impair judgment. Fire detection and life safety systems shall not be interrupted during the operation of pyrotechnic effects. b. (1) All pyrotechnic devices shall be mounted in a secure manner to maintain their proper positions and orientations so that, when they are fired, the pyrotechnic effects described in the plan submitted by the permittee are produced. Pyrotechnic devices shall be mounted so that no fallout from the device endangers human lives, results in personal injury, or damages property. Pyrotechnic materials shall be fired only from equipment specifically constructed for the purpose of firing pyrotechnic materials. The pyrotechnic operator shall be responsible for selecting equipment and materials that are compatible. (2) Where rockets are launched before an audience, performers, or support personnel, the rockets shall be attached securely to a guide wire or cable with both ends securely attached and placed on an impact-resistant surface located at the terminal end of the guide. This guide wire or cable shall be of sufficient strength and flame resistance to withstand the exhaust from the rocket. An effective arrangement to stop the rocket shall be provided. (3) Pyrotechnics shall be: (a) placed so that any hazardous debris falls into a safe, flame-resistant area; (b) fired so that the trajectory of their pyrotechnic material is not carried over the audience; and (c) placed for firing so that no flammable materials are within their fallout area. (4) Pyrotechnic devices and materials used indoors shall be specifically manufactured and marked for indoor use by the manufacturer. (5) Airbursts shall be permitted to be fired above the assembled audience, subject to the following conditions: (a) The airburst shall be suspended by a minimum 30-gauge metal wire that is attached securely to a secure support acceptable to the authority having jurisdiction. (b) The airburst shall occur at a minimum height of three times the diameter of the effect. (c) Where the effect is demonstrated, there shall be no burning or glowing particles below the fifteen-foot level above the floor. c. Each pyrotechnic device fired during a performance shall be separated from the audience by at least fifteen feet but not by less than twice the fallout radius of the device. Concussion mortars shall be separated from the audience by a minimum of twenty-five feet. There shall be no glowing or flaming particles within ten feet of the audience. d. (1) The facility where pyrotechnic materials and devices are handled and used shall be maintained in a neat and orderly condition and shall be kept free of any conditions that can create a fire hazard. (2) Smoking shall not be permitted within twenty-five feet of the area where pyrotechnics are being handled or fired; provided that smoking by performers as part of the performance shall be permitted as blocked in rehearsals and if expressly approved by the pyrotechnic operator and the permit authority. e. (1) The pyrotechnic effect operator shall advise all performers and support personnel that they are exposed to a potentially hazardous situation when performing or otherwise carrying out their responsibilities in the vicinity of a pyrotechnic effect. Performers and support personnel familiar and experienced with the pyrotechnic effects being used shall be permitted to be in the area of a

pyrotechnic effect, but only voluntarily and in the performance of their duties. (2) No part, projectile, or debris from the pyrotechnic material or device shall be propelled so that it damages overhead properties, overhead equipment, or the ceiling and walls of the facility. (3) Immediately before any performance, the pyrotechnic operator shall make a final check of wiring, positions, hook-ups, and pyrotechnic devices to ensure that they are in proper working order. The pyrotechnic operator also shall verify safety distances. (4) The placement and wiring of all pyrotechnic devices shall be designed to minimize the possibility of performers and support personnel disturbing the devices during a performance. (5) The pyrotechnic operator shall exercise extreme care throughout the performance to ensure that the pyrotechnic devices function correctly and that the performers, support personnel, and audience are clear of the devices. (6) When pyrotechnics are fired, the quantity of smoke developed shall be controlled so as not to obscure the visibility of exit signs or paths of egress. 4. Bonds. Before granting and issuing a permit for a use of pyrotechnics as provided in this section, the permit authority shall require an adequate bond from the applicant therefor, unless such applicant is a state entity, county park, city, village, or town, or from the person to whom a contract for such use shall be awarded, in a sum to be fixed by the permit authority, which, however, shall not be less than five hundred thousand dollars, conditioned for the payment of all damages which may be caused to a person or persons or to property by reason of the use so permitted and arising from any acts of the permittee, his or her agents, employees, contractors, or subcontractors. Such bond shall run to the owner of the facility for which the permit is granted and issued and shall be for the use and benefit of any person or persons or any owner or owners of any property so injured or damaged, and such person or persons or such owner or owners are hereby authorized to maintain an action thereon, which right of action also shall accrue to the heirs, executors, administrators, successors, or assigns of such person or persons or such owner or owners. The permit authority may accept, in lieu of such bond, an indemnity insurance policy with liability coverage and indemnity protection equivalent to the terms and conditions upon which such bond is predicated and for the purposes herein provided. 5. Local laws or ordinances superseded. All local laws or ordinances regulating the use of pyrotechnics within the contemplation of this section are hereby superseded by the provisions of this section, with the exception of: a. all laws or ordinances enacted by a city of one million or more; and b. other local laws or ordinances that prohibit the use of indoor pyrotechnics.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle W - Provisions Relating to Firearms, Fireworks, Pornography Equipment and Vehicles Used in the Transportation of Gambling RecordsArticle 405 - Licensing and Other Provisions Relating to Fireworks405.12 - Unpermitted Use of Indoor Pyrotechnics in the Second Degree.

A person is guilty of unpermitted use of indoor pyrotechnics in the second degree when he or she is responsible for obtaining a necessary permit to use indoor pyrotechnics, as required by paragraph o of subdivision one of section 405.10 of this article, and, without obtaining such permit or knowing that he or she is not in compliance with the terms of a permit, he or she intentionally ignites or detonates pyrotechnics for which such permit is required, or knowingly permits another to ignite or detonate such pyrotechnics, in a building, as defined in paragraph e of subdivision one of section 405.10 of this article. Unpermitted use of indoor pyrotechnics in the second degree is a class A misdemeanor.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle W - Provisions Relating to Firearms, Fireworks, Pornography Equipment and Vehicles Used in the Transportation of Gambling RecordsArticle 405 - Licensing and Other Provisions Relating to Fireworks405.14 - Unpermitted Use of Indoor Pyrotechnics in the First Degree.

A person is guilty of unpermitted use of indoor pyrotechnics in the first degree when he or she commits the crime of unpermitted use of indoor pyrotechnics in the second degree, as defined in section 405.12 of this article, and, within the previous five year period, he or she has been convicted one or more times of the crime of unpermitted use of indoor pyrotechnics in the second degree, as defined in section 405.12 of this article, or unpermitted use of indoor pyrotechnics in the first degree, as defined in this section. Unpermitted use of indoor pyrotechnics in the first degree is a class E felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle W - Provisions Relating to Firearms, Fireworks, Pornography Equipment and Vehicles Used in the Transportation of Gambling RecordsArticle 405 - Licensing and Other Provisions Relating to Fireworks405.16 - Aggravated Unpermitted Use of Indoor Pyrotechnics in the Second Degree.

degree. A person is guilty of aggravated unpermitted use of indoor pyrotechnics in the second degree when he or she commits the crime of unpermitted use of indoor pyrotechnics in the second degree, as defined in section 405.12 of this article, and, by means of igniting or detonating such indoor pyrotechnics, he or she recklessly: (1) causes physical injury to another person; or (2) damages the property of another person in an amount that exceeds two hundred fifty dollars. Aggravated unpermitted use of indoor pyrotechnics in the second degree is a class E felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle W - Provisions Relating to Firearms, Fireworks, Pornography Equipment and Vehicles Used in the Transportation of Gambling RecordsArticle 405 - Licensing and Other Provisions Relating to Fireworks405.18 - Aggravated Unpermitted Use of Indoor Pyrotechnics in the First Degree.

degree. A person is guilty of aggravated unpermitted use of indoor pyrotechnics in the first degree when he or she commits the crime of unpermitted use of indoor pyrotechnics in the second degree, as defined in section 405.12 of this article, and, by means of igniting or detonating such indoor pyrotechnics, he or she recklessly causes serious physical injury or death to another person. Aggravated unpermitted use of indoor pyrotechnics in the first degree is a class D felony.

Title: pen

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle W - Provisions Relating to Firearms, Fireworks, Pornography Equipment and Vehicles Used in the Transportation of Gambling RecordsArticle 410 - Seizure and Forfeiture of Equipment Used in Promoting Pornography410.00 - Seizure and Forfeiture of Equipment Used in Photographing, Filming, Producing, Manufacturing, Projecting or Distributing Pornographic Still or Motion

filming, producing, manufacturing, projecting or distributing pornographic still or motion pictures. 1. Any peace officer, acting pursuant to his special duties, or police officer of this state may seize any equipment used in the photographing, filming, printing, producing, manufacturing or projecting of pornographic still or motion pictures and may seize any vehicle or other means of transportation, other than a vehicle or other means of transportation used by any person as a common carrier in the transaction of business as such common carrier, used in the distribution of such obscene prints and articles and such equipment or vehicle or other means of transportation shall be subject to forfeiture as hereinafter in this section provided. 2. The seized property shall be delivered by the police officer or peace officer having made the seizure to the custody of the district attorney of the county wherein the seizure was made, except that in the cities of New York, Yonkers and Buffalo, the seized property shall be delivered to the custody of the police department of such cities, together with a report of all the facts and circumstances of the seizure. 3. It shall be the duty of the district attorney of the county wherein the seizure was made, if elsewhere than in the cities of New York or Buffalo, and where the seizure is made in either such city it shall be the duty of the corporation counsel of the city, to inquire into the facts of the seizure so reported to him and if it appears probable that a forfeiture has been incurred, for the determination of which the institution of proceedings in the supreme court is necessary, to cause the proper proceedings to be commenced and prosecuted, at any time after thirty days from the date of seizure, to declare such forfeiture, unless, upon inquiry and examination such district attorney or corporation counsel decides that such proceedings can not probably be sustained or that the ends of public justice do not require that they should be instituted or prosecuted, in which case, the district attorney or corporation counsel shall cause such seized property to be returned to the owner thereof. 4. Notice of the institution of the forfeiture proceeding shall be served either (a) personally on the owners of the seized property or (b) by registered mail to the owners' last known address and by publication of the notice once a week for two successive weeks in a newspaper published or circulated in the county wherein the seizure was made. 5. Forfeiture shall not be adjudged where the owners established by preponderance of the evidence that (a) the use of such seized property was not intentional on the part of any owner, or (b) said seized property was used by any person other than an owner thereof, while such seized property was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States, or of any state. 6. The district attorney or the police department having custody of the seized property, after such judicial determination of forfeiture, shall, by a public notice of at least five days, sell such forfeited property at public sale. The net proceeds of any such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund of the county wherein the seizure was made except that the net proceeds of the sale of property seized in the cities of New York and Buffalo shall be paid into the respective general funds of such cities. 7. Whenever any person interested in any property which is seized and declared forfeited under the provisions of this section files with a justice of the supreme court a petition for the recovery of such forfeited property, the justice of the supreme court may restore said forfeited property upon such terms and conditions as he deems reasonable and just, if the petitioner establishes either of the affirmative defenses set forth in subdivision five of this section and that the petitioner was without personal or actual knowledge of the forfeiture proceeding. If the petition be filed after the sale of the forfeited property, any judgment in favor of the petitioner shall be limited to the net proceeds of such sale, after deduction of the lawful expenses and costs incurred by the district attorney, police department or corporation counsel. 8. No suit or action under this section for wrongful seizure shall be instituted unless such suit or action is commenced within two years after the time when the property was seized. 9. For the purposes of this section only, a pornographic still or motion picture, is defined as a still or motion picture showing acts of sexual intercourse or acts of sexual perversion. This section shall not be construed as applying to bona fide medical photographs or films.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle W - Provisions Relating to Firearms, Fireworks, Pornography Equipment and Vehicles Used in the Transportation of Gambling RecordsArticle 415 - Seizure and Forfeiture of Vehicles, Vessels and Aircraft Used to Transport or Conceal Gambling Records415.00 - Seizure and Forfeiture of Vehicles, Vessels and Aircraft Used to Transport or Conceal Gambling Records.

to transport or conceal gambling records. 1. It shall be unlawful to transport, carry, convey or conceal in, upon or by means of any vehicle, vessel or aircraft, with knowledge of the contents thereof, any writing, paper, instrument or article:(a) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise, and constituting, reflecting or representing more than five bets totaling more than five thousand dollars; or(b) Of a kind commonly used in the operation, promotion or playing of a lottery or policy scheme or enterprise, and constituting, reflecting or representing more than five hundred plays or chances therein.2. Any vehicle, vessel or aircraft which has been or is being used in violation of subdivision one by a person other than a bettor, player or shareholder whose bets, plays or shares are represented by all such writings, papers, instruments or articles, shall be seized by any peace officer, who is acting pursuant to his special duties, or police officer, and forfeited as provided in this section. However, such forfeiture and seizure provisions shall not apply to any vehicle, vessel or aircraft used by any person as a common carrier in the transaction of business as such common carrier.3. The seized property shall be delivered by the police officer or peace officer having made the seizure to the custody of the district attorney of the county wherein the seizure was made, except that in the cities

of New York, Yonkers and Buffalo, the seized property shall be delivered to the custody of the police department of such cities, together with a report of all the facts and circumstances of the seizure.4. It shall be the duty of the district attorney of the county wherein the seizure is made, if elsewhere than in the cities of New York, Yonkers or Buffalo, and where the seizure is made in either such city it shall be the duty of the corporation counsel of the city, to inquire into the facts of the seizure so reported to him and if it appears probable that a forfeiture has been incurred by reason of a violation of this section, for the determination of which the institution of proceedings in the supreme court is necessary, to cause the proper proceedings to be commenced and prosecuted, at any time after thirty days from the date of seizure, to declare such forfeiture, unless, upon inquiry and examination, such district attorney or corporation counsel decides that such proceedings can not probably be sustained or that the ends of public justice do not require that they should be instituted or prosecuted, in which case, the district attorney or corporation counsel shall cause such seized property to be returned to the owner thereof.5. Notice of the institution of the forfeiture proceeding shall be served either (a) personally on the owners of the seized property, or (b) by registered mail to the owners' last known address and by publication of the notice once a week for two successive weeks in a newspaper published or circulated in the county wherein the seizure was made.6. Forfeiture shall not be adjudged where the owners establish by preponderance of the evidence that (a) the use of such seized property, in violation of subdivision one of this section, was not intentional on the part of any owner, or (b) said seized property was used in violation of subdivision one of this section by any person other than an owner thereof, while such seized property was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States, or of any state.7. The district attorney or the police department having custody of the seized property, after such judicial determination of forfeiture, shall, at their discretion, either retain such seized property for the official use of their office or department, or, by a public notice of at least five days, sell such forfeited property at public sale. The net proceeds of any such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund of the county wherein the seizure was made except that the net proceeds of the sale of property seized in the cities of New York, Yonkers and Buffalo shall be paid into the respective general funds of such cities.8. Whenever any person interested in any property which is seized and declared forfeited under the provisions of this section files with a justice of the supreme court a petition for the recovery of such forfeited property, the justice of the supreme court may restore said forfeited property upon such terms and conditions as he deems reasonable and just, if the petitioner establishes either of the affirmative defenses set forth in subdivision six of this section and that the petitioner was without personal or actual knowledge of the forfeiture proceeding. If the petition be filed after the sale of the forfeited property, any judgment in favor of the petitioner shall be limited to the net proceeds of such sale after deduction of the lawful expenses and costs incurred by the district attorney, police department or corporation counsel.9. No suit or action under this section for wrongful seizure shall be instituted unless such suit or action is commenced within two years after the time when the property was seized. (a) Of a kind commonly used in the operation or promotion of a bookmaking scheme or enterprise, and constituting, reflecting or representing more than five bets totaling more than five thousand dollars; or (b) Of a kind commonly used in the operation, promotion or playing of a lottery or policy scheme or enterprise, and constituting, reflecting or representing more than five hundred plays or chances therein. 2. Any vehicle, vessel or aircraft which has been or is being used in violation of subdivision one by a person other than a bettor, player or shareholder whose bets, plays or shares are represented by all such writings, papers, instruments or articles, shall be seized by any peace officer, who is acting pursuant to his special duties, or police officer, and forfeited as provided in this section. However, such forfeiture and seizure provisions shall not apply to any vehicle, vessel or aircraft used by any person as a common carrier in the transaction of business as such common carrier. 3. The seized property shall be delivered by the police officer or peace officer having made the seizure to the custody of the district attorney of the county wherein the seizure was made, except that in the cities of New York, Yonkers and Buffalo, the seized property shall be delivered to the custody of the police department of such cities, together with a report of all the facts and circumstances of the seizure. 4. It shall be the duty of the district attorney of the county wherein the seizure is made, if elsewhere than in the cities of New York, Yonkers or Buffalo, and where the seizure is made in either such city it shall be the duty of the corporation counsel of the city, to inquire into the facts of the seizure so reported to him and if it appears probable that a forfeiture has been incurred by reason of a violation of this section, for the determination of which the institution of proceedings in the supreme court is necessary, to cause the proper proceedings to be commenced and prosecuted, at any time after thirty days from the date of seizure, to declare such forfeiture, unless, upon inquiry and examination, such district attorney or corporation counsel decides that such proceedings can not probably be sustained or that the ends of public justice do not require that they should be instituted or prosecuted, in which case, the district attorney or corporation counsel shall cause such seized property to be returned to the owner thereof. 5. Notice of the institution of the forfeiture proceeding shall be served either (a) personally on the owners of the seized property, or (b) by registered mail to the owners' last known address and by publication of the notice once a week for two successive weeks in a newspaper published or circulated in the county wherein the seizure was made. 6. Forfeiture shall not be adjudged where the owners establish by preponderance of the evidence that (a) the use of such seized property, in violation of subdivision one of this section, was not intentional on the part of any owner, or (b) said seized property was used in violation of subdivision one of this section by any person other than an owner thereof, while such seized property was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States, or of any state. 7. The district attorney or the police department having custody of the seized property, after such judicial determination of forfeiture, shall, at their discretion, either retain such seized property for the official use of their office or department, or, by a public notice of at least five days, sell such forfeited property at public sale. The net proceeds of any such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund of the county wherein the seizure was made except that the net proceeds of the sale of property seized in the cities of New York, Yonkers and Buffalo shall be paid into the respective general funds of such cities.

8. Whenever any person interested in any property which is seized and declared forfeited under the provisions of this section files with a justice of the supreme court a petition for the recovery of such forfeited property, the justice of the supreme court may restore said forfeited property upon such terms and conditions as he deems reasonable and just, if the petitioner establishes either of the affirmative defenses set forth in subdivision six of this section and that the petitioner was without personal or actual knowledge of the forfeiture proceeding. If the petition be filed after the sale of the forfeited property, any judgment in favor of the petitioner shall be limited to the net proceeds of such sale after deduction of the lawful expenses and costs incurred by the district attorney, police department or corporation counsel. 9. No suit or action under this section for wrongful seizure shall be instituted unless such suit or action is commenced within two years after the time when the property was seized.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle W - Provisions Relating to Firearms, Fireworks, Pornography Equipment and Vehicles Used in the Transportation of Gambling RecordsArticle 420 - Seizure and Destruction of Unauthorized Recordings of Sound and Forfeiture of Equipment Used in the Production Thereof420.00 - Seizure and Destruction of Unauthorized Recordings.

Any article produced in violation of article two hundred seventy-five of this chapter may be seized by any police officer upon the arrest of any individual in possession of same. Upon final determination of the charges, the court shall, upon proper notice by the district attorney or representative of the crime victim or victims, after prior notice to the district attorney and custodian of the seized property, enter an order preserving any goods manufactured, sold, offered for sale, distributed or produced in violation of this article, as evidence for use in other cases, including a civil action. This notice must be received within thirty days of final determination of the charges. The cost of storage, security, and destruction of goods so ordered for preservation and use as evidence in a civil action, other than a civil action under article thirteen-A of the civil practice law and rules initiated by the district attorney, shall be paid by the party seeking preservation of the evidence for a civil action. If no such order is entered within the thirty day period, the district attorney or custodian of the seized property must cause such articles to be destroyed. Destruction shall not include auction, sale, or distribution of the items in their original form.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle W - Provisions Relating to Firearms, Fireworks, Pornography Equipment and Vehicles Used in the Transportation of Gambling RecordsArticle 420 - Seizure and Destruction of Unauthorized Recordings of Sound and Forfeiture of Equipment Used in the Production Thereof420.05 - Seizure and Forfeiture of Equipment Used in the Production of Unauthorized Recordings.

unauthorized recordings. 1. Any police officer of this state may seize any equipment, or components, used in the manufacture or production of unauthorized recordings and may seize any vehicle or other means of transportation, other than a vehicle or means of transportation used by any person as a common carrier in the transaction of business as such common carrier, used in the distribution of such unauthorized recordings and such equipment or vehicle or other means of transportation shall be subject to forfeiture as provided in this section. 2. The seized property shall be delivered by the police officer having made the seizure to the custody of the district attorney of the county wherein the seizure was made, except that in the cities of New York, Yonkers and Buffalo, the seized property shall be delivered to the custody of the police department of such cities, together with a report of all the facts and circumstances of the seizure. 3. It shall be the duty of the district attorney of the county wherein the seizure was made, if elsewhere than in the city of New York, Yonkers or Buffalo, and where the seizure is made in either such city, it shall be the duty of the corporation counsel of the city, to inquire into the facts of the seizure so reported to him and if it appears probable that a forfeiture has been incurred for the determination of which the institution of proceedings in the supreme court is necessary, to cause the proper proceedings to be commenced and prosecuted, at any time after thirty days from the date of seizure, to declare such forfeiture, unless, upon inquiry and examination such district attorney or corporation counsel decides that such proceedings cannot probably be sustained or that the ends of public justice do not require that they should be instituted or prosecuted, in which case, the district attorney or corporation counsel shall cause such seized property to be returned to the owner thereof. 4. Notice of the institution of the forfeiture proceeding shall be served either:(a) personally on the owners of the seized property; or(b) by registered mail to the owners' last known address and by publication of the notice once a week for two successive weeks in a newspaper published or circulated in the county wherein the seizure was made.5. Forfeiture shall not be adjudged where the owners established by preponderance of the evidence that:(a) the use of such seized property was not intentional on the part of any owner; or(b) said seized property was used by any person other than an owner thereof, while such seized property was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States, or of any state.6. The district attorney or the police department having custody of the seized property, after such judicial determination of forfeiture, shall, by a public notice of at least five days, sell such forfeited property at public sale. The net proceeds of any such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund of the county wherein the seizure was made except that the net proceeds of the sale of property seized in the cities of New York, Yonkers and Buffalo shall be paid into the respective general funds of such cities.7. Whenever any person interested in any property which is seized and declared forfeited under the provisions of this section files with a justice of the supreme court a petition for the recovery of such forfeited property, the justice of the supreme court may restore said forfeited property upon such terms and conditions as he deems reasonable and just, if the petitioner establishes either of the affirmative defenses set forth in subdivision five of this section and that the petitioner was without personal or actual knowledge of the forfeiture proceeding. If the petition be filed after the sale of the forfeited property, any judgment in favor of the petitioner shall be limited to the net proceeds of such sale, after deduction of the lawful expenses and costs incurred by

the district attorney, police department or corporation counsel.8. No suit or action under this section for wrongful seizure shall be instituted unless such suit or action is commenced within two years after the time when the property was seized. (a) personally on the owners of the seized property; or (b) by registered mail to the owners' last known address and by publication of the notice once a week for two successive weeks in a newspaper published or circulated in the county wherein the seizure was made. 5. Forfeiture shall not be adjudged where the owners established by preponderance of the evidence that: (a) the use of such seized property was not intentional on the part of any owner; or (b) said seized property was used by any person other than an owner thereof, while such seized property was unlawfully in the possession of a person who acquired possession thereof in violation of the criminal laws of the United States, or of any state. 6. The district attorney or the police department having custody of the seized property, after such judicial determination of forfeiture, shall, by a public notice of at least five days, sell such forfeited property at public sale. The net proceeds of any such sale, after deduction of the lawful expenses incurred, shall be paid into the general fund of the county wherein the seizure was made except that the net proceeds of the sale of property seized in the cities of New York, Yonkers and Buffalo shall be paid into the respective general funds of such cities. 7. Whenever any person interested in any property which is seized and declared forfeited under the provisions of this section files with a justice of the supreme court a petition for the recovery of such forfeited property, the justice of the supreme court may restore said forfeited property upon such terms and conditions as he deems reasonable and just, if the petitioner establishes either of the affirmative defenses set forth in subdivision five of this section and that the petitioner was without personal or actual knowledge of the forfeiture proceeding. If the petition be filed after the sale of the forfeited property, any judgment in favor of the petitioner shall be limited to the net proceeds of such sale, after deduction of the lawful expenses and costs incurred by the district attorney, police department or corporation counsel. 8. No suit or action under this section for wrongful seizure shall be instituted unless such suit or action is commenced within two years after the time when the property was seized.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle W - Provisions Relating to Firearms, Fireworks, Pornography Equipment and Vehicles Used in the Transportation of Gambling RecordsArticle 450 - Disposal of Stolen Property450.10 - Disposal of Stolen Property.

1. When property, other than contraband including but not limited to those items subject to the provisions of sections 410.00, 415.00, 420.00 and 420.05 of this chapter, alleged to have been stolen is in the custody of a police officer, a peace officer or a district attorney and a request for its release is made prior to or during the criminal proceeding, it may not be released except as provided in subdivisions two, three and four of this section. When a request is made for the return of stolen property under this section, the police officer, peace officer or district attorney in possession of such property must provide written notice to the defendant or his counsel of such request as soon as practicable. Such notice shall advise the defendant or his counsel of the date on which the property will be released and the name and address of a person with whom arrangements can be made for the examination, testing, photographing, photocopying or other reproduction of said property. 2. Both the defendant's counsel and the prosecutor thereafter shall make a diligent effort to examine, test and photograph, photocopy or otherwise reproduce the property. Either party may apply to the court for an extension of any period allowed for examination, testing, photographing, photocopying or otherwise reproducing the property. For good cause shown the court may order retention of the property for use as evidence by either party. Unless extended by a court order sought by either party on notice to the other, the property shall be released no later than the time periods for retention set forth in subdivisions three and four of this section to the person making such request after satisfactory proof of such person's entitlement to the possession thereof. Unless a court, upon applicaton of either party with notice to the other, orders otherwise, the release of property in accordance with the provisions of this section shall be unconditional. 3. Except as provided in subdivision four of this section, when a request is made for the release of property described in subdivision one of this section, the property shall be retained until either the expiration of a fifteen day period from receipt by the defendant or his counsel of the notice of the request, or the examination testing and photographing, photocopying or other reproduction of such property, by the parties, whichever event occurs first. The fifteen day period may be extended by up to five additional days by agreement between the parties. 4. (a) Except as provided in paragraphs (b) and (c) of this subdivision and in subdivision eleven of this section, when a request is made for the release of property described in subdivision one of this section, and the property shall consist of perishables, fungible retail items, motor vehicles or any other property release of which is necessary for either the operation of a business or the health or welfare of any person, the property shall be retained until either the expiration of a forty-eight hour period from the receipt by the defendant's counsel of the notice of the request, or the examination, testing and photocopying, photographing or other reproduction of such property, by the parties whichever event occurs first. The forty-eight hour period may be extended by up to twenty-four additional hours by agreement between the parties. For the purposes of this section, perishables shall mean any property likely to spoil or decay or diminish significantly in value within twenty days of the initial retention of the property.(b) If, upon oral or written application by the district attorney with notice to the defendant or his counsel, a court determines that immediate release of property described in paragraph (a) of this subdivision is required under the attendant circumstances, the court shall issue an order releasing the property and, if requested by either party, setting, as a part of such order, any condition appropriate in the furtherance of justice.(c) A motor vehicle alleged to have been stolen but not alleged to have been used in connection with any crime or criminal transaction other than the theft or unlawful use of said motor vehicle, which is in the custody of a police officer, a peace officer or a district attorney, may be released expeditiously to its registered owner or the owner's representative without prior notice to the defendant. Before such release, evidentiary photographs shall be taken of such motor vehicle. Such photographs shall include the vehicle identification number, registration on windshield, license plates,

each side of the vehicle, including vent windows, door locks and handles, the front and back of the vehicle, the interior of the vehicle, including ignition lock, seat to floor clearance, center console, radio receptacle and dashboard area, the motor, and any other interior or exterior surfaces showing any and all damage to the vehicle. Notice of such release, and the photographs taken of said vehicle, shall be furnished to the defendant within fifteen days after arraignment or after counsel initially appears on behalf of the defendant or respondent, whichever occurs later.5. If stolen property comes into the custody of a court, it must, unless temporary retention be deemed necessary in furtherance of justice, be delivered to the owner, on satisfactory proof of his title, and on his paying the necessary expenses incurred in its preservation, to be certified by the court.6. If stolen property has not been delivered to the owner, the court before which a trial is had for stealing it, may, on proof of his title, order it to be restored to the owner.7. If stolen property is not claimed by the owner, before the expiration of six months from the conviction of a person for stealing it, the court or other officer having it in custody must, on payment of the necessary expenses incurred in its preservation, deliver it to the county commissioner of social services, or in the city of New York, to the commissioner of social services, to be applied for the benefit of the poor of the county or city, as the case may be.8. Except in the city of New York, when money or other property is taken from a defendant, arrested upon a charge of an offense, the officer taking it must, at the time, give duplicate receipts therefor, specifying particularly the amount of property taken, one of which receipts he must deliver to the defendant, and the other of which he must forthwith file with the court in which the criminal action is pending.9. The commissioners of police of the city of New York may designate some person to take charge of all property alleged to be stolen, and which may be brought into the police office, and all property taken from the person of a prisoner, and may prescribe regulations in regard to the duties of the clerk or clerks so designated, and to require and take security for the faithful performance of the duties imposed by this subdivision, and it shall be the duty of every officer into whose possession such property may come, to deliver the same forthwith to the person so designated.10. Where there has been a failure to comply with the provisions of this section, and where the district attorney does not demonstrate to the satisfaction of the court that such failure has not caused the defendant prejudice, the court shall instruct the jury that it may consider such failure in determining the weight to be given such evidence and may also impose any other sanction set forth in subdivision one of section 245.80 of the criminal procedure law; provided, however, that unless the defendant has convinced the court that such failure has caused him undue prejudice, the court shall not preclude the district attorney from introducing into evidence the property, photographs, photocopies, or other reproductions of the property or, where appropriate, testimony concerning its value and condition, where such evidence is otherwise properly authenticated and admissible under the rules of evidence. Failure to comply with any one or more of the provisions of this section shall not for that reason alone be grounds for dismissal of the accusatory instrument.11. When a request for the release of stolen property is made pursuant to paragraph (a) of subdivision four of this section and the defendant is not represented by counsel the notice required pursuant to subdivision one of this section shall be personally delivered to the defendant and release of said property shall not occur for a period less than five days: from (a) the delivery of such notice; or (b) in the case of delivery to such person in custody, from the first appearance before the court, whichever is later. (b) If, upon oral or written application by the district attorney with notice to the defendant or his counsel, a court determines that immediate release of property described in paragraph (a) of this subdivision is required under the attendant circumstances, the court shall issue an order releasing the property and, if requested by either party, setting, as a part of such order, any condition appropriate in the furtherance of justice. (c) A motor vehicle alleged to have been stolen but not alleged to have been used in connection with any crime or criminal transaction other than the theft or unlawful use of said motor vehicle, which is in the custody of a police officer, a peace officer or a district attorney, may be released expeditiously to its registered owner or the owner's representative without prior notice to the defendant. Before such release, evidentiary photographs shall be taken of such motor vehicle. Such photographs shall include the vehicle identification number, registration on windshield, license plates, each side of the vehicle, including vent windows, door locks and handles, the front and back of the vehicle, the interior of the vehicle, including ignition lock, seat to floor clearance, center console, radio receptacle and dashboard area, the motor, and any other interior or exterior surfaces showing any and all damage to the vehicle. Notice of such release, and the photographs taken of said vehicle, shall be furnished to the defendant within fifteen days after arraignment or after counsel initially appears on behalf of the defendant or respondent, whichever occurs later. 5. If stolen property comes into the custody of a court, it must, unless temporary retention be deemed necessary in furtherance of justice, be delivered to the owner, on satisfactory proof of his title, and on his paying the necessary expenses incurred in its preservation, to be certified by the court. 6. If stolen property has not been delivered to the owner, the court before which a trial is had for stealing it, may, on proof of his title, order it to be restored to the owner. 7. If stolen property is not claimed by the owner, before the expiration of six months from the conviction of a person for stealing it, the court or other officer having it in custody must, on payment of the necessary expenses incurred in its preservation, deliver it to the county commissioner of social services, or in the city of New York, to the commissioner of social services, to be applied for the benefit of the poor of the county or city, as the case may be. 8. Except in the city of New York, when money or other property is taken from a defendant, arrested upon a charge of an offense, the officer taking it must, at the time, give duplicate receipts therefor, specifying particularly the amount of property taken, one of which receipts he must deliver to the defendant, and the other of which he must forthwith file with the court in which the criminal action is pending. 9. The commissioners of police of the city of New York may designate some person to take charge of all property alleged to be stolen, and which may be brought into the police office, and all property taken from the person of a prisoner, and may prescribe regulations in regard to the duties of the clerk or clerks so designated, and to require and take security for the faithful performance of the duties imposed by this subdivision, and it shall be the duty of every officer into whose possession such property may come, to deliver the same forthwith to the person so designated. 10. Where there has been a failure to comply with the provisions of this section, and where the district attorney does not demonstrate to

the satisfaction of the court that such failure has not caused the defendant prejudice, the court shall instruct the jury that it may consider such failure in determining the weight to be given such evidence and may also impose any other sanction set forth in subdivision one of section 245.80 of the criminal procedure law; provided, however, that unless the defendant has convinced the court that such failure has caused him undue prejudice, the court shall not preclude the district attorney from introducing into evidence the property, photographs, photocopies, or other reproductions of the property or, where appropriate, testimony concerning its value and condition, where such evidence is otherwise properly authenticated and admissible under the rules of evidence. Failure to comply with any one or more of the provisions of this section shall not for that reason alone be grounds for dismissal of the accusatory instrument. 11. When a request for the release of stolen property is made pursuant to paragraph (a) of subdivision four of this section and the defendant is not represented by counsel the notice required pursuant to subdivision one of this section shall be personally delivered to the defendant and release of said property shall not occur for a period less than five days: from (a) the delivery of such notice; or (b) in the case of delivery to such person in custody, from the first appearance before the court, whichever is later.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 460 - Enterprise Corruption460.00 - Legislative Findings.

The legislature finds and determines as follows: Organized crime in New York state involves highly sophisticated, complex and widespread forms of criminal activity. The diversified illegal conduct engaged in by organized crime, rooted in the illegal use of force, fraud, and corruption, constitutes a major drain upon the state's economy, costs citizens and businesses of the state billions of dollars each year, and threatens the peace, security and general welfare of the people of the state. Organized crime continues to expand its corrosive influence in the state through illegal enterprises engaged in such criminal endeavors as the theft and fencing of property, the importation and distribution of narcotics and other dangerous drugs, arson for profit, hijacking, labor racketeering, loansharking, extortion and bribery, the illegal disposal of hazardous wastes, syndicated gambling, trafficking in stolen securities, insurance and investment frauds, and other forms of economic and social exploitation. The money and power derived by organized crime through its illegal enterprises and endeavors is increasingly being used to infiltrate and corrupt businesses, unions and other legitimate enterprises and to corrupt our democratic processes. This infiltration takes several forms with legitimate enterprises being employed as instrumentalities, injured as victims, or taken as prizes. Through such infiltration the power of an enterprise can be diverted to criminal ends, its resources looted, or it can be taken over entirely, either on paper or de facto. Thus, for purposes of making both criminal and civil remedies available to deal with the corruption of such enterprises, the concept of criminal enterprise should not be limited to traditional criminal syndicates or crime families, and may include persons who join together in a criminal enterprise, as defined by subdivision three of section 460.10 of this article, for the purpose of corrupting such legitimate enterprises or infiltrating and illicitly influencing industries. One major cause of the continuing growth of organized criminal activities within the state is the inadequacy and limited nature of sanctions and remedies available to state and local law enforcement officials to deal with this intricate and varied criminal conduct. Existing penal law provisions are primarily concerned with the commission of specific and limited criminal acts without regard to the relationships of particular criminal acts or the illegal profits derived therefrom, to legitimate or illicit enterprises operated or controlled by organized crime. Further, traditional penal law provisions only provide for the imposition of conventional criminal penalties, including imprisonment, fines and probation, for entrenched organized crime enterprises. Such penalties are not adequate to enable the state to effectively fight organized crime. Instead, new penal prohibitions and enhanced sanctions, and new civil and criminal remedies are necessary to deal with the unlawful activities of persons and enterprises engaged in organized crime. Comprehensive statutes enacted at the federal level and in a number of other states with significant organized crime problems, have provided law enforcement agencies with an effective tool to fight organized crime. Such laws permit law enforcement authorities (i) to charge and prove patterns of criminal activity and their connection to ongoing enterprises, legitimate or illegal, that are controlled or operated by organized crime, and (ii) to apply criminal and civil penalties designed to prevent and eliminate organized crime's involvement with such enterprises. The organized crime control act is a statute of comparable purpose but tempered by reasonable limitations on its applicability, and by due regard for the rights of innocent persons. Because of its more rigorous definitions, this act will not apply to some situations encompassed within comparable statutes in other jurisdictions. This act is vital to the peace, security and general welfare of the state. In part because of its highly diverse nature, it is impossible to precisely define what organized crime is. This article, however, does attempt to define and criminalize what organized crime does. This article focuses upon criminal enterprises because their sophistication and organization make them more effective at their criminal purposes and because their structure and insulation protect their leadership from detection and prosecution. At the same time, this article is not intended to be employed to prosecute relatively minor or isolated acts of criminality which, while related to an enterprise and arguably part of a pattern as defined in this article, can be adequately and more fairly prosecuted as separate offenses. Similarly, particular defendants may play so minor a role in a criminal enterprise that their culpability would be unfairly distorted by prosecution and punishment for participation in the enterprise. The balance intended to be struck by this act cannot readily be codified in the form of restrictive definitions or a categorical list of exceptions. General, yet carefully drawn definitions of the terms "pattern of criminal activity" and "criminal enterprise" have been employed. Notwithstanding the provisions of section 5.00 of this chapter these definitions should be given their plain meaning, and should not be construed either liberally or strictly, but in the context of the legislative purposes set forth in these findings. Within the confines of these and other applicable definitions, discretion ought still be exercised. Once the letter of the law is complied with, including the essential showing that there is a pattern of conduct which is criminal under existing statutes, the question whether to

prosecute under those statutes or for the pattern itself is essentially one of fairness. The answer will depend on the particular situation, and is best addressed by those institutions of government which have traditionally exercised that function: the grand jury, the public prosecutor, and an independent judiciary.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 460 - Enterprise Corruption460.10 - Definitions.

The following definitions are applicable to this article. 1. "Criminal act" means conduct constituting any of the following crimes, or conspiracy or attempt to commit any of the following felonies:(a) Any of the felonies set forth in this chapter: sections 120.05, 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relating to strangulation; sections 125.10 to 125.27 relating to homicide; sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and 135.25 relating to kidnapping; sections 135.35 and 135.37 relating to labor trafficking; section 135.65 relating to coercion; sections 140.20, 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and 145.12 relating to criminal mischief; article one hundred fifty relating to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health care fraud; article one hundred sixty relating to robbery; sections 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of stolen property; sections 165.72 and 165.73 relating to trademark counterfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and 176.30 relating to insurance fraud; sections 178.20 and 178.25 relating to criminal diversion of prescription medications and prescriptions; sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 200.56, 215.00, 215.05 and 215.19 relating to bribery; sections 187.10, 187.15, 187.20 and 187.25 relating to residential mortgage fraud, sections 190.40 and 190.42 relating to criminal usury; section 190.65 relating to schemes to defraud; any felony defined in article four hundred ninety-six; sections 205.60 and 205.65 relating to hindering prosecution; sections 210.10, 210.15, and 215.51 relating to perjury and contempt; section 215.40 relating to tampering with physical evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43, 220.46, 220.55, 220.60, 220.65 and 220.77 relating to controlled substances; sections 225.10 and 225.20 relating to gambling; sections 230.25, 230.30, and 230.32 relating to promoting prostitution; section 230.34 relating to sex trafficking; section 230.34-a relating to sex trafficking of a child; sections 235.06, 235.07, 235.21 and 235.22 relating to obscenity; sections 263.10 and 263.15 relating to promoting a sexual performance by a child; sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the provisions of section 265.10 which constitute a felony relating to firearms and other dangerous weapons; sections 265.14 and 265.16 relating to criminal sale of a firearm; section 265.50 relating to the criminal manufacture, sale or transport of an undetectable firearm, rifle or shotgun; section 275.10, 275.20, 275.30, or 275.40 relating to unauthorized recordings; and sections 470.05, 470.10, 470.15 and 470.20 relating to money laundering; or(b) Any felony set forth elsewhere in the laws of this state and defined by the tax law relating to alcoholic beverage, cigarette, gasoline and similar motor fuel taxes; article seventy-one of the environmental conservation law relating to water pollution, hazardous waste or substances hazardous or acutely hazardous to public health or safety of the environment; article twenty-three-A of the general business law relating to prohibited acts concerning stocks, bonds and other securities, article twenty-two of the general business law concerning monopolies.2. "Enterprise" means either an enterprise as defined in subdivision one of section 175.00 of this chapter or criminal enterprise as defined in subdivision three of this section.3. "Criminal enterprise" means a group of persons sharing a common purpose of engaging in criminal conduct, associated in an ascertainable structure distinct from a pattern of criminal activity, and with a continuity of existence, structure and criminal purpose beyond the scope of individual criminal incidents.4. "Pattern of criminal activity" means conduct engaged in by persons charged in an enterprise corruption count constituting three or more criminal acts that:(a) were committed within ten years of the commencement of the criminal action;(b) are neither isolated incidents, nor so closely related and connected in point of time or circumstance of commission as to constitute a criminal offense or criminal transaction, as those terms are defined in section 40.10 of the criminal procedure law; and(c) are either: (i) related to one another through a common scheme or plan or (ii) were committed, solicited, requested, importuned or intentionally aided by persons acting with the mental culpability required for the commission thereof and associated with or in the criminal enterprise. (a) Any of the felonies set forth in this chapter: sections 120.05, 120.10 and 120.11 relating to assault; sections 121.12 and 121.13 relating to strangulation; sections 125.10 to 125.27 relating to homicide; sections 130.25, 130.30 and 130.35 relating to rape; sections 135.20 and 135.25 relating to kidnapping; sections 135.35 and 135.37 relating to labor trafficking; section 135.65 relating to coercion; sections 140.20, 140.25 and 140.30 relating to burglary; sections 145.05, 145.10 and 145.12 relating to criminal mischief; article one hundred fifty relating to arson; sections 155.30, 155.35, 155.40 and 155.42 relating to grand larceny; sections 177.10, 177.15, 177.20 and 177.25 relating to health care fraud; article one hundred sixty relating to robbery; sections 165.45, 165.50, 165.52 and 165.54 relating to criminal possession of stolen property; sections 165.72 and 165.73 relating to trademark counterfeiting; sections 170.10, 170.15, 170.25, 170.30, 170.40, 170.65 and 170.70 relating to forgery; sections 175.10, 175.25, 175.35, 175.40 and 210.40 relating to false statements; sections 176.15, 176.20, 176.25 and 176.30 relating to insurance fraud; sections 178.20 and 178.25 relating to criminal diversion of prescription medications and prescriptions; sections 180.03, 180.08, 180.15, 180.25, 180.40, 180.45, 200.00, 200.03, 200.04, 200.10, 200.11, 200.12, 200.20, 200.22, 200.25, 200.27, 200.56, 215.00, 215.05 and 215.19 relating to bribery; sections 187.10, 187.15, 187.20 and 187.25 relating to residential mortgage fraud, sections 190.40 and 190.42 relating to criminal usury; section 190.65 relating to schemes to defraud; any felony defined in article four hundred ninety-six; sections 205.60 and 205.65 relating to hindering prosecution; sections 210.10, 210.15, and 215.51 relating to perjury and contempt; section 215.40 relating to tampering with physical evidence; sections 220.06, 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41,

220.43, 220.46, 220.55, 220.60, 220.65 and 220.77 relating to controlled substances; sections 225.10 and 225.20 relating to gambling; sections 230.25, 230.30, and 230.32 relating to promoting prostitution; section 230.34 relating to sex trafficking; section 230.34-a relating to sex trafficking of a child; sections 235.06, 235.07, 235.21 and 235.22 relating to obscenity; sections 263.10 and 263.15 relating to promoting a sexual performance by a child; sections 265.02, 265.03, 265.04, 265.11, 265.12, 265.13 and the provisions of section 265.10 which constitute a felony relating to firearms and other dangerous weapons; sections 265.14 and 265.16 relating to criminal sale of a firearm; section 265.50 relating to the criminal manufacture, sale or transport of an undetectable firearm, rifle or shotgun; section 275.10, 275.20, 275.30, or 275.40 relating to unauthorized recordings; and sections 470.05, 470.10, 470.15 and 470.20 relating to money laundering; or (b) Any felony set forth elsewhere in the laws of this state and defined by the tax law relating to alcoholic beverage, cigarette, gasoline and similar motor fuel taxes; article seventy-one of the environmental conservation law relating to water pollution, hazardous waste or substances hazardous or acutely hazardous to public health or safety of the environment; article twenty-three-A of the general business law relating to prohibited acts concerning stocks, bonds and other securities, article twenty-two of the general business law concerning monopolies. 2. "Enterprise" means either an enterprise as defined in subdivision one of section 175.00 of this chapter or criminal enterprise as defined in subdivision three of this section. 3. "Criminal enterprise" means a group of persons sharing a common purpose of engaging in criminal conduct, associated in an ascertainable structure distinct from a pattern of criminal activity, and with a continuity of existence, structure and criminal purpose beyond the scope of individual criminal incidents. 4. "Pattern of criminal activity" means conduct engaged in by persons charged in an enterprise corruption count constituting three or more criminal acts that: (a) were committed within ten years of the commencement of the criminal action; (b) are neither isolated incidents, nor so closely related and connected in point of time or circumstance of commission as to constitute a criminal offense or criminal transaction, as those terms are defined in section 40.10 of the criminal procedure law; and (c) are either: (i) related to one another through a common scheme or plan or (ii) were committed, solicited, requested, importuned or intentionally aided by persons acting with the mental culpability required for the commission thereof and associated with or in the criminal enterprise.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 460 - Enterprise Corruption460.20 - Enterprise Corruption.

1. A person is guilty of enterprise corruption when, having knowledge of the existence of a criminal enterprise and the nature of its activities, and being employed by or associated with such enterprise, he:(a) intentionally conducts or participates in the affairs of an enterprise by participating in a pattern of criminal activity; or(b) intentionally acquires or maintains any interest in or control of an enterprise by participating in a pattern of criminal activity; or(c) participates in a pattern of criminal activity and knowingly invests any proceeds derived from that conduct, or any proceeds derived from the investment or use of those proceeds, in an enterprise.2. For purposes of this section, a person participates in a pattern of criminal activity when, with intent to participate in or advance the affairs of the criminal enterprise, he engages in conduct constituting, or, is criminally liable for pursuant to section 20.00 of this chapter, at least three of the criminal acts included in the pattern, provided that:(a) Two of his acts are felonies other than conspiracy;(b) Two of his acts, one of which is a felony, occurred within five years of the commencement of the criminal action; and(c) Each of his acts occurred within three years of a prior act.3. For purposes of this section, the enterprise corrupted in violation of subdivision one of this section need not be the criminal enterprise by which the person is employed or with which he is associated, and may be a legitimate enterprise.Enterprise corruption is a class B felony. (a) intentionally conducts or participates in the affairs of an enterprise by participating in a pattern of criminal activity; or (b) intentionally acquires or maintains any interest in or control of an enterprise by participating in a pattern of criminal activity; or (c) participates in a pattern of criminal activity and knowingly invests any proceeds derived from that conduct, or any proceeds derived from the investment or use of those proceeds, in an enterprise. 2. For purposes of this section, a person participates in a pattern of criminal activity when, with intent to participate in or advance the affairs of the criminal enterprise, he engages in conduct constituting, or, is criminally liable for pursuant to section 20.00 of this chapter, at least three of the criminal acts included in the pattern, provided that: (a) Two of his acts are felonies other than conspiracy; (b) Two of his acts, one of which is a felony, occurred within five years of the commencement of the criminal action; and (c) Each of his acts occurred within three years of a prior act. 3. For purposes of this section, the enterprise corrupted in violation of subdivision one of this section need not be the criminal enterprise by which the person is employed or with which he is associated, and may be a legitimate enterprise. Enterprise corruption is a class B felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 460 - Enterprise Corruption460.22 - Aggravated Enterprise Corruption.

A person is guilty of aggravated enterprise corruption when he or she commits the crime of enterprise corruption and two or more of the acts that constitute his or her pattern of criminal activity are class B felonies or higher, and at least two acts are armed felonies as defined in paragraph (a) of subdivision forty-one of section 1.20 of the criminal procedure law or one act is such an armed felony and one act is a violation of subdivision two of section 265.17 of this chapter or one act is a class B violent felony and two are violations of subdivision two of section 265.17 of this chapter. Aggravated enterprise corruption is a class A-I felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 460 - Enterprise Corruption460.25 - Enterprise Corruption; Limitations.

1. For purposes of subdivision one of section 460.20 of this article, a person does not acquire or maintain an interest in an enterprise

by participating in a pattern of criminal activity when he invests proceeds derived from a pattern of criminal activity in such enterprise. 2. For purposes of subdivision one of section 460.20 of this article, it shall not be unlawful to:(a) purchase securities on the open market with intent to make an investment, and without the intent of controlling or participating in the control of the issuer, or of assisting another to do so, if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern of criminal activity do not amount in the aggregate to five percent of the outstanding securities of any one class and do not confer, either in the law or in fact, the power to elect one or more directors of the issuer;(b) make a deposit in an account maintained in a savings and loan association, or a deposit in any other such financial institution, that creates an ownership interest in that association or institution;(c) purchase shares in co-operatively owned residential or commercial property;(d) purchase non-voting shares in a limited partnership, with intent to make an investment, and without the intent of controlling or participating in the control of the partnership. (a) purchase securities on the open market with intent to make an investment, and without the intent of controlling or participating in the control of the issuer, or of assisting another to do so, if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern of criminal activity do not amount in the aggregate to five percent of the outstanding securities of any one class and do not confer, either in the law or in fact, the power to elect one or more directors of the issuer; (b) make a deposit in an account maintained in a savings and loan association, or a deposit in any other such financial institution, that creates an ownership interest in that association or institution; (c) purchase shares in co-operatively owned residential or commercial property; (d) purchase non-voting shares in a limited partnership, with intent to make an investment, and without the intent of controlling or participating in the control of the partnership.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 460 - Enterprise Corruption460.30 - Enterprise Corruption; Forfeiture.

1. Any person convicted of enterprise corruption may be required pursuant to this section to criminally forfeit to the state:(a) any interest in, security of, claim against or property or contractual right of any kind affording a source of influence over any enterprise whose affairs he has controlled or in which he has participated in violation of subdivision one of section 460.20 of this article and for which he was convicted and the use of which interest, security, claim or right by him contributed directly and materially to the crime for which he was convicted unless such forfeiture is disproportionate to the defendant's gain from his association or employment with the enterprise, in which event the jury may recommend forfeiture of a portion thereof;(b) any interest, including proceeds, he has acquired or maintained in an enterprise in violation of subdivision one of section 460.20 of this article and for which he was convicted unless such forfeiture is disproportionate to the conduct he engaged in and on which the forfeiture is based, in which event the jury may recommend forfeiture of a portion thereof; or(c) any interest, including proceeds he has derived from an investment of proceeds in an enterprise in violation of subdivision one of section 460.20 of this article and for which he was convicted unless such forfeiture is disproportionate to the conduct he engaged in and on which the forfeiture is based, in which event the jury may recommend forfeiture of a portion thereof.2. (a) Forfeiture may be ordered when the grand jury returning an indictment charging a person with enterprise corruption has received evidence legally sufficient to establish, and providing reasonable cause to believe, that the property or other interest is subject to forfeiture under this section. In that event, the grand jury shall file a special information, not to be disclosed to the jury in the criminal action prior to verdict on the criminal charges, specifying the property or other interest for which forfeiture is sought and containing a plain and concise factual statement which sets forth the basis for the forfeiture. Alternatively, where the defendant has waived indictment and consented to be prosecuted by superior court information pursuant to article one hundred ninety-five of the criminal procedure law, the prosecutor may file, in addition to the superior court information charging enterprise corruption, a special information specifying the property or other interest for which forfeiture is sought and containing a plain and concise factual statement which sets forth the basis for the forfeiture.(b) After returning a verdict of guilty on an enterprise corruption count or counts, the jury shall be given the special information and hear any additional evidence which is relevant and legally admissible upon the forfeiture count or counts of the special information. After hearing such evidence, the jury shall then deliberate upon the forfeiture count or counts and, based upon all the evidence received in connection with the indictment or superior court information and the special information, may, if satisfied by proof beyond a reasonable doubt that the property or other interest, or a portion thereof, is subject to forfeiture under this section return a verdict determining such property or other interest, or portion thereof, is subject to forfeiture, provided, however, where a defendant has waived a jury trial pursuant to article three hundred twenty of the criminal procedure law, the court may hear and receive all of the evidence upon the indictment or superior court information and the special information and render a verdict upon the enterprise corruption count or counts and the forfeiture count or counts.(c) After the verdict of forfeiture, the court shall hear arguments and may receive additional evidence upon a motion of the defendant that the verdict of forfeiture (i) is against the weight of the evidence, or (ii) is, with respect to a forfeiture pursuant to paragraph (a) of subdivision one of this section, disproportionate to the defendant's gain from his association or employment with the enterprise, or, with respect to a forfeiture pursuant to paragraph (b) or (c) of subdivision one of this section, disproportionate to the conduct he engaged in on which the forfeiture is based. Upon such a finding the court may in the interests of justice set aside, modify, limit or otherwise condition an order of forfeiture.3. (a) An order of criminal forfeiture shall authorize the prosecutor to seize all property or other interest declared forfeited under this section upon such terms and conditions as the court shall deem proper. If a property right or other interest is not exercisable or transferable for value by the prosecutor, it shall expire and shall not revert to the convicted person. The court ordering any forfeiture may remit such forfeiture or any portion thereof.(b) No person shall forfeit any right, title or interest in any property or enterprise under this article who has not been convicted of a

violation of section 460.20 of this article. Any person other than the convicted person claiming an interest in forfeited property or other interest may bring a special proceeding to determine that claim, before or after trial, pursuant to section thirteen hundred twenty-seven of the civil practice law and rules, provided, however, that if such an action is brought before trial, it may, upon motion of the prosecutor, and in the court's discretion, be postponed by the court until completion of the trial. In addition, any person claiming an interest in property subject to forfeiture may petition for remission as provided in subdivision seven of section thirteen hundred eleven of such law and rules.4. All property and other interests which are criminally forfeited following the commencement of an action under this article, whether by plea, verdict or other agreement, shall be disposed of in accordance with the provisions of section thirteen hundred forty-nine of the civil practice law and rules. In any case where one or more of the counts upon which a person is convicted specifically includes as a criminal act a violation of any offense defined in article two hundred twenty of this chapter, the court shall determine what portion of that property or interest derives from or relates to such criminal act, and direct that distribution of that portion be conducted in the manner prescribed for actions grounded upon offenses in violation of article two hundred twenty.5. Any person convicted of a violation of section 460.20 of this article through which he derived pecuniary value, or by which he caused personal injury or property damage or other loss, may be sentenced to pay a fine not in excess of three times the gross value he gained or three times the gross loss he caused, whichever is greater. Moneys so collected shall be paid as restitution to victims of the crime for medical expenses actually incurred, loss of earnings or property loss or damage caused thereby. Any excess after restitution shall be paid to the state treasury. In any case where one or more of the counts upon which a person is convicted specifically includes as a criminal act a violation of any offense defined in article two hundred twenty of this chapter, the court shall determine what proportion of the entire pattern such criminal acts constitute and distribute such portion in the manner prescribed by section three hundred forty-nine of the civil practice law and rules for forfeiture actions grounded upon offenses in violation of article two hundred twenty. When the court imposes a fine pursuant to this subdivision, the court shall make a finding as to the amount of the gross value gained or the gross loss caused. If the record does not contain sufficient evidence to support such a finding the court may conduct a hearing upon the issue. In imposing a fine, the court shall consider the seriousness of the conduct, whether the amount of the fine is disproportionate to the conduct in which he engaged, its impact on victims and the enterprise corrupted by that conduct, as well as the economic circumstances of the convicted person, including the effect of the imposition of such a fine upon his immediate family.6. The imposition of an order of criminal forfeiture pursuant to subdivision one of this section, a judgment of civil forfeiture pursuant to article thirteen-A of the civil practice law and rules, or a fine pursuant to subdivision five of this section or paragraph (b) of subdivision one of section 80.00 of this chapter, shall preclude the imposition of any other such order or judgment of forfeiture or fine based upon the same criminal conduct, provided however that where an order of criminal forfeiture is imposed pursuant to subdivision one of this section, an action pursuant to article thirteen-A of the civil practice law and rules may nonetheless be brought, and an order imposed in that action, for forfeiture of the proceeds of a crime or the substituted proceeds of a crime where such proceeds are not subject to criminal forfeiture pursuant to subdivision one of this section. The imposition of a fine pursuant to subdivision five of this section or paragraph (b) of subdivision one of section 80.00 of this chapter, shall preclude the imposition of any other fine pursuant to any other provision of this chapter.7. Other than as provided in subdivision six, the imposition of a criminal penalty, forfeiture or fine under this section shall not preclude the application of any other criminal penalty or civil remedy under this article or under any other provision of law.8. Any payment made as restitution to victims pursuant to this section shall not limit, preclude or impair any liability for damages in any civil action or proceeding for an amount in excess of such payment. (a) any interest in, security of, claim against or property or contractual right of any kind affording a source of influence over any enterprise whose affairs he has controlled or in which he has participated in violation of subdivision one of section 460.20 of this article and for which he was convicted and the use of which interest, security, claim or right by him contributed directly and materially to the crime for which he was convicted unless such forfeiture is disproportionate to the defendant's gain from his association or employment with the enterprise, in which event the jury may recommend forfeiture of a portion thereof; (b) any interest, including proceeds, he has acquired or maintained in an enterprise in violation of subdivision one of section 460.20 of this article and for which he was convicted unless such forfeiture is disproportionate to the conduct he engaged in and on which the forfeiture is based, in which event the jury may recommend forfeiture of a portion thereof; or (c) any interest, including proceeds he has derived from an investment of proceeds in an enterprise in violation of subdivision one of section 460.20 of this article and for which he was convicted unless such forfeiture is disproportionate to the conduct he engaged in and on which the forfeiture is based, in which event the jury may recommend forfeiture of a portion thereof. 2. (a) Forfeiture may be ordered when the grand jury returning an indictment charging a person with enterprise corruption has received evidence legally sufficient to establish, and providing reasonable cause to believe, that the property or other interest is subject to forfeiture under this section. In that event, the grand jury shall file a special information, not to be disclosed to the jury in the criminal action prior to verdict on the criminal charges, specifying the property or other interest for which forfeiture is sought and containing a plain and concise factual statement which sets forth the basis for the forfeiture. Alternatively, where the defendant has waived indictment and consented to be prosecuted by superior court information pursuant to article one hundred ninety-five of the criminal procedure law, the prosecutor may file, in addition to the superior court information charging enterprise corruption, a special information specifying the property or other interest for which forfeiture is sought and containing a plain and concise factual statement which sets forth the basis for the forfeiture. (b) After returning a verdict of guilty on an enterprise corruption count or counts, the jury shall be given the special information and hear any additional evidence which is relevant and legally admissible upon the forfeiture count or counts of the special information. After hearing such evidence, the jury shall then deliberate upon the forfeiture count or counts and, based upon all the evidence received in connection with the indictment or superior court information and the special information, may, if

satisfied by proof beyond a reasonable doubt that the property or other interest, or a portion thereof, is subject to forfeiture under this section return a verdict determining such property or other interest, or portion thereof, is subject to forfeiture, provided, however, where a defendant has waived a jury trial pursuant to article three hundred twenty of the criminal procedure law, the court may hear and receive all of the evidence upon the indictment or superior court information and the special information and render a verdict upon the enterprise corruption count or counts and the forfeiture count or counts. (c) After the verdict of forfeiture, the court shall hear arguments and may receive additional evidence upon a motion of the defendant that the verdict of forfeiture (i) is against the weight of the evidence, or (ii) is, with respect to a forfeiture pursuant to paragraph (a) of subdivision one of this section, disproportionate to the defendant's gain from his association or employment with the enterprise, or, with respect to a forfeiture pursuant to paragraph (b) or (c) of subdivision one of this section, disproportionate to the conduct he engaged in on which the forfeiture is based. Upon such a finding the court may in the interests of justice set aside, modify, limit or otherwise condition an order of forfeiture. 3. (a) An order of criminal forfeiture shall authorize the prosecutor to seize all property or other interest declared forfeited under this section upon such terms and conditions as the court shall deem proper. If a property right or other interest is not exercisable or transferable for value by the prosecutor, it shall expire and shall not revert to the convicted person. The court ordering any forfeiture may remit such forfeiture or any portion thereof. (b) No person shall forfeit any right, title or interest in any property or enterprise under this article who has not been convicted of a violation of section 460.20 of this article. Any person other than the convicted person claiming an interest in forfeited property or other interest may bring a special proceeding to determine that claim, before or after trial, pursuant to section thirteen hundred twenty-seven of the civil practice law and rules, provided, however, that if such an action is brought before trial, it may, upon motion of the prosecutor, and in the court's discretion, be postponed by the court until completion of the trial. In addition, any person claiming an interest in property subject to forfeiture may petition for remission as provided in subdivision seven of section thirteen hundred eleven of such law and rules. 4. All property and other interests which are criminally forfeited following the commencement of an action under this article, whether by plea, verdict or other agreement, shall be disposed of in accordance with the provisions of section thirteen hundred forty-nine of the civil practice law and rules. In any case where one or more of the counts upon which a person is convicted specifically includes as a criminal act a violation of any offense defined in article two hundred twenty of this chapter, the court shall determine what portion of that property or interest derives from or relates to such criminal act, and direct that distribution of that portion be conducted in the manner prescribed for actions grounded upon offenses in violation of article two hundred twenty. 5. Any person convicted of a violation of section 460.20 of this article through which he derived pecuniary value, or by which he caused personal injury or property damage or other loss, may be sentenced to pay a fine not in excess of three times the gross value he gained or three times the gross loss he caused, whichever is greater. Moneys so collected shall be paid as restitution to victims of the crime for medical expenses actually incurred, loss of earnings or property loss or damage caused thereby. Any excess after restitution shall be paid to the state treasury. In any case where one or more of the counts upon which a person is convicted specifically includes as a criminal act a violation of any offense defined in article two hundred twenty of this chapter, the court shall determine what proportion of the entire pattern such criminal acts constitute and distribute such portion in the manner prescribed by section three hundred forty-nine of the civil practice law and rules for forfeiture actions grounded upon offenses in violation of article two hundred twenty. When the court imposes a fine pursuant to this subdivision, the court shall make a finding as to the amount of the gross value gained or the gross loss caused. If the record does not contain sufficient evidence to support such a finding the court may conduct a hearing upon the issue. In imposing a fine, the court shall consider the seriousness of the conduct, whether the amount of the fine is disproportionate to the conduct in which he engaged, its impact on victims and the enterprise corrupted by that conduct, as well as the economic circumstances of the convicted person, including the effect of the imposition of such a fine upon his immediate family. 6. The imposition of an order of criminal forfeiture pursuant to subdivision one of this section, a judgment of civil forfeiture pursuant to article thirteen-A of the civil practice law and rules, or a fine pursuant to subdivision five of this section or paragraph (b) of subdivision one of section 80.00 of this chapter, shall preclude the imposition of any other such order or judgment of forfeiture or fine based upon the same criminal conduct, provided however that where an order of criminal forfeiture is imposed pursuant to subdivision one of this section, an action pursuant to article thirteen-A of the civil practice law and rules may nonetheless be brought, and an order imposed in that action, for forfeiture of the proceeds of a crime or the substituted proceeds of a crime where such proceeds are not subject to criminal forfeiture pursuant to subdivision one of this section. The imposition of a fine pursuant to subdivision five of this section or paragraph (b) of subdivision one of section 80.00 of this chapter, shall preclude the imposition of any other fine pursuant to any other provision of this chapter. 7. Other than as provided in subdivision six, the imposition of a criminal penalty, forfeiture or fine under this section shall not preclude the application of any other criminal penalty or civil remedy under this article or under any other provision of law. 8. Any payment made as restitution to victims pursuant to this section shall not limit, preclude or impair any liability for damages in any civil action or proceeding for an amount in excess of such payment.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 460 - Enterprise Corruption460.40 - Enterprise Corruption; Jurisdiction.

A person may be prosecuted for enterprise corruption: 1. in any county in which the principal place of business, if any, of the enterprise was located at the time of the offense, and, if the enterprise had a principal place or business located in more than one county, then in any such county in which any conduct occurred constituting or requisite to the completion of the offense of enterprise corruption; or 2. in any county in which any act included in the pattern of criminal activity could have been prosecuted pursuant to article twenty of the criminal procedure law; provided, however, that such person may not be prosecuted for enterprise

corruption in such county based on this subdivision if the jurisdiction of such county is based solely on section 20.60 of the criminal procedure law; or 3. in any county in which he:(a) conducts or participates in the affairs of the enterprise in violation of subdivision one of section 460.20 of this article,(b) acquires or maintains an interest in or control of the enterprise in violation of subdivision one of section 460.20 of this article,(c) invests proceeds in an enterprise in violation of subdivision one of section 460.20 of this article; or4. in any county in which the conduct of the actor had or was likely to have a particular effect upon such county or a political subdivision or part thereof, and was performed with intent that it would, or with knowledge that it was likely to, have such particular effect therein. (a) conducts or participates in the affairs of the enterprise in violation of subdivision one of section 460.20 of this article, (b) acquires or maintains an interest in or control of the enterprise in violation of subdivision one of section 460.20 of this article, (c) invests proceeds in an enterprise in violation of subdivision one of section 460.20 of this article; or 4. in any county in which the conduct of the actor had or was likely to have a particular effect upon such county or a political subdivision or part thereof, and was performed with intent that it would, or with knowledge that it was likely to, have such particular effect therein.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 460 - Enterprise Corruption460.50 - Enterprise Corruption; Prosecution.

1. Subject to the provisions of section 460.60 of this article, a charge of enterprise corruption may be prosecuted by: (a) the district attorney of any county with jurisdiction over the offense pursuant to section 460.40 of this article; (b) the deputy attorney general in charge of the statewide organized crime task force when authorized by subdivision seven of section seventy-a of the executive law; or (c) the attorney general when he is otherwise authorized by law to prosecute each of the criminal acts specifically included in the pattern of criminal activity alleged in the enterprise corruption charge. 2. For purposes of paragraph (c) of subdivision one of this section, a criminal act or an offense is specifically included in a pattern of criminal activity when the count of the accusatory instrument charging a person with enterprise corruption alleges a pattern of criminal activity and the act is alleged to be a criminal act within the pattern of criminal activity.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 460 - Enterprise Corruption460.60 - Enterprise Corruption; Consent to Prosecute.

1. For purposes of this section, when a grand jury proceeding concerns a possible charge of enterprise corruption, or when an accusatory instrument includes a count charging a person with enterprise corruption, the affected district attorneys are the district attorneys otherwise empowered to prosecute any of the underlying acts of criminal activity in a county with jurisdiction over the offense of enterprise corruption pursuant to section 460.40 of this article, in which:(a) there has been substantial and significant activity by the particular enterprise; or(b) conduct occurred constituting a criminal act specifically included in the pattern of criminal activity charged in the accusatory instrument and not previously prosecuted; or(c) the particular enterprise has its principal place of business.2. A grand jury proceeding concerning a possible charge of enterprise corruption may be instituted only with the consent of the affected district attorneys. Should the possibility of such a charge develop after a grand jury proceeding has been instituted, the consent of the affected district attorneys shall be sought as soon as is practical, and an indictment charging a person with enterprise corruption may not be voted upon by the grand jury without such consent.3. A person may be charged in an accusatory instrument with enterprise corruption only with the consent of the affected district attorneys. When it is impractical to obtain the consent specified in subdivision two of this section prior to the filing of the accusatory instrument, then that consent must be secured within twenty days thereafter.4. When the prosecutor is the deputy attorney general in charge of the statewide organized crime task force, the consent required by subdivisions two and three of this section shall be in addition to that required by subdivision seven of section seventy-a of the executive law.5. Within fifteen days after the arraignment of any person on an indictment charging a person with the crime of enterprise corruption the prosecutor shall provide a copy of the indictment to those district attorneys whose consent was required pursuant to subdivision three of this section, and shall notify the court and defendant of those district attorneys whose consent the prosecutor has secured. The court shall then review the indictment and the grand jury minutes, notify any district attorney whose consent under subdivision one of this section should have been but was not obtained, direct that the prosecutor provide that district attorney with the portion of the indictment and grand jury minutes that are relevant to a determination whether that district attorney is an "affected district attorney" within the meaning of subdivision one of this section.6. The failure to obtain from any district attorney the consent required by subdivision two or three of this section shall not be grounds for dismissal of the accusatory instrument or for any other relief upon motion of a defendant in the criminal action.Upon motion of a district attorney whose consent, pursuant to subdivision three of this section, the court determines was required but not obtained, the court may not dismiss the accusatory instrument or any count thereof but may grant any appropriate relief. Such relief may include, but is not limited to:(a) ordering that any money forfeited by a defendant in the criminal action, or the proceeds from the sale of any other property forfeited in the criminal action by a defendant, which would have been paid to the county of that district attorney pursuant to section thirteen hundred forty-nine of the civil practice law and rules had the forfeiture action been prosecuted in the county of that district attorney, be paid in whole or in part to the county of that district attorney; or(b) upon consent of the defendant, ordering the transfer of the prosecution, or any part thereof, to that district attorney or to any other prosecutor with jurisdiction over the prosecution, of the part thereof to be transferred. However, prior to ordering any transfer of the prosecution, the court shall provide to those district attorneys who have previously consented to the prosecution an opportunity to intervene and be heard concerning such transfer.7. A district attorney whose consent, pursuant to subdivision three of this section, the court determines was required but not obtained may seek the relief described in subdivision six of this section exclusively by a pre-trial motion in the criminal

action based on the indictment charging the crime of enterprise corruption. Such relief must be sought within forty-five days of the receipt of notice from the court pursuant to subdivision five of this section. (a) there has been substantial and significant activity by the particular enterprise; or (b) conduct occurred constituting a criminal act specifically included in the pattern of criminal activity charged in the accusatory instrument and not previously prosecuted; or (c) the particular enterprise has its principal place of business. 2. A grand jury proceeding concerning a possible charge of enterprise corruption may be instituted only with the consent of the affected district attorneys. Should the possibility of such a charge develop after a grand jury proceeding has been instituted, the consent of the affected district attorneys shall be sought as soon as is practical, and an indictment charging a person with enterprise corruption may not be voted upon by the grand jury without such consent. 3. A person may be charged in an accusatory instrument with enterprise corruption only with the consent of the affected district attorneys. When it is impractical to obtain the consent specified in subdivision two of this section prior to the filing of the accusatory instrument, then that consent must be secured within twenty days thereafter. 4. When the prosecutor is the deputy attorney general in charge of the statewide organized crime task force, the consent required by subdivisions two and three of this section shall be in addition to that required by subdivision seven of section seventy-a of the executive law. 5. Within fifteen days after the arraignment of any person on an indictment charging a person with the crime of enterprise corruption the prosecutor shall provide a copy of the indictment to those district attorneys whose consent was required pursuant to subdivision three of this section, and shall notify the court and defendant of those district attorneys whose consent the prosecutor has secured. The court shall then review the indictment and the grand jury minutes, notify any district attorney whose consent under subdivision one of this section should have been but was not obtained, direct that the prosecutor provide that district attorney with the portion of the indictment and grand jury minutes that are relevant to a determination whether that district attorney is an "affected district attorney" within the meaning of subdivision one of this section. 6. The failure to obtain from any district attorney the consent required by subdivision two or three of this section shall not be grounds for dismissal of the accusatory instrument or for any other relief upon motion of a defendant in the criminal action. Upon motion of a district attorney whose consent, pursuant to subdivision three of this section, the court determines was required but not obtained, the court may not dismiss the accusatory instrument or any count thereof but may grant any appropriate relief. Such relief may include, but is not limited to: (a) ordering that any money forfeited by a defendant in the criminal action, or the proceeds from the sale of any other property forfeited in the criminal action by a defendant, which would have been paid to the county of that district attorney pursuant to section thirteen hundred forty-nine of the civil practice law and rules had the forfeiture action been prosecuted in the county of that district attorney, be paid in whole or in part to the county of that district attorney; or (b) upon consent of the defendant, ordering the transfer of the prosecution, or any part thereof, to that district attorney or to any other prosecutor with jurisdiction over the prosecution, of the part thereof to be transferred. However, prior to ordering any transfer of the prosecution, the court shall provide to those district attorneys who have previously consented to the prosecution an opportunity to intervene and be heard concerning such transfer. 7. A district attorney whose consent, pursuant to subdivision three of this section, the court determines was required but not obtained may seek the relief described in subdivision six of this section exclusively by a pre-trial motion in the criminal action based on the indictment charging the crime of enterprise corruption. Such relief must be sought within forty-five days of the receipt of notice from the court pursuant to subdivision five of this section.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 460 - Enterprise Corruption460.70 - Provisional Remedies.

1. The provisional remedies authorized by article thirteen-A of the civil practice law and rules shall be available in all criminal actions in which criminal forfeiture or a fine pursuant to section 460.60 is sought to the extent and under the same terms and conditions as provided in article thirteen-A of such law and rules. 2. Upon the filing of an indictment and special information seeking criminal forfeiture under this article all further proceedings with respect to provisional remedies shall be heard by the judge or justice in the criminal part to which the indictment and special information are assigned. 3. For purposes of this section, the indictment and special information seeking criminal forfeiture shall constitute the summons and complaint referred to in article thirteen-A of the civil practice law and rules.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 460 - Enterprise Corruption460.80 - Court Ordered Disclosure.

Notwithstanding the provisions of article two hundred forty-five of the criminal procedure law, when forfeiture is sought pursuant to section 460.30 of this article, the court may order discovery of any property not otherwise disclosed which is material and reasonably necessary for preparation by the defendant with respect to the forfeiture proceeding pursuant to such section. The court may issue a protective order denying, limiting, conditioning, delaying or regulating such discovery where a danger to the integrity of physical evidence or a substantial risk of physical harm, intimidation, economic reprisal, bribery or unjustified annoyance or embarrassment to any person or an adverse effect upon the legitimate needs of law enforcement, including the protection of the confidentiality of informants, or any other factor or set of factors outweighs the usefulness of the discovery.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 470 - Money Laundering470.00 - Definitions.

The following definitions are applicable to this article. 1. "Monetary instrument" means coin and currency of the United States or of any other country; personal checks; bank checks; traveler's checks; money orders; and investment securities and negotiable

instruments, in bearer form or otherwise, in such form that title thereto passes on delivery, except that "monetary instrument" shall not include payments to attorneys for legal services. 2. "Conducts" includes initiating, concluding or participating in initiating or concluding a transaction. 3. "Transaction" includes a payment, purchase, sale, loan, pledge, gift, transfer, or delivery, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected, except that "transaction" shall not include payments to attorneys for legal services. 4. "Criminal conduct" means conduct which is a crime under the laws of this state or conduct committed in any other jurisdiction which is or would be a crime under the laws of this state. 5. "Specified criminal conduct" means criminal conduct committed in this state constituting a criminal act, as the term criminal act is defined in section 460.10 of this chapter, or constituting the crime of enterprise corruption, as defined in section 460.20 of this chapter, or conduct committed in any other jurisdiction which is or would be specified criminal conduct if committed in this state. 6. "Financial institution" means :(a) an insured bank, as defined in section 3(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(h);(b) a commercial bank or trust company;(c) a private banker;(d) an agency or branch of a foreign bank in the United States;(e) a credit union;(f) a thrift institution;(g) a broker or dealer registered with the Securities and Exchange Commission under the Securities and Exchange Act of 1934, U.S.C. 78a et seq.;(h) a broker or dealer in securities or commodities;(i) an investment banker or investment company;(j) a currency exchange;(k) an issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments;(l) an operator of a credit card system;(m) an insurance company;(n) a dealer in precious metals, stones, or jewels;(o) a pawnbroker;(p) a loan or finance company;(q) a travel agency;(r) a person licensed to engage in the business of receiving money for transmission or transmitting the same by whatever means, or any other person engaged in such business as an agent of a licensee or engaged in such business without a license;(s) a telegraph company;(t) a business engaged in vehicle sales, including automobile, airplane and boat sales;(u) persons involved in real estate closings and settlements;(v) the United States Postal Service;(w) an agency of the United States government or of a state or local government carrying out a duty or power of a business described in this subdivision;(x) a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than a million dollars which:(i) is licensed as a casino, gambling casino or gaming establishment under the laws of any state or any political subdivision of any state; or(ii) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class 1 gaming as defined in subdivision six of section four of such act; or(y) any business or agency engaged in any activity which the superintendent of financial services or the United States Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a substitute for activity which any business as described in this subdivision is authorized to engage.7. "Financial transaction" means a transaction involving:(a) the movement of funds by wire or other means; or(b) one or more monetary instruments; or(c) the transfer of title to any real property, vehicle, vessel or aircraft; or(d) the use of a financial institution.8. "Represented" means any representation made by a law enforcement officer, or by another person at the direction of, or with the approval of, such law enforcement officer.9. "Law enforcement officer" means any public servant, federal or state, who is authorized to conduct an investigation, prosecute or make an arrest for a criminal offense.10. For the purpose of this article, each of the five counties in the city of New York shall be considered as a separate county. (a) an insured bank, as defined in section 3(b) of the Federal Deposit Insurance Act, 12 U.S.C. 1813(h); (b) a commercial bank or trust company; (c) a private banker; (d) an agency or branch of a foreign bank in the United States; (e) a credit union; (f) a thrift institution; (g) a broker or dealer registered with the Securities and Exchange Commission under the Securities and Exchange Act of 1934, U.S.C. 78a et seq.; (h) a broker or dealer in securities or commodities; (i) an investment banker or investment company; (j) a currency exchange; (k) an issuer, redeemer, or cashier of travelers' checks, checks, money orders, or similar instruments; (l) an operator of a credit card system; (m) an insurance company; (n) a dealer in precious metals, stones, or jewels; (o) a pawnbroker; (p) a loan or finance company; (q) a travel agency; (r) a person licensed to engage in the business of receiving money for transmission or transmitting the same by whatever means, or any other person engaged in such business as an agent of a licensee or engaged in such business without a license; (s) a telegraph company; (t) a business engaged in vehicle sales, including automobile, airplane and boat sales; (u) persons involved in real estate closings and settlements; (v) the United States Postal Service; (w) an agency of the United States government or of a state or local government carrying out a duty or power of a business described in this subdivision; (x) a casino, gambling casino, or gaming establishment with an annual gaming revenue of more than a million dollars which: (i) is licensed as a casino, gambling casino or gaming establishment under the laws of any state or any political subdivision of any state; or (ii) is an Indian gaming operation conducted under or pursuant to the Indian Gaming Regulatory Act other than an operation which is limited to class 1 gaming as defined in subdivision six of section four of such act; or (y) any business or agency engaged in any activity which the superintendent of financial services or the United States Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a substitute for activity which any business as described in this subdivision is authorized to engage. 7. "Financial transaction" means a transaction involving: (a) the movement of funds by wire or other means; or (b) one or more monetary instruments; or (c) the transfer of title to any real property, vehicle, vessel or aircraft; or (d) the use of a financial institution. 8. "Represented" means any representation made by a law enforcement officer, or by another person at the direction of, or with the approval of, such law enforcement officer. 9. "Law enforcement officer" means any public servant, federal or state, who is authorized to conduct an investigation, prosecute or make an arrest for a criminal offense. 10. For the purpose of this article, each of the five counties in the city of New York shall be considered as a separate county.

Title: pen

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 470 - Money Laundering470.03 - Money Laundering: Aggregation of Value; Other Matters.

1. For purposes of subdivisions one and three of sections 470.05, 470.10, 470.15, 470.21, 470.22 and 470.23, and for purposes of subdivisions one and two of sections 470.20 and 470.24 of this article, financial transactions may be considered together and the value of the property involved may be aggregated, provided that the transactions are all part of a single "criminal transaction" as defined in subdivision two of section 40.10 of the criminal procedure law. 2. For purposes of subdivision two of sections 470.05, 470.10, 470.15, 470.21, 470.22 and 470.23 of this article, separate occasions involving the transport, transmittal or transfer of monetary instruments may be considered together and the value of the monetary instruments involved may be aggregated, provided that the occasions are all part of a single "criminal transaction" as defined in subdivision two of section 40.10 of the criminal procedure law. 3. Nothing in sections 470.05, 470.21, 470.22, 470.23 and 470.24; paragraph (b) of subdivision one, paragraph (b) of subdivision two and paragraph (b) of subdivision three of section 470.10; paragraph (b) of subdivision one, paragraph (b) of subdivision two and paragraph (b) of subdivision three of section 470.15; or paragraph (b) of subdivision one and paragraph (b) of subdivision two of section 470.20 of this article shall make it unlawful to return funds held in escrow:(a) as a portion of a purchase price for real property pursuant to a contract of sale; or(b) to satisfy the tax or other lawful obligations arising out of an administrative or judicial proceeding concerning the person who provided the escrow funds. (a) as a portion of a purchase price for real property pursuant to a contract of sale; or (b) to satisfy the tax or other lawful obligations arising out of an administrative or judicial proceeding concerning the person who provided the escrow funds.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 470 - Money Laundering470.05 - Money Laundering in the Fourth Degree.

A person is guilty of money laundering in the fourth degree when: 1. Knowing that the property involved in one or more financial transactions represents the proceeds of criminal conduct:(a) he or she conducts one or more such financial transactions which in fact involve the proceeds of specified criminal conduct:(i) With intent to:(A) promote the carrying on of criminal conduct; or(B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or(ii) Knowing that the transaction or transactions in whole or in part are designed to:(A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of criminal conduct; or(B) avoid any transaction reporting requirement imposed by law; and(b) The total value of the property involved in such financial transaction or transactions exceeds five thousand dollars; or2. Knowing that one or more monetary instruments represents the proceeds of criminal conduct:(a) he or she transports, transmits, or transfers on one or more occasions, monetary instruments which in fact represent the proceeds of specified criminal conduct:(i) With intent to promote the carrying on of criminal conduct; or(ii) Knowing that such transportation, transmittal, or transfer is designed in whole or in part to:(A) conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of criminal conduct; or(B) avoid any transaction reporting requirement imposed by law; and(b) The total value of such monetary instrument or instruments exceeds ten thousand dollars; or3. He or she conducts one or more financial transactions:(a) involving property represented to be the proceeds of specified criminal conduct, or represented to be property used to conduct or facilitate specified criminal conduct, with intent to:(i) promote the carrying on of specified criminal conduct; or(ii) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be the proceeds of specified criminal conduct; or(iii) avoid any transaction reporting requirement imposed by law; and(b) the total value of the property involved in such financial transaction or transactions exceeds ten thousand dollars.Money laundering in the fourth degree is a class E felony. (a) he or she conducts one or more such financial transactions which in fact involve the proceeds of specified criminal conduct: (i) With intent to: (A) promote the carrying on of criminal conduct; or (B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or (ii) Knowing that the transaction or transactions in whole or in part are designed to: (A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of criminal conduct; or (B) avoid any transaction reporting requirement imposed by law; and (b) The total value of the property involved in such financial transaction or transactions exceeds five thousand dollars; or 2. Knowing that one or more monetary instruments represents the proceeds of criminal conduct: (a) he or she transports, transmits, or transfers on one or more occasions, monetary instruments which in fact represent the proceeds of specified criminal conduct: (i) With intent to promote the carrying on of criminal conduct; or (ii) Knowing that such transportation, transmittal, or transfer is designed in whole or in part to: (A) conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of criminal conduct; or (B) avoid any transaction reporting requirement imposed by law; and (b) The total value of such monetary instrument or instruments exceeds ten thousand dollars; or 3. He or she conducts one or more financial transactions: (a) involving property represented to be the proceeds of specified criminal conduct, or represented to be property used to conduct or facilitate specified criminal conduct, with intent to: (i) promote the carrying on of specified criminal conduct; or (ii) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be the proceeds of specified criminal conduct; or (iii) avoid any transaction reporting requirement imposed by law; and (b) the total value of the property involved in such financial transaction or transactions exceeds ten thousand dollars. Money laundering in the fourth degree is a class E felony.

Title: pen

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 470 - Money Laundering470.10 - Money Laundering in the Third Degree.

A person is guilty of money laundering in the third degree when: 1. Knowing that the property involved in one or more financial transactions represents:(a) the proceeds of the criminal sale of a controlled substance, he or she conducts one or more such financial transactions which in fact involve the proceeds of the criminal sale of a controlled substance:(i) With intent to:(A) promote the carrying on of specified criminal conduct; or(B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or(ii) Knowing that the transaction or transactions in whole or in part are designed to:(A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or(B) avoid any transaction reporting requirement imposed by law; and(iii) The total value of the property involved in such financial transaction or transactions exceeds ten thousand dollars; or(b) the proceeds of criminal conduct, he or she conducts one or more such financial transactions which in fact involve the proceeds of specified criminal conduct:(i) With intent to:(A) promote the carrying on of criminal conduct; or(B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or(ii) knowing that the transaction or transactions in whole or in part are designed to:(A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of criminal conduct; or(B) avoid any transaction reporting requirement imposed by law; and(iii) The total value of the property involved in such financial transaction or transactions exceeds fifty thousand dollars; or2. Knowing that one or more monetary instruments represent:(a) the proceeds of the criminal sale of a controlled substance, he or she transports, transmits, or transfers or attempts to transport, transmit or transfer, on one or more occasions, monetary instruments which in fact represent the proceeds of the criminal sale of a controlled substance from a place in any county in this state to or through a place outside that county or to a place in any county in this state from or through a place outside that county:(i) With intent to promote the carrying on of specified criminal conduct; or(ii) Knowing that such transportation, transmittal or transfer is designed in whole or in part to:(A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or(B) avoid any transaction reporting requirement imposed by law; and(iii) The total value of such monetary instrument or instruments exceeds ten thousand dollars; or(b) the proceeds of criminal conduct, he or she transports, transmits, or transfers or attempts to transport, transmit or transfer, on one or more occasions monetary instruments which in fact represent the proceeds of specified criminal conduct from a place in any county in this state to or through a place outside that county or to a place in any county in this state from or through a place outside that county:(i) With intent to promote the carrying on of criminal conduct; or(ii) Knowing that such transportation, transmittal or transfer is designed in whole or in part to:(A) conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of criminal conduct; or(B) avoid any transaction reporting requirement imposed by law; and(iii) The total value of such monetary instrument or instruments exceeds fifty thousand dollars; or3. He or she conducts one or more financial transactions involving property represented to be:(a) the proceeds of the criminal sale of a controlled substance, or represented to be property used to conduct or facilitate the criminal sale of a controlled substance:(i) With intent to:(A) promote the carrying on of specified criminal conduct; or(B) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be the proceeds of specified criminal conduct; or(C) avoid any transaction reporting requirement imposed by law; and(ii) The total value of the property involved in such financial transaction or transactions exceeds ten thousand dollars; or(b) the proceeds of specified criminal conduct, or represented to be property used to conduct or facilitate specified criminal conduct:(i) With intent to:(A) promote the carrying on of specified criminal conduct; or(B) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be the proceeds of specified criminal conduct; or(C) avoid any transaction reporting requirement imposed by law; and(ii) The total value of the property involved in such financial transaction or transactions exceeds fifty thousand dollars.Money laundering in the third degree is a class D felony. (a) the proceeds of the criminal sale of a controlled substance, he or she conducts one or more such financial transactions which in fact involve the proceeds of the criminal sale of a controlled substance: (i) With intent to: (A) promote the carrying on of specified criminal conduct; or (B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or (ii) Knowing that the transaction or transactions in whole or in part are designed to: (A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or (B) avoid any transaction reporting requirement imposed by law; and (iii) The total value of the property involved in such financial transaction or transactions exceeds ten thousand dollars; or (b) the proceeds of criminal conduct, he or she conducts one or more such financial transactions which in fact involve the proceeds of specified criminal conduct: (i) With intent to: (A) promote the carrying on of criminal conduct; or (B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or (ii) knowing that the transaction or transactions in whole or in part are designed to: (A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of criminal conduct; or (B) avoid any transaction reporting requirement imposed by law; and (iii) The total value of the property involved in such financial transaction or transactions exceeds fifty thousand dollars; or 2. Knowing that one or more monetary instruments represent: (a) the proceeds of the criminal sale of a controlled substance, he or she transports, transmits, or transfers or attempts to transport, transmit or transfer, on one or more occasions, monetary instruments which in fact represent the proceeds of the criminal sale of a controlled substance from a place in any county in this state to or through a place outside that county or to a place in any county in this state from or through a

place outside that county: (i) With intent to promote the carrying on of specified criminal conduct; or (ii) Knowing that such transportation, transmittal or transfer is designed in whole or in part to: (A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or (B) avoid any transaction reporting requirement imposed by law; and (iii) The total value of such monetary instrument or instruments exceeds ten thousand dollars; or (b) the proceeds of criminal conduct, he or she transports, transmits, or transfers or attempts to transport, transmit or transfer, on one or more occasions monetary instruments which in fact represent the proceeds of specified criminal conduct from a place in any county in this state to or through a place outside that county or to a place in any county in this state from or through a place outside that county: (i) With intent to promote the carrying on of criminal conduct; or (ii) Knowing that such transportation, transmittal or transfer is designed in whole or in part to: (A) conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of criminal conduct; or (B) avoid any transaction reporting requirement imposed by law; and (iii) The total value of such monetary instrument or instruments exceeds fifty thousand dollars; or 3. He or she conducts one or more financial transactions involving property represented to be: (a) the proceeds of the criminal sale of a controlled substance, or represented to be property used to conduct or facilitate the criminal sale of a controlled substance: (i) With intent to: (A) promote the carrying on of specified criminal conduct; or (B) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be the proceeds of specified criminal conduct; or (C) avoid any transaction reporting requirement imposed by law; and (ii) The total value of the property involved in such financial transaction or transactions exceeds ten thousand dollars; or (b) the proceeds of specified criminal conduct, or represented to be property used to conduct or facilitate specified criminal conduct: (i) With intent to: (A) promote the carrying on of specified criminal conduct; or (B) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be the proceeds of specified criminal conduct; or (C) avoid any transaction reporting requirement imposed by law; and (ii) The total value of the property involved in such financial transaction or transactions exceeds fifty thousand dollars. Money laundering in the third degree is a class D felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 470 - Money Laundering470.15 - Money Laundering in the Second Degree.

A person is guilty of money laundering in the second degree when: 1. Knowing that the property involved in one or more financial transactions represents:(a) the proceeds of the criminal sale of a controlled substance, he or she conducts one or more such financial transactions which in fact involve the proceeds of the criminal sale of a controlled substance:(i) With intent to:(A) promote the carrying on of specified criminal conduct; or(B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or(ii) Knowing that the transaction or transactions in whole or in part are designed to:(A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or(B) avoid any transaction reporting requirement imposed by law; and(iii) The total value of the property involved in such financial transaction or transactions exceeds fifty thousand dollars; or(b) the proceeds of specified criminal conduct, he or she conducts one or more such financial transactions which in fact involve the proceeds of specified criminal conduct:(i) With intent to:(A) promote the carrying on of specified criminal conduct; or(B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or(ii) Knowing that the transaction or transactions in whole or in part are designed to:(A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or(B) avoid any transaction reporting requirement imposed by law; and(iii) The total value of the property involved in such financial transaction or transactions exceeds one hundred thousand dollars; or2. Knowing that one or more monetary instruments represent:(a) the proceeds of the criminal sale of a controlled substance, he or she transports, transmits, or transfers or attempts to transport, transmit or transfer, on one or more occasions, monetary instruments which in fact represent the proceeds of the criminal sale of a controlled substance from a place in any county in this state to or through a place outside that county or to a place in any county in this state from or through a place outside that county:(i) With intent to promote the carrying on of specified criminal conduct; or(ii) Knowing that such transportation, transmittal or transfer is designed in whole or in part to:(A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or(B) avoid any transaction reporting requirement imposed by law; and(iii) The total value of such monetary instrument or instruments exceeds fifty thousand dollars; or(b) the proceeds of specified criminal conduct, he or she transports, transmits, or transfers or attempts to transport, transmit or transfer, on one or more occasions, monetary instruments which in fact represent the proceeds of specified criminal conduct from a place in any county in this state to or through a place outside that county or to a place in any county in this state from or through a place outside that county:(i) With intent to promote the carrying on of specified criminal conduct; or(ii) Knowing that such transportation, transmittal or transfer is designed in whole or in part to:(A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or(B) avoid any transaction reporting requirement imposed by law; and(iii) The total value of such monetary instrument or instruments exceeds one hundred thousand dollars; or3. He or she conducts one or more financial transactions involving property represented to be:(a) the proceeds of the criminal sale of a controlled substance, or represented to be property used to conduct or facilitate the criminal sale of a controlled substance:(i) With intent to:(A) promote the carrying on of specified criminal conduct; or(B) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be the proceeds of specified criminal conduct; or(C) avoid any transaction reporting requirement imposed by law; and(ii) The total represented value of the property involved in such financial transaction or transactions exceeds fifty thousand dollars; or(b) the proceeds of specified criminal conduct, or represented to be property used to

conduct or facilitate specified criminal conduct:(i) With intent to:(A) promote the carrying on of specified criminal conduct;(B) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be the proceeds of specified criminal conduct; or(C) avoid any transaction reporting requirement imposed by law; and(ii) The total represented value of the property involved in such financial transaction or transactions exceeds one hundred thousand dollars.Money laundering in the second degree is a class C felony. (a) the proceeds of the criminal sale of a controlled substance, he or she conducts one or more such financial transactions which in fact involve the proceeds of the criminal sale of a controlled substance: (i) With intent to: (A) promote the carrying on of specified criminal conduct; or (B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or (ii) Knowing that the transaction or transactions in whole or in part are designed to: (A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or (B) avoid any transaction reporting requirement imposed by law; and (iii) The total value of the property involved in such financial transaction or transactions exceeds fifty thousand dollars; or (b) the proceeds of specified criminal conduct, he or she conducts one or more such financial transactions which in fact involve the proceeds of specified criminal conduct: (i) With intent to: (A) promote the carrying on of specified criminal conduct; or (B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or (ii) Knowing that the transaction or transactions in whole or in part are designed to: (A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or (B) avoid any transaction reporting requirement imposed by law; and (iii) The total value of the property involved in such financial transaction or transactions exceeds one hundred thousand dollars; or 2. Knowing that one or more monetary instruments represent: (a) the proceeds of the criminal sale of a controlled substance, he or she transports, transmits, or transfers or attempts to transport, transmit or transfer, on one or more occasions, monetary instruments which in fact represent the proceeds of the criminal sale of a controlled substance from a place in any county in this state to or through a place outside that county or to a place in any county in this state from or through a place outside that county: (i) With intent to promote the carrying on of specified criminal conduct; or (ii) Knowing that such transportation, transmittal or transfer is designed in whole or in part to: (A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or (B) avoid any transaction reporting requirement imposed by law; and (iii) The total value of such monetary instrument or instruments exceeds fifty thousand dollars; or (b) the proceeds of specified criminal conduct, he or she transports, transmits, or transfers or attempts to transport, transmit or transfer, on one or more occasions, monetary instruments which in fact represent the proceeds of specified criminal conduct from a place in any county in this state to or through a place outside that county or to a place in any county in this state from or through a place outside that county: (i) With intent to promote the carrying on of specified criminal conduct; or (ii) Knowing that such transportation, transmittal or transfer is designed in whole or in part to: (A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or (B) avoid any transaction reporting requirement imposed by law; and (iii) The total value of such monetary instrument or instruments exceeds one hundred thousand dollars; or 3. He or she conducts one or more financial transactions involving property represented to be: (a) the proceeds of the criminal sale of a controlled substance, or represented to be property used to conduct or facilitate the criminal sale of a controlled substance: (i) With intent to: (A) promote the carrying on of specified criminal conduct; or (B) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be the proceeds of specified criminal conduct; or (C) avoid any transaction reporting requirement imposed by law; and (ii) The total represented value of the property involved in such financial transaction or transactions exceeds fifty thousand dollars; or (b) the proceeds of specified criminal conduct, or represented to be property used to conduct or facilitate specified criminal conduct: (i) With intent to: (A) promote the carrying on of specified criminal conduct; (B) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be the proceeds of specified criminal conduct; or (C) avoid any transaction reporting requirement imposed by law; and (ii) The total represented value of the property involved in such financial transaction or transactions exceeds one hundred thousand dollars. Money laundering in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 470 - Money Laundering470.20 - Money Laundering in the First Degree.

A person is guilty of money laundering in the first degree when: 1. Knowing that the property involved in one or more financial transactions represents:(a) the proceeds of the criminal sale of a controlled substance, he or she conducts one or more such financial transactions which in fact involve the proceeds of the criminal sale of a controlled substance:(i) With intent to:(A) promote the carrying on of specified criminal conduct; or(B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or(ii) Knowing that the transaction or transactions in whole or in part are designed to:(A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or(B) avoid any transaction reporting requirement imposed by law; and(iii) The total value of the property involved in such financial transaction or transactions exceeds five hundred thousand dollars; or(b) the proceeds of a class A, B or C felony, or of a crime in any other jurisdiction that is or would be a class A, B or C felony under the laws of this state, he or she conducts one or more such financial transactions which in fact involve the proceeds of any such felony:(i) With intent to:(A) promote the carrying on of specified criminal conduct; or(B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, eighteen hundred six of the tax law; or(ii) Knowing that the transaction or transactions in whole or in part are designed to:(A) conceal or disguise the nature, the location, the

source, the ownership or the control of the proceeds of specified criminal conduct; or(B) avoid any transaction reporting requirement imposed by law; and(iii) The total value of the property involved in such financial transaction or transactions exceeds one million dollars.2. He or she conducts one or more financial transactions involving property represented to be:(a) the proceeds of the criminal sale of a controlled substance, or represented to be property used to conduct or facilitate the criminal sale of a controlled substance:(i) With intent to:(A) promote the carrying on of specified criminal conduct; or(B) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be the proceeds of specified criminal conduct; or(C) avoid any transaction reporting requirement imposed by law; and(ii) The total represented value of the property involved in such financial transaction or transactions exceeds five hundred thousand dollars; or(b) the proceeds of a class A, B or C felony or of a crime in any other jurisdiction that is or would be a class A, B or C felony under the laws of this state, or represented to be property used to conduct or facilitate such crimes:(i) With intent to:(A) promote the carrying on of specified criminal conduct; or(B) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be the proceeds of specified criminal conduct; or(C) avoid any transaction reporting requirement imposed by law; and(ii) The total represented value of the property involved in such financial transaction or transactions exceeds one million dollars.Money laundering in the first degree is a class B felony. (a) the proceeds of the criminal sale of a controlled substance, he or she conducts one or more such financial transactions which in fact involve the proceeds of the criminal sale of a controlled substance: (i) With intent to: (A) promote the carrying on of specified criminal conduct; or (B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or (ii) Knowing that the transaction or transactions in whole or in part are designed to: (A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or (B) avoid any transaction reporting requirement imposed by law; and (iii) The total value of the property involved in such financial transaction or transactions exceeds five hundred thousand dollars; or (b) the proceeds of a class A, B or C felony, or of a crime in any other jurisdiction that is or would be a class A, B or C felony under the laws of this state, he or she conducts one or more such financial transactions which in fact involve the proceeds of any such felony: (i) With intent to: (A) promote the carrying on of specified criminal conduct; or (B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, eighteen hundred six of the tax law; or (ii) Knowing that the transaction or transactions in whole or in part are designed to: (A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of specified criminal conduct; or (B) avoid any transaction reporting requirement imposed by law; and (iii) The total value of the property involved in such financial transaction or transactions exceeds one million dollars. 2. He or she conducts one or more financial transactions involving property represented to be: (a) the proceeds of the criminal sale of a controlled substance, or represented to be property used to conduct or facilitate the criminal sale of a controlled substance: (i) With intent to: (A) promote the carrying on of specified criminal conduct; or (B) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be the proceeds of specified criminal conduct; or (C) avoid any transaction reporting requirement imposed by law; and (ii) The total represented value of the property involved in such financial transaction or transactions exceeds five hundred thousand dollars; or (b) the proceeds of a class A, B or C felony or of a crime in any other jurisdiction that is or would be a class A, B or C felony under the laws of this state, or represented to be property used to conduct or facilitate such crimes: (i) With intent to: (A) promote the carrying on of specified criminal conduct; or (B) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be the proceeds of specified criminal conduct; or (C) avoid any transaction reporting requirement imposed by law; and (ii) The total represented value of the property involved in such financial transaction or transactions exceeds one million dollars. Money laundering in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 470 - Money Laundering470.21 - Money Laundering in Support of Terrorism in the Fourth Degree.

A person is guilty of money laundering in support of terrorism in the fourth degree when: 1. Knowing that the property involved in one or more financial transactions represents either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:(a) he or she conducts one or more such financial transactions which in fact involve either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:(i) With intent to:(A) promote the carrying on of criminal conduct; or(B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or(ii) Knowing that the transaction or transactions in whole or in part are designed to:(A) conceal or disguise the nature, the location, the source, the ownership or the control of either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or(B) avoid any transaction reporting requirement imposed by law; and(b) the total value of the property involved in such financial transaction or transactions exceeds one thousand dollars; or2. Knowing that one or more monetary instruments represents either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:(a) he or she transports, transmits, or transfers on one or more occasions, monetary instruments which in fact represent either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:(i) With

intent to promote the carrying on of criminal conduct; or(ii) Knowing that such transportation, transmittal, or transfer is designed in whole or in part to:(A) conceal or disguise the nature, the location, the source, the ownership, or the control of either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or(B) avoid any transaction reporting requirement imposed by law; and(b) the total value of such monetary instrument or instruments exceeds two thousand dollars; or3. He or she conducts one or more financial transactions:(a) involving property represented to be either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part, with intent to:(i) promote the carrying on of specified criminal conduct; or(ii) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or(iii) avoid any transaction reporting requirement imposed by law; and(b) the total value of the property involved in such financial transaction or transactions exceeds two thousand dollars.Money laundering in support of terrorism in the fourth degree is a class E felony. (a) he or she conducts one or more such financial transactions which in fact involve either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part: (i) With intent to: (A) promote the carrying on of criminal conduct; or (B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or (ii) Knowing that the transaction or transactions in whole or in part are designed to: (A) conceal or disguise the nature, the location, the source, the ownership or the control of either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or (B) avoid any transaction reporting requirement imposed by law; and (b) the total value of the property involved in such financial transaction or transactions exceeds one thousand dollars; or 2. Knowing that one or more monetary instruments represents either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part: (a) he or she transports, transmits, or transfers on one or more occasions, monetary instruments which in fact represent either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part: (i) With intent to promote the carrying on of criminal conduct; or (ii) Knowing that such transportation, transmittal, or transfer is designed in whole or in part to: (A) conceal or disguise the nature, the location, the source, the ownership, or the control of either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or (B) avoid any transaction reporting requirement imposed by law; and (b) the total value of such monetary instrument or instruments exceeds two thousand dollars; or 3. He or she conducts one or more financial transactions: (a) involving property represented to be either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part, with intent to: (i) promote the carrying on of specified criminal conduct; or (ii) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or (iii) avoid any transaction reporting requirement imposed by law; and (b) the total value of the property involved in such financial transaction or transactions exceeds two thousand dollars. Money laundering in support of terrorism in the fourth degree is a class E felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 470 - Money Laundering470.22 - Money Laundering in Support of Terrorism in the Third Degree.

A person is guilty of money laundering in support of terrorism in the third degree when: 1. Knowing that the property involved in one or more financial transactions represents either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:(a) he or she conducts one or more such financial transactions which in fact involve either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:(i) With intent to:(A) promote the carrying on of specified criminal conduct; or(B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or(ii) Knowing that the transaction or transactions in whole or in part are designed to:(A) conceal or disguise the nature, the location, the source, the ownership or the control of either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or(B) avoid any transaction reporting requirement imposed by law; and(b) the total value of the property involved in such financial transaction or transactions exceeds five thousand dollars; or2. Knowing that one or more monetary instruments represent either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:(a) he or she transports, transmits, or transfers or attempts to transport, transmit or transfer, on one or more occasions, monetary instruments which in fact represent either the proceeds of an act of terrorism as defined in subdivision one

of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part from a place in any county in this state to or through a place outside that county or to a place in any county in this state from or through a place outside that county:(i) With intent to promote the carrying on of specified criminal conduct; or(ii) Knowing that such transportation, transmittal or transfer is designed in whole or in part to:(A) conceal or disguise the nature, the location, the source, the ownership or the control of either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or(B) avoid any transaction reporting requirement imposed by law; and(b) The total value of such monetary instrument or instruments exceeds five thousand dollars; or3. He or she conducts one or more financial transactions involving property represented to be either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:(a) With intent to:(i) promote the carrying on of specified criminal conduct; or(ii) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or(iii) avoid any transaction reporting requirement imposed by law; and(b) The total value of the property involved in such financial transaction or transactions exceeds five thousand dollars.Money laundering in support of terrorism in the third degree is a class D felony. (a) he or she conducts one or more such financial transactions which in fact involve either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part: (i) With intent to: (A) promote the carrying on of specified criminal conduct; or (B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or (ii) Knowing that the transaction or transactions in whole or in part are designed to: (A) conceal or disguise the nature, the location, the source, the ownership or the control of either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or (B) avoid any transaction reporting requirement imposed by law; and (b) the total value of the property involved in such financial transaction or transactions exceeds five thousand dollars; or 2. Knowing that one or more monetary instruments represent either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part: (a) he or she transports, transmits, or transfers or attempts to transport, transmit or transfer, on one or more occasions, monetary instruments which in fact represent either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part from a place in any county in this state to or through a place outside that county or to a place in any county in this state from or through a place outside that county: (i) With intent to promote the carrying on of specified criminal conduct; or (ii) Knowing that such transportation, transmittal or transfer is designed in whole or in part to: (A) conceal or disguise the nature, the location, the source, the ownership or the control of either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or (B) avoid any transaction reporting requirement imposed by law; and (b) The total value of such monetary instrument or instruments exceeds five thousand dollars; or 3. He or she conducts one or more financial transactions involving property represented to be either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part: (a) With intent to: (i) promote the carrying on of specified criminal conduct; or (ii) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or (iii) avoid any transaction reporting requirement imposed by law; and (b) The total value of the property involved in such financial transaction or transactions exceeds five thousand dollars. Money laundering in support of terrorism in the third degree is a class D felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 470 - Money Laundering470.23 - Money Laundering in Support of Terrorism in the Second Degree.

A person is guilty of money laundering in support of terrorism in the second degree when: 1. Knowing that the property involved in one or more financial transactions represents either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:(a) he or she conducts one or more such financial transactions which in fact involve either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:(i) With intent to:(A) promote the carrying on of specified criminal conduct; or(B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or(ii) Knowing that the transaction or transactions in whole or in part are designed to:(A) conceal or disguise the nature, the location, the source, the ownership or the control of either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or(B) avoid any transaction reporting requirement imposed by law; and(b) the total value of the property involved in such financial transaction or transactions exceeds twenty-five thousand

dollars; or2. Knowing that one or more monetary instruments represent either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:(a) he or she transports, transmits, or transfers or attempts to transport, transmit or transfer, on one or more occasions, monetary instruments which in fact represent either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part from a place in any county in this state to or through a place outside that county or to a place in any county in this state from or through a place outside that county:(i) With intent to promote the carrying on of specified criminal conduct; or(ii) Knowing that such transportation, transmittal or transfer is designed in whole or in part to:(A) conceal or disguise the nature, the location, the source, the ownership or the control of either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or(B) avoid any transaction reporting requirement imposed by law; and(b) the total value of such monetary instrument or instruments exceeds twenty-five thousand dollars; or3. He or she conducts one or more financial transactions involving property represented to be either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:(a) With intent to:(i) promote the carrying on of specified criminal conduct; or(ii) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or(iii) avoid any transaction reporting requirement imposed by law; and(b) The total value of the property involved in such financial transaction or transactions exceeds twenty-five thousand dollars.Money laundering in support of terrorism in the second degree is a class C felony. (a) he or she conducts one or more such financial transactions which in fact involve either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part: (i) With intent to: (A) promote the carrying on of specified criminal conduct; or (B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or (ii) Knowing that the transaction or transactions in whole or in part are designed to: (A) conceal or disguise the nature, the location, the source, the ownership or the control of either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or (B) avoid any transaction reporting requirement imposed by law; and (b) the total value of the property involved in such financial transaction or transactions exceeds twenty-five thousand dollars; or 2. Knowing that one or more monetary instruments represent either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part: (a) he or she transports, transmits, or transfers or attempts to transport, transmit or transfer, on one or more occasions, monetary instruments which in fact represent either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part from a place in any county in this state to or through a place outside that county or to a place in any county in this state from or through a place outside that county: (i) With intent to promote the carrying on of specified criminal conduct; or (ii) Knowing that such transportation, transmittal or transfer is designed in whole or in part to: (A) conceal or disguise the nature, the location, the source, the ownership or the control of either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or (B) avoid any transaction reporting requirement imposed by law; and (b) the total value of such monetary instrument or instruments exceeds twenty-five thousand dollars; or 3. He or she conducts one or more financial transactions involving property represented to be either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part: (a) With intent to: (i) promote the carrying on of specified criminal conduct; or (ii) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or (iii) avoid any transaction reporting requirement imposed by law; and (b) The total value of the property involved in such financial transaction or transactions exceeds twenty-five thousand dollars. Money laundering in support of terrorism in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 470 - Money Laundering470.24 - Money Laundering in Support of Terrorism in the First Degree.

A person is guilty of money laundering in support of terrorism in the first degree when: 1. Knowing that the property involved in one or more financial transactions represents either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:(a) he or she conducts one or more financial transactions which in fact involve either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:(i) With intent to:(A) promote the carrying on of specified criminal conduct; or(B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four,

eighteen hundred five, or eighteen hundred six of the tax law; or(ii) Knowing that the transaction or transactions in whole or in part are designed to:(A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or(B) avoid any transaction reporting requirement imposed by law; and(iii) The total value of the property involved in such financial transaction or transactions exceeds seventy-five thousand dollars.2. He or she conducts one or more financial transactions involving property represented to be either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part:(a) With intent to:(i) promote the carrying on of specified criminal conduct; or(ii) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or(iii) avoid any transaction reporting requirement imposed by law; and(b) The total represented value of the property involved in such financial transaction or transactions exceeds one hundred twenty-five thousand dollars.Money laundering in support of terrorism in the first degree is a class B felony. (a) he or she conducts one or more financial transactions which in fact involve either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part: (i) With intent to: (A) promote the carrying on of specified criminal conduct; or (B) engage in conduct constituting a felony as set forth in section eighteen hundred three, eighteen hundred four, eighteen hundred five, or eighteen hundred six of the tax law; or (ii) Knowing that the transaction or transactions in whole or in part are designed to: (A) conceal or disguise the nature, the location, the source, the ownership or the control of the proceeds of either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or (B) avoid any transaction reporting requirement imposed by law; and (iii) The total value of the property involved in such financial transaction or transactions exceeds seventy-five thousand dollars. 2. He or she conducts one or more financial transactions involving property represented to be either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part: (a) With intent to: (i) promote the carrying on of specified criminal conduct; or (ii) conceal or disguise the nature, the location, the source, the ownership or the control of property believed to be either the proceeds of an act of terrorism as defined in subdivision one of section 490.05 of this part, or a monetary instrument given, received or intended to be used to support a violation of article four hundred ninety of this part; or (iii) avoid any transaction reporting requirement imposed by law; and (b) The total represented value of the property involved in such financial transaction or transactions exceeds one hundred twenty-five thousand dollars. Money laundering in support of terrorism in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 470 - Money Laundering470.25 - Money Laundering; Fines.

1. Any person convicted of a violation of section 470.05, 470.10, 470.15, or 470.20 of this article may be sentenced to pay a fine not in excess of two times the value of the monetary instruments which are the proceeds of specified criminal activity. When a fine is imposed pursuant to this subdivision, the court shall make a finding as to the value of such monetary instrument or instruments. If the record does not contain sufficient evidence to support such a finding the court may conduct a hearing upon the issue. In imposing a fine, the court shall consider the seriousness of the conduct, whether the amount of the fine is disproportionate to the conduct in which he engaged, its impact on victims, as well as the economic circumstances of the convicted person, including the effect of the imposition of such a fine upon his immediate family. 2. The imposition of a fine pursuant to subdivision one of this section or paragraph b of subdivision one of section 80.00 of this chapter, shall preclude the imposition of any other order or judgment of forfeiture or fine based upon the same criminal conduct.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 480 - Criminal Forfeiture - Felony Controlled Substance Offenses480.00 - Definitions.

The following definitions are applicable to this article. 1. "Felony offense" means only a felony defined in article two hundred twenty of this chapter, or an attempt or conspiracy to commit any such felony, provided such attempt or conspiracy is punishable as a felony, or solicitation of any such felony provided such solicitation is punishable as a felony. 2. "Property" means real property, personal property, money, negotiable instruments, securities, or anything of value or an interest in a thing of value. 3. "Proceeds" means any property obtained by a defendant through the commission of a felony controlled substance offense, and includes any appreciation in value of such property. 4. "Substituted proceeds" means any property obtained by a defendant by the sale or exchange of proceeds of a felony controlled substance offense, and any gain realized by such sale or exchange. 5. "Instrumentality of a felony controlled substance offense" means any property, other than real property and any buildings, fixtures, appurtenances, and improvements thereon, whose use contributes directly and materially to the commission of a felony controlled substance offense. 6. "Real property instrumentality of a crime" means an interest in real property the use of which contributes directly and materially to the commission of a specified felony offense. 7. "Specified felony offense" means:(a) a conviction of a person for a violation of section 220.18, 220.21, 220.41, 220.43, or 220.77 of this chapter, or where the accusatory instrument charges one or more of such offenses, conviction upon a plea of guilty to any of the felonies for which such plea is otherwise authorized by law or a

conviction of a person for conspiracy to commit a violation of section 220.18, 220.21, 220.41, 220.43, or 220.77 of this chapter, where the controlled substances which are the object of the conspiracy are located in the real property which is the subject of the forfeiture action; or(b) three or more violations of any of the felonies defined in section 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43 or 220.77 of this chapter, which violations do not constitute a single criminal offense as defined in subdivision one of section 40.10 of the criminal procedure law, or a single criminal transaction, as defined in paragraph (a) of subdivision two of section 40.10 of the criminal procedure law, and at least one of which resulted in a conviction of such offense, or where the accusatory instrument charges one or more of such felonies, conviction upon a plea of guilty to a felony for which such plea is otherwise authorized by law; or(c) a conviction of a person for a violation of section 220.09, 220.16, 220.34 or 220.39 of this chapter, or where the accusatory instrument charges any such felony, conviction upon a plea of guilty to a felony for which the plea is otherwise authorized by law, together with evidence which: (i) provides substantial indicia that the defendant used the real property to engage in a continual, ongoing course of conduct involving the unlawful mixing, compounding, manufacturing, warehousing, or packaging of controlled substances as part of an illegal trade or business for gain; and (ii) establishes, where the conviction is for possession of a controlled substance, that such possession was with the intent to sell it. (a) a conviction of a person for a violation of section 220.18, 220.21, 220.41, 220.43, or 220.77 of this chapter, or where the accusatory instrument charges one or more of such offenses, conviction upon a plea of guilty to any of the felonies for which such plea is otherwise authorized by law or a conviction of a person for conspiracy to commit a violation of section 220.18, 220.21, 220.41, 220.43, or 220.77 of this chapter, where the controlled substances which are the object of the conspiracy are located in the real property which is the subject of the forfeiture action; or (b) three or more violations of any of the felonies defined in section 220.09, 220.16, 220.18, 220.21, 220.31, 220.34, 220.39, 220.41, 220.43 or 220.77 of this chapter, which violations do not constitute a single criminal offense as defined in subdivision one of section 40.10 of the criminal procedure law, or a single criminal transaction, as defined in paragraph (a) of subdivision two of section 40.10 of the criminal procedure law, and at least one of which resulted in a conviction of such offense, or where the accusatory instrument charges one or more of such felonies, conviction upon a plea of guilty to a felony for which such plea is otherwise authorized by law; or (c) a conviction of a person for a violation of section 220.09, 220.16, 220.34 or 220.39 of this chapter, or where the accusatory instrument charges any such felony, conviction upon a plea of guilty to a felony for which the plea is otherwise authorized by law, together with evidence which: (i) provides substantial indicia that the defendant used the real property to engage in a continual, ongoing course of conduct involving the unlawful mixing, compounding, manufacturing, warehousing, or packaging of controlled substances as part of an illegal trade or business for gain; and (ii) establishes, where the conviction is for possession of a controlled substance, that such possession was with the intent to sell it.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 480 - Criminal Forfeiture - Felony Controlled Substance Offenses480.05 - Felony Controlled Substance Offenses; Forfeiture.

1. When any person is convicted of a felony offense, the following property is subject to forfeiture pursuant to this article:(a) any property constituting the proceeds or substituted proceeds of such offense, unless the forfeiture is disproportionate to the defendant's gain from or participation in the offense, in which event the trier of fact may direct forfeiture of a portion thereof; and(b) any property constituting an instrumentality of such offense, other than a real property instrumentality of a crime, unless such forfeiture is disproportionate to the defendant's gain from or participation in the offense, in which event the trier of fact may direct forfeiture of a portion thereof.2. When any person is convicted of a specified offense, the real property instrumentality of such specified offense is subject to forfeiture pursuant to this article, unless such forfeiture is disproportionate to the defendant's gain from or participation in the offense, in which event the trier of fact may direct forfeiture of a portion thereof.3. Property acquired in good faith by an attorney as payment for the reasonable and bona fide fees of legal services or reimbursement of reasonable and bona fide expenses related to the representation of a defendant in connection with a civil or criminal forfeiture proceeding or a related criminal matter, shall be exempt from a judgment of forfeiture. For purposes of this subdivision, "bona fide" means that the attorney who acquired such property had no reasonable basis to believe that the fee transaction was a fraudulent or sham transaction designed to shield property from forfeiture, hide its existence from governmental investigative agencies, or was conducted for any purpose other than legitimate. (a) any property constituting the proceeds or substituted proceeds of such offense, unless the forfeiture is disproportionate to the defendant's gain from or participation in the offense, in which event the trier of fact may direct forfeiture of a portion thereof; and (b) any property constituting an instrumentality of such offense, other than a real property instrumentality of a crime, unless such forfeiture is disproportionate to the defendant's gain from or participation in the offense, in which event the trier of fact may direct forfeiture of a portion thereof. 2. When any person is convicted of a specified offense, the real property instrumentality of such specified offense is subject to forfeiture pursuant to this article, unless such forfeiture is disproportionate to the defendant's gain from or participation in the offense, in which event the trier of fact may direct forfeiture of a portion thereof. 3. Property acquired in good faith by an attorney as payment for the reasonable and bona fide fees of legal services or reimbursement of reasonable and bona fide expenses related to the representation of a defendant in connection with a civil or criminal forfeiture proceeding or a related criminal matter, shall be exempt from a judgment of forfeiture. For purposes of this subdivision, "bona fide" means that the attorney who acquired such property had no reasonable basis to believe that the fee transaction was a fraudulent or sham transaction designed to shield property from forfeiture, hide its existence from governmental investigative agencies, or was conducted for any purpose other than legitimate.

Title: pen

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle X - Organized Crime Control ActArticle 480 - Criminal Forfeiture - Felony Controlled Substance Offenses480.10 - Procedure.

1. After the grand jury votes to file an indictment charging a person with a felony offense as that term is defined in section 480.00 of this article, it may subsequently receive evidence that property is subject to forfeiture under this article. If such evidence is legally sufficient and provides reasonable cause to believe that such property is subject to forfeiture under this article, the grand jury shall file together with the indictment a special forfeiture information specifying the property for which forfeiture is sought and containing a plain and concise factual statement which sets forth the basis for the forfeiture. Alternatively, where the defendant has waived indictment and has consented to be prosecuted for a felony offense by superior court information pursuant to article one hundred ninety-five of the criminal procedure law, the prosecutor may, in addition to the superior court information, file a special forfeiture information specifying the property for which the forfeiture is sought and containing a plain and concise factual statement which sets forth the basis for the forfeiture. 2. At any time before entry of a plea of guilty to an indictment or commencement of a trial thereof, the prosecutor may file a superseding special forfeiture information in the same court in accordance with the provisions of subdivision one of this section. Upon the filing of such a superseding forfeiture information the court must, upon application of the defendant, order any adjournment of the proceedings which may, by reason of such superseding special forfeiture information, be necessary to accord the defendant adequate opportunity to prepare his defense of the forfeiture action. 3. A motion to inspect and reduce made pursuant to section 210.20 of the criminal procedure law may seek modification of a special forfeiture information dismissing a claim with respect to any property interest therein where the court finds the evidence before the grand jury was legally insufficient to support a claim against such interest. 4. The prosecutor shall promptly file a copy of the special forfeiture information, including the terms thereof, with the state division of criminal justice services and with the local agency responsible for criminal justice planning. Failure to file such information shall not be grounds for any relief under this chapter. The prosecutor shall also report such demographic data as required by the state division of criminal justice services when filing a copy of the special forfeiture information with the state division of criminal justice services. 5. In addition to information required to be disclosed pursuant to article two hundred forty-five of the criminal procedure law, when forfeiture is sought pursuant to this article, and following the defendant's arraignment on the special forfeiture information, the court shall order discovery of any information not otherwise disclosed which is material and reasonably necessary for preparation by the defendant with respect to a forfeiture proceeding brought pursuant to this article. Such material shall include those portions of the grand jury minutes and such other information which pertain solely to the special forfeiture information and shall not include information which pertains to the criminal charges. Upon application of the prosecutor, the court may issue a protective order pursuant to section 245.70 of the criminal procedure law with respect to any information required to be disclosed pursuant to this subdivision. 6. (a) Trial of forfeiture counts by jury or by the court. Evidence which relates solely to the issue of forfeiture shall not be presented during the trial on the underlying felony offense or specified felony offense, and the defendant shall not be required to present such evidence prior to the verdict on such offense. A defendant who does not present evidence in his defense with respect to the trial of the underlying offense is not precluded on account thereof from presenting evidence during the trial of the forfeiture count or counts.(b) Trial of forfeiture counts by the jury. After returning a verdict of guilty of a felony offense or specified felony offense, or where the defendant has pled guilty to a felony offense or a specified felony offense and has not waived a jury trial of the forfeiture count or counts pursuant to article three hundred twenty of the criminal procedure law, the jury shall be given the forfeiture information and shall hear any additional evidence which is relevant and legally admissible upon the forfeiture count or counts. After hearing such evidence, the jury shall then deliberate upon the forfeiture count or counts, and based upon all the evidence admitted in connection with the indictment or superior court information and the forfeiture information, may, if satisfied by proof beyond a reasonable doubt that the property, or a portion thereof, is subject to forfeiture pursuant to this article, return a verdict directing that such property, or portion thereof, is subject to forfeiture.(c) Trial of forfeiture counts by the court. Where a defendant has waived a jury trial of the forfeiture count or counts pursuant to article three hundred twenty of the criminal procedure law, the court shall hear all evidence upon the forfeiture information and may, if satisfied by proof beyond a reasonable doubt that the property, or a portion thereof, is subject to forfeiture under this article, render a verdict determining that such property, or a portion thereof, is subject to forfeiture under this article.(d) After the verdict of forfeiture, the court shall hear arguments and may receive additional evidence upon a motion of the defendant that the verdict of forfeiture (i) is against the weight of the evidence, or (ii) is, with respect to a forfeiture pursuant to this article, disproportionate to the defendant's gain from the offense, or the defendant's interest in the property, or the defendant's participation in the conduct upon which the forfeiture is based. Upon such a finding, the court may in the interest of justice set aside, modify, limit or otherwise condition the verdict of forfeiture.7. A final judgment or order of forfeiture issued pursuant to this article shall authorize the prosecutor to seize all property directed to be forfeited under this article upon such terms and conditions as the court deems proper. If a property right is not exercisable or transferable for value by the prosecutor, it shall expire and shall not revert to the convicted person.8. Where the forfeited property consists of real property, the court may at any time prior to a verdict of forfeiture, enter an order pursuant to subdivision four-a of section thirteen hundred eleven of the civil practice law and rules.9. No person shall forfeit any right, title, or interest in any property under this article who has not been convicted of a felony offense or specified felony offense, as the case may be. Any person claiming an interest in property subject to forfeiture may institute a special proceeding to determine that claim, before or after the trial, pursuant to section thirteen hundred twenty-seven of the civil practice law and rules; provided, however, that if such special proceeding is initiated before trial on the forfeiture count or counts, it may,

upon written motion of the prosecutor, and in the court's discretion, be postponed by the court until completion of the trial. In addition, any person claiming an interest in property subject to forfeiture may petition for remission as provided for in subdivision seven of section thirteen hundred eleven of the civil practice law and rules.10. Testimony of the defendant or evidence derived therefrom introduced in the trial of the forfeiture count may not be used by the prosecution in any post-trial motion proceedings, appeals, or retrials relating to the defendant's criminal liability for the underlying criminal offense unless the defendant has previously referred to such evidence in such post-trial proceeding, appeal, or retrial relating to the underlying offense and the evidence is presented by the prosecutor in response thereto. Upon vacatur or reversal on appeal of a judgment of conviction upon which a verdict of forfeiture is based, any verdict of forfeiture which is based upon such conviction shall also be vacated or reversed. (b) Trial of forfeiture counts by the jury. After returning a verdict of guilty of a felony offense or specified felony offense, or where the defendant has pled guilty to a felony offense or a specified felony offense and has not waived a jury trial of the forfeiture count or counts pursuant to article three hundred twenty of the criminal procedure law, the jury shall be given the forfeiture information and shall hear any additional evidence which is relevant and legally admissible upon the forfeiture count or counts. After hearing such evidence, the jury shall then deliberate upon the forfeiture count or counts, and based upon all the evidence admitted in connection with the indictment or superior court information and the forfeiture information, may, if satisfied by proof beyond a reasonable doubt that the property, or a portion thereof, is subject to forfeiture pursuant to this article, return a verdict directing that such property, or portion thereof, is subject to forfeiture. (c) Trial of forfeiture counts by the court. Where a defendant has waived a jury trial of the forfeiture count or counts pursuant to article three hundred twenty of the criminal procedure law, the court shall hear all evidence upon the forfeiture information and may, if satisfied by proof beyond a reasonable doubt that the property, or a portion thereof, is subject to forfeiture under this article, render a verdict determining that such property, or a portion thereof, is subject to forfeiture under this article. (d) After the verdict of forfeiture, the court shall hear arguments and may receive additional evidence upon a motion of the defendant that the verdict of forfeiture (i) is against the weight of the evidence, or (ii) is, with respect to a forfeiture pursuant to this article, disproportionate to the defendant's gain from the offense, or the defendant's interest in the property, or the defendant's participation in the conduct upon which the forfeiture is based. Upon such a finding, the court may in the interest of justice set aside, modify, limit or otherwise condition the verdict of forfeiture. 7. A final judgment or order of forfeiture issued pursuant to this article shall authorize the prosecutor to seize all property directed to be forfeited under this article upon such terms and conditions as the court deems proper. If a property right is not exercisable or transferable for value by the prosecutor, it shall expire and shall not revert to the convicted person. 8. Where the forfeited property consists of real property, the court may at any time prior to a verdict of forfeiture, enter an order pursuant to subdivision four-a of section thirteen hundred eleven of the civil practice law and rules. 9. No person shall forfeit any right, title, or interest in any property under this article who has not been convicted of a felony offense or specified felony offense, as the case may be. Any person claiming an interest in property subject to forfeiture may institute a special proceeding to determine that claim, before or after the trial, pursuant to section thirteen hundred twenty-seven of the civil practice law and rules; provided, however, that if such special proceeding is initiated before trial on the forfeiture count or counts, it may, upon written motion of the prosecutor, and in the court's discretion, be postponed by the court until completion of the trial. In addition, any person claiming an interest in property subject to forfeiture may petition for remission as provided for in subdivision seven of section thirteen hundred eleven of the civil practice law and rules. 10. Testimony of the defendant or evidence derived therefrom introduced in the trial of the forfeiture count may not be used by the prosecution in any post-trial motion proceedings, appeals, or retrials relating to the defendant's criminal liability for the underlying criminal offense unless the defendant has previously referred to such evidence in such post-trial proceeding, appeal, or retrial relating to the underlying offense and the evidence is presented by the prosecutor in response thereto. Upon vacatur or reversal on appeal of a judgment of conviction upon which a verdict of forfeiture is based, any verdict of forfeiture which is based upon such conviction shall also be vacated or reversed.

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All property which is forfeited pursuant to this article shall be disposed of in accordance with the provisions of section thirteen hundred forty-nine of the civil practice law and rules. All reports required to be filed pursuant to article thirteen-A of such law and rules by a claiming authority shall be filed by the prosecutor in a forfeiture action brought pursuant to this article.

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The imposition of a judgment or order of forfeiture pursuant to this article with respect to a defendant's interest in property shall preclude the imposition of a judgment or order of forfeiture with respect to such interest in property pursuant to the provisions of any other state or local law based upon the same criminal conduct.

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1. The provisional remedies authorized by article thirteen-A of the civil practice law and rules shall be available in an action for criminal forfeiture pursuant to this article to the extent and under the same terms, conditions and limitations as provided in article thirteen-A of such law and rules, except as specifically provided herein. 2. Upon the filing of an indictment and special forfeiture

information, or a superior court information and special forfeiture information, seeking forfeiture pursuant to this article, all further proceedings with respect to provisional remedies shall be heard by the judge or justice in the criminal part to which the criminal action is assigned. 3. For purposes of this section, the indictment and special forfeiture information or superior court information and special forfeiture information seeking criminal forfeiture shall constitute the summons with notice or summons and verified complaint referred to in article thirteen-A of the civil practice law and rules.

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1. In a criminal forfeiture proceeding commenced pursuant to this article, the following rebuttable presumption shall apply: all currency or negotiable instruments payable to the bearer shall be presumed to be the proceeds of a felony offense when such currency or negotiable instruments are (i) found in close proximity to a controlled substance unlawfully possessed by the defendant in an amount sufficient to constitute a violation of section 220.18 or 220.21 of the penal law, or (ii) found in close proximity to any quantity of a controlled substance or marihuana unlawfully possessed by such defendant in a room, other than a public place, under circumstances evincing an intent to unlawfully mix, compound, package, distribute or otherwise prepare for sale such controlled substance or marihuana. 2. The presumption established by this section shall be rebutted by credible and reliable evidence which tends to show that such currency or negotiable instruments payable to the bearer is not the proceeds of a felony offense. In an action tried before a jury, the jury shall be so instructed. Any sworn testimony of a defendant offered to rebut the presumption and any other evidence which is obtained as a result of such testimony, shall be inadmissible in any subsequent proceeding relating to the forfeiture action, or in any other civil or criminal action, except in a prosecution for a violation of article two hundred ten of this chapter. In an action tried before a jury, at the commencement of the trial, or at such other time as the court reasonably directs, the prosecutor shall provide notice to the court and to the defendant of its intent to request that the court charge such presumption.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-1 - Enacted Without Title Heading.Article 490 - Terrorism490.00 - Legislative Findings.

The devastating consequences of the recent barbaric attack on the World Trade Center and the Pentagon underscore the compelling need for legislation that is specifically designed to combat the evils of terrorism. Indeed, the bombings of American embassies in Kenya and Tanzania in 1998, the federal building in Oklahoma City in 1995, Pan Am Flight number 103 in Lockerbie in 1988, the 1997 shooting atop the Empire State Building, the 1994 murder of Ari Halberstam on the Brooklyn Bridge and the 1993 bombing of the World Trade Center, will forever serve to remind us that terrorism is a serious and deadly problem that disrupts public order and threatens individual safety both at home and around the world. Terrorism is inconsistent with civilized society and cannot be tolerated. Although certain federal laws seek to curb the incidence of terrorism, there are no corresponding state laws that facilitate the prosecution and punishment of terrorists in state courts. Inexplicably, there is also no criminal penalty in this state for a person who solicits or raises funds for, or provides other material support or resources to, those who commit or encourage the commission of horrific and cowardly acts of terrorism. Nor do our criminal laws proscribe the making of terrorist threats or punish with appropriate severity those who hinder the prosecution of terrorists. Finally, our death penalty statute must be strengthened so that the cold-blooded execution of an individual for terrorist purposes is a capital offense. A comprehensive state law is urgently needed to complement federal laws in the fight against terrorism and to better protect all citizens against terrorist acts. Accordingly, the legislature finds that our laws must be strengthened to ensure that terrorists, as well as those who solicit or provide financial and other support to terrorists, are prosecuted and punished in state courts with appropriate severity.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-1 - Enacted Without Title Heading.Article 490 - Terrorism490.01 - Liability Protection.

1. Any person who makes a qualified disclosure of suspicious behavior shall be immune from civil and criminal liability for reporting such behavior. 2. For purposes of this article, "qualified disclosure of suspicious behavior" means any disclosure of allegedly suspicious behavior of another individual or individuals to any person that is made in good faith and with the reasonable belief that such suspicious behavior constitutes, is indicative of, or is in furtherance of a crime or an act of terrorism. 3. An action alleging that a statement or disclosure by a person of any suspicious transaction, activity or occurrence indicating that an individual may be engaging in or preparing to engage in suspicious behavior which constitutes, is indicative of, or is in furtherance of, a crime or an act of terrorism was not made in good faith and with the reasonable belief that such suspicious behavior constitutes, is indicative of, or is in furtherance of, a crime or an act of terrorism must be pled with particularity pursuant to subdivision (b) of rule three thousand sixteen of the civil practice law and rules.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-1 - Enacted Without Title Heading.Article 490 - Terrorism490.05 - Definitions.

As used in this article, the following terms shall mean and include: 1. "Act of terrorism":(a) for purposes of this article means an act or acts constituting a specified offense as defined in subdivision three of this section for which a person may be convicted in the criminal courts of this state pursuant to article twenty of the criminal procedure law, or an act or acts constituting an offense in any other jurisdiction within or outside the territorial boundaries of the United States which contains all of the essential elements of a

specified offense, that is intended to:(i) intimidate or coerce a civilian population;(ii) influence the policy of a unit of government by intimidation or coercion; or(iii) affect the conduct of a unit of government by murder, assassination or kidnapping; or(b) for purposes of subparagraph (xiii) of paragraph (a) of subdivision one of section 125.27 of this chapter means activities that involve a violent act or acts dangerous to human life that are in violation of the criminal laws of this state and are intended to:(i) intimidate or coerce a civilian population;(ii) influence the policy of a unit of government by intimidation or coercion; or(iii) affect the conduct of a unit of government by murder, assassination or kidnapping.2. "Material support or resources" means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials.3. (a) "Specified offense" for purposes of this article means a class A felony offense other than an offense as defined in article two hundred twenty, a violent felony offense as defined in section 70.02, manslaughter in the second degree as defined in section 125.15, criminal tampering in the first degree as defined in section 145.20, identity theft in the second degree as defined in section 190.79, identity theft in the first degree as defined in section 190.80, unlawful possession of personal identification information in the second degree as defined in section 190.82, unlawful possession of personal identification information in the first degree as defined in section 190.83, money laundering in support of terrorism in the fourth degree as defined in section 470.21, money laundering in support of terrorism in the third degree as defined in section 470.22, money laundering in support of terrorism in the second degree as defined in section 470.23, money laundering in support of terrorism in the first degree as defined in section 470.24 of this chapter, and includes an attempt or conspiracy to commit any such offense.(b) Notwithstanding the provisions of paragraph (a) of this subdivision, a specified offense shall not mean an offense defined in sections 490.37, 490.40, 490.45, 490.47, 490.50, and 490.55 of this article, nor shall a specified offense mean an attempt to commit any such offense.4. "Renders criminal assistance" for purposes of sections 490.30 and 490.35 of this article shall have the same meaning as in section 205.50 of this chapter.5. "Biological agent" means any micro-organism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such micro-organism, virus, infectious substance, or biological product, capable of causing:(a) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism;(b) deterioration of food, water, equipment, supplies, or material of any kind; or(c) deleterious alteration of the environment.6. "Toxin" means the toxic material of plants, animals, micro-organisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including:(a) any poisonous substance or biological product that may be engineered as a result of biotechnology produced by a living organism; or(b) any poisonous isomer or biological product, homolog, or derivative of such a substance.7. "Delivery system" means:(a) any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector; or(b) any vector.8. "Vector" means a living organism, or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology, capable of carrying a biological agent or toxin to a host.9. "Biological weapon" means any biological agent, toxin, vector, or delivery system or combination thereof.10. "Chemical weapon" means the following, together or separately:(a) a toxic chemical or its precursors;(b) a munition or device specifically designed to cause death or other harm through the toxic properties of a toxic chemical or its precursors, which would be released as a result of the employment of such munition or device;(c) any equipment specifically designed for use directly in connection with the employment of munitions or devices; or(d) any device that is designed to release radiation or radioactivity at a level dangerous to human life.11. "Precursor" means any chemical reactant that takes part at any stage in the production by whatever method of a toxic chemical, including any key component of a binary or multicomponent chemical system, and includes precursors which have been identified for application of verification measures under article VI of the convention in schedules contained in the annex on chemicals of the chemical weapons convention.12. "Key component of a binary or multicomponent chemical system" means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system.13. "Toxic chemical" means any chemical which through its chemical action on life processes can cause death, serious physical injury or permanent harm to humans or animals, including all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere, and includes toxic chemicals which have been identified by the commissioner of health and included on the list of toxic chemicals pursuant to subdivision twenty of section two hundred six of the public health law.14. The terms "biological agent", "toxin", and "toxic chemical" do not include any biological agent, toxin or toxic chemical that is in its naturally occurring environment, if the biological agent, toxin or toxic chemical has not been cultivated, collected, or otherwise extracted from its natural source.15. "Select chemical agent" shall mean a chemical weapon which has been identified in regulations promulgated pursuant to subdivision twenty of section two hundred six of the public health law.16. "Select biological agent" shall mean a biological weapon which has been identified in regulations promulgated pursuant to subdivision twenty-one of section two hundred six of the public health law.17. "Chemical weapons convention" and "convention" mean the convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction, opened for signature on January thirteenth, nineteen hundred ninety-three. (a) for purposes of this article means an act or acts constituting a specified offense as defined in subdivision three of this section for which a person may be convicted in the criminal courts of this state pursuant to article twenty of the criminal procedure law, or an act or acts constituting an offense in any other jurisdiction within or outside the territorial boundaries of the United States which contains all of the essential elements of a specified offense, that is intended to: (i) intimidate or coerce a civilian population; (ii) influence the policy of a unit of government by intimidation or coercion; or (iii) affect the conduct of a unit of government by murder, assassination or kidnapping; or (b) for purposes of subparagraph (xiii) of paragraph (a) of subdivision one of section 125.27 of this

chapter means activities that involve a violent act or acts dangerous to human life that are in violation of the criminal laws of this state and are intended to: (i) intimidate or coerce a civilian population; (ii) influence the policy of a unit of government by intimidation or coercion; or (iii) affect the conduct of a unit of government by murder, assassination or kidnapping. 2. "Material support or resources" means currency or other financial securities, financial services, lodging, training, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, transportation, and other physical assets, except medicine or religious materials. 3. (a) "Specified offense" for purposes of this article means a class A felony offense other than an offense as defined in article two hundred twenty, a violent felony offense as defined in section 70.02, manslaughter in the second degree as defined in section 125.15, criminal tampering in the first degree as defined in section 145.20, identity theft in the second degree as defined in section 190.79, identity theft in the first degree as defined in section 190.80, unlawful possession of personal identification information in the second degree as defined in section 190.82, unlawful possession of personal identification information in the first degree as defined in section 190.83, money laundering in support of terrorism in the fourth degree as defined in section 470.21, money laundering in support of terrorism in the third degree as defined in section 470.22, money laundering in support of terrorism in the second degree as defined in section 470.23, money laundering in support of terrorism in the first degree as defined in section 470.24 of this chapter, and includes an attempt or conspiracy to commit any such offense. (b) Notwithstanding the provisions of paragraph (a) of this subdivision, a specified offense shall not mean an offense defined in sections 490.37, 490.40, 490.45, 490.47, 490.50, and 490.55 of this article, nor shall a specified offense mean an attempt to commit any such offense. 4. "Renders criminal assistance" for purposes of sections 490.30 and 490.35 of this article shall have the same meaning as in section 205.50 of this chapter. 5. "Biological agent" means any micro-organism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of any such micro-organism, virus, infectious substance, or biological product, capable of causing: (a) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism; (b) deterioration of food, water, equipment, supplies, or material of any kind; or (c) deleterious alteration of the environment. 6. "Toxin" means the toxic material of plants, animals, micro-organisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including: (a) any poisonous substance or biological product that may be engineered as a result of biotechnology produced by a living organism; or (b) any poisonous isomer or biological product, homolog, or derivative of such a substance. 7. "Delivery system" means: (a) any apparatus, equipment, device, or means of delivery specifically designed to deliver or disseminate a biological agent, toxin, or vector; or (b) any vector. 8. "Vector" means a living organism, or molecule, including a recombinant molecule, or biological product that may be engineered as a result of biotechnology, capable of carrying a biological agent or toxin to a host. 9. "Biological weapon" means any biological agent, toxin, vector, or delivery system or combination thereof. 10. "Chemical weapon" means the following, together or separately: (a) a toxic chemical or its precursors; (b) a munition or device specifically designed to cause death or other harm through the toxic properties of a toxic chemical or its precursors, which would be released as a result of the employment of such munition or device; (c) any equipment specifically designed for use directly in connection with the employment of munitions or devices; or (d) any device that is designed to release radiation or radioactivity at a level dangerous to human life. 11. "Precursor" means any chemical reactant that takes part at any stage in the production by whatever method of a toxic chemical, including any key component of a binary or multicomponent chemical system, and includes precursors which have been identified for application of verification measures under article VI of the convention in schedules contained in the annex on chemicals of the chemical weapons convention. 12. "Key component of a binary or multicomponent chemical system" means the precursor which plays the most important role in determining the toxic properties of the final product and reacts rapidly with other chemicals in the binary or multicomponent system. 13. "Toxic chemical" means any chemical which through its chemical action on life processes can cause death, serious physical injury or permanent harm to humans or animals, including all such chemicals, regardless of their origin or of their method of production, and regardless of whether they are produced in facilities, in munitions or elsewhere, and includes toxic chemicals which have been identified by the commissioner of health and included on the list of toxic chemicals pursuant to subdivision twenty of section two hundred six of the public health law. 14. The terms "biological agent", "toxin", and "toxic chemical" do not include any biological agent, toxin or toxic chemical that is in its naturally occurring environment, if the biological agent, toxin or toxic chemical has not been cultivated, collected, or otherwise extracted from its natural source. 15. "Select chemical agent" shall mean a chemical weapon which has been identified in regulations promulgated pursuant to subdivision twenty of section two hundred six of the public health law. 16. "Select biological agent" shall mean a biological weapon which has been identified in regulations promulgated pursuant to subdivision twenty-one of section two hundred six of the public health law. 17. "Chemical weapons convention" and "convention" mean the convention on the prohibition of the development, production, stockpiling and use of chemical weapons and on their destruction, opened for signature on January thirteenth, nineteen hundred ninety-three.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-1 - Enacted Without Title Heading.Article 490 - Terrorism490.10 - Soliciting or Providing Support for an Act of Terrorism in the Second Degree.

second degree. A person commits soliciting or providing support for an act of terrorism in the second degree when, with intent that material support or resources will be used, in whole or in part, to plan, prepare, carry out or aid in either an act of terrorism or the concealment of, or an escape from, an act of terrorism, he or she raises, solicits, collects or provides material support or resources. Soliciting or providing support for an act of terrorism in the second degree is a class D felony.

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2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-1 - Enacted Without Title Heading.Article 490 - Terrorism490.15 - Soliciting or Providing Support for an Act of Terrorism in the First Degree.

first degree. A person commits soliciting or providing support for an act of terrorism in the first degree when he or she commits the crime of soliciting or providing support for an act of terrorism in the second degree and the total value of material support or resources exceeds one thousand dollars. Soliciting or providing support for an act of terrorism in the first degree is a class C felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-1 - Enacted Without Title Heading.Article 490 - Terrorism490.20 - Making a Terroristic Threat.

1. A person is guilty of making a terroristic threat when with intent to intimidate or coerce a civilian population, influence the policy of a unit of government by intimidation or coercion, or affect the conduct of a unit of government by murder, assassination or kidnapping, he or she threatens to commit or cause to be committed a specified offense and thereby causes a reasonable expectation or fear of the imminent commission of such offense. 2. It shall be no defense to a prosecution pursuant to this section that the defendant did not have the intent or capability of committing the specified offense or that the threat was not made to a person who was a subject thereof. Making a terroristic threat is a class D felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-1 - Enacted Without Title Heading.Article 490 - Terrorism490.25 - Crime of Terrorism.

1. A person is guilty of a crime of terrorism when, with intent to intimidate or coerce a civilian population, influence the policy of a unit of government by intimidation or coercion, or affect the conduct of a unit of government by murder, assassination or kidnapping, he or she commits a specified offense. 2. Sentencing.(a) When a person is convicted of a crime of terrorism pursuant to this section, and the specified offense is a class B, C, D or E felony offense, the crime of terrorism shall be deemed a violent felony offense.(b) When a person is convicted of a crime of terrorism pursuant to this section, and the specified offense is a class C, D or E felony offense, the crime of terrorism shall be deemed to be one category higher than the specified offense the defendant committed, or one category higher than the offense level applicable to the defendant's conviction for an attempt or conspiracy to commit the offense, whichever is applicable.(c) When a person is convicted of a crime of terrorism pursuant to this section, and the specified offense is a class B felony offense, the crime of terrorism shall be deemed a class A-I felony offense and the sentence imposed upon conviction of such offense shall be in accordance with section 70.00 of this chapter.(d) Notwithstanding any other provision of law, when a person is convicted of a crime of terrorism pursuant to this section, and the specified offense is a class A-I felony offense, the sentence upon conviction of such offense shall be life imprisonment without parole; provided, however, that nothing herein shall preclude or prevent a sentence of death when the specified offense is murder in the first degree as defined in section 125.27 of this chapter. (a) When a person is convicted of a crime of terrorism pursuant to this section, and the specified offense is a class B, C, D or E felony offense, the crime of terrorism shall be deemed a violent felony offense. (b) When a person is convicted of a crime of terrorism pursuant to this section, and the specified offense is a class C, D or E felony offense, the crime of terrorism shall be deemed to be one category higher than the specified offense the defendant committed, or one category higher than the offense level applicable to the defendant's conviction for an attempt or conspiracy to commit the offense, whichever is applicable. (c) When a person is convicted of a crime of terrorism pursuant to this section, and the specified offense is a class B felony offense, the crime of terrorism shall be deemed a class A-I felony offense and the sentence imposed upon conviction of such offense shall be in accordance with section 70.00 of this chapter. (d) Notwithstanding any other provision of law, when a person is convicted of a crime of terrorism pursuant to this section, and the specified offense is a class A-I felony offense, the sentence upon conviction of such offense shall be life imprisonment without parole; provided, however, that nothing herein shall preclude or prevent a sentence of death when the specified offense is murder in the first degree as defined in section 125.27 of this chapter.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-1 - Enacted Without Title Heading.Article 490 - Terrorism490.27 - Domestic Act of Terrorism Motivated by Hate in the Second Degree.

degree. A person is guilty of the crime of domestic act of terrorism motivated by hate in the second degree when, acting with the intent to cause the death of, or serious physical injury to, five or more other persons, in whole or in substantial part because of the perceived race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability, or sexual orientation of such other persons, regardless of whether that belief or perception is correct, he or she, as part of the same criminal transaction, attempts to cause the death of, or serious physical injury to, such five or more persons, provided that the victims are not participants in the criminal transaction. Domestic act of terrorism motivated by hate in the second degree is a class A-I felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-1 - Enacted Without Title Heading.Article 490 - Terrorism490.28 - Domestic Act of Terrorism Motivated by Hate in the First Degree.

degree. A person is guilty of the crime of domestic act of terrorism motivated by hate in the first degree when, acting with the intent to cause the death of, or serious physical injury to, five or more other persons, in whole or in substantial part because of the

perceived race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability, or sexual orientation of such other person or persons, regardless of whether that belief or perception is correct, he or she, as part of the same criminal transaction: 1. causes the death of at least one other person, provided that the victim or victims are not a participant in the criminal transaction; and 2. causes or attempts to cause the death of four or more additional other persons, provided that the victims are not a participant in the criminal transaction; and 3. the defendant was more than eighteen years old at the time of the commission of the crime. Domestic act of terrorism motivated by hate in the first degree is a class A-I felony. Notwithstanding any other provision of law, when a person is convicted of domestic act of terrorism motivated by hate in the first degree, the sentence shall be life imprisonment without parole.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-1 - Enacted Without Title Heading.Article 490 - Terrorism490.30 - Hindering Prosecution of Terrorism in the Second Degree.

A person is guilty of hindering prosecution of terrorism in the second degree when he or she renders criminal assistance to a person who has committed an act of terrorism, knowing or believing that such person engaged in conduct constituting an act of terrorism. Hindering prosecution of terrorism in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-1 - Enacted Without Title Heading.Article 490 - Terrorism490.35 - Hindering Prosecution of Terrorism in the First Degree.

A person is guilty of hindering prosecution of terrorism in the first degree when he or she renders criminal assistance to a person who has committed an act of terrorism that resulted in the death of a person other than one of the participants, knowing or believing that such person engaged in conduct constituting an act of terrorism. Hindering prosecution of terrorism in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-1 - Enacted Without Title Heading.Article 490 - Terrorism490.37 - Criminal Possession of a Chemical Weapon or Biological Weapon in the Third Degree.

in the third degree. A person is guilty of criminal possession of a chemical weapon or biological weapon in the third degree when he or she possesses any select chemical agent or select biological agent under circumstances evincing an intent by the defendant to use such weapon to cause serious physical injury or death to another person. Criminal possession of a chemical weapon or biological weapon in the third degree is a class C felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-1 - Enacted Without Title Heading.Article 490 - Terrorism490.40 - Criminal Possession of a Chemical Weapon or Biological Weapon in the Second Degree.

in the second degree. A person is guilty of criminal possession of a chemical weapon or biological weapon in the second degree when he or she possesses any chemical weapon or biological weapon with intent to use such weapon to: 1. (a) cause serious physical injury to, or the death of, another person; and(b) (i) intimidate or coerce a civilian population;(ii) influence the policy of a unit of government by intimidation or coercion; or(iii) affect the conduct of a unit of government by murder, assassination, or kidnapping.2. cause serious physical injury to, or the death of, more than two persons.Criminal possession of a chemical weapon or biological weapon in the second degree is a class B felony. (b) (i) intimidate or coerce a civilian population; (ii) influence the policy of a unit of government by intimidation or coercion; or (iii) affect the conduct of a unit of government by murder, assassination, or kidnapping. 2. cause serious physical injury to, or the death of, more than two persons. Criminal possession of a chemical weapon or biological weapon in the second degree is a class B felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-1 - Enacted Without Title Heading.Article 490 - Terrorism490.45 - Criminal Possession of a Chemical Weapon or Biological Weapon in the First Degree.

in the first degree. A person is guilty of criminal possession of a chemical weapon or biological weapon in the first degree when he or she possesses: 1. any select chemical agent, with intent to use such agent to:(a) cause serious physical injury to, or the death of, another person; and(b) (i) intimidate or coerce a civilian population;(ii) influence the policy of a unit of government by intimidation or coercion; or(iii) affect the conduct of a unit of government by murder, assassination, or kidnapping.2. any select chemical agent, with intent to use such agent to cause serious physical injury to, or the death of, more than two other persons; or3. any select biological agent, with intent to use such agent to cause serious physical injury to, or the death of, another person.Criminal possession of a chemical weapon or biological weapon in the first degree is a class A-I felony. (a) cause serious physical injury to, or the death of, another person; and (b) (i) intimidate or coerce a civilian population; (ii) influence the policy of a unit of government by intimidation or coercion; or (iii) affect the conduct of a unit of government by murder, assassination, or kidnapping. 2. any select chemical agent, with intent to use such agent to cause serious physical injury to, or the death of, more than two other persons; or 3. any select biological agent, with intent to use such agent to cause serious physical injury to, or the death of, another person. Criminal possession of a chemical weapon or biological weapon in the first degree is a class A-I felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-1 - Enacted Without Title Heading.Article 490 - Terrorism490.47 - Criminal Use of a Chemical Weapon or Biological Weapon in the Third Degree.

third degree. A person is guilty of criminal use of a chemical weapon or biological weapon in the third degree when, under circumstances evincing a depraved indifference to human life, he or she uses, deploys, releases, or causes to be used, deployed, or released any select chemical agent or select biological agent, and thereby creates a grave risk of death or serious physical injury to another person not a participant in the crime. Criminal use of a chemical weapon or biological weapon in the third degree is a class B felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-1 - Enacted Without Title Heading.Article 490 - Terrorism490.50 - Criminal Use of a Chemical Weapon or Biological Weapon in the Second Degree.

second degree. A person is guilty of criminal use of a chemical weapon or biological weapon in the second degree when he or she uses, deploys, releases, or causes to be used, deployed, or released, any chemical weapon or biological weapon, with intent to: 1. cause serious physical injury to, or the death of, another person; and 2. (a) intimidate or coerce a civilian population;(b) influence the policy of a unit of government by intimidation or coercion; or(c) to affect the conduct of a unit of government by murder, assassination, or kidnapping.Criminal use of a chemical weapon or biological weapon in the second degree is a class A-II felony. (b) influence the policy of a unit of government by intimidation or coercion; or (c) to affect the conduct of a unit of government by murder, assassination, or kidnapping. Criminal use of a chemical weapon or biological weapon in the second degree is a class A-II felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-1 - Enacted Without Title Heading.Article 490 - Terrorism490.55 - Criminal Use of a Chemical Weapon or Biological Weapon in the First Degree.

first degree. A person is guilty of criminal use of a chemical weapon or biological weapon in the first degree when: 1. with intent to:(a) cause serious physical injury to, or the death of, another person; and(b) (i) intimidate or coerce a civilian population;(ii) influence the policy of a unit of government by intimidation or coercion; or(iii) affect the conduct of a unit of government by murder, assassination, or kidnapping; he or she uses, deploys, releases, or causes to be used, deployed, or released any select chemical agent and thereby causes serious physical injury to, or the death of, another person who is not a participant in the crime.2. with intent to cause serious physical injury to, or the death of, more than two persons, he or she uses, deploys, releases, or causes to be used, deployed, or released any select chemical agent and thereby causes serious physical injury to, or the death of, more than two persons who are not participants in the crime; or3. with intent to cause serious physical injury to, or the death of, another person, he or she uses, deploys, releases, or causes to be used, deployed, or released any select biological agent and thereby causes serious physical injury to, or the death of, another person who is not a participant in the crime.Criminal use of a chemical weapon or biological weapon in the first degree is a class A-I felony. (a) cause serious physical injury to, or the death of, another person; and (b) (i) intimidate or coerce a civilian population; (ii) influence the policy of a unit of government by intimidation or coercion; or (iii) affect the conduct of a unit of government by murder, assassination, or kidnapping; he or she uses, deploys, releases, or causes to be used, deployed, or released any select chemical agent and thereby causes serious physical injury to, or the death of, another person who is not a participant in the crime. 2. with intent to cause serious physical injury to, or the death of, more than two persons, he or she uses, deploys, releases, or causes to be used, deployed, or released any select chemical agent and thereby causes serious physical injury to, or the death of, more than two persons who are not participants in the crime; or 3. with intent to cause serious physical injury to, or the death of, another person, he or she uses, deploys, releases, or causes to be used, deployed, or released any select biological agent and thereby causes serious physical injury to, or the death of, another person who is not a participant in the crime. Criminal use of a chemical weapon or biological weapon in the first degree is a class A-I felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-1 - Enacted Without Title Heading.Article 490 - Terrorism490.70 - Limitations.

1. The provisions of sections 490.37, 490.40, 490.45, 490.47, 490.50, and 490.55 of this article shall not apply where the defendant possessed or used:(a) any household product generally available for sale to consumers in this state in the quantity and concentration available for such sale;(b) a self-defense spray device in accordance with the provisions of paragraph fourteen of subdivision a of section 265.20 of this chapter;(c) a chemical weapon solely for a purpose not prohibited under this chapter, as long as the type and quantity is consistent with such a purpose; or(d) a biological agent, toxin, or delivery system solely for prophylactic, protective, bona fide research, or other peaceful purposes.2. For the purposes of this section, the phrase "purposes not prohibited by this chapter" means the following:(a) any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other peaceful activity;(b) any purpose directly related to protection against toxic chemicals and to protection against chemical weapons;(c) any military purpose of the United States that is not connected with the use of a chemical weapon or that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm; and(d) any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment. (a) any household product generally available for sale to consumers in this state in the quantity and concentration available for such sale; (b) a self-defense spray device in accordance with the provisions of paragraph fourteen of subdivision a of section 265.20 of this chapter; (c) a chemical weapon solely for a purpose not prohibited under this chapter, as long as the type and quantity is consistent with such a purpose; or (d) a biological agent, toxin, or delivery system solely for prophylactic, protective, bona fide research, or other peaceful purposes. 2. For the purposes of this section, the phrase "purposes not prohibited by this chapter" means the following: (a) any peaceful purpose related to an industrial, agricultural, research, medical, or pharmaceutical activity or other

peaceful activity; (b) any purpose directly related to protection against toxic chemicals and to protection against chemical weapons; (c) any military purpose of the United States that is not connected with the use of a chemical weapon or that is not dependent on the use of the toxic or poisonous properties of the chemical weapon to cause death or other harm; and (d) any law enforcement purpose, including any domestic riot control purpose and including imposition of capital punishment.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-2 - Corrupting the GovernmentArticle 496 - Corrupting the Government496.01 - Definitions.

For the purposes of this article, "scheme" means any plan, pattern, device, contrivance, or course of action.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-2 - Corrupting the GovernmentArticle 496 - Corrupting the Government496.02 - Corrupting the Government in the Fourth Degree.

A person is guilty of corrupting the government in the fourth degree when, being a public servant, or acting in concert with a public servant, he or she engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud the state or one or more political subdivisions of the state or one or more governmental instrumentalities within the state to obtain property, actual services or other resources, or obtain property, actual services or other resources from the state, or any political subdivision or governmental instrumentality of the state by false or fraudulent pretenses, representations or promises, and thereby wrongfully obtains such property, actual services or other resources. Corrupting the government in the fourth degree is a class E felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-2 - Corrupting the GovernmentArticle 496 - Corrupting the Government496.03 - Corrupting the Government in the Third Degree.

A person is guilty of corrupting the government in the third degree when, being a public servant, or acting in concert with a public servant, he or she engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud the state or one or more political subdivisions of the state or one or more governmental instrumentalities within the state to obtain property, actual services or other resources, or obtain property, actual services or other resources from the state, or any political subdivision or governmental instrumentality of the state by false or fraudulent pretenses, representations or promises, and thereby wrongfully obtains such property, actual services or other resources with a value in excess of one thousand dollars. Corrupting the government in the third degree is a class D felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-2 - Corrupting the GovernmentArticle 496 - Corrupting the Government496.04 - Corrupting the Government in the Second Degree.

A person is guilty of corrupting the government in the second degree when, being a public servant, or acting in concert with a public servant, he or she engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud the state or one or more political subdivisions of the state or one or more governmental instrumentalities within the state to obtain property, actual services or other resources, or obtain property, actual services or other resources from the state, or any political subdivision or governmental instrumentality of the state by false or fraudulent pretenses, representations or promises, and thereby wrongfully obtains such property, actual services or other resources with a value in excess of twenty thousand dollars. Corrupting the government in the second degree is a class C felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-2 - Corrupting the GovernmentArticle 496 - Corrupting the Government496.05 - Corrupting the Government in the First Degree.

A person is guilty of corrupting the government in the first degree when, being a public servant, or acting in concert with a public servant, he or she engages in a scheme constituting a systematic ongoing course of conduct with intent to defraud the state or one or more political subdivisions of the state or one or more governmental instrumentalities within the state to obtain property, actual services or other resources, or to obtain property, actual services or other resources from the state, or any political subdivision or governmental instrumentality of the state by false or fraudulent pretenses, representations or promises, and thereby wrongfully obtains such property, actual services or other resources with a value in excess of one hundred thousand dollars. Corrupting the government in the first degree is a class B felony.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-2 - Corrupting the GovernmentArticle 496 - Corrupting the Government496.06 - Public Corruption.

1. A person commits the crime of public corruption when: (a) (i) being a public servant he or she commits a specified offense through the use of his or her public office, or (ii) being a person acting in concert with such public servant he or she commits a specified offense, and (b) the state or any political subdivision thereof or any governmental instrumentality within the state is the owner of the property. 2. A "specified offense" is an offense defined by any of the following provisions of this chapter: section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in the second degree); section 155.42 (grand larceny in the first degree); section 190.60 (scheme to defraud in the second degree); or section 190.65 (scheme to defraud in the first degree).

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2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y-2 - Corrupting the GovernmentArticle 496 - Corrupting the Government496.07 - Sentencing.

When a person is convicted of the crime of public corruption pursuant to section 496.06 of this article and the specified offense is a class C, D or E felony, the crime shall be deemed to be one category higher than the specified offense the defendant committed, or one category higher than the offense level applicable to the defendant's conviction for an attempt or conspiracy to commit a specified offense, whichever is applicable.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y - Hate Crimes Act of 2000Article 485 - Hate Crimes485.00 - Legislative Findings.

The legislature finds and determines as follows: criminal acts involving violence, intimidation and destruction of property based upon bias and prejudice have become more prevalent in New York state in recent years. The intolerable truth is that in these crimes, commonly and justly referred to as "hate crimes", victims are intentionally selected, in whole or in part, because of their race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation. Hate crimes do more than threaten the safety and welfare of all citizens. They inflict on victims incalculable physical and emotional damage and tear at the very fabric of free society. Crimes motivated by invidious hatred toward particular groups not only harm individual victims but send a powerful message of intolerance and discrimination to all members of the group to which the victim belongs. Hate crimes can and do intimidate and disrupt entire communities and vitiate the civility that is essential to healthy democratic processes. In a democratic society, citizens cannot be required to approve of the beliefs and practices of others, but must never commit criminal acts on account of them. However, these criminal acts do occur and are occurring more and more frequently. Quite often, these crimes of hate are also acts of terror. The recent attacks in Monsey, New York as well as the shootings in El Paso, Texas; Pittsburgh, Pennsylvania; Sutherland Springs, Texas; Orlando, Florida; and Charleston, South Carolina illustrate that mass killings are often apolitical, motivated by the hatred of a specific group coupled with a desire to inflict mass casualties. The current law emphasizes the political motivation of an act over its catastrophic effect and does not adequately recognize the harm to public order and individual safety that hate crimes cause. Therefore, our laws must be strengthened to provide clear recognition of the gravity of hate crimes and the compelling importance of preventing their recurrence. Accordingly, the legislature finds and declares that hate crimes should be prosecuted and punished with appropriate severity.

2024 New York LawsPEN - PenalPart 4 - Administrative ProvisionsTitle Y - Hate Crimes Act of 2000Article 485 - Hate Crimes485.05 - Hate Crimes.

1. A person commits a hate crime when he or she commits a specified offense and either:(a) intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct, or(b) intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct.2. Proof of race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of the defendant, the victim or of both the defendant and the victim does not, by itself, constitute legally sufficient evidence satisfying the people's burden under paragraph (a) or (b) of subdivision one of this section.3. A "specified offense" is an offense defined by any of the following provisions of this chapter: section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.06 (gang assault in the second degree); section 120.07 (gang assault in the first degree); section 120.10 (assault in the first degree); section 120.12 (aggravated assault upon a person less than eleven years old); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); section 121.11 (criminal obstruction of breathing or blood circulation); section 121.12 (strangulation in the second degree); section 121.13 (strangulation in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 125.26 (aggravated murder); section 125.27 (murder in the first degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); section 130.20 (sexual misconduct); section 130.25 (rape in the third degree); section 130.30 (rape in the second degree); section 130.35 (rape in the first degree); former section 130.40; former section 130.45; former section 130.50; section 130.52 (forcible touching); section 130.53 (persistent sexual abuse); section 130.55 (sexual abuse in the third degree); section 130.60 (sexual abuse in the second degree); section 130.65 (sexual abuse in the first degree); section 130.65-a (aggravated sexual abuse in the fourth degree); section 130.66 (aggravated sexual abuse in the third degree); section 130.67 (aggravated sexual abuse in the second degree); section 130.70 (aggravated sexual abuse in the first degree); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in the first degree); section 135.60 (coercion in the third degree); section 135.61 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.10 (criminal trespass in the

third degree); section 140.15 (criminal trespass in the second degree); section 140.17 (criminal trespass in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 150.05 (arson in the fourth degree); section 150.10 (arson in the third degree); section 150.15 (arson in the second degree); section 150.20 (arson in the first degree); section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in the second degree); section 155.42 (grand larceny in the first degree); section 160.05 (robbery in the third degree); section 160.10 (robbery in the second degree); section 160.15 (robbery in the first degree); section 230.34 (sex trafficking); section 230.34-a (sex trafficking of a child); section 240.25 (harassment in the first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree); section 240.50 (falsely reporting an incident in the third degree); section 240.55 (falsely reporting an incident in the second degree); section 240.60 (falsely reporting an incident in the first degree); subdivision one of section 265.03 (criminal possession of a weapon in the second degree); subdivision one of section 265.04 (criminal possession of a weapon in the first degree); section 490.10 (soliciting or providing support for an act of terrorism in the second degree); section 490.15 (soliciting or providing support for an act of terrorism in the first degree); section 490.20 (making a terroristic threat); section 490.25 (crime of terrorism); section 490.30 (hindering prosecution of terrorism in the second degree); section 490.35 (hindering prosecution of terrorism in the first degree); section 490.37 (criminal possession of a chemical weapon or biological weapon in the third degree); section 490.40 (criminal possession of a chemical weapon or biological weapon in the second degree); section 490.45 (criminal possession of a chemical weapon or biological weapon in the first degree); section 490.47 (criminal use of a chemical weapon or biological weapon in the third degree); section 490.50 (criminal use of a chemical weapon or biological weapon in the second degree); section 490.55 (criminal use of a chemical weapon or biological weapon in the first degree); or any attempt or conspiracy to commit any of the foregoing offenses.4. For purposes of this section:(a) the term "age" means sixty years old or more;(b) the term "disability" means a physical or mental impairment that substantially limits a major life activity;(c) the term "gender identity or expression" means a person's actual or perceived gender-related identity, appearance, behavior, expression, or other gender-related characteristic regardless of the sex assigned to that person at birth, including, but not limited to, the status of being transgender. (a) intentionally selects the person against whom the offense is committed or intended to be committed in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct, or (b) intentionally commits the act or acts constituting the offense in whole or in substantial part because of a belief or perception regarding the race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of a person, regardless of whether the belief or perception is correct. 2. Proof of race, color, national origin, ancestry, gender, gender identity or expression, religion, religious practice, age, disability or sexual orientation of the defendant, the victim or of both the defendant and the victim does not, by itself, constitute legally sufficient evidence satisfying the people's burden under paragraph (a) or (b) of subdivision one of this section. 3. A "specified offense" is an offense defined by any of the following provisions of this chapter: section 120.00 (assault in the third degree); section 120.05 (assault in the second degree); section 120.06 (gang assault in the second degree); section 120.07 (gang assault in the first degree); section 120.10 (assault in the first degree); section 120.12 (aggravated assault upon a person less than eleven years old); section 120.13 (menacing in the first degree); section 120.14 (menacing in the second degree); section 120.15 (menacing in the third degree); section 120.20 (reckless endangerment in the second degree); section 120.25 (reckless endangerment in the first degree); section 121.11 (criminal obstruction of breathing or blood circulation); section 121.12 (strangulation in the second degree); section 121.13 (strangulation in the first degree); subdivision one of section 125.15 (manslaughter in the second degree); subdivision one, two or four of section 125.20 (manslaughter in the first degree); section 125.25 (murder in the second degree); section 125.26 (aggravated murder); section 125.27 (murder in the first degree); section 120.45 (stalking in the fourth degree); section 120.50 (stalking in the third degree); section 120.55 (stalking in the second degree); section 120.60 (stalking in the first degree); section 130.20 (sexual misconduct); section 130.25 (rape in the third degree); section 130.30 (rape in the second degree); section 130.35 (rape in the first degree); former section 130.40; former section 130.45; former section 130.50; section 130.52 (forcible touching); section 130.53 (persistent sexual abuse); section 130.55 (sexual abuse in the third degree); section 130.60 (sexual abuse in the second degree); section 130.65 (sexual abuse in the first degree); section 130.65-a (aggravated sexual abuse in the fourth degree); section 130.66 (aggravated sexual abuse in the third degree); section 130.67 (aggravated sexual abuse in the second degree); section 130.70 (aggravated sexual abuse in the first degree); section 135.05 (unlawful imprisonment in the second degree); section 135.10 (unlawful imprisonment in the first degree); section 135.20 (kidnapping in the second degree); section 135.25 (kidnapping in the first degree); section 135.60 (coercion in the third degree); section 135.61 (coercion in the second degree); section 135.65 (coercion in the first degree); section 140.10 (criminal trespass in the third degree); section 140.15 (criminal trespass in the second degree); section 140.17 (criminal trespass in the first degree); section 140.20 (burglary in the third degree); section 140.25 (burglary in the second degree); section 140.30 (burglary in the first degree); section 145.00 (criminal mischief in the fourth degree); section 145.05 (criminal mischief in the third degree); section 145.10 (criminal mischief in the second degree); section 145.12 (criminal mischief in the first degree); section 150.05 (arson in the fourth degree); section 150.10 (arson in the third degree); section 150.15 (arson in the second degree); section 150.20 (arson in the first degree); section 155.25 (petit larceny); section 155.30 (grand larceny in the fourth degree); section 155.35 (grand larceny in the third degree); section 155.40 (grand larceny in the second degree); section 155.42 (grand larceny in the first degree); section 160.05 (robbery in the third degree); section 160.10

(robbery in the second degree); section 160.15 (robbery in the first degree); section 230.34 (sex trafficking); section 230.34-a (sex trafficking of a child); section 240.25 (harassment in the first degree); subdivision one, two or four of section 240.30 (aggravated harassment in the second degree); section 240.50 (falsely reporting an incident in the third degree); section 240.55 (falsely reporting an incident in the second degree); section 240.60 (falsely reporting an incident in the first degree); subdivision one of section 265.03 (criminal possession of a weapon in the second degree); subdivision one of section 265.04 (criminal possession of a weapon in the first degree); section 490.10 (soliciting or providing support for an act of terrorism in the second degree); section 490.15 (soliciting or providing support for an act of terrorism in the first degree); section 490.20 (making a terroristic threat); section 490.25 (crime of terrorism); section 490.30 (hindering prosecution of terrorism in the second degree); section 490.35 (hindering prosecution of terrorism in the first degree); section 490.37 (criminal possession of a chemical weapon or biological weapon in the third degree); section 490.40 (criminal possession of a chemical weapon or biological weapon in the second degree); section 490.45 (criminal possession of a chemical weapon or biological weapon in the first degree); section 490.47 (criminal use of a chemical weapon or biological weapon in the third degree); section 490.50 (criminal use of a chemical weapon or biological weapon in the second degree); section 490.55 (criminal use of a chemical weapon or biological weapon in the first degree); or any attempt or conspiracy to commit any of the foregoing offenses. 4. For purposes of this section: (a) the term "age" means sixty years old or more; (b) the term "disability" means a physical or mental impairment that substantially limits a major life activity; (c) the term "gender identity or expression" means a person's actual or perceived gender-related identity, appearance, behavior, expression, or other gender-related characteristic regardless of the sex assigned to that person at birth, including, but not limited to, the status of being transgender.

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1. When a person is convicted of a hate crime pursuant to this article, and the specified offense is a violent felony offense, as defined in section 70.02 of this chapter, the hate crime shall be deemed a violent felony offense. 2. When a person is convicted of a hate crime pursuant to this article and the specified offense is a misdemeanor or a class C, D or E felony, the hate crime shall be deemed to be one category higher than the specified offense the defendant committed, or one category higher than the offense level applicable to the defendant's conviction for an attempt or conspiracy to commit a specified offense, whichever is applicable. 3. Notwithstanding any other provision of law, when a person is convicted of a hate crime pursuant to this article and the specified offense is a class B felony:(a) the maximum term of the indeterminate sentence must be at least six years if the defendant is sentenced pursuant to section 70.00 of this chapter;(b) the term of the determinate sentence must be at least eight years if the defendant is sentenced pursuant to section 70.02 of this chapter;(c) the term of the determinate sentence must be at least twelve years if the defendant is sentenced pursuant to section 70.04 of this chapter;(d) the maximum term of the indeterminate sentence must be at least four years if the defendant is sentenced pursuant to section 70.05 of this chapter; and(e) the maximum term of the indeterminate sentence or the term of the determinate sentence must be at least ten years if the defendant is sentenced pursuant to section 70.06 of this chapter.4. Notwithstanding any other provision of law, when a person is convicted of a hate crime pursuant to this article and the specified offense is a class A-1 felony, the minimum period of the indeterminate sentence shall be not less than twenty years.5. In addition to any of the dispositions authorized by this chapter, the court shall require as part of the sentence imposed upon a person convicted of a hate crime pursuant to this article, that the defendant complete a program, training session or counseling session directed at hate crime prevention and education, where the court determines such program, training session or counseling session is appropriate, available and was developed or authorized by the court or local agencies in cooperation with organizations serving the affected community. (a) the maximum term of the indeterminate sentence must be at least six years if the defendant is sentenced pursuant to section 70.00 of this chapter; (b) the term of the determinate sentence must be at least eight years if the defendant is sentenced pursuant to section 70.02 of this chapter; (c) the term of the determinate sentence must be at least twelve years if the defendant is sentenced pursuant to section 70.04 of this chapter; (d) the maximum term of the indeterminate sentence must be at least four years if the defendant is sentenced pursuant to section 70.05 of this chapter; and (e) the maximum term of the indeterminate sentence or the term of the determinate sentence must be at least ten years if the defendant is sentenced pursuant to section 70.06 of this chapter. 4. Notwithstanding any other provision of law, when a person is convicted of a hate crime pursuant to this article and the specified offense is a class A-1 felony, the minimum period of the indeterminate sentence shall be not less than twenty years. 5. In addition to any of the dispositions authorized by this chapter, the court shall require as part of the sentence imposed upon a person convicted of a hate crime pursuant to this article, that the defendant complete a program, training session or counseling session directed at hate crime prevention and education, where the court determines such program, training session or counseling session is appropriate, available and was developed or authorized by the court or local agencies in cooperation with organizations serving the affected community.

Title: cpl

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This chapter shall be known as the criminal procedure law, and may be cited as "CPL".

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle A - Short Title, Applicability and DefinitionsArticle 1 - Short Title, Applicability and Definitions1.10 - Applicability of Chapter to Actions and Matter Occurring Before and After Effective Date.

and after effective date. 1. The provisions of this chapter apply exclusively to:(a) All criminal actions and proceedings commenced upon or after the effective date thereof and all appeals and other post-judgment proceedings relating or attaching thereto; and(b) All matters of criminal procedure prescribed in this chapter which do not constitute a part of any particular action or case, occurring upon or after such effective date.2. The provisions of this chapter apply to (a) all criminal actions and proceedings commenced prior to the effective date thereof but still pending on such date, and (b) all appeals and other post-judgment proceedings commenced upon or after such effective date which relate or attach to criminal actions and proceedings commenced or concluded prior to such effective date; provided that, if application of such provisions in any particular case would not be feasible or would work injustice, the provisions of the code of criminal procedure apply thereto.3. The provisions of this chapter do not impair or render ineffectual any proceedings or procedural matters which occurred prior to the effective date thereof. (a) All criminal actions and proceedings commenced upon or after the effective date thereof and all appeals and other post-judgment proceedings relating or attaching thereto; and (b) All matters of criminal procedure prescribed in this chapter which do not constitute a part of any particular action or case, occurring upon or after such effective date. 2. The provisions of this chapter apply to (a) all criminal actions and proceedings commenced prior to the effective date thereof but still pending on such date, and (b) all appeals and other post-judgment proceedings commenced upon or after such effective date which relate or attach to criminal actions and proceedings commenced or concluded prior to such effective date; provided that, if application of such provisions in any particular case would not be feasible or would work injustice, the provisions of the code of criminal procedure apply thereto. 3. The provisions of this chapter do not impair or render ineffectual any proceedings or procedural matters which occurred prior to the effective date thereof.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle A - Short Title, Applicability and DefinitionsArticle 1 - Short Title, Applicability and Definitions1.20 - Definitions of Terms of General Use in This Chapter.

Except where different meanings are expressly specified in subsequent provisions of this chapter, the term definitions contained in section 10.00 of the penal law are applicable to this chapter, and, in addition, the following terms have the following meanings: 1. "Accusatory instrument" means: (a) an indictment, an indictment ordered reduced pursuant to subdivision one-a of section 210.20 of this chapter, an information, a simplified information, a prosecutor's information, a superior court information, a misdemeanor complaint or a felony complaint. Every accusatory instrument, regardless of the person designated therein as accuser, constitutes an accusation on behalf of the state as plaintiff and must be entitled "the people of the state of New York" against a designated person, known as the defendant; and(b) an appearance ticket issued for a parking infraction when (i) such ticket is based on personal knowledge or information and belief of the police officer or other public servant who issues the ticket, (ii) the police officer or other public servant who issues such ticket verifies that false statements made therein are punishable as a class A misdemeanor, (iii) the infraction or infractions contained therein are stated in detail and not in conclusory terms so as to provide the defendant with sufficient notice including, but not limited, to the applicable provision of law allegedly violated, and the date, time and particular place of the alleged infraction, and (iv) such ticket contains: (1) the license plate designation of the ticketed vehicle, (2) the license plate type of the ticketed vehicle, (3) the expiration of the ticketed vehicle's registration, (4) the make or model of the ticketed vehicle, and (5) the body type of the ticketed vehicle, provided, however, that where the plate type or the expiration date are not shown on either the registration plates or sticker of a vehicle or where the registration sticker is covered, faded, defaced or mutilated so that it is unreadable, the plate type or the expiration date may be omitted, provided, further, however, that such condition must be so described and inserted on the instrument.2. "Local criminal court accusatory instrument" means any accusatory instrument other than an indictment or a superior court information.3. "Indictment" means a written accusation by a grand jury, more fully defined and described in article two hundred, filed with a superior court, which charges one or more defendants with the commission of one or more offenses, at least one of which is a crime, and which serves as a basis for prosecution thereof.3-a. "Superior court information" means a written accusation by a district attorney more fully defined and described in articles one hundred ninety-five and two hundred, filed with a superior court pursuant to article one hundred ninety-five, which charges one or more defendants with the commission of one or more offenses, at least one of which is a crime, and which serves as a basis for prosecution thereof.4. "Information" means a verified written accusation by a person, more fully defined and described in article one hundred, filed with a local criminal court, which charges one or more defendants with the commission of one or more offenses, none of which is a felony, and which may serve both to commence a criminal action and as a basis for prosecution thereof.* 5. "Simplified traffic information" means a written accusation, more fully defined and described in article one hundred, by a police officer or other public servant authorized by law to issue same, filed with a local criminal court, which, being in a brief or simplified form prescribed by the commissioner of motor vehicles, charges a person with one or more traffic infractions or misdemeanors relating to traffic, and which may serve both to commence a criminal action for such offense and as a basis for prosecution thereof.* NB There are 2 sb 5's -- cannot be put together* 5. (a) "Simplified information" means a simplified traffic information, a simplified parks information, or a simplified environmental conservation information.(b) "Simplified traffic information" means a written accusation by a police officer, or other public servant authorized by law to issue same, more fully defined and described in article one hundred, filed with a local criminal court, which, being in a brief or simplified form prescribed by the commissioner of motor vehicles, charges a person

with one or more traffic infractions or misdemeanors relating to traffic, and which may serve both to commence a criminal action for such offense and as a basis for prosecution thereof.(c) "Simplified parks information" means a written accusation by a police officer, or other public servant authorized by law to issue same, filed with a local criminal court, which, being in a brief or simplified form prescribed by the commissioner of parks and recreation, charges a person with one or more offenses, other than a felony, for which a uniform simplified parks information may be issued pursuant to the parks and recreation law and the navigation law, and which may serve both to commence a criminal action for such offense and as a basis for prosecution thereof.(d) "Simplified environmental conservation information" means a written accusation by a police officer, or other public servant authorized by law to issue same, filed with a local criminal court, which being in a brief or simplified form prescribed by the commissioner of environmental conservation, charges a person with one or more offenses, other than a felony, for which a uniform simplified environmental conservation simplified information may be issued pursuant to the environmental conservation law, and which may serve both to commence a criminal action for such offense and as a basis for prosecution thereof.* NB There are 2 sb 5's -- cannot be put together6. "Prosecutor's information" means a written accusation by a district attorney, more fully defined and described in article one hundred, filed with a local criminal court, which charges one or more defendants with the commission of one or more offenses, none of which is a felony, and which serves as a basis for prosecution thereof.7. "Misdemeanor complaint" means a verified written accusation by a person, more fully defined and described in article one hundred, filed with a local criminal court, which charges one or more defendants with the commission of one or more offenses, at least one of which is a misdemeanor and none of which is a felony, and which serves to commence a criminal action but which may not, except upon the defendant's consent, serve as a basis for prosecution of the offenses charged therein.8. "Felony complaint" means a verified written accusation by a person, more fully defined and described in article one hundred, filed with a local criminal court, which charges one or more defendants with the commission of one or more felonies and which serves to commence a criminal action but not as a basis for prosecution thereof.9. "Arraignment" means the occasion upon which a defendant against whom an accusatory instrument has been filed appears before the court in which the criminal action is pending for the purpose of having such court acquire and exercise control over his person with respect to such accusatory instrument and of setting the course of further proceedings in the action.10. "Plea," in addition to its ordinary meaning as prescribed in sections 220.10 and 340.20, means, where appropriate, the occasion upon which a defendant enters such a plea to an accusatory instrument.11. "Trial." A jury trial commences with the selection of the jury and includes all further proceedings through the rendition of a verdict. A non-jury trial commences with the first opening address, if there be any, and, if not, when the first witness is sworn, and includes all further proceedings through the rendition of a verdict.12. "Verdict" means the announcement by a jury in the case of a jury trial, or by the court in the case of a non-jury trial, of its decision upon the defendant's guilt or innocence of the charges submitted to or considered by it.13. "Conviction" means the entry of a plea of guilty to, or a verdict of guilty upon, an accusatory instrument other than a felony complaint, or to one or more counts of such instrument.14. "Sentence" means the imposition and entry of sentence upon a conviction.15. "Judgment." A judgment is comprised of a conviction and the sentence imposed thereon and is completed by imposition and entry of the sentence.16. "Criminal action." A criminal action (a) commences with the filing of an accusatory instrument against a defendant in a criminal court, as specified in subdivision seventeen; (b) includes the filing of all further accusatory instruments directly derived from the initial one, and all proceedings, orders and motions conducted or made by a criminal court in the course of disposing of any such accusatory instrument, or which, regardless of the court in which they occurred or were made, could properly be considered as a part of the record of the case by an appellate court upon an appeal from a judgment of conviction; and (c) terminates with the imposition of sentence or some other final disposition in a criminal court of the last accusatory instrument filed in the case.17. "Commencement of criminal action." A criminal action is commenced by the filing of an accusatory instrument against a defendant in a criminal court, and, if more than one accusatory instrument is filed in the course of the action, it commences when the first of such instruments is filed.18. "Criminal proceeding" means any proceeding which (a) constitutes a part of a criminal action or (b) occurs in a criminal court and is related to a prospective, pending or completed criminal action, either of this state or of any other jurisdiction, or involves a criminal investigation.19. "Criminal court" means any court defined as such by section 10.10.20. "Superior court" means any court defined as such by subdivision two of section 10.10.21. "Local criminal court" means any court defined as such by subdivision three of section 10.10.22. "Intermediate appellate court" means any court possessing appellate jurisdiction, other than the court of appeals.23. "Judge" means any judicial officer who is a member of or constitutes a court, whether referred to in another provision of law as a justice or by any other title.24. "Trial jurisdiction." A criminal court has "trial jurisdiction" of an offense when an indictment or an information charging such offense may properly be filed with such court, and when such court has authority to accept a plea to, try or otherwise finally dispose of such accusatory instrument.25. "Preliminary jurisdiction." A criminal court has "preliminary jurisdiction" of an offense when, regardless of whether it has trial jurisdiction thereof, a criminal action for such offense may be commenced therein, and when such court may conduct proceedings with respect thereto which lead or may lead to prosecution and final disposition of the action in a court having trial jurisdiction thereof.26. "Appearance ticket" means a written notice issued by a public servant, more fully defined in section 150.10, requiring a person to appear before a local criminal court in connection with an accusatory instrument to be filed against him therein.27. "Summons" means a process of a local criminal court or superior court, more fully defined in section 130.10, requiring a defendant to appear before such court for the purpose of arraignment upon an accusatory instrument filed therewith by which a criminal action against him has been commenced.28. "Warrant of arrest" means a process of a local criminal court, more fully defined in section 120.10, directing a police officer to arrest a defendant and to bring him before such court for the purpose of arraignment upon an accusatory instrument filed therewith by which a criminal action against him has been commenced.29. "Superior court warrant of arrest" means a process of a superior court

directing a police officer to arrest a defendant and to bring him before such court for the purpose of arraignment upon an indictment filed therewith by which a criminal action against him has been commenced.30. "Bench warrant" means a process of a criminal court in which a criminal action is pending, directing a police officer, or a uniformed court officer, pursuant to paragraph b of subdivision two of section 530.70 of this chapter, to take into custody a defendant in such action who has previously been arraigned upon the accusatory instrument by which the action was commenced, and to bring him before such court. The function of a bench warrant is to achieve the court appearance of a defendant in a pending criminal action for some purpose other than his initial arraignment in the action.31. "Prosecutor" means a district attorney or any other public servant who represents the people in a criminal action.32. "District attorney" means a district attorney, an assistant district attorney or a special district attorney, and, where appropriate, the attorney general, an assistant attorney general, a deputy attorney general, a special deputy attorney general, or the special prosecutor and inspector general for the protection of people with special needs or his or her assistants when acting pursuant to their duties in matters arising under article twenty of the executive law, or the inspector general of New York for transportation or his or her deputies when acting pursuant to article four-B of the executive law.33. "Peace officer" means a person listed in section 2.10 of this chapter.34. "Police officer." The following persons are police officers:(a) A sworn member of the division of state police;(b) Sheriffs, under-sheriffs and deputy sheriffs of counties outside of New York City where such department is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law;(c) A sworn officer of an authorized county or county parkway police department where such department is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law;(d) A sworn officer of an authorized police department or force of a city, town, village or police district where such department or force is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law;(e) A sworn officer of an authorized police department of an authority or a sworn officer of the state regional park police in the office of parks and recreation where such department or force is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law;(f) A sworn officer of the capital police force of the office of general services where such force is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law;(g) An investigator employed in the office of a district attorney;(h) An investigator employed by the New York Waterfront Commission or a commission created by an interstate compact who is, to a substantial extent, engaged in the enforcement of the criminal laws of this state;(i) The chief and deputy fire marshals, the supervising fire marshals and the fire marshals of the bureau of fire investigation of the New York City fire department;(j) A sworn officer of the division of law enforcement in the department of environmental conservation where such division is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law;(k) A sworn officer of the New York Waterfront Commission or a police force of a public authority created by an interstate compact where such force is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law;(m) A special investigator employed in the statewide organized crime task force, while performing his assigned duties pursuant to section seventy-a of the executive law.(n) A sworn officer of the Westchester county department of public safety services who, on or prior to June thirtieth, nineteen hundred seventy-nine was appointed as a sworn officer of the division of Westchester county parkway police or who was appointed on or after July first, nineteen hundred seventy-nine to the title of police officer, sergeant, lieutenant, captain or inspector or who, on or prior to January thirty-first, nineteen hundred eighty-three, was appointed as a Westchester county deputy sheriff.(o) A sworn officer of the New York city department of environmental protection police, employed by the city of New York, appointed to protect the sources, works, and transmission of water supplied to the city of New York, and to protect persons on or in the vicinity of such water sources, works, and transmission where such department is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law;(p) Persons appointed as railroad police officers pursuant to section eighty-eight of the railroad law where such department or force is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law;(q) An employee of the department of taxation and finance (i) assigned to enforcement of the taxes imposed under or pursuant to the authority of article twelve-A of the tax law and administered by the commissioner of taxation and finance, taxes imposed under or pursuant to the authority of article eighteen of the tax law and administered by the commissioner, taxes imposed under article twenty of the tax law, or sales or compensating use taxes relating to petroleum products or cigarettes imposed under article twenty-eight or pursuant to the authority of article twenty-nine of the tax law and administered by the commissioner or (ii) designated as a revenue crimes specialist and assigned to the enforcement of the taxes described in paragraph (c) of subdivision four of section 2.10 of this title, for the purpose of applying for and executing search warrants under article six hundred ninety of this chapter, for the purpose of acting as a claiming agent under article thirteen-A of the civil practice law and rules in connection with the enforcement of the taxes referred to above and for the purpose of executing warrants of arrest relating to the respective crimes specified in subdivision four of section 2.10 of this title.(r) Any employee of the Suffolk county department of parks who is appointed as a Suffolk county park police officer.(s) A university police officer appointed by the state university pursuant to paragraph 1 of subdivision two of section three hundred fifty-five of the education law where such department or force is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law;(t) A sworn officer of the department of public safety of the Buffalo municipal housing authority who has achieved or been granted the status of sworn police officer and has been certified by the division of criminal justice services as successfully completing an approved basic course for police officers.(u) Persons appointed as Indian police officers pursuant to section one hundred fourteen of the Indian law where such department or force is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law;(v) Supervisor of forest ranger services; assistant supervisor of forest ranger services; forest ranger 3; forest ranger 2; forest ranger 1 employed by the state department of

environmental conservation or sworn officer of the division of forest protection and fire management in the department of environmental conservation responsible for wild land search and rescue, wild land fire management in the state as prescribed in subdivision eighteen of section 9-0105 and title eleven of article nine of the environmental conservation law, exercising care, custody and control of state lands administered by the department of environmental conservation.34-a. "Geographical area of employment." The "geographical area of employment" of certain police officers is as follows:* (a) Except as provided in paragraph (d) of this subdivision, New York state constitutes the "geographical area of employment" of any police officer employed as such by an agency of the state or by an authority which functions throughout the state, or a police officer designated by the superintendent of state police pursuant to section two hundred twenty-three of the executive law;* NB Effective until September 1, 2025* (a) Except as provided in paragraph (d), New York state constitutes the "geographical area of employment" of any police officer employed as such by an agency of the state or by an authority which functions throughout the state;* NB Effective September 1, 2025(b) A county, city, town or village, as the case may be, constitutes the "geographical area of employment" of any police officer employed as such by an agency of such political subdivision or by an authority which functions only in such political subdivision; and(c) Where an authority functions in more than one county, the "geographical area of employment" of a police officer employed thereby extends through all of such counties.(d) The geographical area of employment of a police officer appointed by the state university is the campuses and other property of the state university, including any portion of a public highway which crosses or abuts such property.(e) The geographical area of employment of a police officer appointed pursuant to section one hundred fourteen of the Indian law is within the county of Franklin, and within that county, only within the boundary of the St. Regis reservation, except that if the superintendent of state police has certified such officer with expanded jurisdiction within the county of Franklin, pursuant to subdivision eight-a of such section, the geographical area of employment of such police officer shall also include the area of expanded jurisdiction set forth in that subdivision.35. "Commitment to the custody of the sheriff," when referring to an order of a court located in a county or city which has established a department of correction, means commitment to the commissioner of correction of such county or city.36. "County" ordinarily means (a) any county outside of New York City or (b) New York City in its entirety. Unless the context requires a different construction, New York City, despite its five counties, is deemed a single county within the meaning of the provisions of this chapter in which that term appears.37. "Lesser included offense." When it is impossible to commit a particular crime without concomitantly committing, by the same conduct, another offense of lesser grade or degree, the latter is, with respect to the former, a "lesser included offense." In any case in which it is legally possible to attempt to commit a crime, an attempt to commit such crime constitutes a lesser included offense with respect thereto.38. "Oath" includes an affirmation and every other mode authorized by law of attesting to the truth of that which is stated.39. "Petty offense" means a violation or a traffic infraction.40. "Evidence in chief" means evidence, received at a trial or other criminal proceeding in which a defendant's guilt or innocence of an offense is in issue, which may be considered as a part of the quantum of substantive proof establishing or tending to establish the commission of such offense or an element thereof or the defendant's connection therewith.41. "Armed felony" means any violent felony offense defined in section 70.02 of the penal law that includes as an element either:(a) possession, being armed with or causing serious physical injury by means of a deadly weapon, if the weapon is a loaded weapon from which a shot, readily capable of producing death or other serious physical injury may be discharged; or(b) display of what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm.42. "Juvenile offender" means (1) a person, thirteen years old who is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 of the penal law, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; and (2) a person fourteen or fifteen years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); paragraphs (a) and (b) of subdivision one, paragraphs (a) and (b) of subdivision two and paragraphs (a) and (b) of subdivision three of section 130.35 (rape in the first degree); former subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of former section 130.50; 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law; or defined in the penal law as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law.43. "Judicial hearing officer" means a person so designated pursuant to provisions of article twenty-two of the judiciary law.44. "Adolescent offender" means a person charged with a felony committed on or after October first, two thousand eighteen when he or she was sixteen years of age or on or after October first, two thousand nineteen, when he or she was seventeen years of age.45. "Expunge" means, where an arrest and any enforcement activity connected with that arrest, including prosecution and any disposition in any New York state court, is deemed a nullity and the accused is restored, in contemplation of the law, to the status such individual occupied before the arrest, prosecution and/or disposition; that records of such arrest, prosecution and/or disposition shall be marked as expunged or shall be destroyed as set forth in section 160.50 of this chapter. Neither the arrest nor prosecution and/or disposition, if any, of a matter deemed a nullity shall operate as a disqualification of any person so accused to pursue or engage in any lawful activity, occupation, profession or calling. Except where specifically required or permitted by statute or upon specific authorization of a superior court, no such person shall be required to divulge information pertaining to the arrest,

prosecution and/or disposition of such a matter. (b) an appearance ticket issued for a parking infraction when (i) such ticket is based on personal knowledge or information and belief of the police officer or other public servant who issues the ticket, (ii) the police officer or other public servant who issues such ticket verifies that false statements made therein are punishable as a class A misdemeanor, (iii) the infraction or infractions contained therein are stated in detail and not in conclusory terms so as to provide the defendant with sufficient notice including, but not limited, to the applicable provision of law allegedly violated, and the date, time and particular place of the alleged infraction, and (iv) such ticket contains: (1) the license plate designation of the ticketed vehicle, (2) the license plate type of the ticketed vehicle, (3) the expiration of the ticketed vehicle's registration, (4) the make or model of the ticketed vehicle, and (5) the body type of the ticketed vehicle, provided, however, that where the plate type or the expiration date are not shown on either the registration plates or sticker of a vehicle or where the registration sticker is covered, faded, defaced or mutilated so that it is unreadable, the plate type or the expiration date may be omitted, provided, further, however, that such condition must be so described and inserted on the instrument. 2. "Local criminal court accusatory instrument" means any accusatory instrument other than an indictment or a superior court information. 3. "Indictment" means a written accusation by a grand jury, more fully defined and described in article two hundred, filed with a superior court, which charges one or more defendants with the commission of one or more offenses, at least one of which is a crime, and which serves as a basis for prosecution thereof. 3-a. "Superior court information" means a written accusation by a district attorney more fully defined and described in articles one hundred ninety-five and two hundred, filed with a superior court pursuant to article one hundred ninety-five, which charges one or more defendants with the commission of one or more offenses, at least one of which is a crime, and which serves as a basis for prosecution thereof. 4. "Information" means a verified written accusation by a person, more fully defined and described in article one hundred, filed with a local criminal court, which charges one or more defendants with the commission of one or more offenses, none of which is a felony, and which may serve both to commence a criminal action and as a basis for prosecution thereof. * 5. "Simplified traffic information" means a written accusation, more fully defined and described in article one hundred, by a police officer or other public servant authorized by law to issue same, filed with a local criminal court, which, being in a brief or simplified form prescribed by the commissioner of motor vehicles, charges a person with one or more traffic infractions or misdemeanors relating to traffic, and which may serve both to commence a criminal action for such offense and as a basis for prosecution thereof. * NB There are 2 sb 5's -- cannot be put together * 5. (a) "Simplified information" means a simplified traffic information, a simplified parks information, or a simplified environmental conservation information. (b) "Simplified traffic information" means a written accusation by a police officer, or other public servant authorized by law to issue same, more fully defined and described in article one hundred, filed with a local criminal court, which, being in a brief or simplified form prescribed by the commissioner of motor vehicles, charges a person with one or more traffic infractions or misdemeanors relating to traffic, and which may serve both to commence a criminal action for such offense and as a basis for prosecution thereof. (c) "Simplified parks information" means a written accusation by a police officer, or other public servant authorized by law to issue same, filed with a local criminal court, which, being in a brief or simplified form prescribed by the commissioner of parks and recreation, charges a person with one or more offenses, other than a felony, for which a uniform simplified parks information may be issued pursuant to the parks and recreation law and the navigation law, and which may serve both to commence a criminal action for such offense and as a basis for prosecution thereof. (d) "Simplified environmental conservation information" means a written accusation by a police officer, or other public servant authorized by law to issue same, filed with a local criminal court, which being in a brief or simplified form prescribed by the commissioner of environmental conservation, charges a person with one or more offenses, other than a felony, for which a uniform simplified environmental conservation simplified information may be issued pursuant to the environmental conservation law, and which may serve both to commence a criminal action for such offense and as a basis for prosecution thereof. * NB There are 2 sb 5's -- cannot be put together 6. "Prosecutor's information" means a written accusation by a district attorney, more fully defined and described in article one hundred, filed with a local criminal court, which charges one or more defendants with the commission of one or more offenses, none of which is a felony, and which serves as a basis for prosecution thereof. 7. "Misdemeanor complaint" means a verified written accusation by a person, more fully defined and described in article one hundred, filed with a local criminal court, which charges one or more defendants with the commission of one or more offenses, at least one of which is a misdemeanor and none of which is a felony, and which serves to commence a criminal action but which may not, except upon the defendant's consent, serve as a basis for prosecution of the offenses charged therein. 8. "Felony complaint" means a verified written accusation by a person, more fully defined and described in article one hundred, filed with a local criminal court, which charges one or more defendants with the commission of one or more felonies and which serves to commence a criminal action but not as a basis for prosecution thereof. 9. "Arraignment" means the occasion upon which a defendant against whom an accusatory instrument has been filed appears before the court in which the criminal action is pending for the purpose of having such court acquire and exercise control over his person with respect to such accusatory instrument and of setting the course of further proceedings in the action. 10. "Plea," in addition to its ordinary meaning as prescribed in sections 220.10 and 340.20, means, where appropriate, the occasion upon which a defendant enters such a plea to an accusatory instrument. 11. "Trial." A jury trial commences with the selection of the jury and includes all further proceedings through the rendition of a verdict. A non-jury trial commences with the first opening address, if there be any, and, if not, when the first witness is sworn, and includes all further proceedings through the rendition of a verdict. 12. "Verdict" means the announcement by a jury in the case of a jury trial, or by the court in the case of a non-jury trial, of its decision upon the defendant's guilt or innocence of the charges submitted to or considered by it. 13. "Conviction" means the entry of a plea of guilty to, or a verdict of guilty upon, an accusatory instrument other than a felony complaint, or to one or more counts of such instrument. 14. "Sentence" means the imposition and

entry of sentence upon a conviction. 15. "Judgment." A judgment is comprised of a conviction and the sentence imposed thereon and is completed by imposition and entry of the sentence. 16. "Criminal action." A criminal action (a) commences with the filing of an accusatory instrument against a defendant in a criminal court, as specified in subdivision seventeen; (b) includes the filing of all further accusatory instruments directly derived from the initial one, and all proceedings, orders and motions conducted or made by a criminal court in the course of disposing of any such accusatory instrument, or which, regardless of the court in which they occurred or were made, could properly be considered as a part of the record of the case by an appellate court upon an appeal from a judgment of conviction; and (c) terminates with the imposition of sentence or some other final disposition in a criminal court of the last accusatory instrument filed in the case. 17. "Commencement of criminal action." A criminal action is commenced by the filing of an accusatory instrument against a defendant in a criminal court, and, if more than one accusatory instrument is filed in the course of the action, it commences when the first of such instruments is filed. 18. "Criminal proceeding" means any proceeding which (a) constitutes a part of a criminal action or (b) occurs in a criminal court and is related to a prospective, pending or completed criminal action, either of this state or of any other jurisdiction, or involves a criminal investigation. 19. "Criminal court" means any court defined as such by section 10.10. 20. "Superior court" means any court defined as such by subdivision two of section 10.10. 21. "Local criminal court" means any court defined as such by subdivision three of section 10.10. 22. "Intermediate appellate court" means any court possessing appellate jurisdiction, other than the court of appeals. 23. "Judge" means any judicial officer who is a member of or constitutes a court, whether referred to in another provision of law as a justice or by any other title. 24. "Trial jurisdiction." A criminal court has "trial jurisdiction" of an offense when an indictment or an information charging such offense may properly be filed with such court, and when such court has authority to accept a plea to, try or otherwise finally dispose of such accusatory instrument. 25. "Preliminary jurisdiction." A criminal court has "preliminary jurisdiction" of an offense when, regardless of whether it has trial jurisdiction thereof, a criminal action for such offense may be commenced therein, and when such court may conduct proceedings with respect thereto which lead or may lead to prosecution and final disposition of the action in a court having trial jurisdiction thereof. 26. "Appearance ticket" means a written notice issued by a public servant, more fully defined in section 150.10, requiring a person to appear before a local criminal court in connection with an accusatory instrument to be filed against him therein. 27. "Summons" means a process of a local criminal court or superior court, more fully defined in section 130.10, requiring a defendant to appear before such court for the purpose of arraignment upon an accusatory instrument filed therewith by which a criminal action against him has been commenced. 28. "Warrant of arrest" means a process of a local criminal court, more fully defined in section 120.10, directing a police officer to arrest a defendant and to bring him before such court for the purpose of arraignment upon an accusatory instrument filed therewith by which a criminal action against him has been commenced. 29. "Superior court warrant of arrest" means a process of a superior court directing a police officer to arrest a defendant and to bring him before such court for the purpose of arraignment upon an indictment filed therewith by which a criminal action against him has been commenced. 30. "Bench warrant" means a process of a criminal court in which a criminal action is pending, directing a police officer, or a uniformed court officer, pursuant to paragraph b of subdivision two of section 530.70 of this chapter, to take into custody a defendant in such action who has previously been arraigned upon the accusatory instrument by which the action was commenced, and to bring him before such court. The function of a bench warrant is to achieve the court appearance of a defendant in a pending criminal action for some purpose other than his initial arraignment in the action. 31. "Prosecutor" means a district attorney or any other public servant who represents the people in a criminal action. 32. "District attorney" means a district attorney, an assistant district attorney or a special district attorney, and, where appropriate, the attorney general, an assistant attorney general, a deputy attorney general, a special deputy attorney general, or the special prosecutor and inspector general for the protection of people with special needs or his or her assistants when acting pursuant to their duties in matters arising under article twenty of the executive law, or the inspector general of New York for transportation or his or her deputies when acting pursuant to article four-B of the executive law. 33. "Peace officer" means a person listed in section 2.10 of this chapter. 34. "Police officer." The following persons are police officers: (a) A sworn member of the division of state police; (b) Sheriffs, under-sheriffs and deputy sheriffs of counties outside of New York City where such department is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law; (c) A sworn officer of an authorized county or county parkway police department where such department is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law; (d) A sworn officer of an authorized police department or force of a city, town, village or police district where such department or force is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law; (e) A sworn officer of an authorized police department of an authority or a sworn officer of the state regional park police in the office of parks and recreation where such department or force is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law; (f) A sworn officer of the capital police force of the office of general services where such force is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law; (g) An investigator employed in the office of a district attorney; (h) An investigator employed by the New York Waterfront Commission or a commission created by an interstate compact who is, to a substantial extent, engaged in the enforcement of the criminal laws of this state; (i) The chief and deputy fire marshals, the supervising fire marshals and the fire marshals of the bureau of fire investigation of the New York City fire department; (j) A sworn officer of the division of law enforcement in the department of environmental conservation where such division is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law; (k) A sworn officer of the New York Waterfront Commission or a police force of a public authority created by an interstate compact where such force is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law; (m) A special investigator employed in

the statewide organized crime task force, while performing his assigned duties pursuant to section seventy-a of the executive law. (n) A sworn officer of the Westchester county department of public safety services who, on or prior to June thirtieth, nineteen hundred seventy-nine was appointed as a sworn officer of the division of Westchester county parkway police or who was appointed on or after July first, nineteen hundred seventy-nine to the title of police officer, sergeant, lieutenant, captain or inspector or who, on or prior to January thirty-first, nineteen hundred eighty-three, was appointed as a Westchester county deputy sheriff. (o) A sworn officer of the New York city department of environmental protection police, employed by the city of New York, appointed to protect the sources, works, and transmission of water supplied to the city of New York, and to protect persons on or in the vicinity of such water sources, works, and transmission where such department is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law; (p) Persons appointed as railroad police officers pursuant to section eighty-eight of the railroad law where such department or force is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law; (q) An employee of the department of taxation and finance (i) assigned to enforcement of the taxes imposed under or pursuant to the authority of article twelve-A of the tax law and administered by the commissioner of taxation and finance, taxes imposed under or pursuant to the authority of article eighteen of the tax law and administered by the commissioner, taxes imposed under article twenty of the tax law, or sales or compensating use taxes relating to petroleum products or cigarettes imposed under article twenty-eight or pursuant to the authority of article twenty-nine of the tax law and administered by the commissioner or (ii) designated as a revenue crimes specialist and assigned to the enforcement of the taxes described in paragraph (c) of subdivision four of section 2.10 of this title, for the purpose of applying for and executing search warrants under article six hundred ninety of this chapter, for the purpose of acting as a claiming agent under article thirteen-A of the civil practice law and rules in connection with the enforcement of the taxes referred to above and for the purpose of executing warrants of arrest relating to the respective crimes specified in subdivision four of section 2.10 of this title. (r) Any employee of the Suffolk county department of parks who is appointed as a Suffolk county park police officer. (s) A university police officer appointed by the state university pursuant to paragraph 1 of subdivision two of section three hundred fifty-five of the education law where such department or force is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law; (t) A sworn officer of the department of public safety of the Buffalo municipal housing authority who has achieved or been granted the status of sworn police officer and has been certified by the division of criminal justice services as successfully completing an approved basic course for police officers. (u) Persons appointed as Indian police officers pursuant to section one hundred fourteen of the Indian law where such department or force is certified in accordance with paragraph (d) of subdivision one of section eight hundred forty-six-h of the executive law; (v) Supervisor of forest ranger services; assistant supervisor of forest ranger services; forest ranger 3; forest ranger 2; forest ranger 1 employed by the state department of environmental conservation or sworn officer of the division of forest protection and fire management in the department of environmental conservation responsible for wild land search and rescue, wild land fire management in the state as prescribed in subdivision eighteen of section 9-0105 and title eleven of article nine of the environmental conservation law, exercising care, custody and control of state lands administered by the department of environmental conservation. 34-a. "Geographical area of employment." The "geographical area of employment" of certain police officers is as follows: * (a) Except as provided in paragraph (d) of this subdivision, New York state constitutes the "geographical area of employment" of any police officer employed as such by an agency of the state or by an authority which functions throughout the state, or a police officer designated by the superintendent of state police pursuant to section two hundred twenty-three of the executive law; * NB Effective until September 1, 2025 * (a) Except as provided in paragraph (d), New York state constitutes the "geographical area of employment" of any police officer employed as such by an agency of the state or by an authority which functions throughout the state; * NB Effective September 1, 2025 (b) A county, city, town or village, as the case may be, constitutes the "geographical area of employment" of any police officer employed as such by an agency of such political subdivision or by an authority which functions only in such political subdivision; and (c) Where an authority functions in more than one county, the "geographical area of employment" of a police officer employed thereby extends through all of such counties. (d) The geographical area of employment of a police officer appointed by the state university is the campuses and other property of the state university, including any portion of a public highway which crosses or abuts such property. (e) The geographical area of employment of a police officer appointed pursuant to section one hundred fourteen of the Indian law is within the county of Franklin, and within that county, only within the boundary of the St. Regis reservation, except that if the superintendent of state police has certified such officer with expanded jurisdiction within the county of Franklin, pursuant to subdivision eight-a of such section, the geographical area of employment of such police officer shall also include the area of expanded jurisdiction set forth in that subdivision. 35. "Commitment to the custody of the sheriff," when referring to an order of a court located in a county or city which has established a department of correction, means commitment to the commissioner of correction of such county or city. 36. "County" ordinarily means (a) any county outside of New York City or (b) New York City in its entirety. Unless the context requires a different construction, New York City, despite its five counties, is deemed a single county within the meaning of the provisions of this chapter in which that term appears. 37. "Lesser included offense." When it is impossible to commit a particular crime without concomitantly committing, by the same conduct, another offense of lesser grade or degree, the latter is, with respect to the former, a "lesser included offense." In any case in which it is legally possible to attempt to commit a crime, an attempt to commit such crime constitutes a lesser included offense with respect thereto. 38. "Oath" includes an affirmation and every other mode authorized by law of attesting to the truth of that which is stated. 39. "Petty offense" means a violation or a traffic infraction. 40. "Evidence in chief" means evidence, received at a trial or other criminal proceeding in which a defendant's guilt or innocence of an offense is in issue, which may be considered as a part of the quantum of substantive proof establishing or

tending to establish the commission of such offense or an element thereof or the defendant's connection therewith. 41. "Armed felony" means any violent felony offense defined in section 70.02 of the penal law that includes as an element either: (a) possession, being armed with or causing serious physical injury by means of a deadly weapon, if the weapon is a loaded weapon from which a shot, readily capable of producing death or other serious physical injury may be discharged; or (b) display of what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm. 42. "Juvenile offender" means (1) a person, thirteen years old who is criminally responsible for acts constituting murder in the second degree as defined in subdivisions one and two of section 125.25 of the penal law, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; and (2) a person fourteen or fifteen years old who is criminally responsible for acts constituting the crimes defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; section 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); paragraphs (a) and (b) of subdivision one, paragraphs (a) and (b) of subdivision two and paragraphs (a) and (b) of subdivision three of section 130.35 (rape in the first degree); former subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of former section 130.50; 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law; or defined in the penal law as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law. 43. "Judicial hearing officer" means a person so designated pursuant to provisions of article twenty-two of the judiciary law. 44. "Adolescent offender" means a person charged with a felony committed on or after October first, two thousand eighteen when he or she was sixteen years of age or on or after October first, two thousand nineteen, when he or she was seventeen years of age. 45. "Expunge" means, where an arrest and any enforcement activity connected with that arrest, including prosecution and any disposition in any New York state court, is deemed a nullity and the accused is restored, in contemplation of the law, to the status such individual occupied before the arrest, prosecution and/or disposition; that records of such arrest, prosecution and/or disposition shall be marked as expunged or shall be destroyed as set forth in section 160.50 of this chapter. Neither the arrest nor prosecution and/or disposition, if any, of a matter deemed a nullity shall operate as a disqualification of any person so accused to pursue or engage in any lawful activity, occupation, profession or calling. Except where specifically required or permitted by statute or upon specific authorization of a superior court, no such person shall be required to divulge information pertaining to the arrest, prosecution and/or disposition of such a matter.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle A - Short Title, Applicability and DefinitionsArticle 2 - Peace Officers2.15 - Federal Law Enforcement Officers; Powers.

The following federal law enforcement officers shall have the powers set forth in paragraphs (a) (with the exception of the powers provided by paragraph (b) of subdivision one and paragraph (b) of subdivision three of section 140.25 of this chapter), (b), (c) and (h) of subdivision one of section 2.20 of this article: 1. Federal Bureau of Investigation special agents. 2. United States Secret Service special agents. 3. Immigration and Customs Enforcement special agents, deportation officers, and detention and deportation officers. 4. United States Marshals and Marshals Service deputies. 5. Drug Enforcement Administration special agents. 6. Federal Protective Officers, including law enforcement security officers, criminal investigators and police officers of the Federal Protective Service. 7. United States Customs and Border Protection Officers and United States Customs and Border Protection Border Patrol agents. 8. United States Postal Service police officers and inspectors. 9. United States park police; provided, however that, notwithstanding any provision of this section to the contrary, such park police shall also have the powers set forth in paragraph (b) of subdivision one of section 140.25 of this chapter and the powers set forth in paragraphs (d), (e) and (g) of subdivision one of section 2.20 of this article. 10. United States probation officers. 11. United States General Services Administration special agents. 12. United States Department of Agriculture special agents. 13. Bureau of Alcohol, Tobacco and Firearms special agents. 14. Internal Revenue Service special agents and inspectors. 15. Officers of the United States bureau of prisons. 16. United States Fish and Wildlife special agents. 17. United States Naval Investigative Service special agents. 18. United States Department of State special agents. 19. Special agents of the defense criminal investigative service of the United States department of defense. 20. United States Department of Commerce, Office of Export Enforcement, special agents. 21. United States Department of Veterans Administration police officers employed at the Veterans Administration Medical Center in Batavia. 22. Federal Reserve law enforcement officers. 23. Federal air marshal program special agents. * 24. United States department of transportation federal police officers and police supervisors assigned to the United States Merchant Marine Academy in Kings Point, New York; provided, however that, notwithstanding any provision of this section to the contrary, such police shall also have the powers set forth in paragraph (b) of subdivision one of section 140.25 of this chapter and the powers set forth in paragraphs (d), (e) and (g) of subdivision one of section 2.20 of this article when acting pursuant to their special duties within the geographical area of their employment or within one hundred yards of such geographical area. * NB There are 2 sb 24's * 24. United States Coast Guard Investigative Service special agents. * NB There are 2 sb 24's 25. United States Department of Commerce, special agents and enforcement officers of the National Oceanic and Atmospheric Administration's Fisheries Office for Law Enforcement. 26. Department of the Army special agents, detectives and police officers. 27. United States Department of Interior, park rangers with

law enforcement authority. 28. United States Environmental Protection Agency special agents with law enforcement authority. 29. United States mint police.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle A - Short Title, Applicability and DefinitionsArticle 2 - Peace Officers2.16 - Watershed Protection and Enforcement Officers; Powers, Duties, Jurisdiction for Arrests.

jurisdiction for arrests. 1. Watershed protection and enforcement officers appointed by the city of Peekskill shall have the powers set forth in paragraphs (a), (b), (c), (f), (g), and (h) of subdivision one of section 2.20 of this article; provided, however, that nothing in this section shall be deemed to authorize such officer to carry, possess, repair, or dispose of a firearm unless the appropriate license therefor has been issued pursuant to section 400.00 of the penal law. Watershed protection and enforcement officers shall complete the training requirements set forth in section 2.30 of this article. 2. The city of Peekskill may appoint the following persons as watershed protection and enforcement officers:(a) the water superintendent;(b) the deputy assistant to the water superintendent; and(c) the watershed inspector or inspectors.3. The duties of the watershed protection and enforcement officers shall be to enforce those provisions of the environmental conservation law and the penal law which relate to the contamination of water in those areas of the Hollow Brook watershed located within the city of Peekskill, including its reservoirs, shoreline, and tributaries, and those areas of the Hollow Brook watershed and Wiccopee reservoir located outside of the city of Peekskill in the counties of Putnam and Westchester, including its reservoirs, shoreline, and tributaries.4. Notwithstanding paragraph (b) of subdivision thirty-four-a of section 1.20 of this title and paragraph (b) of subdivision five of section 140.25 of this chapter, watershed protection and enforcement officers are authorized to make arrests and issue appearance tickets in those areas of the Hollow Brook watershed and Wiccopee reservoir located outside of the city of Peekskill in the counties of Putnam and Westchester, including along its reservoirs, shoreline, and tributaries. (a) the water superintendent; (b) the deputy assistant to the water superintendent; and (c) the watershed inspector or inspectors. 3. The duties of the watershed protection and enforcement officers shall be to enforce those provisions of the environmental conservation law and the penal law which relate to the contamination of water in those areas of the Hollow Brook watershed located within the city of Peekskill, including its reservoirs, shoreline, and tributaries, and those areas of the Hollow Brook watershed and Wiccopee reservoir located outside of the city of Peekskill in the counties of Putnam and Westchester, including its reservoirs, shoreline, and tributaries. 4. Notwithstanding paragraph (b) of subdivision thirty-four-a of section 1.20 of this title and paragraph (b) of subdivision five of section 140.25 of this chapter, watershed protection and enforcement officers are authorized to make arrests and issue appearance tickets in those areas of the Hollow Brook watershed and Wiccopee reservoir located outside of the city of Peekskill in the counties of Putnam and Westchester, including along its reservoirs, shoreline, and tributaries.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle A - Short Title, Applicability and DefinitionsArticle 2 - Peace Officers2.20 - Powers of Peace Officers.

1. The persons designated in section 2.10 of this article shall have the following powers:(a) The power to make warrantless arrests pursuant to section 140.25 of this chapter.(b) The power to use physical force and deadly physical force in making an arrest or preventing an escape pursuant to section 35.30 of the penal law.(c) The power to carry out warrantless searches whenever such searches are constitutionally permissible and acting pursuant to their special duties.(d) The power to issue appearance tickets pursuant to subdivision three of section 150.20 of this chapter, when acting pursuant to their special duties. New York city special patrolmen shall have the power to issue an appearance ticket only when it is pursuant to rules and regulations of the police commissioner of the city of New York.(e) The power to issue uniform appearance tickets pursuant to article twenty-seven of the parks, recreation and historic preservation law and to issue simplified traffic informations pursuant to section 100.25 of this chapter and section two hundred seven of the vehicle and traffic law whenever acting pursuant to their special duties.(f) The power to issue a uniform navigation summons and/or complaint pursuant to section nineteen of the navigation law whenever acting pursuant to their special duties.(g) The power to issue uniform appearance tickets pursuant to article seventy-one of the environmental conservation law, whenever acting pursuant to their special duties.(h) The power to possess and take custody of firearms not owned by the peace officer, for the purpose of disposing, guarding, or any other lawful purpose, consistent with his duties as a peace officer.(i) Any other power which a particular peace officer is otherwise authorized to exercise by any general, special or local law or charter whenever acting pursuant to his special duties, provided such power is not inconsistent with the provisions of the penal law or this chapter.(j) Uniformed court officers shall have the power to issue traffic summonses and complaints for parking, standing, or stopping violations pursuant to the vehicle and traffic law whenever acting pursuant to their special duties.2. For the purposes of this section a peace officer acts pursuant to his special duties when he performs the duties of his office, pursuant to the specialized nature of his particular employment, whereby he is required or authorized to enforce any general, special or local law or charter, rule, regulation, judgment or order.3. A peace officer, whether or not acting pursuant to his special duties, who lawfully exercises any of the powers conferred upon him pursuant to this section, shall be deemed to be acting within the scope of his public employment for purposes of defense and indemnification rights and benefits that he may be otherwise entitled to under the provisions of section fifty-k of the general municipal law, section seventeen or eighteen of the public officers law, or any other applicable section of law. (a) The power to make warrantless arrests pursuant to section 140.25 of this chapter. (b) The power to use physical force and deadly physical force in making an arrest or preventing an escape pursuant to section 35.30 of the penal law. (c) The power to carry out warrantless searches whenever such searches are constitutionally permissible and acting pursuant to their special duties. (d) The

power to issue appearance tickets pursuant to subdivision three of section 150.20 of this chapter, when acting pursuant to their special duties. New York city special patrolmen shall have the power to issue an appearance ticket only when it is pursuant to rules and regulations of the police commissioner of the city of New York. (e) The power to issue uniform appearance tickets pursuant to article twenty-seven of the parks, recreation and historic preservation law and to issue simplified traffic informations pursuant to section 100.25 of this chapter and section two hundred seven of the vehicle and traffic law whenever acting pursuant to their special duties. (f) The power to issue a uniform navigation summons and/or complaint pursuant to section nineteen of the navigation law whenever acting pursuant to their special duties. (g) The power to issue uniform appearance tickets pursuant to article seventy-one of the environmental conservation law, whenever acting pursuant to their special duties. (h) The power to possess and take custody of firearms not owned by the peace officer, for the purpose of disposing, guarding, or any other lawful purpose, consistent with his duties as a peace officer. (i) Any other power which a particular peace officer is otherwise authorized to exercise by any general, special or local law or charter whenever acting pursuant to his special duties, provided such power is not inconsistent with the provisions of the penal law or this chapter. (j) Uniformed court officers shall have the power to issue traffic summonses and complaints for parking, standing, or stopping violations pursuant to the vehicle and traffic law whenever acting pursuant to their special duties. 2. For the purposes of this section a peace officer acts pursuant to his special duties when he performs the duties of his office, pursuant to the specialized nature of his particular employment, whereby he is required or authorized to enforce any general, special or local law or charter, rule, regulation, judgment or order. 3. A peace officer, whether or not acting pursuant to his special duties, who lawfully exercises any of the powers conferred upon him pursuant to this section, shall be deemed to be acting within the scope of his public employment for purposes of defense and indemnification rights and benefits that he may be otherwise entitled to under the provisions of section fifty-k of the general municipal law, section seventeen or eighteen of the public officers law, or any other applicable section of law.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle A - Short Title, Applicability and DefinitionsArticle 2 - Peace Officers2.30 - Training Requirements for Peace Officers.

1. Every peace officer in the state of New York must successfully complete a training program, a portion of which shall be prescribed by the municipal police training council and a portion of which shall be prescribed by his or her employer. The portion prescribed by the municipal police training council shall be comprised of subjects, and the hours each is to be taught, that shall be required of all types or classes of peace officers. The hours of instruction required by the municipal police training council shall not exceed one hundred eighty, unless a greater amount is either required by law or regulation, or is requested by the employer. The segment prescribed by the employer for its employees shall be comprised of subjects, and the hours each is to be taught, relating to the special nature of the duties of the peace officers employed by it provided, however, that when the subjects prescribed by the employer are identical to the subjects in the training program required by the municipal police training council, the employer shall not be required to provide duplicate training for those subjects. 2. Each state or local agency, unit of local government, state or local commission, or public authority, or public or private organization which employs peace officers shall provide the training mandated by this section, the cost of which will be borne by the employer. Each peace officer satisfactorily completing the course prescribed by the municipal police training council shall be awarded a certificate by the division of criminal justice services attesting to that effect, and no person appointed as a peace officer shall exercise the powers of a peace officer, unless he or she has received such certification within twelve months of appointment. 3. No employer shall allow any peace officer it employs to carry or use a weapon during any phase of the officer's official duties, which constitutes on-duty employment, unless the officer has satisfactorily completed a course of training approved by the municipal police training council in the use of deadly physical force and firearms and other weapons, and annually receives instruction in deadly physical force and the use of firearms and other weapons as approved by the municipal police training council. 4. Upon the failure or refusal to comply with the requirements of this section, the commissioner of the division of criminal justice services shall apply to the supreme court for an order directed to the person responsible requiring compliance. Upon such application, the court may issue such order as may be just, and a failure to comply with the order of the court shall be a contempt of court and punishable as such. 5. Every employer of peace officers shall report to the division of criminal justice services, in such form and at such time as the division may by regulation require, the names of all peace officers who have satisfactorily completed any of the training requirements prescribed by this section. 6. A certificate attesting to satisfactory completion of the training requirements imposed under this section awarded to any peace officer by the executive director of the municipal police training council pursuant to this section shall remain valid:(a) during the holder's continuous service as a peace officer; and(b) for two years after the date of the commencement of an interruption in such service where the holder had, immediately prior to such interruption, served as a peace officer for less than two consecutive years; or(c) for four years after the date of the commencement of an interruption in such service where the holder had, immediately prior to such interruption, served as a peace officer for two consecutive years or longer.As used in this subdivision, the term "interruption" shall mean a period of separation from employment as a peace officer by reason of such officer's leave of absence, resignation or removal, other than removal for cause. (a) during the holder's continuous service as a peace officer; and (b) for two years after the date of the commencement of an interruption in such service where the holder had, immediately prior to such interruption, served as a peace officer for less than two consecutive years; or (c) for four years after the date of the commencement of an interruption in such service where the holder had, immediately prior to such interruption, served as a peace officer for two consecutive years or longer. As used in this subdivision, the term "interruption" shall mean a period of separation from employment as a peace officer by reason of such officer's leave of absence, resignation or removal, other than removal for cause.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle B - The Criminal CourtsArticle 10 - The Criminal Courts10.10 - The Criminal Courts; Enumeration and Definitions.

1. The "criminal courts" of this state are comprised of the superior courts and the local criminal courts. 2. "Superior court" means:(a) The supreme court; or(b) A county court.3. "Local criminal court" means:(a) A district court; or(b) The New York City criminal court; or(c) A city court; or(d) A town court; or(e) A village court; or(f) A supreme court justice sitting as a local criminal court; or(g) A county judge sitting as a local criminal court.4. "City court" means any court for a city, other than New York City, having trial jurisdiction of offenses of less than felony grade only committed within such city, whether such court is entitled a city court, a municipal court, a police court, a recorder's court or is known by any other name or title.5. "Town court." A "town court" is comprised of all the town justices of a town.6. "Village court." A "village court" is comprised of the justice of a village, or all the justices thereof if there be more than one, or, at a time when he or they are absent, an associate justice of a village who is authorized to perform the functions of a village justice during his absence.7. Notwithstanding any other provision of this section, a court specified herein which possesses civil as well as criminal jurisdiction does not act as a criminal court when acting solely in the exercise of its civil jurisdiction, and an order or determination made by such a court in its civil capacity is not an order or determination of a criminal court even though it may terminate or otherwise control or affect a criminal action or proceeding. (a) The supreme court; or (b) A county court. 3. "Local criminal court" means: (a) A district court; or (b) The New York City criminal court; or (c) A city court; or (d) A town court; or (e) A village court; or (f) A supreme court justice sitting as a local criminal court; or (g) A county judge sitting as a local criminal court. 4. "City court" means any court for a city, other than New York City, having trial jurisdiction of offenses of less than felony grade only committed within such city, whether such court is entitled a city court, a municipal court, a police court, a recorder's court or is known by any other name or title. 5. "Town court." A "town court" is comprised of all the town justices of a town. 6. "Village court." A "village court" is comprised of the justice of a village, or all the justices thereof if there be more than one, or, at a time when he or they are absent, an associate justice of a village who is authorized to perform the functions of a village justice during his absence. 7. Notwithstanding any other provision of this section, a court specified herein which possesses civil as well as criminal jurisdiction does not act as a criminal court when acting solely in the exercise of its civil jurisdiction, and an order or determination made by such a court in its civil capacity is not an order or determination of a criminal court even though it may terminate or otherwise control or affect a criminal action or proceeding.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle B - The Criminal CourtsArticle 10 - The Criminal Courts10.20 - Superior Courts; Jurisdiction.

1. Superior courts have trial jurisdiction of all offenses. They have:(a) Exclusive trial jurisdiction of felonies; and(b) Trial jurisdiction of misdemeanors concurrent with that of the local criminal courts; and(c) Trial jurisdiction of petty offenses, but only when such an offense is charged in an indictment which also charges a crime.2. Superior courts have preliminary jurisdiction of all offenses, but they exercise such jurisdiction only by reason of and through the agency of their grand juries.3. Superior court judges may, in their discretion, sit as local criminal courts for the following purposes:(a) conducting arraignments, as provided in subdivision two of section 170.15 and subdivision two of section 180.20 of this chapter;(b) issuing warrants of arrests, as provided in subdivision one of section 120.70 of this chapter; and(c) issuing search warrants, as provided in article six hundred ninety of this chapter. (a) Exclusive trial jurisdiction of felonies; and (b) Trial jurisdiction of misdemeanors concurrent with that of the local criminal courts; and (c) Trial jurisdiction of petty offenses, but only when such an offense is charged in an indictment which also charges a crime. 2. Superior courts have preliminary jurisdiction of all offenses, but they exercise such jurisdiction only by reason of and through the agency of their grand juries. 3. Superior court judges may, in their discretion, sit as local criminal courts for the following purposes: (a) conducting arraignments, as provided in subdivision two of section 170.15 and subdivision two of section 180.20 of this chapter; (b) issuing warrants of arrests, as provided in subdivision one of section 120.70 of this chapter; and (c) issuing search warrants, as provided in article six hundred ninety of this chapter.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle B - The Criminal CourtsArticle 10 - The Criminal Courts10.30 - Local Criminal Courts; Jurisdiction.

1. Local criminal courts have trial jurisdiction of all offenses other than felonies. They have:(a) Exclusive trial jurisdiction of petty offenses except for the superior court jurisdiction thereof prescribed in paragraph (c) of subdivision one of section 10.20; and(b) Trial jurisdiction of misdemeanors concurrent with that of the superior courts but subject to divestiture thereof by the latter in any particular case.2. Local criminal courts have preliminary jurisdiction of all offenses subject to divestiture thereof in any particular case by the superior courts and their grand juries.3. Notwithstanding the provisions of subdivision one, a superior court judge sitting as a local criminal court does not have trial jurisdiction of any offense, but has preliminary jurisdiction only, as provided in subdivision two. (a) Exclusive trial jurisdiction of petty offenses except for the superior court jurisdiction thereof prescribed in paragraph (c) of subdivision one of section 10.20; and (b) Trial jurisdiction of misdemeanors concurrent with that of the superior courts but subject to divestiture thereof by the latter in any particular case. 2. Local criminal courts have preliminary jurisdiction of all offenses subject to divestiture thereof in any particular case by the superior courts and their grand juries. 3. Notwithstanding the provisions of subdivision one, a superior court judge sitting as a local criminal court does not have trial jurisdiction of any offense, but has preliminary jurisdiction only, as provided in subdivision two.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle B - The Criminal CourtsArticle 10 - The Criminal Courts10.40 - Chief Administrator to Prescribe Forms and to Authorize Use of Electronic Filing.

electronic filing. 1. The chief administrator of the courts shall have the power to adopt, amend and rescind forms for the efficient and just administration of this chapter. Such forms shall include, without limitation, the forms described in paragraph (z-1) of subdivision two of section two hundred twelve of the judiciary law. A failure by any party to submit papers in compliance with forms authorized by this section shall not be grounds for that reason alone for denial or granting of any motion. 2. (a) Notwithstanding any other provision of law, the chief administrator, with the approval of the administrative board of the courts, may promulgate rules authorizing a program in the use of electronic means ("e-filing") in the courts of New York having criminal jurisdiction for: (i) the filing with a court of an accusatory instrument for the purpose of commencement of a criminal action or proceeding, and (ii) the filing and service of papers in pending actions and proceedings. Provided, however, the chief administrator shall consult with the county clerk of a county outside the city of New York before the use of electronic means is to be authorized hereunder in the supreme court or county court of such county, afford him or her the opportunity to submit comments with respect thereto, consider any such comments and obtain the agreement thereto of such county clerk.(b) Participation in this program may be required or may be voluntary as provided by the chief administrator, except that it shall be strictly voluntary as to any party to an action or proceeding who is not represented by counsel unless such party, upon his or her request, chooses to participate.(c) (i) Where participation in this program is to be voluntary: (A) filing an accusatory instrument by electronic means with the court for the purpose of commencement of an action or proceeding shall not require the consent of any other party; nor shall a party's failure to consent to participation in an action or proceeding bar any other party to such action or proceeding from filing and serving papers by facsimile transmission or electronic means upon the court or any other party to such action or proceeding who has consented to participation;(B) all parties shall be notified clearly, in plain language, about their options to participate in filing by electronic means;(C) no party to an action or proceeding shall be compelled, directly or indirectly, to participate;(D) where a party is not represented by counsel, the court shall explain such party's options for electronic filing in plain language, including the option for expedited processing, and shall inquire whether he or she wishes to participate, provided however the unrepresented litigant may participate in the program only upon his or her request, which shall be documented in the case file, after said party has been presented with sufficient information in plain language concerning the program.(ii) Where participation in this program is to be required:(A) such requirement shall not be effective in a court in a county unless, in addition to consulting with the county clerk of such county and obtaining his or her agreement thereto if the court is a supreme court or county court, the chief administrator shall:(1) first consult with and obtain the agreement of the district attorney and the criminal defense bar of such county, provide all persons and organizations, or their representative or representatives, who regularly appear in criminal actions or proceedings in the criminal courts of such county with reasonable notice and opportunity to submit comments with respect thereto and give due consideration to all such comments, and consult with the members of the advisory committee specified in subparagraph (v) of paragraph (u) of subdivision two of section two hundred twelve of the judiciary law; and(2) afford all those with whom he or she consults pursuant to item one of this clause the opportunity to submit comments with respect to the program, which comments, including but not limited to comments related to unrepresented litigants, he or she shall consider and shall post for public review on the office of court administration's website; and(B) as provided in paragraph (d) of this subdivision, no party who is not represented by counsel nor any counsel in an affected case who opts out of participation in the program shall be required to participate therein.(d) Where the chief administrator requires participation in electronic filing as provided in paragraph (b) of this subdivision, he or she shall afford counsel the opportunity to opt out of the program, via presentation of a prescribed form to be filed with the court where the criminal action is pending. Said form shall permit an attorney to opt out of participation in the program under any of the following circumstances, in which event, he or she will not be compelled to participate:(i) Where the attorney certifies in good faith that he or she lacks appropriate computer hardware and/or connection to the internet and/or scanner or other device by which documents may be converted to an electronic format; or(ii) Where the attorney certifies in good faith that he or she lacks the requisite knowledge in the operation of such computers and/or scanners necessary to participate. For the purposes of this subparagraph, the knowledge of any employee of an attorney, or any employee of the attorney's law firm, office or business who is subject to such attorney's direction, shall be imputed to the attorney.Notwithstanding the foregoing provisions of this paragraph: (A) where a party is not represented by counsel, the clerk shall explain such party's options for electronic filing in plain language, including the option for expedited processing, and shall inquire whether he or she wishes to participate, provided however the unrepresented litigant may participate in the program only upon his or her request, which shall be documented in the case file, after said party has been presented with sufficient information in plain language concerning the program; (B) a party not represented by counsel who has chosen to participate in the program shall be afforded the opportunity to opt out of the program for any reason via presentation of a prescribed form to be filed with the clerk of the court where the proceeding is pending; and (C) a court may exempt any attorney from being required to participate in the program upon application for such exemption, showing good cause therefor.(e)(i) Nothing in this section shall affect or change any existing laws governing the sealing and confidentiality of court records in criminal proceedings or access to court records by the parties to such proceedings, nor shall this section be construed to compel a party to file a sealed document by electronic means.(ii) Notwithstanding any other provision of this section, no paper or document that is filed by electronic means in a criminal proceeding shall be available for public inspection on-line. Subject to the provisions of existing laws governing the sealing and confidentiality of court records, nothing herein shall prevent the unified court

system from sharing statistical information that does not include any papers or documents filed with the action; and, provided further, that this paragraph shall not prohibit the chief administrator, in the exercise of his or her discretion, from posting papers or documents that have not been sealed pursuant to law on a public website maintained by the unified court system where: (A) the website is not the website established by the rules promulgated pursuant to paragraph (a) of this subdivision, and (B) to do so would be in the public interest. For purposes of this subparagraph, the chief administrator, in determining whether posting papers or documents on a public website is in the public interest, shall, at a minimum, take into account for each posting the following factors: (A) the type of case involved; (B) whether such posting would cause harm to any person, including especially a minor or crime victim; (C) whether such posting would include lewd or scandalous matters; and (D) the possibility that such papers or documents may ultimately be sealed.(iii) Nothing in this section shall affect or change existing laws governing service of process, nor shall this section be construed to abrogate existing personal service requirements as set forth in the criminal procedure law.3. For purposes of this section, the following terms shall have the following meanings:(a) "Consent of the criminal defense bar" shall mean that consent has been obtained from all provider offices and/or organizations in the county that represented twenty-five percent or more of the persons represented by public defense providers pursuant to section seven hundred twenty-two of the county law, as shown in the most recent annual reports filed pursuant to subdivision one of section seven hundred twenty-two-f of the county law. Such consent, when given, must be expressed in a written document that is provided by a person who is authorized to consent on behalf of the relevant public defender organization, agency or office; and(b) "Electronic means" shall be as defined in subdivision (f) of rule twenty-one hundred three of the civil practice law and rules; and(c) The "filing and service of papers in pending criminal actions and proceedings" shall include the filing and service of a notice of appeal pursuant to section 460.10 of this chapter. (b) Participation in this program may be required or may be voluntary as provided by the chief administrator, except that it shall be strictly voluntary as to any party to an action or proceeding who is not represented by counsel unless such party, upon his or her request, chooses to participate. (c) (i) Where participation in this program is to be voluntary: (A) filing an accusatory instrument by electronic means with the court for the purpose of commencement of an action or proceeding shall not require the consent of any other party; nor shall a party's failure to consent to participation in an action or proceeding bar any other party to such action or proceeding from filing and serving papers by facsimile transmission or electronic means upon the court or any other party to such action or proceeding who has consented to participation; (B) all parties shall be notified clearly, in plain language, about their options to participate in filing by electronic means; (C) no party to an action or proceeding shall be compelled, directly or indirectly, to participate; (D) where a party is not represented by counsel, the court shall explain such party's options for electronic filing in plain language, including the option for expedited processing, and shall inquire whether he or she wishes to participate, provided however the unrepresented litigant may participate in the program only upon his or her request, which shall be documented in the case file, after said party has been presented with sufficient information in plain language concerning the program. (ii) Where participation in this program is to be required: (A) such requirement shall not be effective in a court in a county unless, in addition to consulting with the county clerk of such county and obtaining his or her agreement thereto if the court is a supreme court or county court, the chief administrator shall: (1) first consult with and obtain the agreement of the district attorney and the criminal defense bar of such county, provide all persons and organizations, or their representative or representatives, who regularly appear in criminal actions or proceedings in the criminal courts of such county with reasonable notice and opportunity to submit comments with respect thereto and give due consideration to all such comments, and consult with the members of the advisory committee specified in subparagraph (v) of paragraph (u) of subdivision two of section two hundred twelve of the judiciary law; and (2) afford all those with whom he or she consults pursuant to item one of this clause the opportunity to submit comments with respect to the program, which comments, including but not limited to comments related to unrepresented litigants, he or she shall consider and shall post for public review on the office of court administration's website; and (B) as provided in paragraph (d) of this subdivision, no party who is not represented by counsel nor any counsel in an affected case who opts out of participation in the program shall be required to participate therein. (d) Where the chief administrator requires participation in electronic filing as provided in paragraph (b) of this subdivision, he or she shall afford counsel the opportunity to opt out of the program, via presentation of a prescribed form to be filed with the court where the criminal action is pending. Said form shall permit an attorney to opt out of participation in the program under any of the following circumstances, in which event, he or she will not be compelled to participate: (i) Where the attorney certifies in good faith that he or she lacks appropriate computer hardware and/or connection to the internet and/or scanner or other device by which documents may be converted to an electronic format; or (ii) Where the attorney certifies in good faith that he or she lacks the requisite knowledge in the operation of such computers and/or scanners necessary to participate. For the purposes of this subparagraph, the knowledge of any employee of an attorney, or any employee of the attorney's law firm, office or business who is subject to such attorney's direction, shall be imputed to the attorney. Notwithstanding the foregoing provisions of this paragraph: (A) where a party is not represented by counsel, the clerk shall explain such party's options for electronic filing in plain language, including the option for expedited processing, and shall inquire whether he or she wishes to participate, provided however the unrepresented litigant may participate in the program only upon his or her request, which shall be documented in the case file, after said party has been presented with sufficient information in plain language concerning the program; (B) a party not represented by counsel who has chosen to participate in the program shall be afforded the opportunity to opt out of the program for any reason via presentation of a prescribed form to be filed with the clerk of the court where the proceeding is pending; and (C) a court may exempt any attorney from being required to participate in the program upon application for such exemption, showing good cause therefor. (e)(i) Nothing in this section shall affect or change any existing laws governing the sealing and confidentiality of court records in criminal proceedings or access to court records by the parties to such proceedings, nor shall this section be construed to compel a

party to file a sealed document by electronic means. (ii) Notwithstanding any other provision of this section, no paper or document that is filed by electronic means in a criminal proceeding shall be available for public inspection on-line. Subject to the provisions of existing laws governing the sealing and confidentiality of court records, nothing herein shall prevent the unified court system from sharing statistical information that does not include any papers or documents filed with the action; and, provided further, that this paragraph shall not prohibit the chief administrator, in the exercise of his or her discretion, from posting papers or documents that have not been sealed pursuant to law on a public website maintained by the unified court system where: (A) the website is not the website established by the rules promulgated pursuant to paragraph (a) of this subdivision, and (B) to do so would be in the public interest. For purposes of this subparagraph, the chief administrator, in determining whether posting papers or documents on a public website is in the public interest, shall, at a minimum, take into account for each posting the following factors: (A) the type of case involved; (B) whether such posting would cause harm to any person, including especially a minor or crime victim; (C) whether such posting would include lewd or scandalous matters; and (D) the possibility that such papers or documents may ultimately be sealed. (iii) Nothing in this section shall affect or change existing laws governing service of process, nor shall this section be construed to abrogate existing personal service requirements as set forth in the criminal procedure law. 3. For purposes of this section, the following terms shall have the following meanings: (a) "Consent of the criminal defense bar" shall mean that consent has been obtained from all provider offices and/or organizations in the county that represented twenty-five percent or more of the persons represented by public defense providers pursuant to section seven hundred twenty-two of the county law, as shown in the most recent annual reports filed pursuant to subdivision one of section seven hundred twenty-two-f of the county law. Such consent, when given, must be expressed in a written document that is provided by a person who is authorized to consent on behalf of the relevant public defender organization, agency or office; and (b) "Electronic means" shall be as defined in subdivision (f) of rule twenty-one hundred three of the civil practice law and rules; and (c) The "filing and service of papers in pending criminal actions and proceedings" shall include the filing and service of a notice of appeal pursuant to section 460.10 of this chapter.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle C - General Principles Relating to Requirements for and Exemptions From Criminal ProsecutionArticle 30 - Timeliness of Prosecutions and Speedy Trial30.10 - Timeliness of Prosecutions; Periods of Limitation.

1. A criminal action must be commenced within the period of limitation prescribed in the ensuing subdivisions of this section. 2. Except as otherwise provided in subdivision three:(a) A prosecution for a class A felony, or rape in the first degree as defined in section 130.35 of the penal law, or a crime defined or formerly defined in section 130.50 of the penal law, or aggravated sexual abuse in the first degree as defined in section 130.70 of the penal law, or course of sexual conduct against a child in the first degree as defined in section 130.75 of the penal law, or incest in the first degree as defined in section 255.27 of the penal law may be commenced at any time;(a-1) A prosecution for rape in the second degree as defined in subdivision two of section 130.30 of the penal law, or criminal sexual act in the second degree as defined in subdivision two of section 130.45 of the penal law, or incest in the second degree as defined in section 255.26 of the penal law (where the crime committed is rape in the second degree as defined in subdivision two of section 130.30 of the penal law or criminal sexual act in the second degree as defined in subdivision two of section 130.45) must be commenced within twenty years after the commission thereof or within ten years from when the offense is first reported to law enforcement, whichever occurs earlier;(a-2) A prosecution for rape in the third degree as defined in subdivision one or three of section 130.25 of the penal law, or criminal sexual act in the third degree as defined in subdivision one or three of section 130.40 of the penal law must be commenced within ten years after the commission thereof;(b) A prosecution for any other felony must be commenced within five years after the commission thereof;(c) A prosecution for a misdemeanor must be commenced within two years after the commission thereof;(d) A prosecution for a petty offense must be commenced within one year after the commission thereof.3. Notwithstanding the provisions of subdivision two, the periods of limitation for the commencement of criminal actions are extended as follows in the indicated circumstances:(a) A prosecution for larceny committed by a person in violation of a fiduciary duty may be commenced within one year after the facts constituting such offense are discovered or, in the exercise of reasonable diligence, should have been discovered by the aggrieved party or by a person under a legal duty to represent him who is not himself implicated in the commission of the offense.(b) A prosecution for any offense involving misconduct in public office by a public servant including, without limitation, an offense defined in article four hundred ninety-six of the penal law, may be commenced against a public servant, or any other person acting in concert with such public servant at any time during such public servant's service in such office or within five years after the termination of such service; provided however, that in no event shall the period of limitation be extended by more than five years beyond the period otherwise applicable under subdivision two of this section.(c) A prosecution for any crime set forth in title twenty-seven or article seventy-one of the environmental conservation law may be commenced within four years after the facts constituting such crime are discovered or, in the exercise of reasonable diligence, should have been discovered by a public servant who has the responsibility to enforce the provisions of said title and article.(d) A prosecution for any misdemeanor set forth in the tax law or chapter forty-six of the administrative code of the city of New York must be commenced within three years after the commission thereof.(e) A prosecution for course of sexual conduct against a child in the second degree as defined in section 130.80 of the penal law may be commenced within five years of the commission of the most recent act of sexual conduct.(f) For purposes of a prosecution involving a sexual offense as defined in article one hundred thirty of the penal law, other than a sexual offense delineated in paragraph (a) of subdivision two of this section, committed against a child less than eighteen years of age, incest in the first, second or third degree as defined in sections 255.27, 255.26 and 255.25 of the penal law committed against a child less than eighteen years of age, or use of a

child in a sexual performance as defined in section 263.05 of the penal law, the period of limitation shall not begin to run until the child has reached the age of twenty-three or the offense is reported to a law enforcement agency or statewide central register of child abuse and maltreatment, whichever occurs earlier.(g) A prosecution for any felony defined in article four hundred ninety of the penal law must be commenced within eight years after the commission thereof provided, however, that in a prosecution for a felony defined in article four hundred ninety of the penal law, if the commission of such felony offense resulted in, or created a foreseeable risk of, death or serious physical injury to another person, the prosecution may be commenced at any time; provided, however, that nothing in this paragraph shall be deemed to shorten or otherwise lessen the period, defined in any other applicable law, in which a prosecution for a felony designated in this paragraph may be commenced.(h) A prosecution for any felony related to a deed theft or where there is fraud in connection with a transaction involving real property must be commenced within five years after the commission of the crime, or within two years after the facts constituting such offense are discovered by the aggrieved party, whichever occurs later.4. In calculating the time limitation applicable to commencement of a criminal action, the following periods shall not be included:(a) Any period following the commission of the offense during which (i) the defendant was continuously outside this state or (ii) the whereabouts of the defendant were continuously unknown and continuously unascertainable by the exercise of reasonable diligence. However, in no event shall the period of limitation be extended by more than five years beyond the period otherwise applicable under subdivision two.(b) When a prosecution for an offense is lawfully commenced within the prescribed period of limitation therefor, and when an accusatory instrument upon which such prosecution is based is subsequently dismissed by an authorized court under directions or circumstances permitting the lodging of another charge for the same offense or an offense based on the same conduct, the period extending from the commencement of the thus defeated prosecution to the dismissal of the accusatory instrument does not constitute a part of the period of limitation applicable to commencement of prosecution by a new charge. (a) A prosecution for a class A felony, or rape in the first degree as defined in section 130.35 of the penal law, or a crime defined or formerly defined in section 130.50 of the penal law, or aggravated sexual abuse in the first degree as defined in section 130.70 of the penal law, or course of sexual conduct against a child in the first degree as defined in section 130.75 of the penal law, or incest in the first degree as defined in section 255.27 of the penal law may be commenced at any time; (a-1) A prosecution for rape in the second degree as defined in subdivision two of section 130.30 of the penal law, or criminal sexual act in the second degree as defined in subdivision two of section 130.45 of the penal law, or incest in the second degree as defined in section 255.26 of the penal law (where the crime committed is rape in the second degree as defined in subdivision two of section 130.30 of the penal law or criminal sexual act in the second degree as defined in subdivision two of section 130.45) must be commenced within twenty years after the commission thereof or within ten years from when the offense is first reported to law enforcement, whichever occurs earlier; (a-2) A prosecution for rape in the third degree as defined in subdivision one or three of section 130.25 of the penal law, or criminal sexual act in the third degree as defined in subdivision one or three of section 130.40 of the penal law must be commenced within ten years after the commission thereof; (b) A prosecution for any other felony must be commenced within five years after the commission thereof; (c) A prosecution for a misdemeanor must be commenced within two years after the commission thereof; (d) A prosecution for a petty offense must be commenced within one year after the commission thereof. 3. Notwithstanding the provisions of subdivision two, the periods of limitation for the commencement of criminal actions are extended as follows in the indicated circumstances: (a) A prosecution for larceny committed by a person in violation of a fiduciary duty may be commenced within one year after the facts constituting such offense are discovered or, in the exercise of reasonable diligence, should have been discovered by the aggrieved party or by a person under a legal duty to represent him who is not himself implicated in the commission of the offense. (b) A prosecution for any offense involving misconduct in public office by a public servant including, without limitation, an offense defined in article four hundred ninety-six of the penal law, may be commenced against a public servant, or any other person acting in concert with such public servant at any time during such public servant's service in such office or within five years after the termination of such service; provided however, that in no event shall the period of limitation be extended by more than five years beyond the period otherwise applicable under subdivision two of this section. (c) A prosecution for any crime set forth in title twenty-seven or article seventy-one of the environmental conservation law may be commenced within four years after the facts constituting such crime are discovered or, in the exercise of reasonable diligence, should have been discovered by a public servant who has the responsibility to enforce the provisions of said title and article. (d) A prosecution for any misdemeanor set forth in the tax law or chapter forty-six of the administrative code of the city of New York must be commenced within three years after the commission thereof. (e) A prosecution for course of sexual conduct against a child in the second degree as defined in section 130.80 of the penal law may be commenced within five years of the commission of the most recent act of sexual conduct. (f) For purposes of a prosecution involving a sexual offense as defined in article one hundred thirty of the penal law, other than a sexual offense delineated in paragraph (a) of subdivision two of this section, committed against a child less than eighteen years of age, incest in the first, second or third degree as defined in sections 255.27, 255.26 and 255.25 of the penal law committed against a child less than eighteen years of age, or use of a child in a sexual performance as defined in section 263.05 of the penal law, the period of limitation shall not begin to run until the child has reached the age of twenty-three or the offense is reported to a law enforcement agency or statewide central register of child abuse and maltreatment, whichever occurs earlier. (g) A prosecution for any felony defined in article four hundred ninety of the penal law must be commenced within eight years after the commission thereof provided, however, that in a prosecution for a felony defined in article four hundred ninety of the penal law, if the commission of such felony offense resulted in, or created a foreseeable risk of, death or serious physical injury to another person, the prosecution may be commenced at any time; provided, however, that nothing in this paragraph shall be deemed to shorten or otherwise lessen the period, defined in any other applicable law, in which a

prosecution for a felony designated in this paragraph may be commenced. (h) A prosecution for any felony related to a deed theft or where there is fraud in connection with a transaction involving real property must be commenced within five years after the commission of the crime, or within two years after the facts constituting such offense are discovered by the aggrieved party, whichever occurs later. 4. In calculating the time limitation applicable to commencement of a criminal action, the following periods shall not be included: (a) Any period following the commission of the offense during which (i) the defendant was continuously outside this state or (ii) the whereabouts of the defendant were continuously unknown and continuously unascertainable by the exercise of reasonable diligence. However, in no event shall the period of limitation be extended by more than five years beyond the period otherwise applicable under subdivision two. (b) When a prosecution for an offense is lawfully commenced within the prescribed period of limitation therefor, and when an accusatory instrument upon which such prosecution is based is subsequently dismissed by an authorized court under directions or circumstances permitting the lodging of another charge for the same offense or an offense based on the same conduct, the period extending from the commencement of the thus defeated prosecution to the dismissal of the accusatory instrument does not constitute a part of the period of limitation applicable to commencement of prosecution by a new charge.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle C - General Principles Relating to Requirements for and Exemptions From Criminal ProsecutionArticle 30 - Timeliness of Prosecutions and Speedy Trial30.20 - Speedy Trial; in General.

1. After a criminal action is commenced, the defendant is entitled to a speedy trial. 2. Insofar as is practicable, the trial of a criminal action must be given preference over civil cases; and the trial of a criminal action where the defendant has been committed to the custody of the sheriff during the pendency of the criminal action must be given preference over other criminal actions.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle C - General Principles Relating to Requirements for and Exemptions From Criminal ProsecutionArticle 30 - Timeliness of Prosecutions and Speedy Trial30.30 - Speedy Trial; Time Limitations.

1. Except as otherwise provided in subdivision three of this section, a motion made pursuant to paragraph (e) of subdivision one of section 170.30 or paragraph (g) of subdivision one of section 210.20 of this chapter must be granted where the people are not ready for trial within:(a) six months of the commencement of a criminal action wherein a defendant is accused of one or more offenses, at least one of which is a felony;(b) ninety days of the commencement of a criminal action wherein a defendant is accused of one or more offenses, at least one of which is a misdemeanor punishable by a sentence of imprisonment of more than three months and none of which is a felony;(c) sixty days of the commencement of a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a misdemeanor punishable by a sentence of imprisonment of not more than three months and none of which is a crime punishable by a sentence of imprisonment of more than three months; or(d) thirty days of the commencement of a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a violation and none of which is a crime.(e) for the purposes of this subdivision, the term offense shall include vehicle and traffic law infractions.2. Except as provided in subdivision three of this section, where a defendant has been committed to the custody of the sheriff or the office of children and family services in a criminal action he or she must be released on bail or on his or her own recognizance, upon such conditions as may be just and reasonable, if the people are not ready for trial in that criminal action within:(a) ninety days from the commencement of his or her commitment to the custody of the sheriff or the office of children and family services in a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a felony;(b) thirty days from the commencement of his or her commitment to the custody of the sheriff or the office of children and family services in a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a misdemeanor punishable by a sentence of imprisonment of more than three months and none of which is a felony;(c) fifteen days from the commencement of his or her commitment to the custody of the sheriff or the office of children and family services in a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a misdemeanor punishable by a sentence of imprisonment of not more than three months and none of which is a crime punishable by a sentence of imprisonment of more than three months; or(d) five days from the commencement of his or her commitment to the custody of the sheriff or the office of children and family services in a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a violation and none of which is a crime.(e) for the purposes of this subdivision, the term offense shall include vehicle and traffic law infractions.3. (a) Subdivisions one and two of this section do not apply to a criminal action wherein the defendant is accused of an offense defined in sections 125.10, 125.15, 125.20, 125.25, 125.26 and 125.27 of the penal law.(b) A motion made pursuant to subdivisions one or two of this section upon expiration of the specified period may be denied where the people are not ready for trial if the people were ready for trial prior to the expiration of the specified period and their present unreadiness is due to some exceptional fact or circumstance, including, but not limited to, the sudden unavailability of evidence material to the people's case, when the district attorney has exercised due diligence to obtain such evidence and there are reasonable grounds to believe that such evidence will become available in a reasonable period.(c) A motion made pursuant to subdivision two of this section shall not:(i) apply to any defendant who is serving a term of imprisonment for another offense;(ii) require the release from custody of any defendant who is also being held in custody pending trial of another criminal charge as to which the applicable period has not yet elapsed;(iii) prevent the redetention of or otherwise apply to any defendant who, after being released from custody pursuant to this section or otherwise, is charged with another crime or violates the conditions on which he has been released, by failing to appear at a judicial proceeding at

which his presence is required or otherwise.4. In computing the time within which the people must be ready for trial pursuant to subdivisions one and two of this section, the following periods must be excluded:(a) a reasonable period of delay resulting from other proceedings concerning the defendant, including but not limited to: proceedings for the determination of competency and the period during which defendant is incompetent to stand trial; demand to produce; request for a bill of particulars; pre-trial motions; appeals; trial of other charges; and the period during which such matters are under consideration by the court; or(b) the period of delay resulting from a continuance granted by the court at the request of, or with the consent of, the defendant or his or her counsel. The court may grant such a continuance only if it is satisfied that postponement is in the interest of justice, taking into account the public interest in the prompt dispositions of criminal charges. A defendant without counsel must not be deemed to have consented to a continuance unless he or she has been advised by the court of his or her rights under these rules and the effect of his consent, which must be done on the record in open court; or(c) (i) the period of delay resulting from the absence or unavailability of the defendant. A defendant must be considered absent whenever his location is unknown and he is attempting to avoid apprehension or prosecution, or his location cannot be determined by due diligence. A defendant must be considered unavailable whenever his location is known but his presence for trial cannot be obtained by due diligence; or(ii) where the defendant has either escaped from custody or has failed to appear when required after having previously been released on bail or on his own recognizance, and provided the defendant is not in custody on another matter, the period extending from the day the court issues a bench warrant pursuant to section 530.70 of this chapter because of the defendant's failure to appear in court when required, to the day the defendant subsequently appears in the court pursuant to a bench warrant or voluntarily or otherwise; or(d) a reasonable period of delay when the defendant is joined for trial with a co-defendant as to whom the time for trial pursuant to this section has not run and good cause is not shown for granting a severance; or(e) the period of delay resulting from detention of the defendant in another jurisdiction provided the district attorney is aware of such detention and has been diligent and has made reasonable efforts to obtain the presence of the defendant for trial; or(f) the period during which the defendant is without counsel through no fault of the court; except when the defendant is proceeding as his own attorney with the permission of the court; or(g) other periods of delay occasioned by exceptional circumstances, including but not limited to, the period of delay resulting from a continuance granted at the request of a district attorney if (i) the continuance is granted because of the unavailability of evidence material to the people's case, when the district attorney has exercised due diligence to obtain such evidence and there are reasonable grounds to believe that such evidence will become available in a reasonable period; or (ii) the continuance is granted to allow the district attorney additional time to prepare the people's case and additional time is justified by the exceptional circumstances of the case. Any such exclusion when a statement of unreadiness has followed a statement of readiness made by the people must be evaluated by the court after inquiry on the record as to the reasons for the people's unreadiness and shall only be approved upon a showing of sufficient supporting facts; or(h) the period during which an action has been adjourned in contemplation of dismissal pursuant to sections 170.55, 170.56 and 215.10 of this chapter; or(i) the period prior to the defendant's actual appearance for arraignment in a situation in which the defendant has been directed to appear by the district attorney pursuant to subdivision three of section 120.20 or subdivision three of section 210.10 of this chapter; or(j) the period during which a family offense is before a family court until such time as an accusatory instrument or indictment is filed against the defendant alleging a crime constituting a family offense, as such term is defined in section 530.11 of this chapter.5. Whenever pursuant to this section a prosecutor states or otherwise provides notice that the people are ready for trial, the court shall make inquiry on the record as to their actual readiness. If, after conducting its inquiry, the court determines that the people are not ready to proceed to trial, the prosecutor's statement or notice of readiness shall not be valid for purposes of this section. Any statement of trial readiness must be accompanied or preceded by a certification of good faith compliance with the disclosure requirements of section 245.20 of this chapter and the defense shall be afforded an opportunity to be heard on the record as to whether the disclosure requirements have been met. This subdivision shall not apply to cases where the defense has waived disclosure requirements.5-a. Upon a local criminal court accusatory instrument, a statement of readiness shall not be valid unless the prosecuting attorney certifies that all counts charged in the accusatory instrument meet the requirements of sections 100.15 and 100.40 of this chapter and those counts not meeting the requirements of sections 100.15 and 100.40 of this chapter have been dismissed.6. An order finally denying a motion to dismiss pursuant to subdivision one of this section shall be reviewable upon an appeal from an ensuing judgment of conviction notwithstanding the fact that such judgment is entered upon a plea of guilty.7. For purposes of this section, (a) where the defendant is to be tried following the withdrawal of the plea of guilty or is to be retried following a mistrial, an order for a new trial or an appeal or collateral attack, the criminal action and the commitment to the custody of the sheriff or the office of children and family services, if any, must be deemed to have commenced on the date the withdrawal of the plea of guilty or the date the order occasioning a retrial becomes final;(b) where a defendant has been served with an appearance ticket, the criminal action must be deemed to have commenced on the date the defendant first appears in a local criminal court in response to the ticket;(c) where a criminal action is commenced by the filing of a felony complaint, and thereafter, in the course of the same criminal action either the felony complaint is replaced with or converted to an information, prosecutor's information or misdemeanor complaint pursuant to article one hundred eighty of this chapter or a prosecutor's information is filed pursuant to section 190.70 of this chapter, the period applicable for the purposes of subdivision one must be the period applicable to the charges in the new accusatory instrument, calculated from the date of the filing of such new accusatory instrument; provided, however, that when the aggregate of such period and the period of time, excluding the periods provided in subdivision four, already elapsed from the date of the filing of the felony complaint to the date of the filing of the new accusatory instrument exceeds six months, the period applicable to the charges in the felony complaint must remain applicable and continue as if the new accusatory instrument had not been filed;(d) where a criminal action is commenced by the filing of a felony

complaint, and thereafter, in the course of the same criminal action either the felony complaint is replaced with or converted to an information, prosecutor's information or misdemeanor complaint pursuant to article one hundred eighty of this chapter or a prosecutor's information is filed pursuant to section 190.70 of this chapter, the period applicable for the purposes of subdivision two of this section must be the period applicable to the charges in the new accusatory instrument, calculated from the date of the filing of such new accusatory instrument; provided, however, that when the aggregate of such period and the period of time, excluding the periods provided in subdivision four of this section, already elapsed from the date of the filing of the felony complaint to the date of the filing of the new accusatory instrument exceeds ninety days, the period applicable to the charges in the felony complaint must remain applicable and continue as if the new accusatory instrument had not been filed.(e) where a count of an indictment is reduced to charge only a misdemeanor or petty offense and a reduced indictment or a prosecutor's information is filed pursuant to subdivisions one-a and six of section 210.20 of this chapter, the period applicable for the purposes of subdivision one of this section must be the period applicable to the charges in the new accusatory instrument, calculated from the date of the filing of such new accusatory instrument; provided, however, that when the aggregate of such period and the period of time, excluding the periods provided in subdivision four of this section, already elapsed from the date of the filing of the indictment to the date of the filing of the new accusatory instrument exceeds six months, the period applicable to the charges in the indictment must remain applicable and continue as if the new accusatory instrument had not been filed;(f) where a count of an indictment is reduced to charge only a misdemeanor or petty offense and a reduced indictment or a prosecutor's information is filed pursuant to subdivisions one-a and six of section 210.20 of this chapter, the period applicable for the purposes of subdivision two of this section must be the period applicable to the charges in the new accusatory instrument, calculated from the date of the filing of such new accusatory instrument; provided, however, that when the aggregate of such period and the period of time, excluding the periods provided in subdivision four of this section, already elapsed from the date of the filing of the indictment to the date of the filing of the new accusatory instrument exceeds ninety days, the period applicable to the charges in the indictment must remain applicable and continue as if the new accusatory instrument had not been filed.8. The procedural rules prescribed in subdivisions one through seven of section 210.45 of this chapter with respect to a motion to dismiss an indictment are not applicable to a motion made pursuant to subdivision two of this section. If, upon oral argument, a time period is in dispute, the court must promptly conduct a hearing in which the people must prove that the time period is excludable. (a) six months of the commencement of a criminal action wherein a defendant is accused of one or more offenses, at least one of which is a felony; (b) ninety days of the commencement of a criminal action wherein a defendant is accused of one or more offenses, at least one of which is a misdemeanor punishable by a sentence of imprisonment of more than three months and none of which is a felony; (c) sixty days of the commencement of a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a misdemeanor punishable by a sentence of imprisonment of not more than three months and none of which is a crime punishable by a sentence of imprisonment of more than three months; or (d) thirty days of the commencement of a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a violation and none of which is a crime. (e) for the purposes of this subdivision, the term offense shall include vehicle and traffic law infractions. 2. Except as provided in subdivision three of this section, where a defendant has been committed to the custody of the sheriff or the office of children and family services in a criminal action he or she must be released on bail or on his or her own recognizance, upon such conditions as may be just and reasonable, if the people are not ready for trial in that criminal action within: (a) ninety days from the commencement of his or her commitment to the custody of the sheriff or the office of children and family services in a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a felony; (b) thirty days from the commencement of his or her commitment to the custody of the sheriff or the office of children and family services in a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a misdemeanor punishable by a sentence of imprisonment of more than three months and none of which is a felony; (c) fifteen days from the commencement of his or her commitment to the custody of the sheriff or the office of children and family services in a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a misdemeanor punishable by a sentence of imprisonment of not more than three months and none of which is a crime punishable by a sentence of imprisonment of more than three months; or (d) five days from the commencement of his or her commitment to the custody of the sheriff or the office of children and family services in a criminal action wherein the defendant is accused of one or more offenses, at least one of which is a violation and none of which is a crime. (e) for the purposes of this subdivision, the term offense shall include vehicle and traffic law infractions. 3. (a) Subdivisions one and two of this section do not apply to a criminal action wherein the defendant is accused of an offense defined in sections 125.10, 125.15, 125.20, 125.25, 125.26 and 125.27 of the penal law. (b) A motion made pursuant to subdivisions one or two of this section upon expiration of the specified period may be denied where the people are not ready for trial if the people were ready for trial prior to the expiration of the specified period and their present unreadiness is due to some exceptional fact or circumstance, including, but not limited to, the sudden unavailability of evidence material to the people's case, when the district attorney has exercised due diligence to obtain such evidence and there are reasonable grounds to believe that such evidence will become available in a reasonable period. (c) A motion made pursuant to subdivision two of this section shall not: (i) apply to any defendant who is serving a term of imprisonment for another offense; (ii) require the release from custody of any defendant who is also being held in custody pending trial of another criminal charge as to which the applicable period has not yet elapsed; (iii) prevent the redetention of or otherwise apply to any defendant who, after being released from custody pursuant to this section or otherwise, is charged with another crime or violates the conditions on which he has been released, by failing to appear at a judicial proceeding at which his presence is required or otherwise. 4. In computing the time within which the people must be ready for trial pursuant to subdivisions one and two of this section, the following periods must be excluded: (a) a reasonable period of

delay resulting from other proceedings concerning the defendant, including but not limited to: proceedings for the determination of competency and the period during which defendant is incompetent to stand trial; demand to produce; request for a bill of particulars; pre-trial motions; appeals; trial of other charges; and the period during which such matters are under consideration by the court; or (b) the period of delay resulting from a continuance granted by the court at the request of, or with the consent of, the defendant or his or her counsel. The court may grant such a continuance only if it is satisfied that postponement is in the interest of justice, taking into account the public interest in the prompt dispositions of criminal charges. A defendant without counsel must not be deemed to have consented to a continuance unless he or she has been advised by the court of his or her rights under these rules and the effect of his consent, which must be done on the record in open court; or (c) (i) the period of delay resulting from the absence or unavailability of the defendant. A defendant must be considered absent whenever his location is unknown and he is attempting to avoid apprehension or prosecution, or his location cannot be determined by due diligence. A defendant must be considered unavailable whenever his location is known but his presence for trial cannot be obtained by due diligence; or (ii) where the defendant has either escaped from custody or has failed to appear when required after having previously been released on bail or on his own recognizance, and provided the defendant is not in custody on another matter, the period extending from the day the court issues a bench warrant pursuant to section 530.70 of this chapter because of the defendant's failure to appear in court when required, to the day the defendant subsequently appears in the court pursuant to a bench warrant or voluntarily or otherwise; or (d) a reasonable period of delay when the defendant is joined for trial with a co-defendant as to whom the time for trial pursuant to this section has not run and good cause is not shown for granting a severance; or (e) the period of delay resulting from detention of the defendant in another jurisdiction provided the district attorney is aware of such detention and has been diligent and has made reasonable efforts to obtain the presence of the defendant for trial; or (f) the period during which the defendant is without counsel through no fault of the court; except when the defendant is proceeding as his own attorney with the permission of the court; or (g) other periods of delay occasioned by exceptional circumstances, including but not limited to, the period of delay resulting from a continuance granted at the request of a district attorney if (i) the continuance is granted because of the unavailability of evidence material to the people's case, when the district attorney has exercised due diligence to obtain such evidence and there are reasonable grounds to believe that such evidence will become available in a reasonable period; or (ii) the continuance is granted to allow the district attorney additional time to prepare the people's case and additional time is justified by the exceptional circumstances of the case. Any such exclusion when a statement of unreadiness has followed a statement of readiness made by the people must be evaluated by the court after inquiry on the record as to the reasons for the people's unreadiness and shall only be approved upon a showing of sufficient supporting facts; or (h) the period during which an action has been adjourned in contemplation of dismissal pursuant to sections 170.55, 170.56 and 215.10 of this chapter; or (i) the period prior to the defendant's actual appearance for arraignment in a situation in which the defendant has been directed to appear by the district attorney pursuant to subdivision three of section 120.20 or subdivision three of section 210.10 of this chapter; or (j) the period during which a family offense is before a family court until such time as an accusatory instrument or indictment is filed against the defendant alleging a crime constituting a family offense, as such term is defined in section 530.11 of this chapter. 5. Whenever pursuant to this section a prosecutor states or otherwise provides notice that the people are ready for trial, the court shall make inquiry on the record as to their actual readiness. If, after conducting its inquiry, the court determines that the people are not ready to proceed to trial, the prosecutor's statement or notice of readiness shall not be valid for purposes of this section. Any statement of trial readiness must be accompanied or preceded by a certification of good faith compliance with the disclosure requirements of section 245.20 of this chapter and the defense shall be afforded an opportunity to be heard on the record as to whether the disclosure requirements have been met. This subdivision shall not apply to cases where the defense has waived disclosure requirements. 5-a. Upon a local criminal court accusatory instrument, a statement of readiness shall not be valid unless the prosecuting attorney certifies that all counts charged in the accusatory instrument meet the requirements of sections 100.15 and 100.40 of this chapter and those counts not meeting the requirements of sections 100.15 and 100.40 of this chapter have been dismissed. 6. An order finally denying a motion to dismiss pursuant to subdivision one of this section shall be reviewable upon an appeal from an ensuing judgment of conviction notwithstanding the fact that such judgment is entered upon a plea of guilty. 7. For purposes of this section, (a) where the defendant is to be tried following the withdrawal of the plea of guilty or is to be retried following a mistrial, an order for a new trial or an appeal or collateral attack, the criminal action and the commitment to the custody of the sheriff or the office of children and family services, if any, must be deemed to have commenced on the date the withdrawal of the plea of guilty or the date the order occasioning a retrial becomes final; (b) where a defendant has been served with an appearance ticket, the criminal action must be deemed to have commenced on the date the defendant first appears in a local criminal court in response to the ticket; (c) where a criminal action is commenced by the filing of a felony complaint, and thereafter, in the course of the same criminal action either the felony complaint is replaced with or converted to an information, prosecutor's information or misdemeanor complaint pursuant to article one hundred eighty of this chapter or a prosecutor's information is filed pursuant to section 190.70 of this chapter, the period applicable for the purposes of subdivision one must be the period applicable to the charges in the new accusatory instrument, calculated from the date of the filing of such new accusatory instrument; provided, however, that when the aggregate of such period and the period of time, excluding the periods provided in subdivision four, already elapsed from the date of the filing of the felony complaint to the date of the filing of the new accusatory instrument exceeds six months, the period applicable to the charges in the felony complaint must remain applicable and continue as if the new accusatory instrument had not been filed; (d) where a criminal action is commenced by the filing of a felony complaint, and thereafter, in the course of the same criminal action either the felony complaint is replaced with or converted to an information, prosecutor's information or misdemeanor complaint pursuant to article one hundred eighty of this

chapter or a prosecutor's information is filed pursuant to section 190.70 of this chapter, the period applicable for the purposes of subdivision two of this section must be the period applicable to the charges in the new accusatory instrument, calculated from the date of the filing of such new accusatory instrument; provided, however, that when the aggregate of such period and the period of time, excluding the periods provided in subdivision four of this section, already elapsed from the date of the filing of the felony complaint to the date of the filing of the new accusatory instrument exceeds ninety days, the period applicable to the charges in the felony complaint must remain applicable and continue as if the new accusatory instrument had not been filed. (e) where a count of an indictment is reduced to charge only a misdemeanor or petty offense and a reduced indictment or a prosecutor's information is filed pursuant to subdivisions one-a and six of section 210.20 of this chapter, the period applicable for the purposes of subdivision one of this section must be the period applicable to the charges in the new accusatory instrument, calculated from the date of the filing of such new accusatory instrument; provided, however, that when the aggregate of such period and the period of time, excluding the periods provided in subdivision four of this section, already elapsed from the date of the filing of the indictment to the date of the filing of the new accusatory instrument exceeds six months, the period applicable to the charges in the indictment must remain applicable and continue as if the new accusatory instrument had not been filed; (f) where a count of an indictment is reduced to charge only a misdemeanor or petty offense and a reduced indictment or a prosecutor's information is filed pursuant to subdivisions one-a and six of section 210.20 of this chapter, the period applicable for the purposes of subdivision two of this section must be the period applicable to the charges in the new accusatory instrument, calculated from the date of the filing of such new accusatory instrument; provided, however, that when the aggregate of such period and the period of time, excluding the periods provided in subdivision four of this section, already elapsed from the date of the filing of the indictment to the date of the filing of the new accusatory instrument exceeds ninety days, the period applicable to the charges in the indictment must remain applicable and continue as if the new accusatory instrument had not been filed. 8. The procedural rules prescribed in subdivisions one through seven of section 210.45 of this chapter with respect to a motion to dismiss an indictment are not applicable to a motion made pursuant to subdivision two of this section. If, upon oral argument, a time period is in dispute, the court must promptly conduct a hearing in which the people must prove that the time period is excludable.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle C - General Principles Relating to Requirements for and Exemptions From Criminal ProsecutionArticle 40 - Exemption From Prosecution by Reason of Previous Prosecution40.10 - Previous Prosecution; Definitions of Terms.

The following definitions are applicable to this article: 1. "Offense." An "offense" is committed whenever any conduct is performed which violates a statutory provision defining an offense; and when the same conduct or criminal transaction violates two or more such statutory provisions each such violation constitutes a separate and distinct offense. The same conduct or criminal transaction also establishes separate and distinct offenses when, though violating only one statutory provision, it results in death, injury, loss or other consequences to two or more victims, and such result is an element of the offense as defined. In such case, as many offenses are committed as there are victims. 2. "Criminal transaction" means conduct which establishes at least one offense, and which is comprised of two or more or a group of acts either (a) so closely related and connected in point of time and circumstance of commission as to constitute a single criminal incident, or (b) so closely related in criminal purpose or objective as to constitute elements or integral parts of a single criminal venture.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle C - General Principles Relating to Requirements for and Exemptions From Criminal ProsecutionArticle 40 - Exemption From Prosecution by Reason of Previous Prosecution40.20 - Previous Prosecution; When a Bar to Second Prosecution.

1. A person may not be twice prosecuted for the same offense. 2. A person may not be separately prosecuted for two offenses based upon the same act or criminal transaction unless:(a) The offenses as defined have substantially different elements and the acts establishing one offense are in the main clearly distinguishable from those establishing the other; or(b) Each of the offenses as defined contains an element which is not an element of the other, and the statutory provisions defining such offenses are designed to prevent very different kinds of harm or evil; or(c) One of such offenses consists of criminal possession of contraband matter and the other offense is one involving the use of such contraband matter, other than a sale thereof; or(d) One of the offenses is assault or some other offense resulting in physical injury to a person, and the other offense is one of homicide based upon the death of such person from the same physical injury, and such death occurs after a prosecution for the assault or other non-homicide offense; or(e) Each offense involves death, injury, loss or other consequence to a different victim; or(f) One of the offenses consists of a violation of a statutory provision of another jurisdiction, which offense has been prosecuted in such other jurisdiction and has there been terminated by a court order expressly founded upon insufficiency of evidence to establish some element of such offense which is not an element of the other offense, defined by the laws of this state; or(g) The present prosecution is for a consummated result offense, as defined in subdivision three of section 20.10, which occurred in this state and the offense was the result of a conspiracy, facilitation or solicitation prosecuted in another state.(h) One of such offenses is enterprise corruption in violation of section 460.20 of the penal law, racketeering in violation of federal law or any comparable offense pursuant to the law of another state and a separate or subsequent prosecution is not barred by section 40.50 of this article.(i) One of the offenses consists of a violation of 18 U.S.C. 371, where the object of the conspiracy is to attempt in any manner to evade or defeat any federal income tax or the payment thereof, or a violation of 26 U.S.C. 7201, 26 U.S.C. 7202, 26 U.S.C. 7203, 26 U.S.C. 7204, 26 U.S.C. 7205, 26 U.S.C. 7206 or 26 U.S.C. 7212(A), where the purpose is to evade or defeat any federal income tax or the payment thereof, and the other offense is

committed for the purpose of evading or defeating any New York state or New York city income taxes and is defined in article one hundred fifty-five of the penal law, article one hundred seventy of the penal law, article one hundred seventy-five of the penal law, article thirty-seven of the tax law or chapter forty of title eleven of the administrative code of the city of New York. (a) The offenses as defined have substantially different elements and the acts establishing one offense are in the main clearly distinguishable from those establishing the other; or (b) Each of the offenses as defined contains an element which is not an element of the other, and the statutory provisions defining such offenses are designed to prevent very different kinds of harm or evil; or (c) One of such offenses consists of criminal possession of contraband matter and the other offense is one involving the use of such contraband matter, other than a sale thereof; or (d) One of the offenses is assault or some other offense resulting in physical injury to a person, and the other offense is one of homicide based upon the death of such person from the same physical injury, and such death occurs after a prosecution for the assault or other non-homicide offense; or (e) Each offense involves death, injury, loss or other consequence to a different victim; or (f) One of the offenses consists of a violation of a statutory provision of another jurisdiction, which offense has been prosecuted in such other jurisdiction and has there been terminated by a court order expressly founded upon insufficiency of evidence to establish some element of such offense which is not an element of the other offense, defined by the laws of this state; or (g) The present prosecution is for a consummated result offense, as defined in subdivision three of section 20.10, which occurred in this state and the offense was the result of a conspiracy, facilitation or solicitation prosecuted in another state. (h) One of such offenses is enterprise corruption in violation of section 460.20 of the penal law, racketeering in violation of federal law or any comparable offense pursuant to the law of another state and a separate or subsequent prosecution is not barred by section 40.50 of this article. (i) One of the offenses consists of a violation of 18 U.S.C. 371, where the object of the conspiracy is to attempt in any manner to evade or defeat any federal income tax or the payment thereof, or a violation of 26 U.S.C. 7201, 26 U.S.C. 7202, 26 U.S.C. 7203, 26 U.S.C. 7204, 26 U.S.C. 7205, 26 U.S.C. 7206 or 26 U.S.C. 7212(A), where the purpose is to evade or defeat any federal income tax or the payment thereof, and the other offense is committed for the purpose of evading or defeating any New York state or New York city income taxes and is defined in article one hundred fifty-five of the penal law, article one hundred seventy of the penal law, article one hundred seventy-five of the penal law, article thirty-seven of the tax law or chapter forty of title eleven of the administrative code of the city of New York.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle C - General Principles Relating to Requirements for and Exemptions From Criminal ProsecutionArticle 40 - Exemption From Prosecution by Reason of Previous Prosecution40.30 - Previous Prosecution; What Constitutes.

1. Except as otherwise provided in this section, a person "is prosecuted" for an offense, within the meaning of section 40.20, when he is charged therewith by an accusatory instrument filed in a court of this state or of any jurisdiction within the United States, and when the action either:(a) Terminates in a conviction upon a plea of guilty; or(b) Proceeds to the trial stage and a jury has been impaneled and sworn or, in the case of a trial by the court without a jury, a witness is sworn.2. Despite the occurrence of proceedings specified in subdivision one, a person is not deemed to have been prosecuted for an offense, within the meaning of section 40.20, when:(a) Such prosecution occurred in a court which lacked jurisdiction over the defendant or the offense; or(b) Such prosecution was for a lesser offense than could have been charged under the facts of the case, and the prosecution was procured by the defendant, without the knowledge of the appropriate prosecutor, for the purpose of avoiding prosecution for a greater offense.3. Despite the occurrence of proceedings specified in subdivision one, if such proceedings are subsequently nullified by a court order which restores the action to its pre-pleading status or which directs a new trial of the same accusatory instrument, the nullified proceedings do not bar further prosecution of such offense under the same accusatory instrument.4. Despite the occurrence of proceedings specified in subdivision one, if such proceedings are subsequently nullified by a court order which dismisses the accusatory instrument but authorizes the people to obtain a new accusatory instrument charging the same offense or an offense based upon the same conduct, the nullified proceedings do not bar further prosecution of such offense under any new accusatory instrument obtained pursuant to such court order or authorization. (a) Terminates in a conviction upon a plea of guilty; or (b) Proceeds to the trial stage and a jury has been impaneled and sworn or, in the case of a trial by the court without a jury, a witness is sworn. 2. Despite the occurrence of proceedings specified in subdivision one, a person is not deemed to have been prosecuted for an offense, within the meaning of section 40.20, when: (a) Such prosecution occurred in a court which lacked jurisdiction over the defendant or the offense; or (b) Such prosecution was for a lesser offense than could have been charged under the facts of the case, and the prosecution was procured by the defendant, without the knowledge of the appropriate prosecutor, for the purpose of avoiding prosecution for a greater offense. 3. Despite the occurrence of proceedings specified in subdivision one, if such proceedings are subsequently nullified by a court order which restores the action to its pre-pleading status or which directs a new trial of the same accusatory instrument, the nullified proceedings do not bar further prosecution of such offense under the same accusatory instrument. 4. Despite the occurrence of proceedings specified in subdivision one, if such proceedings are subsequently nullified by a court order which dismisses the accusatory instrument but authorizes the people to obtain a new accusatory instrument charging the same offense or an offense based upon the same conduct, the nullified proceedings do not bar further prosecution of such offense under any new accusatory instrument obtained pursuant to such court order or authorization.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle C - General Principles Relating to Requirements for and Exemptions From Criminal ProsecutionArticle 40 - Exemption From Prosecution by Reason of Previous Prosecution40.40 - Separate Prosecution of Jointly Prosecutable Offenses; When Barred.

barred. 1. Where two or more offenses are joinable in a single accusatory instrument against a person by reason of being based upon the same criminal transaction, pursuant to paragraph (a) of subdivision two of section 200.20, such person may not, under circumstances prescribed in this section, be separately prosecuted for such offenses even though such separate prosecutions are not otherwise barred by any other section of this article. 2. When (a) one of two or more joinable offenses of the kind specified in subdivision one is charged in an accusatory instrument, and (b) another is not charged therein, or in any other accusatory instrument filed in the same court, despite possession by the people of evidence legally sufficient to support a conviction of the defendant for such uncharged offense, and (c) either a trial of the existing accusatory instrument is commenced or the action thereon is disposed of by a plea of guilty, any subsequent prosecution for the uncharged offense is thereby barred. 3. When (a) two or more of such offenses are charged in separate accusatory instruments filed in the same court, and (b) an application by the defendant for consolidation thereof for trial purposes, pursuant to subdivision five of section 200.20 or section 100.45, is improperly denied, the commencement of a trial of one such accusatory instrument bars any subsequent prosecution upon any of the other accusatory instruments with respect to any such offense.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle C - General Principles Relating to Requirements for and Exemptions From Criminal ProsecutionArticle 40 - Exemption From Prosecution by Reason of Previous Prosecution40.50 - Previous Prosecution; Enterprise Corruption.

1. The following definitions are applicable to this section:(a) A criminal act or offense is "specifically included" when a count of an accusatory instrument charging a person with enterprise corruption alleges a pattern of criminal activity and the act or offense is alleged to be a criminal act within such pattern.(b) A criminal act is "a part of" a pattern of criminal activity alleged in a count of enterprise corruption when it is committed prior to commencement of the criminal action in which enterprise corruption is charged and was committed in furtherance of the same common scheme or plan or with intent to participate in or further the affairs of the same criminal enterprise to which the crimes specifically included in the pattern are connected.(c) A person "is prosecuted" for an offense when he is prosecuted for it within the meaning of section 40.30 of this article or when an indictment or a count of an indictment charging that offense is dismissed pursuant to section 210.20 of this chapter without authorization to submit the charge to the same or another grand jury, or the indictment or the count of the indictment charging that offense is dismissed following the granting of a motion to suppress pursuant to article 710 of this chapter, unless an appeal from the order granting the motion to dismiss or suppress is pending.(d) An offense was "not prosecutable" in an accusatory instrument in which a person was charged with enterprise corruption when there was no geographical jurisdiction of that offense in the county where the accusatory instrument was filed, or when the offense was prosecutable in the county and was not barred from prosecution by section 40.20 or 40.40 of this article or by any other provision of law but the prosecutor filing the accusatory instrument was not empowered by law to prosecute the offense.2. A person who has been previously prosecuted for an offense may not be subsequently prosecuted for enterprise corruption based upon a pattern of criminal activity in which that prior offense, or another offense based upon the same act or criminal transaction, is specifically included unless:(a) he was convicted of that prior offense; and(b) the subsequent pattern of criminal activity in which he participated includes at least one criminal act for which he was not previously prosecuted, which was a felony, and which occurred after that prior conviction.3. A person who has been previously prosecuted for enterprise corruption may not be subsequently prosecuted for an offense specifically included in the pattern of criminal activity upon which it was based, or another offense based upon the same act or criminal transaction, unless the offense is a class A felony and was not prosecutable in the accusatory instrument in which the person was charged with enterprise corruption.4. A person may not be separately prosecuted for enterprise corruption and for an offense specifically included in the pattern of criminal activity upon which it is based or another offense based upon the same act or transaction, unless the offense is a class A felony and is not prosecutable in the accusatory instrument in which the person is charged with enterprise corruption.5. A person who has been previously prosecuted for enterprise corruption may not be subsequently prosecuted for an offense which, while not specifically included in the pattern of criminal activity on which the prior charge of enterprise corruption was based, was nonetheless a part of that pattern, unless the offense was a class A or B felony and either the offense was not prosecutable in the accusatory instrument in which the person was charged with enterprise corruption or the people show, by clear and convincing evidence, that the prosecutor did not possess evidence legally sufficient to support a conviction of that offense at the time of the earlier prosecution and evidence of that offense was not presented as part of the case in chief in the earlier prosecution.6. A person who has been previously prosecuted for enterprise corruption may not be subsequently prosecuted for enterprise corruption based upon a pattern of criminal activity that specifically includes a criminal act that was also specifically included in the pattern upon which the prior charge of enterprise corruption was based.7. A person may not be separately prosecuted for enterprise corruption in two accusatory instruments based upon a pattern of criminal activity, alleged in either instrument, that specifically includes a criminal act that is also specifically included in the pattern upon which the other charge of enterprise corruption is based.8. When a person is charged in an accusatory instrument with both one or more counts of enterprise corruption and with another offense or offenses specifically included in or otherwise a part of the pattern or patterns of criminal activity upon which the charge or charges of enterprise corruption is or are based, and the court orders that any of the counts be tried separately pursuant to subdivision one of section 200.40 of this chapter, this section shall not apply and subsequent prosecution of the remaining counts or offenses shall not be barred.9. A person who has been previously prosecuted for racketeering pursuant to federal law, or any comparable offense pursuant to the law of another state may not be subsequently prosecuted for enterprise corruption based upon a pattern of criminal activity that specifically includes a criminal act that was also specifically included in the pattern of racketeering activity upon which the prior charge of racketeering was based provided,

however, that this section shall not be construed to prohibit the subsequent prosecution of any other offense specifically included in or otherwise a part of a pattern of racketeering activity alleged in any such prior prosecution for racketeering or other comparable offense. (a) A criminal act or offense is "specifically included" when a count of an accusatory instrument charging a person with enterprise corruption alleges a pattern of criminal activity and the act or offense is alleged to be a criminal act within such pattern. (b) A criminal act is "a part of" a pattern of criminal activity alleged in a count of enterprise corruption when it is committed prior to commencement of the criminal action in which enterprise corruption is charged and was committed in furtherance of the same common scheme or plan or with intent to participate in or further the affairs of the same criminal enterprise to which the crimes specifically included in the pattern are connected. (c) A person "is prosecuted" for an offense when he is prosecuted for it within the meaning of section 40.30 of this article or when an indictment or a count of an indictment charging that offense is dismissed pursuant to section 210.20 of this chapter without authorization to submit the charge to the same or another grand jury, or the indictment or the count of the indictment charging that offense is dismissed following the granting of a motion to suppress pursuant to article 710 of this chapter, unless an appeal from the order granting the motion to dismiss or suppress is pending. (d) An offense was "not prosecutable" in an accusatory instrument in which a person was charged with enterprise corruption when there was no geographical jurisdiction of that offense in the county where the accusatory instrument was filed, or when the offense was prosecutable in the county and was not barred from prosecution by section 40.20 or 40.40 of this article or by any other provision of law but the prosecutor filing the accusatory instrument was not empowered by law to prosecute the offense. 2. A person who has been previously prosecuted for an offense may not be subsequently prosecuted for enterprise corruption based upon a pattern of criminal activity in which that prior offense, or another offense based upon the same act or criminal transaction, is specifically included unless: (a) he was convicted of that prior offense; and (b) the subsequent pattern of criminal activity in which he participated includes at least one criminal act for which he was not previously prosecuted, which was a felony, and which occurred after that prior conviction. 3. A person who has been previously prosecuted for enterprise corruption may not be subsequently prosecuted for an offense specifically included in the pattern of criminal activity upon which it was based, or another offense based upon the same act or criminal transaction, unless the offense is a class A felony and was not prosecutable in the accusatory instrument in which the person was charged with enterprise corruption. 4. A person may not be separately prosecuted for enterprise corruption and for an offense specifically included in the pattern of criminal activity upon which it is based or another offense based upon the same act or transaction, unless the offense is a class A felony and is not prosecutable in the accusatory instrument in which the person is charged with enterprise corruption. 5. A person who has been previously prosecuted for enterprise corruption may not be subsequently prosecuted for an offense which, while not specifically included in the pattern of criminal activity on which the prior charge of enterprise corruption was based, was nonetheless a part of that pattern, unless the offense was a class A or B felony and either the offense was not prosecutable in the accusatory instrument in which the person was charged with enterprise corruption or the people show, by clear and convincing evidence, that the prosecutor did not possess evidence legally sufficient to support a conviction of that offense at the time of the earlier prosecution and evidence of that offense was not presented as part of the case in chief in the earlier prosecution. 6. A person who has been previously prosecuted for enterprise corruption may not be subsequently prosecuted for enterprise corruption based upon a pattern of criminal activity that specifically includes a criminal act that was also specifically included in the pattern upon which the prior charge of enterprise corruption was based. 7. A person may not be separately prosecuted for enterprise corruption in two accusatory instruments based upon a pattern of criminal activity, alleged in either instrument, that specifically includes a criminal act that is also specifically included in the pattern upon which the other charge of enterprise corruption is based. 8. When a person is charged in an accusatory instrument with both one or more counts of enterprise corruption and with another offense or offenses specifically included in or otherwise a part of the pattern or patterns of criminal activity upon which the charge or charges of enterprise corruption is or are based, and the court orders that any of the counts be tried separately pursuant to subdivision one of section 200.40 of this chapter, this section shall not apply and subsequent prosecution of the remaining counts or offenses shall not be barred. 9. A person who has been previously prosecuted for racketeering pursuant to federal law, or any comparable offense pursuant to the law of another state may not be subsequently prosecuted for enterprise corruption based upon a pattern of criminal activity that specifically includes a criminal act that was also specifically included in the pattern of racketeering activity upon which the prior charge of racketeering was based provided, however, that this section shall not be construed to prohibit the subsequent prosecution of any other offense specifically included in or otherwise a part of a pattern of racketeering activity alleged in any such prior prosecution for racketeering or other comparable offense.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle C - General Principles Relating to Requirements for and Exemptions From Criminal ProsecutionArticle 40 - Exemption From Prosecution by Reason of Previous Prosecution40.51 - Previous Prosecution: Presidential Reprieve, Pardon or Other Form of Clemency.

form of clemency. When a person has been granted a reprieve, pardon or other form of clemency for an offense pursuant to the authority granted in section two of article two of the United States constitution, a separate or subsequent prosecution of an offense is not barred under this article when the people demonstrate, by clear and convincing evidence, that: 1. (a) such person served in or was employed by the executive branch of the government of the United States on the executive staff of the president, in the executive office of the president, or in an acting or confirmed capacity in a position subject to confirmation by the United States senate, at a time when the president granting such reprieve, pardon or other form of clemency served as president or vice-president of the United States; or (b) such person was directly or indirectly employed by, or acted as an agent of, the election, transition or

re-election campaign of the president granting such reprieve, pardon or other form of clemency or any for-profit or not-for-profit entity owned or controlled by the president granting such reprieve, pardon or other form of clemency; or 2. such person was, at the time the president granted such reprieve, pardon or other form of clemency, related by consanguinity or affinity within the sixth degree to the president granting such reprieve, pardon or other form of clemency; or 3. such person bears accessorial liability, as defined in section 20.00 of the penal law, or conspiratorial liability, within the meaning of article one hundred five of the penal law, for such offense with one or more persons described in subdivision one or two of this section; or 4. the president who granted such reprieve, pardon or other form of clemency to such person (a) was thereby aided in avoiding potential prosecution or conviction; (b) knowingly obtained a benefit from such offense; or (c) knowingly obtained a tangible, material benefit from or on behalf of such person; or 5. such person possessed or possesses information material to the determination of any criminal or civil investigation, enforcement action or prosecution of the president granting such reprieve, pardon or other form of clemency, or of one or more persons described in subdivision one, two or three of this section.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle C - General Principles Relating to Requirements for and Exemptions From Criminal ProsecutionArticle 50 - Compulsion of Evidence by Offer of Immunity50.10 - Compulsion of Evidence by Offer of Immunity; Definitions of Terms.

terms. The following definitions are applicable to this article: 1. "Immunity." A person who has been a witness in a legal proceeding, and who cannot, except as otherwise provided in this subdivision, be convicted of any offense or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he gave evidence therein, possesses "immunity" from any such conviction, penalty or forfeiture. A person who possesses such immunity may nevertheless be convicted of perjury as a result of having given false testimony in such legal proceeding, and may be convicted of or adjudged in contempt as a result of having contumaciously refused to give evidence therein. 2. "Legal proceeding" means a proceeding in or before any court or grand jury, or before any body, agency or person authorized by law to conduct the same and to administer the oath or to cause it to be administered. 3. "Give evidence" means to testify or produce physical evidence.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle C - General Principles Relating to Requirements for and Exemptions From Criminal ProsecutionArticle 50 - Compulsion of Evidence by Offer of Immunity50.20 - Compulsion of Evidence by Offer of Immunity.

1. Any witness in a legal proceeding, other than a grand jury proceeding, may refuse to give evidence requested of him on the ground that it may tend to incriminate him and he may not, except as provided in subdivision two, be compelled to give such evidence. 2. Such a witness may be compelled to give evidence in such a proceeding notwithstanding an assertion of his privilege against self-incrimination if:(a) The proceeding is one in which, by express provision of statute, a person conducting or connected therewith is declared a competent authority to confer immunity upon witnesses therein; and(b) Such competent authority (i) orders such witness to give the requested evidence notwithstanding his assertion of his privilege against self-incrimination, and (ii) advises him that upon so doing he will receive immunity.3. A witness who is ordered to give evidence pursuant to subdivision two and who complies with such order receives immunity. Such witness is not deprived of such immunity because such competent authority did not comply with statutory provisions requiring notice to a specified public servant of intention to confer immunity.4. A witness who, without asserting his privilege against self-incrimination, gives evidence in a legal proceeding other than a grand jury proceeding does not receive immunity.5. The rules governing the circumstances in which witnesses may be compelled to give evidence and in which they receive immunity therefor in a grand jury proceeding are prescribed in section 190.40. (a) The proceeding is one in which, by express provision of statute, a person conducting or connected therewith is declared a competent authority to confer immunity upon witnesses therein; and (b) Such competent authority (i) orders such witness to give the requested evidence notwithstanding his assertion of his privilege against self-incrimination, and (ii) advises him that upon so doing he will receive immunity. 3. A witness who is ordered to give evidence pursuant to subdivision two and who complies with such order receives immunity. Such witness is not deprived of such immunity because such competent authority did not comply with statutory provisions requiring notice to a specified public servant of intention to confer immunity. 4. A witness who, without asserting his privilege against self-incrimination, gives evidence in a legal proceeding other than a grand jury proceeding does not receive immunity. 5. The rules governing the circumstances in which witnesses may be compelled to give evidence and in which they receive immunity therefor in a grand jury proceeding are prescribed in section 190.40.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle C - General Principles Relating to Requirements for and Exemptions From Criminal ProsecutionArticle 50 - Compulsion of Evidence by Offer of Immunity50.30 - Authority to Confer Immunity in Criminal Proceedings; Court a Competent Authority.

competent authority. In any criminal proceeding, other than a grand jury proceeding, the court is a competent authority to confer immunity in accordance with the provisions of section 50.20, but only when expressly requested by the district attorney to do so.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.10 - Rules of Evidence; in General.

Unless otherwise provided by statute or by judicially established rules of evidence applicable to criminal cases, the rules of evidence

applicable to civil cases are, where appropriate, also applicable to criminal proceedings.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.15 - Rules of Evidence; What Witnesses May Be Called.

1. Unless otherwise expressly provided, in any criminal proceeding involving a defendant in which evidence is or may be received, both the people and the defendant may as a matter of right call and examine witnesses, and each party may cross-examine every witness called by the other party. 2. A defendant may testify in his own behalf, but his failure to do so is not a factor from which any inference unfavorable to him may be drawn.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.20 - Rules of Evidence; Testimonial Capacity; Evidence Given by Children.

children. 1. Any person may be a witness in a criminal proceeding unless the court finds that, by reason of infancy or mental disease or defect, he does not possess sufficient intelligence or capacity to justify the reception of his evidence. 2. Every witness more than nine years old may testify only under oath unless the court is satisfied that such witness cannot, as a result of mental disease or defect, understand the nature of an oath. A witness less than nine years old may not testify under oath unless the court is satisfied that he or she understands the nature of an oath. If under either of the above provisions, a witness is deemed to be ineligible to testify under oath, the witness may nevertheless be permitted to give unsworn evidence if the court is satisfied that the witness possesses sufficient intelligence and capacity to justify the reception thereof. A witness understands the nature of an oath if he or she appreciates the difference between truth and falsehood, the necessity for telling the truth, and the fact that a witness who testifies falsely may be punished. 3. A defendant may not be convicted of an offense solely upon unsworn evidence given pursuant to subdivision two.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.22 - Rules of Evidence; Corroboration of Accomplice Testimony.

1. A defendant may not be convicted of any offense upon the testimony of an accomplice unsupported by corroborative evidence tending to connect the defendant with the commission of such offense. 2. An "accomplice" means a witness in a criminal action who, according to evidence adduced in such action, may reasonably be considered to have participated in:(a) The offense charged; or(b) An offense based upon the same or some of the same facts or conduct which constitute the offense charged.3. A witness who is an accomplice as defined in subdivision two is no less such because a prosecution or conviction of himself would be barred or precluded by some defense or exemption, such as infancy, immunity or previous prosecution, amounting to a collateral impediment to such a prosecution or conviction, not affecting the conclusion that such witness engaged in the conduct constituting the offense with the mental state required for the commission thereof. (a) The offense charged; or (b) An offense based upon the same or some of the same facts or conduct which constitute the offense charged. 3. A witness who is an accomplice as defined in subdivision two is no less such because a prosecution or conviction of himself would be barred or precluded by some defense or exemption, such as infancy, immunity or previous prosecution, amounting to a collateral impediment to such a prosecution or conviction, not affecting the conclusion that such witness engaged in the conduct constituting the offense with the mental state required for the commission thereof.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.25 - Rules of Evidence; Identification by Means of Previous Recognition, in Absence of Present Identification.

recognition, in absence of present identification. 1. In any criminal proceeding in which the defendant's commission of an offense is in issue, testimony as provided in subdivision two may be given by a witness when:(a) Such witness testifies that:(i) He or she observed the person claimed by the people to be the defendant either at the time and place of the commission of the offense or upon some other occasion relevant to the case; and(ii) On a subsequent occasion he or she observed, under circumstances consistent with such rights as an accused person may derive under the constitution of this state or of the United States, a person or, where the observation is made pursuant to a blind or blinded procedure as defined in paragraph (c) of this subdivision, a pictorial, photographic, electronic, filmed or video recorded reproduction of a person whom he or she recognized as the same person whom he or she had observed on the first or incriminating occasion; and(iii) He or she is unable at the proceeding to state, on the basis of present recollection, whether or not the defendant is the person in question; and(b) It is established that the defendant is in fact the person whom the witness observed and recognized or whose pictorial, photographic, electronic, filmed or video recorded reproduction the witness observed and recognized on the second occasion. Such fact may be established by testimony of another person or persons to whom the witness promptly declared his or her recognition on such occasion and by such pictorial, photographic, electronic, filmed or video recorded reproduction.(c) For purposes of this section, a "blind or blinded procedure" is one in which the witness identifies a person in an array of pictorial, photographic, electronic, filmed or video recorded reproductions

under circumstances where, at the time the identification is made, the public servant administering such procedure: (i) does not know which person in the array is the suspect, or (ii) does not know where the suspect is in the array viewed by the witness. The failure of a public servant to follow such a procedure shall be assessed solely for purposes of this article and shall result in the preclusion of testimony regarding the identification procedure as evidence in chief, but shall not constitute a legal basis to suppress evidence made pursuant to subdivision six of section 710.20 of this chapter. This article neither limits nor expands subdivision six of section 710.20 of this chapter.2. Under circumstances prescribed in subdivision one of this section, such witness may testify at the criminal proceeding that the person whom he or she observed and recognized or whose pictorial, photographic, electronic, filmed or video recorded reproduction he or she observed and recognized on the second occasion is the same person whom he or she observed on the first or incriminating occasion. Such testimony, together with the evidence that the defendant is in fact the person whom the witness observed and recognized or whose pictorial, photographic, electronic, filmed or video recorded reproduction he or she observed and recognized on the second occasion, constitutes evidence in chief. (a) Such witness testifies that: (i) He or she observed the person claimed by the people to be the defendant either at the time and place of the commission of the offense or upon some other occasion relevant to the case; and (ii) On a subsequent occasion he or she observed, under circumstances consistent with such rights as an accused person may derive under the constitution of this state or of the United States, a person or, where the observation is made pursuant to a blind or blinded procedure as defined in paragraph (c) of this subdivision, a pictorial, photographic, electronic, filmed or video recorded reproduction of a person whom he or she recognized as the same person whom he or she had observed on the first or incriminating occasion; and (iii) He or she is unable at the proceeding to state, on the basis of present recollection, whether or not the defendant is the person in question; and (b) It is established that the defendant is in fact the person whom the witness observed and recognized or whose pictorial, photographic, electronic, filmed or video recorded reproduction the witness observed and recognized on the second occasion. Such fact may be established by testimony of another person or persons to whom the witness promptly declared his or her recognition on such occasion and by such pictorial, photographic, electronic, filmed or video recorded reproduction. (c) For purposes of this section, a "blind or blinded procedure" is one in which the witness identifies a person in an array of pictorial, photographic, electronic, filmed or video recorded reproductions under circumstances where, at the time the identification is made, the public servant administering such procedure: (i) does not know which person in the array is the suspect, or (ii) does not know where the suspect is in the array viewed by the witness. The failure of a public servant to follow such a procedure shall be assessed solely for purposes of this article and shall result in the preclusion of testimony regarding the identification procedure as evidence in chief, but shall not constitute a legal basis to suppress evidence made pursuant to subdivision six of section 710.20 of this chapter. This article neither limits nor expands subdivision six of section 710.20 of this chapter. 2. Under circumstances prescribed in subdivision one of this section, such witness may testify at the criminal proceeding that the person whom he or she observed and recognized or whose pictorial, photographic, electronic, filmed or video recorded reproduction he or she observed and recognized on the second occasion is the same person whom he or she observed on the first or incriminating occasion. Such testimony, together with the evidence that the defendant is in fact the person whom the witness observed and recognized or whose pictorial, photographic, electronic, filmed or video recorded reproduction he or she observed and recognized on the second occasion, constitutes evidence in chief.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.30 - Rules of Evidence; Identification by Means of Previous Recognition, in Addition to Present Identification.

recognition, in addition to present identification. In any criminal proceeding in which the defendant's commission of an offense is in issue, a witness who testifies that (a) he or she observed the person claimed by the people to be the defendant either at the time and place of the commission of the offense or upon some other occasion relevant to the case, and (b) on the basis of present recollection, the defendant is the person in question and (c) on a subsequent occasion he or she observed the defendant, or where the observation is made pursuant to a blind or blinded procedure, as defined in paragraph (c) of subdivision one of section 60.25 of this article, a pictorial, photographic, electronic, filmed or video recorded reproduction of the defendant, under circumstances consistent with such rights as an accused person may derive under the constitution of this state or of the United States, and then also recognized him or her or the pictorial, photographic, electronic, filmed or video recorded reproduction of him or her as the same person whom he or she had observed on the first or incriminating occasion, may, in addition to making an identification of the defendant at the criminal proceeding on the basis of present recollection as the person whom he or she observed on the first or incriminating occasion, also describe his or her previous recognition of the defendant and testify that the person whom he or she observed or whose pictorial, photographic, electronic, filmed or video recorded reproduction he or she observed on such second occasion is the same person whom he or she had observed on the first or incriminating occasion. Such testimony and such pictorial, photographic, electronic, filmed or video recorded reproduction constitutes evidence in chief.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.35 - Rules of Evidence; Impeachment of Own Witness by Proof of Prior Contradictory Statement.

contradictory statement. 1. When, upon examination by the party who called him, a witness in a criminal proceeding gives testimony upon a material issue of the case which tends to disprove the position of such party, such party may introduce evidence that such witness has previously made either a written statement signed by him or an oral statement under oath contradictory to such

testimony. 2. Evidence concerning a prior contradictory statement introduced pursuant to subdivision one may be received only for the purpose of impeaching the credibility of the witness with respect to his testimony upon the subject, and does not constitute evidence in chief. Upon receiving such evidence at a jury trial, the court must so instruct the jury. 3. When a witness has made a prior signed or sworn statement contradictory to his testimony in a criminal proceeding upon a material issue of the case, but his testimony does not tend to disprove the position of the party who called him and elicited such testimony, evidence that the witness made such prior statement is not admissible, and such party may not use such prior statement for the purpose of refreshing the recollection of the witness in a manner that discloses its contents to the trier of the facts.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.40 - Rules of Evidence; Proof of Previous Conviction; When Allowed.

1. If in the course of a criminal proceeding, any witness, including a defendant, is properly asked whether he was previously convicted of a specified offense and answers in the negative or in an equivocal manner, the party adverse to the one who called him may independently prove such conviction. If in response to proper inquiry whether he has ever been convicted of any offense the witness answers in the negative or in an equivocal manner, the adverse party may independently prove any previous conviction of the witness. 2. If a defendant in a criminal proceeding, through the testimony of a witness called by him, offers evidence of his good character, the people may independently prove any previous conviction of the defendant for an offense the commission of which would tend to negate any character trait or quality attributed to the defendant in such witness' testimony. 3. Subject to the limitations prescribed in section 200.60, the people may prove that a defendant has been previously convicted of an offense when the fact of such previous conviction constitutes an element of the offense charged, or proof thereof is otherwise essential to the establishment of a legally sufficient case.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.42 - Rules of Evidence; Admissibility of Evidence of Victim's Sexual Conduct in Sex Offense Cases.

conduct in sex offense cases. Evidence of a victim's sexual conduct shall not be admissible in a prosecution for an offense or an attempt to commit an offense defined in article one hundred thirty or in section 230.34 of the penal law unless such evidence: 1. proves or tends to prove specific instances of the victim's prior sexual conduct with the accused; or 2. proves or tends to prove that the victim has been convicted of an offense under section 230.00 of the penal law within three years prior to the sex offense which is the subject of the prosecution; or 3. rebuts evidence introduced by the people of the victim's failure to engage in vaginal sexual contact, oral sexual contact, anal sexual contact or sexual contact during a given period of time; or 4. rebuts evidence introduced by the people which proves or tends to prove that the accused is the cause of pregnancy or disease of the victim, or the source of semen found in the victim; or 5. is determined by the court after an offer of proof by the accused outside the hearing of the jury, or such hearing as the court may require, and a statement by the court of its findings of fact essential to its determination, to be relevant and admissible in the interests of justice.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.43 - Rules of Evidence; Admissibility of Evidence of Victim's Sexual Conduct in Non-Sex Offense Cases.

conduct in non-sex offense cases. Evidence of the victim's sexual conduct, including the past sexual conduct of a deceased victim, may not be admitted in a prosecution for any offense, attempt to commit an offense or conspiracy to commit an offense defined in the penal law unless such evidence is determined by the court to be relevant and admissible in the interests of justice, after an offer of proof by the proponent of such evidence outside the hearing of the jury, or such hearing as the court may require, and a statement by the court of its findings of fact essential to its determination.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.44 - Use of Anatomically Correct Dolls.

Any person who is less than sixteen years old may in the discretion of the court and where helpful and appropriate, use an anatomically correct doll in testifying in a criminal proceeding based upon conduct prohibited by article one hundred thirty, article two hundred sixty or section 255.25, 255.26 or 255.27 of the penal law.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.45 - Rules of Evidence; Admissibility of Statements of Defendants.

1. Evidence of a written or oral confession, admission, or other statement made by a defendant with respect to his participation or lack of participation in the offense charged, may not be received in evidence against him in a criminal proceeding if such statement was involuntarily made. 2. A confession, admission or other statement is "involuntarily made" by a defendant when it is obtained from him:(a) By any person by the use or threatened use of physical force upon the defendant or another person, or by means of any

other improper conduct or undue pressure which impaired the defendant's physical or mental condition to the extent of undermining his ability to make a choice whether or not to make a statement; or(b) By a public servant engaged in law enforcement activity or by a person then acting under his direction or in cooperation with him:(i) by means of any promise or statement of fact, which promise or statement creates a substantial risk that the defendant might falsely incriminate himself; or(ii) in violation of such rights as the defendant may derive from the constitution of this state or of the United States.3. (a) Where a person is subject to custodial interrogation by a public servant at a detention facility, the entire custodial interrogation, including the giving of any required advice of the rights of the individual being questioned, and the waiver of any rights by the individual, shall be recorded by an appropriate video recording device if the interrogation involves a class A-1 felony, except one defined in article two hundred twenty of the penal law; felony offenses defined in section 130.95 and 130.96 of the penal law; or a felony offense defined in article one hundred twenty-five or one hundred thirty of such law that is defined as a class B violent felony offense in section 70.02 of the penal law. For purposes of this paragraph, the term "detention facility" shall mean a police station, correctional facility, holding facility for prisoners, prosecutor's office or other facility where persons are held in detention in connection with criminal charges that have been or may be filed against them.(b) No confession, admission or other statement shall be subject to a motion to suppress pursuant to subdivision three of section 710.20 of this chapter based solely upon the failure to video record such interrogation in a detention facility as defined in paragraph (a) of this subdivision. However, where the people offer into evidence a confession, admission or other statement made by a person in custody with respect to his or her participation or lack of participation in an offense specified in paragraph (a) of this subdivision, that has not been video recorded, the court shall consider the failure to record as a factor, but not as the sole factor, in accordance with paragraph (c) of this subdivision in determining whether such confession, admission or other statement shall be admissible.(c) Notwithstanding the requirement of paragraph (a) of this subdivision, upon a showing of good cause by the prosecutor, the custodial interrogation need not be recorded. Good cause shall include, but not be limited to:(i) If electronic recording equipment malfunctions.(ii) If electronic recording equipment is not available because it was otherwise being used.(iii) If statements are made in response to questions that are routinely asked during arrest processing.(iv) If the statement is spontaneously made by the suspect and not in response to police questioning.(v) If the statement is made during an interrogation that is conducted when the interviewer is unaware that a qualifying offense has occurred.(vi) If the statement is made at a location other than the "interview room" because the suspect cannot be brought to such room, e.g., the suspect is in a hospital or the suspect is out of state and that state is not governed by a law requiring the recordation of an interrogation.(vii) If the statement is made after a suspect has refused to participate in the interrogation if it is recorded, and appropriate effort to document such refusal is made.(viii) If such statement is not recorded as a result of an inadvertent error or oversight, not the result of any intentional conduct by law enforcement personnel.(ix) If it is law enforcement's reasonable belief that such recording would jeopardize the safety of any person or reveal the identity of a confidential informant.(x) If such statement is made at a location not equipped with a video recording device and the reason for using that location is not to subvert the intent of the law. For purposes of this section, the term "location" shall include those locations specified in paragraph (b) of subdivision four of section 305.2 of the family court act.(d) In the event the court finds that the people have not shown good cause for the non-recording of the confession, admission, or other statement, but determines that a non-recorded confession, admission or other statement is nevertheless admissible because it was voluntarily made then, upon request of the defendant, the court must instruct the jury that the people's failure to record the defendant's confession, admission or other statement as required by this section may be weighed as a factor, but not as the sole factor, in determining whether such confession, admission or other statement was voluntarily made, or was made at all.(e) Video recording as required by this section shall be conducted in accordance with standards established by rule of the division of criminal justice services. (a) By any person by the use or threatened use of physical force upon the defendant or another person, or by means of any other improper conduct or undue pressure which impaired the defendant's physical or mental condition to the extent of undermining his ability to make a choice whether or not to make a statement; or (b) By a public servant engaged in law enforcement activity or by a person then acting under his direction or in cooperation with him: (i) by means of any promise or statement of fact, which promise or statement creates a substantial risk that the defendant might falsely incriminate himself; or (ii) in violation of such rights as the defendant may derive from the constitution of this state or of the United States. 3. (a) Where a person is subject to custodial interrogation by a public servant at a detention facility, the entire custodial interrogation, including the giving of any required advice of the rights of the individual being questioned, and the waiver of any rights by the individual, shall be recorded by an appropriate video recording device if the interrogation involves a class A-1 felony, except one defined in article two hundred twenty of the penal law; felony offenses defined in section 130.95 and 130.96 of the penal law; or a felony offense defined in article one hundred twenty-five or one hundred thirty of such law that is defined as a class B violent felony offense in section 70.02 of the penal law. For purposes of this paragraph, the term "detention facility" shall mean a police station, correctional facility, holding facility for prisoners, prosecutor's office or other facility where persons are held in detention in connection with criminal charges that have been or may be filed against them. (b) No confession, admission or other statement shall be subject to a motion to suppress pursuant to subdivision three of section 710.20 of this chapter based solely upon the failure to video record such interrogation in a detention facility as defined in paragraph (a) of this subdivision. However, where the people offer into evidence a confession, admission or other statement made by a person in custody with respect to his or her participation or lack of participation in an offense specified in paragraph (a) of this subdivision, that has not been video recorded, the court shall consider the failure to record as a factor, but not as the sole factor, in accordance with paragraph (c) of this subdivision in determining whether such confession, admission or other statement shall be admissible. (c) Notwithstanding the requirement of paragraph (a) of this subdivision, upon a showing of good cause by the prosecutor, the custodial interrogation need not be recorded. Good cause shall include, but not be limited to: (i) If

electronic recording equipment malfunctions. (ii) If electronic recording equipment is not available because it was otherwise being used. (iii) If statements are made in response to questions that are routinely asked during arrest processing. (iv) If the statement is spontaneously made by the suspect and not in response to police questioning. (v) If the statement is made during an interrogation that is conducted when the interviewer is unaware that a qualifying offense has occurred. (vi) If the statement is made at a location other than the "interview room" because the suspect cannot be brought to such room, e.g., the suspect is in a hospital or the suspect is out of state and that state is not governed by a law requiring the recordation of an interrogation. (vii) If the statement is made after a suspect has refused to participate in the interrogation if it is recorded, and appropriate effort to document such refusal is made. (viii) If such statement is not recorded as a result of an inadvertent error or oversight, not the result of any intentional conduct by law enforcement personnel. (ix) If it is law enforcement's reasonable belief that such recording would jeopardize the safety of any person or reveal the identity of a confidential informant. (x) If such statement is made at a location not equipped with a video recording device and the reason for using that location is not to subvert the intent of the law. For purposes of this section, the term "location" shall include those locations specified in paragraph (b) of subdivision four of section 305.2 of the family court act. (d) In the event the court finds that the people have not shown good cause for the non-recording of the confession, admission, or other statement, but determines that a non-recorded confession, admission or other statement is nevertheless admissible because it was voluntarily made then, upon request of the defendant, the court must instruct the jury that the people's failure to record the defendant's confession, admission or other statement as required by this section may be weighed as a factor, but not as the sole factor, in determining whether such confession, admission or other statement was voluntarily made, or was made at all. (e) Video recording as required by this section shall be conducted in accordance with standards established by rule of the division of criminal justice services.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.46 - Rules of Evidence, Family Offense Proceedings in Family Court.

Evidence of a written or oral admission or any testimony given by either party, or evidence derived therefrom, in a proceeding under article eight of the family court act without the benefit of counsel in such proceeding may not be received into evidence in a criminal proceeding except for the purposes of impeachment unless such party waives the right to counsel on the record. Nothing herein shall be deemed to prohibit any testimony or exhibits received into evidence in a criminal proceeding, or any orders, decisions or judgments arising from such proceeding from being received into evidence in any proceeding under article eight of the family court act.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.47 - Possession of Condoms; Receipt Into Evidence.

Evidence that a person was in possession of one or more condoms may not be admitted at any trial, hearing, or other proceeding in a prosecution for section 230.00 of the penal law for the purpose of establishing probable cause for an arrest or proving any person's commission or attempted commission of such offense.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.48 - Rules of Evidence; Admissibility of Evidence of Victim's Manner of Dress in Sex Offense Cases.

of dress in sex offense cases. Evidence of the manner in which the victim was dressed at the time of the commission of an offense may not be admitted in a prosecution for any offense, or an attempt to commit an offense, defined in article one hundred thirty of the penal law, unless such evidence is determined by the court to be relevant and admissible in the interests of justice, after an offer of proof by the proponent of such evidence outside the hearing of the jury, or such hearing as the court may require, and a statement by the court of its findings of fact essential to its determination.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.49 - Possession of Opioid Antagonists; Receipt Into Evidence.

1. Evidence that a person was in possession of an opioid antagonist may not be admitted at any trial, hearing or other proceeding in a prosecution for any offense under sections 220.03, 220.06, 220.09, 220.16, 220.18, or 220.21 of the penal law for the purpose of establishing probable cause for an arrest or proving any person's commission of such offense. 2. For the purposes of this section, opioid antagonist is defined as a drug approved by the Food and Drug Administration that, when administered, negates or neutralizes in whole or in part the pharmacological effects of an opioid in the body and shall be limited to naloxone and other medications approved by the department of health for such purpose.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.50 - Rules of Evidence; Statements of Defendants; Corroboration.

A person may not be convicted of any offense solely upon evidence of a confession or admission made by him without additional proof that the offense charged has been committed.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.55 - Rules of Evidence; Psychiatric Testimony in Certain Cases.

1. When, in connection with the affirmative defense of lack of criminal responsibility by reason of mental disease or defect, a psychiatrist or licensed psychologist testifies at a trial concerning the defendant's mental condition at the time of the conduct charged to constitute a crime, he must be permitted to make a statement as to the nature of any examination of the defendant, the diagnosis of the mental condition of the defendant and his opinion as to the extent, if any, to which the capacity of the defendant to know or appreciate the nature and consequence of such conduct, or its wrongfulness, was impaired as a result of mental disease or defect at that time. The psychiatrist or licensed psychologist must be permitted to make any explanation reasonably serving to clarify his diagnosis and opinion, and may be cross-examined as to any matter bearing on his competency or credibility or the validity of his diagnosis or opinion. 2. Any statement made by the defendant to a psychiatrist or licensed psychologist during his examination of the defendant shall be inadmissible in evidence on any issue other than that of the affirmative defense of lack of criminal responsibility, by reason of mental disease or defect. The statement shall, however, be admissible upon the issue of the affirmative defense of lack of criminal responsibility by reason of mental disease or defect, whether or not it would otherwise be deemed a privileged communication. Upon receiving the statement in evidence, the court must instruct the jury that the statement is to be considered only on the issue of such affirmative defense and may not be considered by it in its determination of whether the defendant committed the act constituting the crime charged.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.60 - Rules of Evidence; Certificates Concerning Judgments of Conviction and Fingerprints.

conviction and fingerprints. 1. A certificate issued by a criminal court, or the clerk thereof, certifying that a judgment of conviction against a designated defendant has been entered in such court, constitutes presumptive evidence of the facts stated in such certificate. 2. A report of a public servant charged with the custody of official fingerprint records which contains a certification that the fingerprints of a designated person who has previously been convicted of an offense are identical with those of a defendant in a criminal action, constitutes presumptive evidence of the fact that such defendant has previously been convicted of such offense.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.70 - Rules of Evidence; Dangerous Drugs Destroyed Pursuant to Court Order.

order. The destruction of dangerous drugs pursuant to the provisions of article seven hundred fifteen hereof shall not preclude the admission on trial or in a proceeding in connection therewith of testimony or evidence where such testimony or evidence would otherwise have been admissible if such drugs had not been destroyed.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.75 - Rules of Evidence; Chemical Test Evidence.

In any prosecution where two or more offenses against the same defendant are properly joined in one indictment or charged in two accusatory instruments properly consolidated for trial purposes and where one such offense charges a violation of any subdivision of section eleven hundred ninety-two of the vehicle and traffic law, chemical test evidence properly admissible as evidence of intoxication under subdivision one of section eleven hundred ninety-five of such law shall also, if relevant, be received in evidence with regard to the remaining charges in the indictments.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 60 - Rules of Evidence and Related Matters60.76 - Rules of Evidence; Rape Crisis Counselor Evidence in Certain Cases.

cases. Where disclosure of a communication which would have been privileged pursuant to section forty-five hundred ten of the civil practice law and rules is sought on the grounds that the privilege has been waived or that disclosure is required pursuant to the constitution of this state or the United States, the party seeking disclosure must file a written motion supported by an affidavit containing specific factual allegations providing grounds that disclosure is required. Upon the filing of such motion and affidavit, the court shall conduct an in camera review of the communication outside the presence of the jury and of counsel for all parties in order to determine whether disclosure of any portion of the communication is required.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 70 - Standards of Proof70.10 - Standards of Proof; Definitions of Terms.

The following definitions are applicable to this chapter: 1. "Legally sufficient evidence" means competent evidence which, if

accepted as true, would establish every element of an offense charged and the defendant's commission thereof; except that such evidence is not legally sufficient when corroboration required by law is absent. 2. "Reasonable cause to believe that a person has committed an offense" exists when evidence or information which appears reliable discloses facts or circumstances which are collectively of such weight and persuasiveness as to convince a person of ordinary intelligence, judgment and experience that it is reasonably likely that such offense was committed and that such person committed it. Except as otherwise provided in this chapter, such apparently reliable evidence may include or consist of hearsay.

2024 New York LawsCPL - Criminal ProcedurePart 1 - General ProvisionsTitle D - Rules of Evidence, Standards of Proof and Related MattersArticle 70 - Standards of Proof70.20 - Standards of Proof for Conviction.

No conviction of an offense by verdict is valid unless based upon trial evidence which is legally sufficient and which establishes beyond a reasonable doubt every element of such offense and the defendant's commission thereof.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 100 - Commencement of Action in Local Criminal Court or Youth Part of a Superior Court--Accusatory Instruments100.05 - Commencement of Action; in General.

A criminal action is commenced by the filing of an accusatory instrument with a criminal court, or, in the case of a juvenile offender or adolescent offender, other than an adolescent offender charged with only a violation or traffic infraction, the youth part of the superior court, and if more than one such instrument is filed in the course of the same criminal action, such action commences when the first of such instruments is filed. The only way in which a criminal action can be commenced in a superior court, other than a criminal action against a juvenile offender or adolescent offender is by the filing therewith by a grand jury of an indictment against a defendant who has never been held by a local criminal court for the action of such grand jury with respect to any charge contained in such indictment. Otherwise, a criminal action can be commenced only in a local criminal court, by the filing therewith of a local criminal court accusatory instrument, namely: 1. An information; or 2. A simplified information; or 3. A prosecutor's information; or 4. A misdemeanor complaint; or 5. A felony complaint.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 100 - Commencement of Action in Local Criminal Court or Youth Part of a Superior Court--Accusatory Instruments100.07 - Commencement of Action; Effect of Family Court Proceeding.

A criminal court shall have concurrent jurisdiction over cognizable family offenses, as defined in subdivision one of section 530.11 of this chapter and in subdivision one of section eight hundred twelve of the family court act, notwithstanding the fact that a family court has or may be exercising jurisdiction over a petition under article eight of the family court act containing substantially the same allegations as are set forth in the accusatory instrument or indictment.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 100 - Commencement of Action in Local Criminal Court or Youth Part of a Superior Court--Accusatory Instruments100.10 - Local Criminal Court and Youth Part of the Superior Court Accusatory Instruments; Definitions Thereof.

accusatory instruments; definitions thereof. 1. An "information" is a verified written accusation by a person, filed with a local criminal court, charging one or more other persons with the commission of one or more offenses, none of which is a felony. It may serve as a basis both for the commencement of a criminal action and for the prosecution thereof in a local criminal court. 2. (a) A "simplified traffic information" is a written accusation by a police officer, or other public servant authorized by law to issue same, filed with a local criminal court, which charges a person with the commission of one or more traffic infractions and/or misdemeanors relating to traffic, and which, being in a brief or simplified form prescribed by the commissioner of motor vehicles, designates the offense or offenses charged but contains no factual allegations of an evidentiary nature supporting such charge or charges. It serves as a basis for commencement of a criminal action for such traffic offenses, alternative to the charging thereof by a regular information, and, under circumstances prescribed in section 100.25, it may serve, either in whole or in part, as a basis for prosecution of such charges.(b) A "simplified parks information" is a written accusation by a police officer or other public servant authorized by law to issue same, filed with a local criminal court, which charges a person with the commission of one or more offenses, other than a felony, for which a uniform simplified parks information may be issued pursuant to the parks and recreation law and navigation law, and which being in a brief or simplified form prescribed by the commissioner of parks and recreation, designates the offense or offenses charged but contains no factual allegations of an evidentiary nature supporting such charge or charges. It serves as a basis for commencement of a criminal action for such offenses, alternative to the charging thereof by a regular information, and, under circumstances parescribed in section 100.25, it may serve, either in whole or in part, as a basis for prosecution of such charges.(c) A "simplified environmental conservation information" is a written accusation by a police officer or other public servant authorized by law to issue same, filed with a local criminal court, which charges a person with the commission of one or more offenses, other than a felony, for which a uniform simplified environmental conservation information may be issued pursuant to the environmental conservation law, and which being in a brief or simplified form prescribed by the commissioner of environmental conservation, designates the offense or offenses charged but contains no factual allegations of an evidentiary nature

supporting such charge or charges. It serves as a basis for commencement of a criminal action for such offenses, alternative to the charging thereof by a regular information, and, under circumstances prescribed in section 100.25, it may serve, either in whole or in part, as a basis for prosecution of such charges.3. A "prosecutor's information" is a written accusation by a district attorney, filed with a local criminal court, either (a) at the direction of a grand jury pursuant to section 190.70, or (b) at the direction of a local criminal court pursuant to section 180.50 or 180.70, or (c) at the district attorney's own instance pursuant to subdivision two of section 100.50, or (d) at the direction of a superior court pursuant to subdivision one-a of section 210.20, charging one or more persons with the commission of one or more offenses, none of which is a felony. It serves as a basis for the prosecution of a criminal action, but it commences a criminal action only where it results from a grand jury direction issued in a case not previously commenced in a local criminal court.4. A "misdemeanor complaint" is a verified written accusation by a person, filed with a local criminal court, charging one or more other persons with the commission of one or more offenses, at least one of which is a misdemeanor and none of which is a felony. It serves as a basis for the commencement of a criminal action, but it may serve as a basis for prosecution thereof only where a defendant has waived prosecution by information pursuant to subdivision three of section 170.65.5. A "felony complaint" is a verified written accusation by a person, filed with a local criminal court, or youth part of the superior court, charging one or more other persons with the commission of one or more felonies. It serves as a basis for the commencement of a criminal action, but not as a basis for prosecution thereof. (b) A "simplified parks information" is a written accusation by a police officer or other public servant authorized by law to issue same, filed with a local criminal court, which charges a person with the commission of one or more offenses, other than a felony, for which a uniform simplified parks information may be issued pursuant to the parks and recreation law and navigation law, and which being in a brief or simplified form prescribed by the commissioner of parks and recreation, designates the offense or offenses charged but contains no factual allegations of an evidentiary nature supporting such charge or charges. It serves as a basis for commencement of a criminal action for such offenses, alternative to the charging thereof by a regular information, and, under circumstances parescribed in section 100.25, it may serve, either in whole or in part, as a basis for prosecution of such charges. (c) A "simplified environmental conservation information" is a written accusation by a police officer or other public servant authorized by law to issue same, filed with a local criminal court, which charges a person with the commission of one or more offenses, other than a felony, for which a uniform simplified environmental conservation information may be issued pursuant to the environmental conservation law, and which being in a brief or simplified form prescribed by the commissioner of environmental conservation, designates the offense or offenses charged but contains no factual allegations of an evidentiary nature supporting such charge or charges. It serves as a basis for commencement of a criminal action for such offenses, alternative to the charging thereof by a regular information, and, under circumstances prescribed in section 100.25, it may serve, either in whole or in part, as a basis for prosecution of such charges. 3. A "prosecutor's information" is a written accusation by a district attorney, filed with a local criminal court, either (a) at the direction of a grand jury pursuant to section 190.70, or (b) at the direction of a local criminal court pursuant to section 180.50 or 180.70, or (c) at the district attorney's own instance pursuant to subdivision two of section 100.50, or (d) at the direction of a superior court pursuant to subdivision one-a of section 210.20, charging one or more persons with the commission of one or more offenses, none of which is a felony. It serves as a basis for the prosecution of a criminal action, but it commences a criminal action only where it results from a grand jury direction issued in a case not previously commenced in a local criminal court. 4. A "misdemeanor complaint" is a verified written accusation by a person, filed with a local criminal court, charging one or more other persons with the commission of one or more offenses, at least one of which is a misdemeanor and none of which is a felony. It serves as a basis for the commencement of a criminal action, but it may serve as a basis for prosecution thereof only where a defendant has waived prosecution by information pursuant to subdivision three of section 170.65. 5. A "felony complaint" is a verified written accusation by a person, filed with a local criminal court, or youth part of the superior court, charging one or more other persons with the commission of one or more felonies. It serves as a basis for the commencement of a criminal action, but not as a basis for prosecution thereof.

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and content. 1. An information, a misdemeanor complaint and a felony complaint must each specify the name of the court with which it is filed and the title of the action, and must be subscribed and verified by a person known as the "complainant." The complainant may be any person having knowledge, whether personal or upon information and belief, of the commission of the offense or offenses charged. Each instrument must contain an accusatory part and a factual part. The complainant's verification of the instrument is deemed to apply only to the factual part thereof and not to the accusatory part. 2. The accusatory part of each such instrument must designate the offense or offenses charged. As in the case of an indictment, and subject to the rules of joinder applicable to indictments, two or more offenses may be charged in separate counts. Also as in the case of an indictment, such instrument may charge two or more defendants provided that all such defendants are jointly charged with every offense alleged therein. 3. The factual part of such instrument must contain a statement of the complainant alleging facts of an evidentiary character supporting or tending to support the charges. Where more than one offense is charged, the factual part should consist of a single factual account applicable to all the counts of the accusatory part. The factual allegations may be based either upon personal knowledge of the complainant or upon information and belief. Nothing contained in this section, however, limits or affects the requirement, prescribed in subdivision one of section 100.40, that in order for an information or a count thereof to be sufficient on its face, every element of the offense charged and the defendant's commission thereof must be supported by non-hearsay allegations

of such information and/or any supporting depositions. 4. Where a felony complaint charges a violent felony offense defined in section 70.02 of the penal law and such offense is an armed felony as defined in subdivision forty-one of section 1.20,(a) the accusatory part of the instrument must designate the offense as an armed felony, and (b) the factual part of the instrument must allege facts of an evidentiary character supporting or tending to support such designation. (a) the accusatory part of the instrument must designate the offense as an armed felony, and (b) the factual part of the instrument must allege facts of an evidentiary character supporting or tending to support such designation.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 100 - Commencement of Action in Local Criminal Court or Youth Part of a Superior Court--Accusatory Instruments100.20 - Supporting Deposition; Definition, Form and Content.

A supporting deposition is a written instrument accompanying or filed in connection with an information, a simplified information, a misdemeanor complaint or a felony complaint, subscribed and verified by a person other than the complainant of such accusatory instrument, and containing factual allegations of an evidentiary character, based either upon personal knowledge or upon information and belief, which supplement those of the accusatory instrument and support or tend to support the charge or charges contained therein.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 100 - Commencement of Action in Local Criminal Court or Youth Part of a Superior Court--Accusatory Instruments100.25 - Simplified Information; Form and Content; Defendant's Right to Supporting Deposition; Notice Requirement.

supporting deposition; notice requirement. 1. A simplified information must be substantially in the form prescribed by the commissioner of motor vehicles, the commissioner of parks and recreation, or the commissioner of environmental conservation, as the case may be. 2. A defendant charged by a simplified information is, upon a timely request, entitled as a matter of right to have filed with the court and served upon him, or if he is represented by an attorney, upon his attorney, a supporting deposition of the complainant police officer or public servant, containing allegations of fact, based either upon personal knowledge or upon information and belief, providing reasonable cause to believe that the defendant committed the offense or offenses charged. To be timely, such a request must, except as otherwise provided herein and in subdivision three of this section, be made before entry of a plea of guilty to the charge specified and before commencement of a trial thereon, but not later than thirty days after the date the defendant is directed to appear in court as such date appears upon the simplified information and upon the appearance ticket issued pursuant thereto. If the defendant's request is mailed to the court, the request must be mailed within such thirty day period. Upon such a request, the court must order the complainant police officer or public servant to serve a copy of such supporting deposition upon the defendant or his attorney, within thirty days of the date such request is received by the court, or at least five days before trial, whichever is earlier, and to file such supporting deposition with the court together with proof of service thereof. Notwithstanding any provision to the contrary, where a defendant is issued an appearance ticket in conjunction with the offense charged in the simplified information and the appearance ticket fails to conform with the requirements of subdivision two of section 150.10, a request is timely when made not later than thirty days after (a) entry of the defendant's plea of not guilty when he or she has been arraigned in person, or (b) written notice to the defendant of his or her right to receive a supporting deposition when a plea of not guilty has been submitted by mail. 3. When at least one of the offenses charged in a simplified information is a misdemeanor, the court may, upon motion of the defendant, for good cause shown and consistent with the interest of justice, permit the defendant to request a supporting deposition beyond the thirty day request period set forth in subdivision two of this section provided, however, that no motion may be brought under this subdivision after ninety days has elapsed from the date the defendant is directed to appear in court as such date appears upon the simplified information and upon the appearance ticket issued pursuant thereto. 4. Notwithstanding any provision of law to the contrary, where a person is charged by a simplified information and is served with an appearance ticket as defined in section 150.10, such appearance ticket shall contain the following language: "NOTICE: YOU ARE ENTITLED TO RECEIVE A SUPPORTING DEPOSITION FURTHER EXPLAINING THE CHARGES PROVIDED YOU REQUEST SUCH SUPPORTING DEPOSITION WITHIN THIRTY DAYS FROM THE DATE YOU ARE DIRECTED TO APPEAR IN COURT AS SET FORTH ON THIS APPEARANCE TICKET. DO YOU REQUEST A SUPPORTING DEPOSITION? [ ] YES [ ] NO"

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supporting deposition and proof of service of supporting deposition; verification. 1. An information, a misdemeanor complaint, a felony complaint, a supporting deposition, and proof of service of a supporting deposition may be verified in any of the following manners:(a) Such instrument may be sworn to before the court with which it is filed.(b) Such instrument may be sworn to before a desk officer in charge at a police station or police headquarters or any of his superior officers.(c) Where such instrument is filed by any public servant following the issuance and service of an appearance ticket, and where by express provision of law another designated public servant is authorized to administer the oath with respect to such instrument, it may be sworn to before such public

servant.(d) Such instrument may bear a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law, and such form notice together with the subscription of the deponent constitute a verification of the instrument.(e) Such instrument may be sworn to before a notary public.2. An instrument specified in subdivision one may be verified in any manner prescribed therein unless in a particular case the court expressly directs verification in a particular manner prescribed in said subdivision one. (a) Such instrument may be sworn to before the court with which it is filed. (b) Such instrument may be sworn to before a desk officer in charge at a police station or police headquarters or any of his superior officers. (c) Where such instrument is filed by any public servant following the issuance and service of an appearance ticket, and where by express provision of law another designated public servant is authorized to administer the oath with respect to such instrument, it may be sworn to before such public servant. (d) Such instrument may bear a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law, and such form notice together with the subscription of the deponent constitute a verification of the instrument. (e) Such instrument may be sworn to before a notary public. 2. An instrument specified in subdivision one may be verified in any manner prescribed therein unless in a particular case the court expressly directs verification in a particular manner prescribed in said subdivision one.

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A prosecutor's information must contain the name of the local criminal court with which it is filed and the title of the action, and must be subscribed by the district attorney by whom it is filed. Otherwise it should be in the form prescribed for an indictment, pursuant to section 200.50, and must, in one or more counts, allege the offense or offenses charged and a plain and concise statement of the conduct constituting each such offense. The rules prescribed in sections 200.20 and 200.40 governing joinder of different offenses and defendants in a single indictment are also applicable to a prosecutor's information.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 100 - Commencement of Action in Local Criminal Court or Youth Part of a Superior Court--Accusatory Instruments100.40 - Local Criminal Court and Youth Part of the Superior Court Accusatory Instruments; Sufficiency on Face.

accusatory instruments; sufficiency on face. 1. An information, or a count thereof, is sufficient on its face when:(a) It substantially conforms to the requirements prescribed in section 100.15; and(b) The allegations of the factual part of the information, together with those of any supporting depositions which may accompany it, provide reasonable cause to believe that the defendant committed the offense charged in the accusatory part of the information; and(c) Non-hearsay allegations of the factual part of the information and/or of any supporting depositions establish, if true, every element of the offense charged and the defendant's commission thereof.2. A simplified information is sufficient on its face when, as provided by subdivision one of section 100.25, it substantially conforms to the requirement therefor prescribed by or pursuant to law; provided that when the filing of a supporting deposition is ordered by the court pursuant to subdivision two of said section 100.25, a failure of the complainant police officer or public servant to comply with such order within the time provided by subdivision two of said section 100.25 renders the simplified information insufficient on its face.3. A prosecutor's information, or a count thereof, is sufficient on its face when it substantially conforms to the requirements prescribed in section 100.35.4. A misdemeanor complaint or a felony complaint, or a count thereof, is sufficient on its face when:(a) It substantially conforms to the requirements prescribed in section 100.15; and(b) The allegations of the factual part of such accusatory instrument and/or any supporting depositions which may accompany it, provide reasonable cause to believe that the defendant committed the offense charged in the accusatory part of such instrument. (a) It substantially conforms to the requirements prescribed in section 100.15; and (b) The allegations of the factual part of the information, together with those of any supporting depositions which may accompany it, provide reasonable cause to believe that the defendant committed the offense charged in the accusatory part of the information; and (c) Non-hearsay allegations of the factual part of the information and/or of any supporting depositions establish, if true, every element of the offense charged and the defendant's commission thereof. 2. A simplified information is sufficient on its face when, as provided by subdivision one of section 100.25, it substantially conforms to the requirement therefor prescribed by or pursuant to law; provided that when the filing of a supporting deposition is ordered by the court pursuant to subdivision two of said section 100.25, a failure of the complainant police officer or public servant to comply with such order within the time provided by subdivision two of said section 100.25 renders the simplified information insufficient on its face. 3. A prosecutor's information, or a count thereof, is sufficient on its face when it substantially conforms to the requirements prescribed in section 100.35. 4. A misdemeanor complaint or a felony complaint, or a count thereof, is sufficient on its face when: (a) It substantially conforms to the requirements prescribed in section 100.15; and (b) The allegations of the factual part of such accusatory instrument and/or any supporting depositions which may accompany it, provide reasonable cause to believe that the defendant committed the offense charged in the accusatory part of such instrument.

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severance, consolidation, amendment, bill of particulars. 1. Where appropriate, the provisions of sections 200.20 and 200.40 and paragraph (n) of subdivision four of section 20.40 of this chapter, governing severance of counts of an indictment and severance of defendants for trial purposes, and governing consolidation of indictments for trial purposes, apply to informations, to prosecutor's informations and to misdemeanor complaints. 2. The provisions of section 200.70 governing amendment of indictments apply to prosecutor's informations. 3. At any time before the entry of a plea of guilty to or the commencement of a trial of an information, the court may, upon application of the people and with notice to the defendant and opportunity to be heard, order the amendment of the accusatory part of such information by addition of a count charging an offense supported by the allegations of the factual part of such information and/or any supporting depositions which may accompany it. In such case, the defendant must be accorded any reasonable adjournment necessitated by the amendment. 4. The provisions of section 200.95, governing bills of particulars with respect to indictments, apply to informations, to misdemeanor complaints and to prosecutor's informations.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 100 - Commencement of Action in Local Criminal Court or Youth Part of a Superior Court--Accusatory Instruments100.50 - Superseding Informations and Prosecutor's Informations.

1. If at any time before entry of a plea of guilty to or commencement of a trial of an information or a prosecutor's information, another information or, as the case may be, another prosecutor's information is filed with the same local criminal court charging the defendant with an offense charged in the first instrument, the first such instrument is, with respect to such offense, superseded by the second and, upon the defendant's arraignment upon the latter, the count of the first instrument charging such offense must be dismissed by the court. The first instrument is not, however, superseded with respect to any count contained therein which charges an offense not charged in the second instrument. 2. At any time before entry of a plea of guilty to or commencement of a trial of an information, the district attorney may file with the local criminal court a prosecutor's information charging any offenses supported, pursuant to the standards prescribed in subdivision one of section 100.40, by the allegations of the factual part of the original information and/or any supporting depositions which may accompany it. In such case, the original information is superseded by the prosecutor's information and, upon the defendant's arraignment upon the latter, is deemed dismissed. 3. A misdemeanor complaint must or may be replaced and superseded by an information pursuant to the provisions of section 170.65.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 100 - Commencement of Action in Local Criminal Court or Youth Part of a Superior Court--Accusatory Instruments100.55 - Local Criminal Court Accusatory Instruments; in What Courts Filed.

filed. 1. Any local criminal court accusatory instrument may be filed with a district court of a particular county when an offense charged therein was allegedly committed in such county or that part thereof over which such court has jurisdiction. 2. Any local criminal court accusatory instrument may be filed with the New York City criminal court when an offense charged therein was allegedly committed in New York City. 3. Any local criminal court accusatory instrument may be filed with a city court of a particular city when an offense charged therein was allegedly committed in such city. 4. An information, a simplified information, a prosecutor's information or a misdemeanor complaint may be filed with a town court of a particular town when an offense charged therein was allegedly committed anywhere in such town other than in a village thereof having a village court. 5. An information, a simplified information, a prosecutor's information or a misdemeanor complaint may be filed with a village court of a particular village when an offense charged therein was allegedly committed in such village. 6. A felony complaint may be filed with any town court or village court of a particular county when a felony charged therein was allegedly committed in some town of such county. Such court need not be that of the town or village in which such felony was allegedly committed. 7. An information, a simplified information, a misdemeanor complaint or a felony complaint may be filed with a judge of a superior court sitting as a local criminal court when an offense charged therein was allegedly committed in a county in which such judge is then present and in which he either resides or is currently holding, or has been assigned to hold, a term of a superior court. 8. Where it is otherwise expressly provided by law that a particular kind of accusatory instrument may under given circumstances be filed with a local criminal court other than one authorized by this section, nothing contained in this section precludes the filing of such accusatory instrument accordingly. 9. In any case where each of two or more local criminal courts is authorized as a proper court with which to file an accusatory instrument, such an instrument may, in the absence of an express provision of law to the contrary, be filed with any one of such courts but not with more than one. 10. For purposes of this section, an offense is "committed in" a particular county, city, town, village or other specified political subdivision or area, not only when it is in fact committed therein but also when it is, for other reasons specified in sections 20.40 and 20.50, prosecutable in the criminal courts having geographical jurisdiction over such political subdivision or area. 11. Notwithstanding any provision of law to the contrary, a local criminal court accusatory instrument may be filed with a local criminal court while it is operating an off-hours arraignment part designated in accordance with paragraph (w) of subdivision one of section two hundred twelve of the judiciary law provided that an offense charged therein was allegedly committed in the county in which the local criminal court is located.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 100 - Commencement of Action in Local Criminal Court or Youth Part of a Superior Court--Accusatory Instruments100.60 - Youth Part of the Superior Court Accusatory Instruments; in What Courts Filed.

what courts filed. Any youth part of the superior court accusatory instrument may be filed with the youth part of the superior court

of a particular county when an offense charged therein was allegedly committed in such county or that part thereof over which such court has jurisdiction.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 110 - Requiring Defendant's Appearance in Local Criminal Court or Youth Part of Superior Court for Arraignment110.10 - Methods of Requiring Defendant's Appearance in Local Criminal Court or Youth Part of the Superior Court for Arraignment; in General.

court or youth part of the superior court for arraignment; in general. 1. After a criminal action has been commenced in a local criminal court or youth part of the superior court by the filing of an accusatory instrument therewith, a defendant who has not been arraigned in the action and has not come under the control of the court may under certain circumstances be compelled or required to appear for arraignment upon such accusatory instrument by:(a) The issuance and execution of a warrant of arrest, as provided in article one hundred twenty; or(b) The issuance and service upon him of a summons, as provided in article one hundred thirty; or(c) Procedures provided in articles five hundred sixty, five hundred seventy, five hundred eighty, five hundred ninety and six hundred for securing attendance of defendants in criminal actions who are not at liberty within the state.2. Although no criminal action against a person has been commenced in any court, he may under certain circumstances be compelled or required to appear in a local criminal court or youth part of a superior court for arraignment upon an accusatory instrument to be filed therewith at or before the time of his appearance by:(a) An arrest made without a warrant, as provided in article one hundred forty; or(b) The issuance and service upon him of an appearance ticket, as provided in article one hundred fifty. (a) The issuance and execution of a warrant of arrest, as provided in article one hundred twenty; or (b) The issuance and service upon him of a summons, as provided in article one hundred thirty; or (c) Procedures provided in articles five hundred sixty, five hundred seventy, five hundred eighty, five hundred ninety and six hundred for securing attendance of defendants in criminal actions who are not at liberty within the state. 2. Although no criminal action against a person has been commenced in any court, he may under certain circumstances be compelled or required to appear in a local criminal court or youth part of a superior court for arraignment upon an accusatory instrument to be filed therewith at or before the time of his appearance by: (a) An arrest made without a warrant, as provided in article one hundred forty; or (b) The issuance and service upon him of an appearance ticket, as provided in article one hundred fifty.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 110 - Requiring Defendant's Appearance in Local Criminal Court or Youth Part of Superior Court for Arraignment110.20 - Local Criminal Court or Youth Part of the Superior Court Accusatory Instruments; Notice Thereof to District Attorney.

accusatory instruments; notice thereof to district attorney. When a criminal action in which a crime is charged is commenced in a local criminal court, or youth part of the superior court other than the criminal court of the city of New York, a copy of the accusatory instrument shall be promptly transmitted to the appropriate district attorney upon or prior to the arraignment of the defendant on the accusatory instrument. If a police officer or a peace officer is the complainant or the filer of a simplified information, or has arrested the defendant or brought him before the local criminal court or youth part of the superior court on behalf of an arresting person pursuant to subdivision one of section 140.20, such officer or his agency shall transmit the copy of the accusatory instrument to the appropriate district attorney. In all other cases, the clerk of the court in which the defendant is arraigned shall so transmit it.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 120 - Warrant of Arrest120.10 - Warrant of Arrest; Definition, Function, Form and Content.

1. A warrant of arrest is a process issued by a local criminal court directing a police officer to arrest a defendant designated in an accusatory instrument filed with such court and to bring him before such court in connection with such instrument. The sole function of a warrant of arrest is to achieve a defendant's court appearance in a criminal action for the purpose of arraignment upon the accusatory instrument by which such action was commenced. 2. A warrant of arrest must be subscribed by the issuing judge and must state or contain (a) the name of the issuing court, and (b) the date of issuance of the warrant, and (c) the name or title of an offense charged in the underlying accusatory instrument, and (d) the name of the defendant to be arrested or, if such be unknown, any name or description by which he can be identified with reasonable certainty, and (e) the police officer or officers to whom the warrant is addressed, and (f) a direction that such officer arrest the defendant and bring him before the issuing court. 3. A warrant of arrest may be addressed to a classification of police officers, or to two or more classifications thereof, as well as to a designated individual police officer or officers. Multiple copies of such a warrant may be issued.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 120 - Warrant of Arrest120.20 - Warrant of Arrest; When Issuable.

1. When a criminal action has been commenced in a local criminal court or youth part of the superior court by the filing therewith of an accusatory instrument, other than a simplified traffic information, against a defendant who has not been arraigned upon such accusatory instrument and has not come under the control of the court with respect thereto:(a) such court may, if such accusatory instrument is sufficient on its face, issue a warrant for such defendant's arrest; or(b) if such accusatory instrument is not sufficient on

its face as prescribed in section 100.40, and if the court is satisfied that on the basis of the available facts or evidence it would be impossible to draw and file an accusatory instrument that is sufficient on its face, the court must dismiss the accusatory instrument.2. Even though such accusatory instrument is sufficient on its face, the court may refuse to issue a warrant of arrest based thereon until it has further satisfied itself, by inquiry or examination of witnesses, that there is reasonable cause to believe that the defendant committed an offense charged. Upon such inquiry or examination, the court may examine, under oath or otherwise, any available person whom it believes may possess knowledge concerning the subject matter of the charge.3. Notwithstanding the provisions of subdivision one, if a summons may be issued in lieu of a warrant of arrest pursuant to section 130.20, and if the court is satisfied that the defendant will respond thereto, it may not issue a warrant of arrest. Upon the request of the district attorney, in lieu of a warrant of arrest or summons, the court may instead authorize the district attorney to direct the defendant to appear for arraignment on a designated date if it is satisfied that the defendant will so appear. (a) such court may, if such accusatory instrument is sufficient on its face, issue a warrant for such defendant's arrest; or (b) if such accusatory instrument is not sufficient on its face as prescribed in section 100.40, and if the court is satisfied that on the basis of the available facts or evidence it would be impossible to draw and file an accusatory instrument that is sufficient on its face, the court must dismiss the accusatory instrument. 2. Even though such accusatory instrument is sufficient on its face, the court may refuse to issue a warrant of arrest based thereon until it has further satisfied itself, by inquiry or examination of witnesses, that there is reasonable cause to believe that the defendant committed an offense charged. Upon such inquiry or examination, the court may examine, under oath or otherwise, any available person whom it believes may possess knowledge concerning the subject matter of the charge. 3. Notwithstanding the provisions of subdivision one, if a summons may be issued in lieu of a warrant of arrest pursuant to section 130.20, and if the court is satisfied that the defendant will respond thereto, it may not issue a warrant of arrest. Upon the request of the district attorney, in lieu of a warrant of arrest or summons, the court may instead authorize the district attorney to direct the defendant to appear for arraignment on a designated date if it is satisfied that the defendant will so appear.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 120 - Warrant of Arrest120.30 - Warrant of Arrest; by What Courts Issuable and in What Courts Returnable.

returnable. 1. A warrant of arrest may be issued only by the local criminal court or youth part of the superior court with which the underlying accusatory instrument has been filed, and it may be made returnable in such issuing court only. 2. The particular local criminal court or courts or youth part of the superior court with which any particular local criminal court or youth part of the superior court accusatory instrument may be filed for the purpose of obtaining a warrant of arrest are determined, generally, by the provisions of section 100.55 or 100.60 of this title. If, however, a particular accusatory instrument may pursuant to said section 100.55 be filed with a particular town court and such town court is not available at the time such instrument is sought to be filed and a warrant obtained, such accusatory instrument may be filed with the town court of any adjoining town of the same county. If such instrument may be filed pursuant to said section 100.55 with a particular village court and such village court is not available at the time, it may be filed with the town court of the town embracing such village, or if such town court is not available either, with the town court of any adjoining town of the same county.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 120 - Warrant of Arrest120.40 - Warrant of Arrest; Attaching Accusatory Instrument to Warrant of Town Court, Village Court or City Court.

of town court, village court or city court. A town court, village court or city court which issues a warrant of arrest may attach thereto a duplicate copy of the underlying accusatory instrument. If one or more duplicate copies of the warrant are issued, such court may attach as many copies of such accusatory instrument to copies of such warrant as it chooses. In any case where, pursuant to subdivision five of section 120.90, a defendant arrested upon such a warrant of arrest is brought before a local criminal court other than the town court, village court or city court in which the warrant is returnable, a copy of the accusatory instrument constitutes a valid basis for arraignment, as provided in subdivision one of section 170.15.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 120 - Warrant of Arrest120.50 - Warrant of Arrest; to What Police Officers Addressed.

A warrant of arrest may be addressed to any police officer or classification of police officers whose geographical area of employment embraces either the place where the offense charged was allegedly committed or the locality of the court by which the warrant is issued.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 120 - Warrant of Arrest120.55 - Warrant of Arrest; Defendant Under Parole or Probation Supervision.

supervision. If the defendant named within a warrant of arrest issued by a local criminal court or youth part of the superior court pursuant to the provisions of this article, or by a superior court issued pursuant to subdivision three of section 210.10 of this chapter, is under the supervision of the state department of corrections and community supervision or a local or state probation department,

then a warrant for his or her arrest may be executed by a parole officer or probation officer, when authorized by his or her probation director, within his or her geographical area of employment. The execution of the warrant by a parole officer or probation officer shall be upon the same conditions and conducted in the same manner as provided for execution of a warrant by a police officer.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 120 - Warrant of Arrest120.60 - Warrant of Arrest; What Police Officers May Execute.

1. A warrant of arrest may be executed by (a) any police officer to whom it is addressed, or (b) any other police officer delegated to execute it under circumstances prescribed in subdivisions two and three. 2. A police officer to whom a warrant of arrest is addressed may delegate another officer to whom it is not addressed to execute such warrant as his agent when:(a) He has reasonable cause to believe that the defendant is in a particular county other than the one in which the warrant is returnable; and(b) The warrant is, pursuant to section 120.70, executable in such other county without endorsement by a local criminal court thereof; and(c) The geographical area of employment of the delegated police officer embraces the locality where the arrest is to be made.3. Under circumstances specified in subdivision two, the police officer to whom the warrant is addressed may inform the delegated officer, by telecommunication, mail or any other means, of the issuance of the warrant, of the offense charged in the underlying accusatory instrument and of all other pertinent details, and may request him to act as his agent in arresting the defendant pursuant to such warrant. Upon such request, the delegated police officer is to the same extent as the delegating officer, authorized to make such arrest pursuant to the warrant within the geographical area of such delegated officer's employment. Upon so arresting the defendant, he must proceed as provided in subdivisions two and four of section 120.90. (a) He has reasonable cause to believe that the defendant is in a particular county other than the one in which the warrant is returnable; and (b) The warrant is, pursuant to section 120.70, executable in such other county without endorsement by a local criminal court thereof; and (c) The geographical area of employment of the delegated police officer embraces the locality where the arrest is to be made. 3. Under circumstances specified in subdivision two, the police officer to whom the warrant is addressed may inform the delegated officer, by telecommunication, mail or any other means, of the issuance of the warrant, of the offense charged in the underlying accusatory instrument and of all other pertinent details, and may request him to act as his agent in arresting the defendant pursuant to such warrant. Upon such request, the delegated police officer is to the same extent as the delegating officer, authorized to make such arrest pursuant to the warrant within the geographical area of such delegated officer's employment. Upon so arresting the defendant, he must proceed as provided in subdivisions two and four of section 120.90.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 120 - Warrant of Arrest120.70 - Warrant of Arrest; Where Executable.

1. A warrant of arrest issued by a district court, by the New York City criminal court, the youth part of a superior court or by a superior court judge sitting as a local criminal court may be executed anywhere in the state. 2. A warrant of arrest issued by a city court, a town court or a village court may be executed:(a) In the county of issuance or in any adjoining county; or(b) Anywhere else in the state upon the written endorsement thereon of a local criminal court of the county in which the arrest is to be made. When so endorsed, the warrant is deemed the process of the endorsing court as well as that of the issuing court. (a) In the county of issuance or in any adjoining county; or (b) Anywhere else in the state upon the written endorsement thereon of a local criminal court of the county in which the arrest is to be made. When so endorsed, the warrant is deemed the process of the endorsing court as well as that of the issuing court.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 120 - Warrant of Arrest120.80 - Warrant of Arrest; When and How Executed.

1. A warrant of arrest may be executed on any day of the week and at any hour of the day or night. 2. Unless encountering physical resistance, flight or other factors rendering normal procedure impractical, the arresting police officer must inform the defendant that a warrant for his arrest for the offense designated therein has been issued. Upon request of the defendant, the officer must show him the warrant if he has it in his possession. The officer need not have the warrant in his possession, and, if he has not, he must show it to the defendant upon request as soon after the arrest as possible. 3. In order to effect the arrest, the police officer may use such physical force as is justifiable pursuant to section 35.30 of the penal law. 4. In order to effect the arrest, the police officer may, under circumstances and in the manner prescribed in this subdivision, enter any premises in which he reasonably believes the defendant to be present; provided, however, that where the premises in which the officer reasonably believes the defendant to be present is the dwelling of a third party who is not the subject of the arrest warrant, the officer shall proceed in the manner specified in article 690 of this chapter. Before such entry, he must give, or make reasonable effort to give, notice of his authority and purpose to an occupant thereof, unless there is reasonable cause to believe that the giving of such notice will:(a) Result in the defendant escaping or attempting to escape; or(b) Endanger the life or safety of the officer or another person; or(c) Result in the destruction, damaging or secretion of material evidence.5. If the officer is authorized to enter premises without giving notice of his authority and purpose, or if after giving such notice he is not admitted, he may enter such premises, and by a breaking if necessary. (a) Result in the defendant escaping or attempting to escape; or (b) Endanger the life or safety of the officer or another person; or (c) Result in the destruction, damaging or secretion of material evidence. 5. If the officer is authorized to enter premises without giving notice of his authority and purpose, or if after giving such notice he is not admitted, he may enter such premises, and by a breaking if necessary.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 120 - Warrant of Arrest120.85 - Child-Sensitive Arrests.

A state or local law enforcement officer who arrests an individual shall, at the time of the arrest, inquire whether such individual is the parent, guardian or other person legally charged with the care or custody of a child less than eighteen years old who may be at risk as a result of the arrest. The officer shall make reasonable efforts to ensure the safety of such child in accordance with the policies and procedures established pursuant to section two hundred fourteen-i or paragraph (f-2) of subdivision three of section eight hundred forty of the executive law as applicable. * NB Effective June 19, 2025

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 120 - Warrant of Arrest120.90 - Warrant of Arrest; Procedure After Arrest.

1. Upon arresting a defendant for any offense pursuant to a warrant of arrest in the county in which the warrant is returnable or in any adjoining county, or upon so arresting him or her for a felony in any other county, a police officer, if he or she be one to whom the warrant is addressed, must without unnecessary delay bring the defendant before the local criminal court or youth part of the superior court in which such warrant is returnable, provided that, where a local criminal court or youth part of the superior court in the county in which the warrant is returnable hereunder is operating an off-hours arraignment part designated in accordance with paragraph (w) of subdivision one of section two hundred twelve of the judiciary law at the time of defendant's return, such police officer may bring the defendant before such local criminal court or youth part of the superior court. 2. Upon arresting a defendant for any offense pursuant to a warrant of arrest in a county adjoining the county in which the warrant is returnable, or upon so arresting him for a felony in any other county, a police officer, if he be one delegated to execute the warrant pursuant to section 120.60, must without unnecessary delay deliver the defendant or cause him to be delivered to the custody of the officer by whom he was so delegated, and the latter must then proceed as provided in subdivision one. 3. Upon arresting a defendant for an offense other than a felony pursuant to a warrant of arrest in a county other than the one in which the warrant is returnable or one adjoining it, a police officer, if he be one to whom the warrant is addressed, must inform the defendant that he has a right to appear before a local criminal court of the county of arrest for the purpose of being released on his own recognizance or having bail fixed. If the defendant does not desire to avail himself of such right, the officer must request him to endorse such fact upon the warrant, and upon such endorsement the officer must without unnecessary delay bring him before the court in which the warrant is returnable. If the defendant does desire to avail himself of such right, or if he refuses to make the aforementioned endorsement, the officer must without unnecessary delay bring him before a local criminal court of the county of arrest. Such court must release the defendant on his own recognizance or fix bail for his appearance on a specified date in the court in which the warrant is returnable. If the defendant is in default of bail, the officer must without unnecessary delay bring him before the court in which the warrant is returnable. 4. Upon arresting a defendant for an offense other than a felony pursuant to a warrant of arrest in a county other than the one in which the warrant is returnable or one adjoining it, a police officer, if he be one delegated to execute the warrant pursuant to section 120.60, may hold the defendant in custody in the county of arrest for a period not exceeding two hours for the purpose of delivering him to the custody of the officer by whom he was delegated to execute such warrant. If the delegating officer receives custody of the defendant during such period, he must proceed as provided in subdivision three. Otherwise, the delegated officer must inform the defendant that he has a right to appear before a local criminal court for the purpose of being released on his own recognizance or having bail fixed. If the defendant does not desire to avail himself of such right, the officer must request him to make, sign and deliver to him a written statement of such fact, and if the defendant does so, the officer must retain custody of him but must without unnecessary delay deliver him or cause him to be delivered to the custody of the delegating police officer. If the defendant does desire to avail himself of such right, or if he refuses to make and deliver the aforementioned statement, the delegated or arresting officer must without unnecessary delay bring him before a local criminal court of the county of arrest and must submit to such court a written statement reciting the material facts concerning the issuance of the warrant, the offense involved, and all other essential matters relating thereto. Upon the submission of such statement, such court must release the defendant on his own recognizance or fix bail for his appearance on a specified date in the court in which the warrant is returnable. If the defendant is in default of bail, the officer must retain custody of him but must without unnecessary delay deliver him or cause him to be delivered to the custody of the delegating officer. Upon receiving such custody, the latter must without unnecessary delay bring the defendant before the court in which the warrant is returnable. 5. Whenever a police officer is required pursuant to this section to bring an arrested defendant before a town court in which a warrant of arrest is returnable, and if such town court is not available at the time, such officer must, if a copy of the underlying accusatory instrument has been attached to the warrant pursuant to section 120.40, instead bring such defendant before any village court embraced, in whole or in part, by such town, or any local criminal court of an adjoining town or city of the same county or any village court embraced, in whole or in part, by such adjoining town. When the court in which the warrant is returnable is a village court which is not available at the time, the officer must in such circumstances bring the defendant before the town court of the town embracing such village or any other village court within such town or, if such town court or village court is not available either, before the local criminal court of any town or city of the same county which adjoins such embracing town or, before the local criminal court of any village embraced in whole or in part by such adjoining town. When the court in which the warrant is returnable is a city court which is not available at the time, the officer must in such circumstances bring the defendant before the local criminal court of any adjoining town or village embraced in whole or in part by

such adjoining town of the same county. 5-a. Whenever a police officer is required, pursuant to this section, to bring an arrested defendant before a youth part of a superior court in which a warrant of arrest is returnable, and if such court is not in session, such officer must bring such defendant before the most accessible magistrate designated by the appellate division of the supreme court in the applicable department to act as a youth part. 6. Before bringing a defendant arrested pursuant to a warrant before the local criminal court or youth part of a superior court in which such warrant is returnable, a police officer must without unnecessary delay perform all fingerprinting and other preliminary police duties required in the particular case. In any case in which the defendant is not brought by a police officer before such court but, following his arrest in another county for an offense specified in subdivision one of section 160.10, is released by a local criminal court of such other county on his own recognizance or on bail for his appearance on a specified date before the local criminal court before which the warrant is returnable, the latter court must, upon arraignment of the defendant before it, direct that he be fingerprinted by the appropriate officer or agency, and that he appear at an appropriate designated time and place for such purpose. 7. Upon arresting a juvenile offender or adolescent offender, the police officer shall immediately notify the parent or other person legally responsible for his care or the person with whom he is domiciled, that the juvenile offender or adolescent offender has been arrested, and the location of the facility where he is being detained. 8. Upon arresting a defendant, other than a juvenile offender, for any offense pursuant to a warrant of arrest, a police officer shall, upon the defendant's request, permit the defendant to communicate by telephone provided by the law enforcement facility where the defendant is held to a phone number located anywhere in the United States or Puerto Rico, for the purposes of obtaining counsel and informing a relative or friend that he or she has been arrested, unless granting the call will compromise an ongoing investigation or the prosecution of the defendant.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 130 - The Summons130.10 - Summons; Definition, Function, Form and Content.

1. A summons is a process issued by a local criminal court directing a defendant designated in an information, a prosecutor's information, a felony complaint or a misdemeanor complaint filed with such court, or a youth part of a superior court directing a defendant designated in a felony complaint, or by a superior court directing a defendant designated in an indictment filed with such court, to appear before it at a designated future time in connection with such accusatory instrument. The sole function of a summons is to achieve a defendant's court appearance in a criminal action for the purpose of arraignment upon the accusatory instrument by which such action was commenced. 2. A summons must be subscribed by the issuing judge and must state or contain (a) the name of the issuing court, and (b) the name of the defendant to whom it is addressed, and (c) the name or title of an offense charged in the underlying accusatory instrument, and (d) the date of issuance of the summons, and (e) the date and time when it is returnable, and (f) a direction that the defendant appear before the issuing court at such time.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 130 - The Summons130.20 - Summons; by What Courts Issuable and in What Courts Returnable.

A summons may be issued only by the local criminal court or superior court with which the accusatory instrument underlying it has been filed, and it may be made returnable in such issuing court only.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 130 - The Summons130.30 - Summons; When Issuable.

A local criminal court or youth part of the superior court may issue a summons in any case in which, pursuant to section 120.20, it is authorized to issue a warrant of arrest based upon an information, a prosecutor's information, a felony complaint or a misdemeanor complaint. If such information, prosecutor's information, felony complaint or misdemeanor complaint is not sufficient on its face as prescribed in section 100.40, and if the court is satisfied that on the basis of the available facts or evidence it would be impossible to draw and file an authorized accusatory instrument that is sufficient on its face, the court must dismiss the accusatory instrument. A superior court may issue a summons in any case in which, pursuant to section 210.10, it is authorized to issue a warrant of arrest based upon an indictment.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 130 - The Summons130.40 - Summons; Service.

1. A summons may be served by a police officer, or by a complainant at least eighteen years old or by any other person at least eighteen years old designated by the court. 2. A summons may be served anywhere in the county of issuance or anywhere in an adjoining county.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 130 - The Summons130.50 - Summons; Defendant's Failure to Appear.

If after the service of a summons the defendant does not appear in the designated local criminal court or superior court at the time such summons is returnable, the court may issue a warrant of arrest.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 130 - The Summons130.60 - Summons; Fingerprinting of Defendant.

1. Upon the arraignment of a defendant whose court attendance has been secured by the issuance and service of a summons, based upon an indictment, a prosecutor's information or upon an information, felony complaint or misdemeanor complaint filed by a complainant who is a police officer, the court must, if an offense charged in the accusatory instrument is one specified in subdivision one of section 160.10, direct that the defendant be fingerprinted by the appropriate police officer or agency, and that he or she appear at an appropriate designated time and place for such purpose. 2. Upon the arraignment of a defendant whose court attendance has been secured by the issuance and service of a summons based upon an information or misdemeanor complaint filed by a complainant who is not a police officer, and who has not previously been fingerprinted, the court may, if it finds reasonable cause to believe that the defendant has committed an offense specified in subdivision one of section 160.10, direct that the defendant be fingerprinted by the appropriate police officer or agency and that he appear at an appropriate designated time and place for such purpose. A defendant whose court appearance has been secured by the issuance and service of a criminal summons based upon a misdemeanor complaint or information filed by a complainant who is not a police officer, must be directed by the court, upon conviction of the defendant, to be fingerprinted by the appropriate police officer or agency and the court must also direct that the defendant appear at an appropriate designated time and place for such purpose, if the defendant is convicted of any offense specified in subdivision one of section 160.10.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 140 - Arrest Without a Warrant140.05 - Arrest Without a Warrant; in General.

A person who has committed or is believed to have committed an offense and who is at liberty within the state may, under circumstances prescribed in this article, be arrested for such offense although no warrant of arrest therefor has been issued and although no criminal action therefor has yet been commenced in any criminal court.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 140 - Arrest Without a Warrant140.15 - Arrest Without a Warrant; When and How Made by Police Officer.

1. A police officer may arrest a person for an offense, pursuant to section 140.10, at any hour of any day or night. 2. The arresting police officer must inform such person of his authority and purpose and of the reason for such arrest unless he encounters physical resistance, flight or other factors rendering such procedure impractical. 3. In order to effect such an arrest, such police officer may use such physical force as is justifiable pursuant to section 35.30 of the penal law. 4. In order to effect such an arrest, a police officer may enter premises in which he reasonably believes such person to be present, under the same circumstances and in the same manner as would be authorized, by the provisions of subdivisions four and five of section 120.80, if he were attempting to make such arrest pursuant to a warrant of arrest.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 140 - Arrest Without a Warrant140.17 - Child-Sensitive Arrests.

A state or local law enforcement officer who arrests an individual shall, at the time of the arrest, inquire whether such individual is the parent, guardian or other person legally charged with the care or custody of a child less than eighteen years old who may be at risk as a result of the arrest. The officer shall make reasonable efforts to ensure the safety of such child in accordance with the policies and procedures established pursuant to section two hundred fourteen-i or paragraph (f-2) of subdivision three of section eight hundred forty of the executive law as applicable. * NB Effective June 19, 2025

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 140 - Arrest Without a Warrant140.20 - Arrest Without a Warrant; Procedure After Arrest by Police Officer.

officer. 1. Upon arresting a person without a warrant, a police officer, after performing without unnecessary delay all recording, fingerprinting and other preliminary police duties required in the particular case, must except as otherwise provided in this section, without unnecessary delay bring the arrested person or cause him to be brought before a local criminal court and file therewith an appropriate accusatory instrument charging him with the offense or offenses in question. The arrested person must be brought to the particular local criminal court, or to one of them if there be more than one, designated in section 100.55 as an appropriate court for commencement of the particular action; except that:(a) If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the penal law committed in a town, but not in a village thereof having a village court, and the town court of such town is not available at the time, the arrested person may be brought before the local criminal court of any village within such town or, any adjoining town, village embraced in whole or in part by such adjoining town, or city of the same county; and(b) If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the penal law committed in a

village having a village court and such court is not available at the time, the arrested person may be brought before the town court of the town embracing such village or any other village court within such town, or, if such town or village court is not available either, before the local criminal court of any adjoining town, village embraced in whole or in part by such adjoining town, or city of the same county; and(c) If the arrest is for an offense committed in a city, and the city court thereof is not available at the time, the arrested person may be brought before the local criminal court of any adjoining town or village, or village court embraced by an adjoining town, within the same county as such city; and(d) If the arrest is for a traffic infraction or for a misdemeanor relating to traffic, the police officer may, instead of bringing the arrested person before the local criminal court of the political subdivision or locality in which the offense was allegedly committed, bring him or her before the local criminal court of the same county nearest available by highway travel to the point of arrest; and(e) Notwithstanding any other provision of this section, where a local criminal court in the county in which the defendant is arrested is operating an off-hours arraignment part designated in accordance with paragraph (w) of subdivision one of section two hundred twelve of the judiciary law at the time of defendant's arrest, the arrested person may be brought before such local criminal court.2. If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the penal law, or other than where an arrest is required to be made pursuant to subdivision four of section 140.10 of this article, the arrested person need not be brought before a local criminal court as provided in subdivision one, and the procedure may instead be as follows:(a) A police officer may issue and serve an appearance ticket upon the arrested person and release him from custody, as prescribed in subdivision two of section 150.20 of this title; or(b) The desk officer in charge at a police station, county jail or police headquarters, or any of his superior officers, may, in such place fix pre-arraignment bail and, upon deposit thereof, issue and serve an appearance ticket upon the arrested person and release him from custody.3. Other than where an arrest is required to be made pursuant to subdivision four of section 140.10 of this article, if (a) the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the penal law, and (b) owing to unavailability of a local criminal court the arresting police officer is unable to bring the arrested person before such a court with reasonable promptness, either an appearance ticket must be served unconditionally upon the arrested person or pre-arraignment bail must be fixed, as prescribed in subdivision two. If pre-arraignment bail is fixed but not posted, such arrested person may be temporarily held in custody but must be brought before a local criminal court without unnecessary delay. Nothing contained in this subdivision requires a police officer to serve an appearance ticket upon an arrested person or release him from custody at a time when such person appears to be under the influence of alcohol, narcotics or other drug to the degree that he may endanger himself or other persons.4. If after arresting a person, for any offense, a police officer upon further investigation or inquiry determines or is satisfied that there is not reasonable cause to believe that the arrested person committed such offense or any other offense based upon the conduct in question, he need not follow any of the procedures prescribed in subdivisions one, two and three, but must immediately release such person from custody.5. Before service of an appearance ticket upon an arrested person pursuant to subdivision two or three, the issuing police officer must, if the offense designated in such appearance ticket is one of those specified in subdivision one of section 160.10, cause such person to be fingerprinted in the same manner as would be required were no appearance ticket to be issued or served.6. Upon arresting a juvenile offender or a person sixteen or commencing October first, two thousand nineteen, seventeen years of age without a warrant, the police officer shall immediately notify the parent or other person legally responsible for his or her care or the person with whom he or she is domiciled, that such offender or person has been arrested, and the location of the facility where he or she is being detained. If the officer determines that it is necessary to question a juvenile offender or such person, the officer must take him or her to a facility designated by the chief administrator of the courts as a suitable place for the questioning of children or, upon the consent of a parent or other person legally responsible for the care of the juvenile or such person, to his or her residence and there question him or her for a reasonable period of time. A juvenile or such person shall not be questioned pursuant to this section unless he or she and a person required to be notified pursuant to this subdivision, if present, have been advised:(a) of the juvenile offender's or such person's right to remain silent;(b) that the statements made by him or her may be used in a court of law;(c) of his or her right to have an attorney present at such questioning; and(d) of his or her right to have an attorney provided for him or her without charge if he or she is unable to afford counsel.In determining the suitability of questioning and determining the reasonable period of time for questioning such a juvenile offender or person, his or her age, the presence or absence of his or her parents or other persons legally responsible for his or her care and notification pursuant to this subdivision shall be included among relevant considerations.7. Upon arresting a person, other than a juvenile offender, for any offense without a warrant, a police officer shall, upon the arrested person's request, permit him or her to communicate by telephone provided by the law enforcement facility where the defendant is held to a phone number located in the United States or Puerto Rico, for the purposes of obtaining counsel and informing a relative or friend that he or she has been arrested, unless granting the call will compromise an ongoing investigation or the prosecution of the defendant.8. If the arrest is for a juvenile offender or adolescent offender other than an arrest for a violation or a traffic infraction, such offender shall be brought before the youth part of the superior court. If the youth part is not in session, such offender shall be brought before the most accessible magistrate designated by the appellate division of the supreme court in the applicable department to act as a youth part. (a) If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the penal law committed in a town, but not in a village thereof having a village court, and the town court of such town is not available at the time, the arrested person may be brought before the local criminal court of any village within such town or, any adjoining town, village embraced in whole or in part by such adjoining town, or city of the same county; and (b) If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the penal law

committed in a village having a village court and such court is not available at the time, the arrested person may be brought before the town court of the town embracing such village or any other village court within such town, or, if such town or village court is not available either, before the local criminal court of any adjoining town, village embraced in whole or in part by such adjoining town, or city of the same county; and (c) If the arrest is for an offense committed in a city, and the city court thereof is not available at the time, the arrested person may be brought before the local criminal court of any adjoining town or village, or village court embraced by an adjoining town, within the same county as such city; and (d) If the arrest is for a traffic infraction or for a misdemeanor relating to traffic, the police officer may, instead of bringing the arrested person before the local criminal court of the political subdivision or locality in which the offense was allegedly committed, bring him or her before the local criminal court of the same county nearest available by highway travel to the point of arrest; and (e) Notwithstanding any other provision of this section, where a local criminal court in the county in which the defendant is arrested is operating an off-hours arraignment part designated in accordance with paragraph (w) of subdivision one of section two hundred twelve of the judiciary law at the time of defendant's arrest, the arrested person may be brought before such local criminal court. 2. If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the penal law, or other than where an arrest is required to be made pursuant to subdivision four of section 140.10 of this article, the arrested person need not be brought before a local criminal court as provided in subdivision one, and the procedure may instead be as follows: (a) A police officer may issue and serve an appearance ticket upon the arrested person and release him from custody, as prescribed in subdivision two of section 150.20 of this title; or (b) The desk officer in charge at a police station, county jail or police headquarters, or any of his superior officers, may, in such place fix pre-arraignment bail and, upon deposit thereof, issue and serve an appearance ticket upon the arrested person and release him from custody. 3. Other than where an arrest is required to be made pursuant to subdivision four of section 140.10 of this article, if (a) the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the penal law, and (b) owing to unavailability of a local criminal court the arresting police officer is unable to bring the arrested person before such a court with reasonable promptness, either an appearance ticket must be served unconditionally upon the arrested person or pre-arraignment bail must be fixed, as prescribed in subdivision two. If pre-arraignment bail is fixed but not posted, such arrested person may be temporarily held in custody but must be brought before a local criminal court without unnecessary delay. Nothing contained in this subdivision requires a police officer to serve an appearance ticket upon an arrested person or release him from custody at a time when such person appears to be under the influence of alcohol, narcotics or other drug to the degree that he may endanger himself or other persons. 4. If after arresting a person, for any offense, a police officer upon further investigation or inquiry determines or is satisfied that there is not reasonable cause to believe that the arrested person committed such offense or any other offense based upon the conduct in question, he need not follow any of the procedures prescribed in subdivisions one, two and three, but must immediately release such person from custody. 5. Before service of an appearance ticket upon an arrested person pursuant to subdivision two or three, the issuing police officer must, if the offense designated in such appearance ticket is one of those specified in subdivision one of section 160.10, cause such person to be fingerprinted in the same manner as would be required were no appearance ticket to be issued or served. 6. Upon arresting a juvenile offender or a person sixteen or commencing October first, two thousand nineteen, seventeen years of age without a warrant, the police officer shall immediately notify the parent or other person legally responsible for his or her care or the person with whom he or she is domiciled, that such offender or person has been arrested, and the location of the facility where he or she is being detained. If the officer determines that it is necessary to question a juvenile offender or such person, the officer must take him or her to a facility designated by the chief administrator of the courts as a suitable place for the questioning of children or, upon the consent of a parent or other person legally responsible for the care of the juvenile or such person, to his or her residence and there question him or her for a reasonable period of time. A juvenile or such person shall not be questioned pursuant to this section unless he or she and a person required to be notified pursuant to this subdivision, if present, have been advised: (a) of the juvenile offender's or such person's right to remain silent; (b) that the statements made by him or her may be used in a court of law; (c) of his or her right to have an attorney present at such questioning; and (d) of his or her right to have an attorney provided for him or her without charge if he or she is unable to afford counsel. In determining the suitability of questioning and determining the reasonable period of time for questioning such a juvenile offender or person, his or her age, the presence or absence of his or her parents or other persons legally responsible for his or her care and notification pursuant to this subdivision shall be included among relevant considerations. 7. Upon arresting a person, other than a juvenile offender, for any offense without a warrant, a police officer shall, upon the arrested person's request, permit him or her to communicate by telephone provided by the law enforcement facility where the defendant is held to a phone number located in the United States or Puerto Rico, for the purposes of obtaining counsel and informing a relative or friend that he or she has been arrested, unless granting the call will compromise an ongoing investigation or the prosecution of the defendant. 8. If the arrest is for a juvenile offender or adolescent offender other than an arrest for a violation or a traffic infraction, such offender shall be brought before the youth part of the superior court. If the youth part is not in session, such offender shall be brought before the most accessible magistrate designated by the appellate division of the supreme court in the applicable department to act as a youth part.

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1. A peace officer, acting pursuant to his special duties, may arrest a person for:(a) Any offense when he has reasonable cause to believe that such person has committed such offense in his presence; and(b) A crime when he has reasonable cause to believe that

such person has committed such crime, whether in his presence or otherwise.2. A peace officer acts "pursuant to his special duties" in making an arrest only when the arrest is for:(a) An offense defined by a statute which such peace officer, by reason of the specialized nature of his particular employment or by express provision of law, is required or authorized to enforce; or(b) An offense committed or reasonably believed by him to have been committed in such manner or place as to render arrest of the offender by such peace officer under the particular circumstances an integral part of his specialized duties.3. A peace officer, whether or not he is acting pursuant to his special duties, may arrest a person for an offense committed or believed by him to have been committed within the geographical area of such peace officer's employment, as follows:(a) He may arrest such person for any offense when such person has in fact committed such offense in his presence; and(b) He may arrest such person for a felony when he has reasonable cause to believe that such person has committed such felony, whether in his presence or otherwise.4. A peace officer, when outside the geographical area of his employment, may, anywhere in the state, arrest a person for a felony when he has reasonable cause to believe that such person has there committed such felony in his presence, provided that such arrest is made during or immediately after the allegedly criminal conduct or during the alleged perpetrator's immediate flight therefrom.5. For the purposes of this section, the "geographical area of employment" of a peace officer is as follows:(a) The "geographical area of employment" of any peace officer employed as such by any agency of the state consists of the entire state;(b) The "geographical area of employment" of any peace officer employed as such by an agency of a county, city, town or village consists of (i) such county, city, town or village, as the case may be, and (ii) any other place where he is, at a particular time, acting in the course of his particular duties or employment;(c) The "geographical area of employment" of any peace officer employed as such by any private organization consists of any place in the state where he is, at a particular time, acting in the course of his particular duties or employment. (a) Any offense when he has reasonable cause to believe that such person has committed such offense in his presence; and (b) A crime when he has reasonable cause to believe that such person has committed such crime, whether in his presence or otherwise. 2. A peace officer acts "pursuant to his special duties" in making an arrest only when the arrest is for: (a) An offense defined by a statute which such peace officer, by reason of the specialized nature of his particular employment or by express provision of law, is required or authorized to enforce; or (b) An offense committed or reasonably believed by him to have been committed in such manner or place as to render arrest of the offender by such peace officer under the particular circumstances an integral part of his specialized duties. 3. A peace officer, whether or not he is acting pursuant to his special duties, may arrest a person for an offense committed or believed by him to have been committed within the geographical area of such peace officer's employment, as follows: (a) He may arrest such person for any offense when such person has in fact committed such offense in his presence; and (b) He may arrest such person for a felony when he has reasonable cause to believe that such person has committed such felony, whether in his presence or otherwise. 4. A peace officer, when outside the geographical area of his employment, may, anywhere in the state, arrest a person for a felony when he has reasonable cause to believe that such person has there committed such felony in his presence, provided that such arrest is made during or immediately after the allegedly criminal conduct or during the alleged perpetrator's immediate flight therefrom. 5. For the purposes of this section, the "geographical area of employment" of a peace officer is as follows: (a) The "geographical area of employment" of any peace officer employed as such by any agency of the state consists of the entire state; (b) The "geographical area of employment" of any peace officer employed as such by an agency of a county, city, town or village consists of (i) such county, city, town or village, as the case may be, and (ii) any other place where he is, at a particular time, acting in the course of his particular duties or employment; (c) The "geographical area of employment" of any peace officer employed as such by any private organization consists of any place in the state where he is, at a particular time, acting in the course of his particular duties or employment.

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arrest by peace officer. 1. The rules governing the manner in which a peace officer may make an arrest, pursuant to section 140.25, are the same as those governing arrests by police officers, as prescribed in section 140.15. 2. Upon arresting a person without a warrant, a peace officer, except as otherwise provided in subdivision three or three-a, must without unnecessary delay bring him or cause him to be brought before a local criminal court, as provided in section 100.55 and subdivision one of section 140.20, and must without unnecessary delay file or cause to be filed therewith an appropriate accusatory instrument. If the offense which is the subject of the arrest is one of those specified in subdivision one of section 160.10, the arrested person must be fingerprinted and photographed as therein provided. In order to execute the required post-arrest functions, such arresting peace officer may perform such functions himself or he may enlist the aid of a police officer for the performance thereof in the manner provided in subdivision one of section 140.20. 3. If (a) the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the penal law and (b) owing to unavailability of a local criminal court such peace officer is unable to bring or cause the arrested person to be brought before such a court with reasonable promptness, the arrested person must be brought to an appropriate police station, county jail or police headquarters where he must be dealt with in the manner prescribed in subdivision three of section 140.20, as if he had been arrested by a police officer. 3-a. If the arrest is for a juvenile offender or adolescent offender other than an arrest for violations or traffic infractions, such offender shall be brought before the youth part of the superior court. If the youth part is not in session, such offender shall be brought before the most accessible magistrate designated by the appellate division of the supreme court in the applicable department to act as a youth part. 4. If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40,

section 205.10, 205.17, 205.19 or 215.56 of the penal law, the arrested person need not be brought before a local criminal court as provided in subdivision two, and the procedure may instead be as follows:(a) The arresting peace officer, where he is specially authorized by law to issue and serve an appearance ticket, may issue and serve an appearance ticket upon the arrested person and release him from custody; or(b) The arresting peace officer, where he is not specially authorized by law to issue and serve an appearance ticket, may enlist the aid of a police officer and request that such officer issue and serve an appearance ticket upon the arrested person, and upon such issuance and service the latter must be released from custody.5. Upon arresting a juvenile offender or a person sixteen or commencing October first, two thousand nineteen, seventeen years of age without a warrant, the peace officer shall immediately notify the parent or other person legally responsible for his or her care or the person with whom he or she is domiciled, that such offender or person has been arrested, and the location of the facility where he or she is being detained. If the officer determines that it is necessary to question a juvenile offender or such person, the officer must take him or her to a facility designated by the chief administrator of the courts as a suitable place for the questioning of children or, upon the consent of a parent or other person legally responsible for the care of a juvenile offender or such person, to his or her residence and there question him or her for a reasonable period of time. A juvenile offender or such person shall not be questioned pursuant to this section unless the juvenile offender or such person and a person required to be notified pursuant to this subdivision, if present, have been advised:(a) of his or her right to remain silent;(b) that the statements made by the juvenile offender or such person may be used in a court of law;(c) of his or her right to have an attorney present at such questioning; and(d) of his or her right to have an attorney provided for him or her without charge if he or she is unable to afford counsel.In determining the suitability of questioning and determining the reasonable period of time for questioning such a juvenile offender or such person, his or her age, the presence or absence of his or her parents or other persons legally responsible for his or her care and notification pursuant to this subdivision shall be included among relevant considerations. (a) The arresting peace officer, where he is specially authorized by law to issue and serve an appearance ticket, may issue and serve an appearance ticket upon the arrested person and release him from custody; or (b) The arresting peace officer, where he is not specially authorized by law to issue and serve an appearance ticket, may enlist the aid of a police officer and request that such officer issue and serve an appearance ticket upon the arrested person, and upon such issuance and service the latter must be released from custody. 5. Upon arresting a juvenile offender or a person sixteen or commencing October first, two thousand nineteen, seventeen years of age without a warrant, the peace officer shall immediately notify the parent or other person legally responsible for his or her care or the person with whom he or she is domiciled, that such offender or person has been arrested, and the location of the facility where he or she is being detained. If the officer determines that it is necessary to question a juvenile offender or such person, the officer must take him or her to a facility designated by the chief administrator of the courts as a suitable place for the questioning of children or, upon the consent of a parent or other person legally responsible for the care of a juvenile offender or such person, to his or her residence and there question him or her for a reasonable period of time. A juvenile offender or such person shall not be questioned pursuant to this section unless the juvenile offender or such person and a person required to be notified pursuant to this subdivision, if present, have been advised: (a) of his or her right to remain silent; (b) that the statements made by the juvenile offender or such person may be used in a court of law; (c) of his or her right to have an attorney present at such questioning; and (d) of his or her right to have an attorney provided for him or her without charge if he or she is unable to afford counsel. In determining the suitability of questioning and determining the reasonable period of time for questioning such a juvenile offender or such person, his or her age, the presence or absence of his or her parents or other persons legally responsible for his or her care and notification pursuant to this subdivision shall be included among relevant considerations.

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authorized. 1. Subject to the provisions of subdivision two, any person may arrest another person (a) for a felony when the latter has in fact committed such felony, and (b) for any offense when the latter has in fact committed such offense in his presence. 2. Such an arrest, if for a felony, may be made anywhere in the state. If the arrest is for an offense other than a felony, it may be made only in the county in which such offense was committed.

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police officer or a peace officer; when and how made. 1. A person may arrest another person for an offense pursuant to section 140.30 at any hour of any day or night. 2. Such person must inform the person whom he is arresting of the reason for such arrest unless he encounters physical resistance, flight or other factors rendering such procedure impractical. 3. In order to effect such an arrest, such person may use such physical force as is justifiable pursuant to subdivision four of section 35.30 of the penal law.

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police officer or a peace officer; procedure after arrest. 1. A person making an arrest pursuant to section 140.30 must without unnecessary delay deliver or attempt to deliver the person arrested to the custody of an appropriate police officer, as defined in

subdivision five. For such purpose, he may solicit the aid of any police officer and the latter, if he is not himself an appropriate police officer, must assist in delivering the arrested person to an appropriate officer. If the arrest is for a felony, the appropriate police officer must, upon receiving custody of the arrested person, perform all recording, fingerprinting and other preliminary police duties required in the particular case. In any case, the appropriate police officer, upon receiving custody of the arrested person, except as otherwise provided in subdivisions two and three, must bring him, on behalf of the arresting person, before an appropriate local criminal court, as defined in subdivision five, and the arresting person must without unnecessary delay file an appropriate accusatory instrument with such court. 2. If (a) the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the penal law and (b) owing to unavailability of a local criminal court the appropriate police officer having custody of the arrested person is unable to bring him before such a court with reasonable promptness, the arrested person must be dealt with in the manner prescribed in subdivision three of section 140.20, as if he had been arrested by a police officer. 3. If the arrest is for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the penal law, the arrested person need not be brought before a local criminal court, as provided in subdivision one, and the procedure may instead be as follows:(a) An appropriate police officer may issue and serve an appearance ticket upon the arrested person and release him from custody, as prescribed in subdivision two of section 150.20; or(b) The desk officer in charge at the appropriate police officer's station, county jail or police headquarters, or any of his superior officers, may, in such place, fix pre-arraignment bail and, upon deposit thereof, issue and serve an appearance ticket upon the arrested person and release him from custody, as prescribed in section 150.30.4. Notwithstanding any other provision of this section, a police officer is not required to take an arrested person into custody or to take any other action prescribed in this section on behalf of the arresting person if he has reasonable cause to believe that the arrested person did not commit the alleged offense or that the arrest was otherwise unauthorized.5. If a police officer takes an arrested juvenile offender or a person sixteen or commencing October first, two thosuand nineteen, seventeen years of age into custody, the police officer shall immediately notify the parent or other person legally responsible for his or her care or the person with whom he or she is domiciled, that such offender or person has been arrested, and the location of the facility where he or she is being detained. If the officer determines that it is necessary to question a juvenile offender or such person the officer must take him or her to a facility designated by the chief administrator of the courts as a suitable place for the questioning of children or, upon the consent of a parent or other person legally responsible for the care of the juvenile offender or such person, to his or her residence and there question him or her for a reasonable period of time. A juvenile offender or such person shall not be questioned pursuant to this section unless he or she and a person required to be notified pursuant to this subdivision, if present, have been advised:(a) of his or her right to remain silent;(b) that the statements made by the juvenile offender or such person may be used in a court of law;(c) of his or her right to have an attorney present at such questioning; and(d) of his or her right to have an attorney provided for him or her without charge if he or she is unable to afford counsel.In determining the suitability of questioning and determining the reasonable period of time for questioning such a juvenile offender or such person, his or her age, the presence or absence of his or her parents or other persons legally responsible for his or her care and notification pursuant to this subdivision shall be included among relevant considerations.6. As used in this section:(a) An "appropriate police officer" means one who would himself be authorized to make the arrest in question as a police officer pursuant to section 140.10;(b) An "appropriate local criminal court" means one with which an accusatory instrument charging the offense in question may properly be filed pursuant to the provisions of section 100.55. (a) An appropriate police officer may issue and serve an appearance ticket upon the arrested person and release him from custody, as prescribed in subdivision two of section 150.20; or (b) The desk officer in charge at the appropriate police officer's station, county jail or police headquarters, or any of his superior officers, may, in such place, fix pre-arraignment bail and, upon deposit thereof, issue and serve an appearance ticket upon the arrested person and release him from custody, as prescribed in section 150.30. 4. Notwithstanding any other provision of this section, a police officer is not required to take an arrested person into custody or to take any other action prescribed in this section on behalf of the arresting person if he has reasonable cause to believe that the arrested person did not commit the alleged offense or that the arrest was otherwise unauthorized. 5. If a police officer takes an arrested juvenile offender or a person sixteen or commencing October first, two thosuand nineteen, seventeen years of age into custody, the police officer shall immediately notify the parent or other person legally responsible for his or her care or the person with whom he or she is domiciled, that such offender or person has been arrested, and the location of the facility where he or she is being detained. If the officer determines that it is necessary to question a juvenile offender or such person the officer must take him or her to a facility designated by the chief administrator of the courts as a suitable place for the questioning of children or, upon the consent of a parent or other person legally responsible for the care of the juvenile offender or such person, to his or her residence and there question him or her for a reasonable period of time. A juvenile offender or such person shall not be questioned pursuant to this section unless he or she and a person required to be notified pursuant to this subdivision, if present, have been advised: (a) of his or her right to remain silent; (b) that the statements made by the juvenile offender or such person may be used in a court of law; (c) of his or her right to have an attorney present at such questioning; and (d) of his or her right to have an attorney provided for him or her without charge if he or she is unable to afford counsel. In determining the suitability of questioning and determining the reasonable period of time for questioning such a juvenile offender or such person, his or her age, the presence or absence of his or her parents or other persons legally responsible for his or her care and notification pursuant to this subdivision shall be included among relevant considerations. 6. As used in this section: (a) An "appropriate police officer" means one who would himself be authorized to make the arrest in question as a police officer pursuant to section 140.10; (b) An "appropriate local criminal court" means one with which an accusatory instrument charging the offense in question may properly be filed pursuant to the provisions of section 100.55.

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criminal court accusatory instrument. If a local criminal court accusatory instrument filed with a local criminal court pursuant to section 140.20, 140.25 or 140.40 is not sufficient on its face, as prescribed in section 100.40, and if the court is satisfied that on the basis of the available facts or evidence it would be impossible to draw and file an accusatory instrument which is sufficient on its face, it must dismiss such accusatory instrument and discharge the defendant.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 140 - Arrest Without a Warrant140.50 - Temporary Questioning of Persons in Public Places; Search for Weapons.

weapons. 1. In addition to the authority provided by this article for making an arrest without a warrant, a police officer may stop a person in a public place located within the geographical area of such officer's employment when he reasonably suspects that such person is committing, has committed or is about to commit either (a) a felony or (b) a misdemeanor defined in the penal law, and may demand of him his name, address and an explanation of his conduct. 2. Any person who is a peace officer and who provides security services for any court of the unified court system may stop a person in or about the courthouse to which he is assigned when he reasonably suspects that such person is committing, has committed or is about to commit either (a) a felony or (b) a misdemeanor defined in the penal law, and may demand of him his name, address and an explanation of his conduct. 3. When upon stopping a person under circumstances prescribed in subdivisions one and two a police officer or court officer, as the case may be, reasonably suspects that he is in danger of physical injury, he may search such person for a deadly weapon or any instrument, article or substance readily capable of causing serious physical injury and of a sort not ordinarily carried in public places by law-abiding persons. If he finds such a weapon or instrument, or any other property possession of which he reasonably believes may constitute the commission of a crime, he may take it and keep it until the completion of the questioning, at which time he shall either return it, if lawfully possessed, or arrest such person. 4. In cities with a population of one million or more, information that establishes the personal identity of an individual who has been stopped, questioned and/or frisked by a police officer or peace officer, such as the name, address or social security number of such person, shall not be recorded in a computerized or electronic database if that individual is released without further legal action; provided, however, that this subdivision shall not prohibit police officers or peace officers from including in a computerized or electronic database generic characteristics of an individual, such as race and gender, who has been stopped, questioned and/or frisked by a police officer or peace officer.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 140 - Arrest Without a Warrant140.55 - Arrest Without a Warrant; by Peace Officers of Other States for Offense Committed Outside State; Uniform Close Pursuit Act.

offense committed outside state; uniform close pursuit act. 1. As used in this section, the word "state" shall include the District of Columbia. 2. Any peace officer of another state of the United States, who enters this state in close pursuit and continues within this state in such close pursuit of a person in order to arrest him, shall have the same authority to arrest and hold in custody such person on the ground that he has committed a crime in another state which is a crime under the laws of the state of New York, as police officers of this state have to arrest and hold in custody a person on the ground that he has committed a crime in this state. 3. If an arrest is made in this state by an officer of another state in accordance with the provisions of subdivision two, he shall without unnecessary delay take the person arrested before a local criminal court which shall conduct a hearing for the sole purpose of determining if the arrest was in accordance with the provisions of subdivision two, and not of determining the guilt or innocence of the arrested person. If such court determines that the arrest was in accordance with such subdivision, it shall commit the person arrested to the custody of the officer making the arrest, who shall without unnecessary delay take him to the state from which he fled. If such court determines that the arrest was unlawful, it shall discharge the person arrested. 4. This section shall not be construed so as to make unlawful any arrest in this state which would otherwise be lawful. 5. Upon the taking effect of this section it shall be the duty of the secretary of state to certify a copy of this section to the executive department of each of the states of the United States. 6. This section shall apply only to peace officers of a state which by its laws has made similar provision for the arrest and custody of persons closely pursued within the territory thereof. 7. If any part of this section is for any reason declared void, it is declared to be the intent of this section that such invalidity shall not affect the validity of the remaining portions of this section. 8. This section may be cited as the uniform act on close pursuit.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 150 - The Appearance Ticket150.10 - Appearance Ticket; Definition, Form and Content.

1. An appearance ticket is a written notice issued and subscribed by a police officer or other public servant authorized by state law or local law enacted pursuant to the provisions of the municipal home rule law to issue the same, directing a designated person to appear in a designated local criminal court at a designated future time in connection with his alleged commission of a designated offense. A notice conforming to such definition constitutes an appearance ticket regardless of whether it is referred to in some other

provision of law as a summons or by any other name or title. 2. When an appearance ticket as defined in subdivision one of this section is issued to a person in conjunction with an offense charged in a simplified information, said appearance ticket shall contain the language, set forth in subdivision four of section 100.25, notifying the defendant of his right to receive a supporting deposition. 3. Before issuing an appearance ticket a police officer or other public servant must inform the arrestee that they may provide their contact information for the purposes of receiving a court notification to remind them of their court appearance date from the court or a certified pretrial services agency. Such contact information may include one or more phone numbers, a residential address or address at which the arrestee receives mail, or an email address. The contact information shall be recorded and be transmitted to the local criminal court as required by section 150.80 of this article.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 150 - The Appearance Ticket150.20 - Appearance Ticket; When and by Whom Issuable.

1. (a) Whenever a police officer is authorized pursuant to section 140.10 of this title to arrest a person without a warrant for an offense other than a class A, B, C or D felony or a violation of section 130.25, former section 130.40, section 205.10, 205.17, 205.19 or 215.56 of the penal law, or other than where an arrest is required to be made pursuant to subdivision four of section 140.10 of this title, the officer shall, except as set out in paragraph (b) of this subdivision, subject to the provisions of subdivisions three and four of section 150.40 of this title, instead issue to and serve upon such person an appearance ticket.(b) An officer is not required to issue an appearance ticket if:(i) the person has one or more outstanding local criminal court or superior court warrants;(ii) the person has failed to appear in court proceedings in the last two years;(iii) the person has been given a reasonable opportunity to make their verifiable identity and a method of contact known, and has been unable or unwilling to do so, so that a custodial arrest is necessary to subject the individual to the jurisdiction of the court. For the purposes of this section, an officer may rely on various factors to determine a person's identity, including but not limited to personal knowledge of such person, such person's self-identification, or photographic identification. There is no requirement that a person present photographic identification in order to be issued an appearance ticket in lieu of arrest where the person's identity is otherwise verifiable; however, if offered by such person, an officer shall accept as evidence of identity the following: a valid driver's license or non-driver identification card issued by the commissioner of motor vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government or municipal government within the United States or a provincial government of the dominion of Canada; a valid passport issued by the United States government or any other country; an identification card issued by the armed forces of the United States; a public benefit card, as defined in paragraph (a) of subdivision one of section 158.00 of the penal law;(iv) the person is charged with a crime between members of the same family or household, as defined in subdivision one of section 530.11 of this chapter;(v) the person is charged with a crime defined in article 130 of the penal law;(vi) it reasonably appears the person should be brought before the court for consideration of issuance of an order of protection, pursuant to section 530.13 of this chapter, based on the facts of the crime or offense that the officer has reasonable cause to believe occurred;(vii) the person is charged with a crime for which the court may suspend or revoke his or her driver license;(viii) it reasonably appears to the officer, based on the observed behavior of the individual in the present contact with the officer and facts regarding the person's condition that indicates a sign of distress to such a degree that the person would face harm without immediate medical or mental health care, that bringing the person before the court would be in such person's interest in addressing that need; provided, however, that before making the arrest, the officer shall make all reasonable efforts to assist the person in securing appropriate services;(ix) the person is eighteen years of age or older and charged with criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law;(x) the person is eighteen years of age or older and charged with a hate crime as defined in section 485.05 of the penal law; or(xi) the offense is a qualifying offense pursuant to paragraph (t) of subdivision four of section 510.10 of this chapter, or pursuant to paragraph (t) of subdivision four of section 530.40 of this chapter.2. (a) Whenever, pursuant to section 140.10 of this title, a police officer has arrested a person without a warrant for an offense other than a class A, B, C or D felony or a violation of section 130.25, 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law or other than where an arrest was required to be made pursuant to subdivision four of section 140.10 of this title, or (b) whenever a peace officer, who is not authorized by law to issue an appearance ticket, has arrested a person for an offense other than a class A, B, C or D felony or a violation of section 130.25, 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law pursuant to section 140.25 of this title, and such peace officer has requested a police officer to issue and serve upon such arrested person an appearance ticket pursuant to subdivision four of section 140.27 of this title, or (c) whenever a person has been arrested for an offense other than a class A, B, C or D felony or a violation of section 130.25, 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law and such person has been delivered to the custody of an appropriate police officer pursuant to section 140.40 of this title, such police officer may, instead of bringing such person before a local criminal court and promptly filing or causing the arresting peace officer or arresting person to file a local criminal court accusatory instrument therewith, issue to and serve upon such person an appearance ticket.3. A public servant other than a police officer, who is specially authorized by state law or local law enacted pursuant to the provisions of the municipal home rule law to issue and serve appearance tickets with respect to designated offenses other than class A, B, C or D felonies or violations of section 130.25, 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law, may in such cases issue and serve upon a person an appearance ticket when he has reasonable cause to believe that such person has committed a crime, or has committed a petty offense in his presence. (b) An officer is not required to issue an appearance ticket if: (i) the person has one or more outstanding local criminal court or superior court warrants; (ii) the person has failed to appear in court proceedings in the last two years; (iii) the person has been given a reasonable opportunity to make their verifiable identity and a method of contact known, and has been unable or

unwilling to do so, so that a custodial arrest is necessary to subject the individual to the jurisdiction of the court. For the purposes of this section, an officer may rely on various factors to determine a person's identity, including but not limited to personal knowledge of such person, such person's self-identification, or photographic identification. There is no requirement that a person present photographic identification in order to be issued an appearance ticket in lieu of arrest where the person's identity is otherwise verifiable; however, if offered by such person, an officer shall accept as evidence of identity the following: a valid driver's license or non-driver identification card issued by the commissioner of motor vehicles, the federal government, any United States territory, commonwealth or possession, the District of Columbia, a state government or municipal government within the United States or a provincial government of the dominion of Canada; a valid passport issued by the United States government or any other country; an identification card issued by the armed forces of the United States; a public benefit card, as defined in paragraph (a) of subdivision one of section 158.00 of the penal law; (iv) the person is charged with a crime between members of the same family or household, as defined in subdivision one of section 530.11 of this chapter; (v) the person is charged with a crime defined in article 130 of the penal law; (vi) it reasonably appears the person should be brought before the court for consideration of issuance of an order of protection, pursuant to section 530.13 of this chapter, based on the facts of the crime or offense that the officer has reasonable cause to believe occurred; (vii) the person is charged with a crime for which the court may suspend or revoke his or her driver license; (viii) it reasonably appears to the officer, based on the observed behavior of the individual in the present contact with the officer and facts regarding the person's condition that indicates a sign of distress to such a degree that the person would face harm without immediate medical or mental health care, that bringing the person before the court would be in such person's interest in addressing that need; provided, however, that before making the arrest, the officer shall make all reasonable efforts to assist the person in securing appropriate services; (ix) the person is eighteen years of age or older and charged with criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law; (x) the person is eighteen years of age or older and charged with a hate crime as defined in section 485.05 of the penal law; or (xi) the offense is a qualifying offense pursuant to paragraph (t) of subdivision four of section 510.10 of this chapter, or pursuant to paragraph (t) of subdivision four of section 530.40 of this chapter. 2. (a) Whenever, pursuant to section 140.10 of this title, a police officer has arrested a person without a warrant for an offense other than a class A, B, C or D felony or a violation of section 130.25, 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law or other than where an arrest was required to be made pursuant to subdivision four of section 140.10 of this title, or (b) whenever a peace officer, who is not authorized by law to issue an appearance ticket, has arrested a person for an offense other than a class A, B, C or D felony or a violation of section 130.25, 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law pursuant to section 140.25 of this title, and such peace officer has requested a police officer to issue and serve upon such arrested person an appearance ticket pursuant to subdivision four of section 140.27 of this title, or (c) whenever a person has been arrested for an offense other than a class A, B, C or D felony or a violation of section 130.25, 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law and such person has been delivered to the custody of an appropriate police officer pursuant to section 140.40 of this title, such police officer may, instead of bringing such person before a local criminal court and promptly filing or causing the arresting peace officer or arresting person to file a local criminal court accusatory instrument therewith, issue to and serve upon such person an appearance ticket. 3. A public servant other than a police officer, who is specially authorized by state law or local law enacted pursuant to the provisions of the municipal home rule law to issue and serve appearance tickets with respect to designated offenses other than class A, B, C or D felonies or violations of section 130.25, 130.40, 205.10, 205.17, 205.19 or 215.56 of the penal law, may in such cases issue and serve upon a person an appearance ticket when he has reasonable cause to believe that such person has committed a crime, or has committed a petty offense in his presence.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 150 - The Appearance Ticket150.40 - Appearance Ticket; Where Returnable; How and Where Served.

1. An appearance ticket must be made returnable at a date as soon as possible, but in no event later than twenty days from the date of issuance; or at the next scheduled session of the appropriate local criminal court if such session is scheduled to occur more than twenty days from the date of issuance; or at a later date, with the court's permission due to enrollment in a pre-arraignment diversion program. The appearance ticket shall be made returnable in a local criminal court designated in section 100.55 of this title as one with which an information for the offense in question may be filed. 2. An appearance ticket, other than one issued for a traffic infraction relating to parking, must be served personally, except that an appearance ticket issued for the violation of a local zoning ordinance or local zoning law, or of a building or sanitation code may be served in any manner authorized for service under section three hundred eight of the civil practice law and rules. 3. An appearance ticket may be served anywhere in the county in which the designated offense was allegedly committed or in any adjoining county, and may be served elsewhere as prescribed in subdivision four. 4. A police officer may, for the purpose of serving an appearance ticket upon a person, follow him in continuous close pursuit, commencing either in the county in which the alleged offense was committed or in an adjoining county, in and through any county of the state, and may serve such appearance ticket upon him in any county in which he overtakes him.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 150 - The Appearance Ticket150.50 - Appearance Ticket; Filing a Local Criminal Court Accusatory Instrument; Dismissal of Insufficient Instrument.

instrument; dismissal of insufficient instrument. 1. A police officer or other public servant who has issued and served an appearance

ticket must, at or before the time such appearance ticket is returnable, file or cause to be filed with the local criminal court in which it is returnable a local criminal court accusatory instrument charging the person named in such appearance ticket with the offense specified therein; provided, however, that no separate accusatory instrument shall be required to be filed for an appearance ticket issued for a parking infraction which conforms to the requirements set forth in paragraph (b) of subdivision one of section 1.20 of this chapter. Nothing herein contained shall authorize the use of a simplified information when not authorized by law. 2. If such accusatory instrument is not sufficient on its face, as prescribed in section 100.40, and if the court is satisfied that on the basis of the available facts or evidence it would be impossible to draw and file an accusatory instrument which is sufficient on its face, it must dismiss such accusatory instrument.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 150 - The Appearance Ticket150.60 - Appearance Ticket; Defendant's Failure to Appear.

If after the service of an appearance ticket and the filing of a local criminal court accusatory instrument charging the offense designated therein, the defendant does not appear in the designated local criminal court at the time such appearance ticket is returnable, the court may issue a summons or a warrant of arrest based upon the local criminal court accusatory instrument filed.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 150 - The Appearance Ticket150.70 - Appearance Ticket; Fingerprinting of Defendant.

Upon the arraignment of a defendant who has not been arrested and whose court attendance has been secured by the issuance and service of an appearance ticket pursuant to subdivision one of section 150.20, the court must, if an offense charged in the accusatory instrument is one specified in subdivision one of section 160.10, direct that the defendant be fingerprinted by the appropriate police officer or agency, and that he appear at an appropriate designated time and place for such purpose.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 150 - The Appearance Ticket150.75 - Appearance Ticket; Certain Cases.

1. The provisions of this section shall apply in any case wherein the defendant is alleged to have committed an offense defined in section 221.05 of the penal law, and no other offense is alleged, notwithstanding any provision of this chapter or any other law to the contrary. 2. Whenever the defendant is arrested without a warrant, an appearance ticket shall promptly be issued and served upon him, as provided in this article. The issuance and service of the appearance ticket may be made conditional upon the posting of pre-arraignment bail as provided in section 150.30 of this chapter but only if the appropriate police officer (a) is unable to ascertain the defendant's identity or residence address; or (b) reasonably suspects that the identification or residence address given by the defendant is not accurate; or (c) reasonably suspects that the defendant does not reside within the state. No warrant of arrest shall be issued unless the defendant has failed to appear in court as required by the terms of the appearance ticket or by the court.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 150 - The Appearance Ticket150.80 - Court Appearance Reminders.

1. A police officer or other public servant who has issued and served an appearance ticket must, within twenty-four hours of issuance, file or cause to be filed with the local criminal court the appearance ticket and any contact information made available pursuant to subdivision three of section 150.10 of this article. 2. Upon receipt of the appearance ticket and any contact information made available pursuant to subdivision three of section 150.10 of this article, the local criminal court shall issue a court appearance reminder and notify the arrestee of their court appearances by text message, telephone call, electronic mail, or first class mail. The local criminal court may partner with a certified pretrial services agency or agencies in that county to provide such notification and shall include a copy of the appearance ticket. 3. A local criminal court is not required to issue a court appearance reminder if the appearance ticket requires the arrestee's appearance within seventy-two hours of its issuance, or no contact information has been provided.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 160 - Fingerprinting and Photographing of Defendant After Arrest--Criminal Identification Records and Statistics160.10 - Fingerprinting; Duties of Police With Respect Thereto.

1. Following an arrest, or following the arraignment upon a local criminal court accusatory instrument of a defendant whose court attendance has been secured by a summons or an appearance ticket under circumstances described in sections 130.60 and 150.70, the arresting or other appropriate police officer or agency must take or cause to be taken fingerprints of the arrested person or defendant if an offense which is the subject of the arrest or which is charged in the accusatory instrument filed is:(a) A felony; or(b) A misdemeanor defined in the penal law; or(c) A misdemeanor defined outside the penal law which would constitute a felony if such person had a previous judgment of conviction for a crime.2. In addition, a police officer who makes an arrest for any offense, either with or without a warrant, may take or cause to be taken the fingerprints of the arrested person if such police officer:(a) Is unable to ascertain such person's identity; or(b) Reasonably suspects that the identification given by such person is not accurate; or(c) Reasonably suspects that such person is being sought by law enforcement officials for the commission of some other offense.3. Whenever fingerprints are required to be taken pursuant to subdivision one or permitted to be taken pursuant to subdivision two, the

photograph and palmprints of the arrested person or the defendant, as the case may be, may also be taken.4. The taking of fingerprints as prescribed in this section and the submission of available information concerning the arrested person or the defendant and the facts and circumstances of the crime charged must be in accordance with the standards established by the commissioner of the division of criminal justice services. (a) A felony; or (b) A misdemeanor defined in the penal law; or (c) A misdemeanor defined outside the penal law which would constitute a felony if such person had a previous judgment of conviction for a crime. 2. In addition, a police officer who makes an arrest for any offense, either with or without a warrant, may take or cause to be taken the fingerprints of the arrested person if such police officer: (a) Is unable to ascertain such person's identity; or (b) Reasonably suspects that the identification given by such person is not accurate; or (c) Reasonably suspects that such person is being sought by law enforcement officials for the commission of some other offense. 3. Whenever fingerprints are required to be taken pursuant to subdivision one or permitted to be taken pursuant to subdivision two, the photograph and palmprints of the arrested person or the defendant, as the case may be, may also be taken. 4. The taking of fingerprints as prescribed in this section and the submission of available information concerning the arrested person or the defendant and the facts and circumstances of the crime charged must be in accordance with the standards established by the commissioner of the division of criminal justice services.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 160 - Fingerprinting and Photographing of Defendant After Arrest--Criminal Identification Records and Statistics160.20 - Fingerprinting; Forwarding of Fingerprints.

Upon the taking of fingerprints of an arrested person or defendant as prescribed in section 160.10, the appropriate police officer or agency must without unnecessary delay forward two copies of such fingerprints to the division of criminal justice services.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 160 - Fingerprinting and Photographing of Defendant After Arrest--Criminal Identification Records and Statistics160.30 - Fingerprinting; Duties of Division of Criminal Justice Services.

services. 1. Upon receiving fingerprints from a police officer or agency pursuant to section 160.20 of this chapter, the division of criminal justice services must, except as provided in subdivision two of this section, classify them and search its records for information concerning a previous record of the defendant, including any adjudication as a juvenile delinquent pursuant to article three of the family court act, or as a youthful offender pursuant to article seven hundred twenty of this chapter, and promptly transmit to such forwarding police officer or agency a report containing all information on file with respect to such defendant's previous record, if any, or stating that the defendant has no previous record according to its files. Such a report, if certified, constitutes presumptive evidence of the facts so certified. 2. If the fingerprints so received are not sufficiently legible to permit accurate and complete classification, they must be returned to the forwarding police officer or agency with an explanation of the defects and a request that the defendant's fingerprints be retaken if possible.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 160 - Fingerprinting and Photographing of Defendant After Arrest--Criminal Identification Records and Statistics160.40 - Fingerprinting; Transmission of Report Received by Police.

1. Upon receipt of a report of the division of criminal justice services as provided in section 160.30, the recipient police officer or agency must promptly transmit such report or a copy thereof to the district attorney of the county and two copies thereof to the court in which the action is pending. 2. Upon receipt of such report the court shall furnish a copy thereof to counsel for the defendant or, if the defendant is not represented by counsel, to the defendant.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 160 - Fingerprinting and Photographing of Defendant After Arrest--Criminal Identification Records and Statistics160.45 - Polygraph Tests; Prohibition Against.

1. No district attorney, police officer or employee of any law enforcement agency shall request or require any victim of a sexual assault crime to submit to any polygraph test or psychological stress evaluator examination. 2. As used in this section, "victim of a sexual assault crime" means any person alleged to have sustained an offense under article one hundred thirty or section 255.25, 255.26 or 255.27 of the penal law.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 160 - Fingerprinting and Photographing of Defendant After Arrest--Criminal Identification Records and Statistics160.50 - Order Upon Termination of Criminal Action in Favor of the Accused.

1. Upon the termination of a criminal action or proceeding against a person in favor of such person, as defined in subdivision three of this section, unless the district attorney upon motion with not less than five days notice to such person or his or her attorney demonstrates to the satisfaction of the court that the interests of justice require otherwise, or the court on its own motion with not less than five days notice to such person or his or her attorney determines that the interests of justice require otherwise and states the reasons for such determination on the record, the record of such action or proceeding shall be sealed and the clerk of the court wherein such criminal action or proceeding was terminated shall immediately notify the commissioner of the division of criminal

justice services and the heads of all appropriate police departments and other law enforcement agencies that the action has been terminated in favor of the accused, and unless the court has directed otherwise, that the record of such action or proceeding shall be sealed. Upon receipt of notification of such termination and sealing:(a) every photograph of such person and photographic plate or proof, and all palmprints and fingerprints taken or made of such person pursuant to the provisions of this article in regard to the action or proceeding terminated, except a dismissal pursuant to section 170.56 or 210.46 of this chapter, and all duplicates and copies thereof, except a digital fingerprint image where authorized pursuant to paragraph (e) of this subdivision, shall forthwith be, at the discretion of the recipient agency, either destroyed or returned to such person, or to the attorney who represented such person at the time of the termination of the action or proceeding, at the address given by such person or attorney during the action or proceeding, by the division of criminal justice services and by any police department or law enforcement agency having any such photograph, photographic plate or proof, palmprint or fingerprints in its possession or under its control;(b) any police department or law enforcement agency, including the division of criminal justice services, which transmitted or otherwise forwarded to any agency of the United States or of any other state or of any other jurisdiction outside the state of New York copies of any such photographs, photographic plates or proofs, palmprints and fingerprints, including those relating to actions or proceedings which were dismissed pursuant to section 170.56 or 210.46 of this chapter, shall forthwith formally request in writing that all such copies be destroyed or returned to the police department or law enforcement agency which transmitted or forwarded them, and, if returned, such department or agency shall, at its discretion, either destroy or return them as provided herein, except that those relating to dismissals pursuant to section 170.56 or 210.46 of this chapter shall not be destroyed or returned by such department or agency;(c) all official records and papers, including judgments and orders of a court but not including published court decisions or opinions or records and briefs on appeal, relating to the arrest or prosecution, including all duplicates and copies thereof, on file with the division of criminal justice services, any court, police agency, or prosecutor's office shall be sealed and not made available to any person or public or private agency;(d) such records shall be made available to the person accused or to such person's designated agent, and shall be made available to (i) a prosecutor in any proceeding in which the accused has moved for an order pursuant to section 170.56 or 210.46 of this chapter, or (ii) a law enforcement agency upon ex parte motion in any superior court, or in any district court, city court or the criminal court of the city of New York provided that such court sealed the record, if such agency demonstrates to the satisfaction of the court that justice requires that such records be made available to it, or (iii) any state or local officer or agency with responsibility for the issuance of licenses to possess guns, when the accused has made application for such a license, or (iv) the New York state department of corrections and community supervision when the accused is on parole supervision as a result of conditional release or a parole release granted by the New York state board of parole, and the arrest which is the subject of the inquiry is one which occurred while the accused was under such supervision, or (v) any prospective employer of a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of this chapter, in relation to an application for employment as a police officer or peace officer; provided, however, that every person who is an applicant for the position of police officer or peace officer shall be furnished with a copy of all records obtained under this paragraph and afforded an opportunity to make an explanation thereto, or (vi) the probation department responsible for supervision of the accused when the arrest which is the subject of the inquiry is one which occurred while the accused was under such supervision; and(e) where fingerprints subject to the provisions of this section have been received by the division of criminal justice services and have been filed by the division as digital images, such images may be retained, provided that a fingerprint card of the individual is on file with the division which was not sealed pursuant to this section or section 160.55 of this article.2. A report of the termination of the action or proceeding in favor of the accused shall be sufficient notice of sealing to the commissioner of the division of criminal justice services unless the report also indicates that the court directed that the record not be sealed in the interests of justice. Where the court has determined pursuant to subdivision one of this section that sealing is not in the interest of justice, the clerk of the court shall include notification of that determination in any report to such division of the disposition of the action or proceeding.3. For the purposes of subdivision one of this section, a criminal action or proceeding against a person shall be considered terminated in favor of such person where:(a) an order dismissing the entire accusatory instrument against such person pursuant to article four hundred seventy was entered; or(b) an order to dismiss the entire accusatory instrument against such person pursuant to section 170.30, 170.50, 170.55, 170.56, 180.70, 210.20, 210.46 or 210.47 of this chapter was entered or deemed entered, or an order terminating the prosecution against such person was entered pursuant to section 180.85 of this chapter, and the people have not appealed from such order or the determination of an appeal or appeals by the people from such order has been against the people; or(c) a verdict of complete acquittal was made pursuant to section 330.10 of this chapter; or(d) a trial order of dismissal of the entire accusatory instrument against such person pursuant to section 290.10 or 360.40 of this chapter was entered and the people have not appealed from such order or the determination of an appeal or appeals by the people from such order has been against the people; or(e) an order setting aside a verdict pursuant to section 330.30 or 370.10 of this chapter was entered and the people have not appealed from such order or the determination of an appeal or appeals by the people from such order has been against the people and no new trial has been ordered; or(f) an order vacating a judgment pursuant to section 440.10 of this chapter was entered and the people have not appealed from such order or the determination of an appeal or appeals by the people from such order has been against the people, and no new trial has been ordered; or(g) an order of discharge pursuant to article seventy of the civil practice law and rules was entered on a ground which invalidates the conviction and the people have not appealed from such order or the determination of an appeal or appeals by the people from such order has been against the people; or(h) where all charges against such person are dismissed pursuant to section 190.75 of this chapter. In such event, the clerk of the court which empaneled the grand jury shall serve a certification of such disposition upon the division of criminal justice services and upon the appropriate police department or law enforcement agency

which upon receipt thereof, shall comply with the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of this section in the same manner as is required thereunder with respect to an order of a court entered pursuant to said subdivision one; or(i) prior to the filing of an accusatory instrument in a local criminal court against such person, the prosecutor elects not to prosecute such person. In such event, the prosecutor shall serve a certification of such disposition upon the division of criminal justice services and upon the appropriate police department or law enforcement agency which, upon receipt thereof, shall comply with the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of this section in the same manner as is required thereunder with respect to an order of a court entered pursuant to said subdivision one.(j) following the arrest of such person, the arresting police agency, prior to the filing of an accusatory instrument in a local criminal court but subsequent to the forwarding of a copy of the fingerprints of such person to the division of criminal justice services, elects not to proceed further. In such event, the head of the arresting police agency shall serve a certification of such disposition upon the division of criminal justice services which, upon receipt thereof, shall comply with the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of this section in the same manner as is required thereunder with respect to an order of a court entered pursuant to said subdivision one.(k) (i) The conviction was for a violation of article two hundred twenty or section 240.36 of the penal law prior to the effective date of article two hundred twenty-one of the penal law, and the sole controlled substance involved was marihuana and the conviction was only for a misdemeanor and/or violation; or(ii) the conviction is for an offense defined in section 221.05 or 221.10 of the penal law prior to the effective date of chapter one hundred thirty-two of the laws of two thousand nineteen; or(iii) the conviction is for an offense defined in former section 221.05 221.10, 221.15, 221.20, 221.35, or 221.40 of the penal law; or(iv) the conviction was for an offense defined in section 240.37 of the penal law; or(v) the conviction was for a violation of section 220.03 or 220.06 of the penal law prior to the effective date of the chapter of the laws of two thousand twenty-one that amended this paragraph, and the sole controlled substance involved was concentrated cannabis; or(vi) the conviction was for an offense defined in section 222.10, 222.15, 222.25 or 222.45 of the penal law.No defendant shall be required or permitted to waive eligibility for sealing or expungement pursuant to this section as part of a plea of guilty, sentence or any agreement related to a conviction for a violation of section 222.10, 222.15, 222.25 or 222.45 of the penal law and any such waiver shall be deemed void and wholly unenforceable.(l) An order dismissing an action pursuant to section 215.40 of this chapter was entered.4. A person in whose favor a criminal action or proceeding was terminated, as defined in paragraph (a) through (h) of subdivision two of this section, prior to the effective date of this section, may upon motion apply to the court in which such termination occurred, upon not less than twenty days notice to the district attorney, for an order granting to such person the relief set forth in subdivision one of this section, and such order shall be granted unless the district attorney demonstrates to the satisfaction of the court that the interests of justice require otherwise. A person in whose favor a criminal action or proceeding was terminated, as defined in paragraph (i) or (j) of subdivision two of this section, prior to the effective date of this section, may apply to the appropriate prosecutor or police agency for a certification as described in said paragraph (i) or (j) granting to such person the relief set forth therein, and such certification shall be granted by such prosecutor or police agency.5. (a) Expungement of certain marihuana-related records. A conviction for an offense described in paragraph (k) of subdivision three of this section shall, on and after the effective date of this paragraph, in accordance with the provisions of this paragraph, be vacated and dismissed, and all records of such conviction or convictions and related to such conviction or convictions shall be expunged, as described in subdivision forty-five of section 1.20 of this chapter, and the matter shall be considered terminated in favor of the accused and deemed a nullity, having been rendered by this paragraph legally invalid. All such records for an offense described in this paragraph where the conviction was entered on or before the effective date of the chapter of the laws of 2019 that amended this paragraph shall be expunged promptly and, in any event, no later than one year after such effective date.(b) Duties of certain state officials and law enforcement agencies. Commencing upon the effective date of this paragraph:(i) the chief administrator of the courts shall promptly notify the commissioner of the division of criminal justice services and the heads of all appropriate police departments, district attorney's offices and other law enforcement agencies of all convictions that have been vacated and dismissed pursuant to paragraph (a) of this subdivision and that all records related to such convictions shall be expunged and the matter shall be considered terminated in favor of the accused and deemed a nullity, having been rendered legally invalid. Upon receipt of notification of such vacatur, dismissal and expungement, all records relating to such conviction or convictions, or the criminal action or proceeding, as the case may be, shall be marked as expunged by conspicuously indicating on the face of the record and on each page or at the beginning of the digitized file of the record that the record has been designated as expunged. Upon the written request of the individual whose case has been expunged or their designated agent, such records shall be destroyed. Such records and papers shall not be made available to any person, except the individual whose case has been expunged or such person's designated agent; and(ii) where automatic vacatur, dismissal, and expungement, including record destruction if requested, is required by this subdivision but any record of the court system in this state has not yet been updated to reflect same (A) notwithstanding any other provision of law except as provided in paragraph (d) of subdivision one of this section and paragraph (e) of subdivision four of section eight hundred thirty-seven of the executive law: (1) when the division of criminal justice services conducts a search of its criminal history records, maintained pursuant to subdivision six of section eight hundred thirty-seven of the executive law, and returns a report thereon, all references to a conviction for an offense described in paragraph (k) of subdivision three of this section shall be excluded from such report; and (2) the chief administrator of the courts shall develop and promulgate rules as may be necessary to ensure that no written or electronic report of a criminal history record search conducted by the office of court administration contains information relating to a conviction for an offense described in paragraph (k) of subdivision three of this section; and (B) where court records relevant to such matter cannot be located or have been destroyed, and a person or the person's attorney presents to an appropriate court employee a fingerprint record of the New York state division of criminal justice services, or a copy of a court disposition record or

other relevant court record, which indicates that a criminal action or proceeding against such person was terminated by conviction of an offense described in paragraph (k) of subdivision three of this section, then promptly, and in any event within thirty days after such notice to such court employee, the chief administrator of the courts or his or her designee shall assure that such vacatur, dismissal, and expungement, including record destruction if requested, have been completed in accordance with subparagraph (i) of this paragraph.(c) Vacatur, dismissal and expungement as set forth in this subdivision is without prejudice to any person or such person's attorney seeking further relief pursuant to article four hundred forty of this chapter or any other law. Nothing in this section is intended or shall be interpreted to diminish or abrogate any right or remedy otherwise available to any person.(d) The office of court administration, in conjunction with the division of criminal justice services, shall develop an affirmative information campaign and widely disseminate to the public, through its website, public service announcements and other means, in multiple languages and through multiple outlets, information concerning the expungement, vacatur and resentencing of marihuana convictions established by the chapter of the laws of two thousand nineteen that added this paragraph, including, but not limited to, the automatic expungement of certain past convictions, the means by which an individual may file a motion for vacatur, dismissal and expungement of certain past convictions, and the impact of such changes on such person's criminal history records. (a) every photograph of such person and photographic plate or proof, and all palmprints and fingerprints taken or made of such person pursuant to the provisions of this article in regard to the action or proceeding terminated, except a dismissal pursuant to section 170.56 or 210.46 of this chapter, and all duplicates and copies thereof, except a digital fingerprint image where authorized pursuant to paragraph (e) of this subdivision, shall forthwith be, at the discretion of the recipient agency, either destroyed or returned to such person, or to the attorney who represented such person at the time of the termination of the action or proceeding, at the address given by such person or attorney during the action or proceeding, by the division of criminal justice services and by any police department or law enforcement agency having any such photograph, photographic plate or proof, palmprint or fingerprints in its possession or under its control; (b) any police department or law enforcement agency, including the division of criminal justice services, which transmitted or otherwise forwarded to any agency of the United States or of any other state or of any other jurisdiction outside the state of New York copies of any such photographs, photographic plates or proofs, palmprints and fingerprints, including those relating to actions or proceedings which were dismissed pursuant to section 170.56 or 210.46 of this chapter, shall forthwith formally request in writing that all such copies be destroyed or returned to the police department or law enforcement agency which transmitted or forwarded them, and, if returned, such department or agency shall, at its discretion, either destroy or return them as provided herein, except that those relating to dismissals pursuant to section 170.56 or 210.46 of this chapter shall not be destroyed or returned by such department or agency; (c) all official records and papers, including judgments and orders of a court but not including published court decisions or opinions or records and briefs on appeal, relating to the arrest or prosecution, including all duplicates and copies thereof, on file with the division of criminal justice services, any court, police agency, or prosecutor's office shall be sealed and not made available to any person or public or private agency; (d) such records shall be made available to the person accused or to such person's designated agent, and shall be made available to (i) a prosecutor in any proceeding in which the accused has moved for an order pursuant to section 170.56 or 210.46 of this chapter, or (ii) a law enforcement agency upon ex parte motion in any superior court, or in any district court, city court or the criminal court of the city of New York provided that such court sealed the record, if such agency demonstrates to the satisfaction of the court that justice requires that such records be made available to it, or (iii) any state or local officer or agency with responsibility for the issuance of licenses to possess guns, when the accused has made application for such a license, or (iv) the New York state department of corrections and community supervision when the accused is on parole supervision as a result of conditional release or a parole release granted by the New York state board of parole, and the arrest which is the subject of the inquiry is one which occurred while the accused was under such supervision, or (v) any prospective employer of a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of this chapter, in relation to an application for employment as a police officer or peace officer; provided, however, that every person who is an applicant for the position of police officer or peace officer shall be furnished with a copy of all records obtained under this paragraph and afforded an opportunity to make an explanation thereto, or (vi) the probation department responsible for supervision of the accused when the arrest which is the subject of the inquiry is one which occurred while the accused was under such supervision; and (e) where fingerprints subject to the provisions of this section have been received by the division of criminal justice services and have been filed by the division as digital images, such images may be retained, provided that a fingerprint card of the individual is on file with the division which was not sealed pursuant to this section or section 160.55 of this article. 2. A report of the termination of the action or proceeding in favor of the accused shall be sufficient notice of sealing to the commissioner of the division of criminal justice services unless the report also indicates that the court directed that the record not be sealed in the interests of justice. Where the court has determined pursuant to subdivision one of this section that sealing is not in the interest of justice, the clerk of the court shall include notification of that determination in any report to such division of the disposition of the action or proceeding. 3. For the purposes of subdivision one of this section, a criminal action or proceeding against a person shall be considered terminated in favor of such person where: (a) an order dismissing the entire accusatory instrument against such person pursuant to article four hundred seventy was entered; or (b) an order to dismiss the entire accusatory instrument against such person pursuant to section 170.30, 170.50, 170.55, 170.56, 180.70, 210.20, 210.46 or 210.47 of this chapter was entered or deemed entered, or an order terminating the prosecution against such person was entered pursuant to section 180.85 of this chapter, and the people have not appealed from such order or the determination of an appeal or appeals by the people from such order has been against the people; or (c) a verdict of complete acquittal was made pursuant to section 330.10 of this chapter; or (d) a trial order of dismissal of the entire accusatory instrument against such person pursuant to section 290.10 or 360.40 of this chapter

was entered and the people have not appealed from such order or the determination of an appeal or appeals by the people from such order has been against the people; or (e) an order setting aside a verdict pursuant to section 330.30 or 370.10 of this chapter was entered and the people have not appealed from such order or the determination of an appeal or appeals by the people from such order has been against the people and no new trial has been ordered; or (f) an order vacating a judgment pursuant to section 440.10 of this chapter was entered and the people have not appealed from such order or the determination of an appeal or appeals by the people from such order has been against the people, and no new trial has been ordered; or (g) an order of discharge pursuant to article seventy of the civil practice law and rules was entered on a ground which invalidates the conviction and the people have not appealed from such order or the determination of an appeal or appeals by the people from such order has been against the people; or (h) where all charges against such person are dismissed pursuant to section 190.75 of this chapter. In such event, the clerk of the court which empaneled the grand jury shall serve a certification of such disposition upon the division of criminal justice services and upon the appropriate police department or law enforcement agency which upon receipt thereof, shall comply with the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of this section in the same manner as is required thereunder with respect to an order of a court entered pursuant to said subdivision one; or (i) prior to the filing of an accusatory instrument in a local criminal court against such person, the prosecutor elects not to prosecute such person. In such event, the prosecutor shall serve a certification of such disposition upon the division of criminal justice services and upon the appropriate police department or law enforcement agency which, upon receipt thereof, shall comply with the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of this section in the same manner as is required thereunder with respect to an order of a court entered pursuant to said subdivision one. (j) following the arrest of such person, the arresting police agency, prior to the filing of an accusatory instrument in a local criminal court but subsequent to the forwarding of a copy of the fingerprints of such person to the division of criminal justice services, elects not to proceed further. In such event, the head of the arresting police agency shall serve a certification of such disposition upon the division of criminal justice services which, upon receipt thereof, shall comply with the provisions of paragraphs (a), (b), (c) and (d) of subdivision one of this section in the same manner as is required thereunder with respect to an order of a court entered pursuant to said subdivision one. (k) (i) The conviction was for a violation of article two hundred twenty or section 240.36 of the penal law prior to the effective date of article two hundred twenty-one of the penal law, and the sole controlled substance involved was marihuana and the conviction was only for a misdemeanor and/or violation; or (ii) the conviction is for an offense defined in section 221.05 or 221.10 of the penal law prior to the effective date of chapter one hundred thirty-two of the laws of two thousand nineteen; or (iii) the conviction is for an offense defined in former section 221.05 221.10, 221.15, 221.20, 221.35, or 221.40 of the penal law; or (iv) the conviction was for an offense defined in section 240.37 of the penal law; or (v) the conviction was for a violation of section 220.03 or 220.06 of the penal law prior to the effective date of the chapter of the laws of two thousand twenty-one that amended this paragraph, and the sole controlled substance involved was concentrated cannabis; or (vi) the conviction was for an offense defined in section 222.10, 222.15, 222.25 or 222.45 of the penal law. No defendant shall be required or permitted to waive eligibility for sealing or expungement pursuant to this section as part of a plea of guilty, sentence or any agreement related to a conviction for a violation of section 222.10, 222.15, 222.25 or 222.45 of the penal law and any such waiver shall be deemed void and wholly unenforceable. (l) An order dismissing an action pursuant to section 215.40 of this chapter was entered. 4. A person in whose favor a criminal action or proceeding was terminated, as defined in paragraph (a) through (h) of subdivision two of this section, prior to the effective date of this section, may upon motion apply to the court in which such termination occurred, upon not less than twenty days notice to the district attorney, for an order granting to such person the relief set forth in subdivision one of this section, and such order shall be granted unless the district attorney demonstrates to the satisfaction of the court that the interests of justice require otherwise. A person in whose favor a criminal action or proceeding was terminated, as defined in paragraph (i) or (j) of subdivision two of this section, prior to the effective date of this section, may apply to the appropriate prosecutor or police agency for a certification as described in said paragraph (i) or (j) granting to such person the relief set forth therein, and such certification shall be granted by such prosecutor or police agency. 5. (a) Expungement of certain marihuana-related records. A conviction for an offense described in paragraph (k) of subdivision three of this section shall, on and after the effective date of this paragraph, in accordance with the provisions of this paragraph, be vacated and dismissed, and all records of such conviction or convictions and related to such conviction or convictions shall be expunged, as described in subdivision forty-five of section 1.20 of this chapter, and the matter shall be considered terminated in favor of the accused and deemed a nullity, having been rendered by this paragraph legally invalid. All such records for an offense described in this paragraph where the conviction was entered on or before the effective date of the chapter of the laws of 2019 that amended this paragraph shall be expunged promptly and, in any event, no later than one year after such effective date. (b) Duties of certain state officials and law enforcement agencies. Commencing upon the effective date of this paragraph: (i) the chief administrator of the courts shall promptly notify the commissioner of the division of criminal justice services and the heads of all appropriate police departments, district attorney's offices and other law enforcement agencies of all convictions that have been vacated and dismissed pursuant to paragraph (a) of this subdivision and that all records related to such convictions shall be expunged and the matter shall be considered terminated in favor of the accused and deemed a nullity, having been rendered legally invalid. Upon receipt of notification of such vacatur, dismissal and expungement, all records relating to such conviction or convictions, or the criminal action or proceeding, as the case may be, shall be marked as expunged by conspicuously indicating on the face of the record and on each page or at the beginning of the digitized file of the record that the record has been designated as expunged. Upon the written request of the individual whose case has been expunged or their designated agent, such records shall be destroyed. Such records and papers shall not be made available to any person, except the individual whose case has been expunged or such person's designated agent; and (ii) where automatic vacatur, dismissal, and expungement, including record destruction if

requested, is required by this subdivision but any record of the court system in this state has not yet been updated to reflect same (A) notwithstanding any other provision of law except as provided in paragraph (d) of subdivision one of this section and paragraph (e) of subdivision four of section eight hundred thirty-seven of the executive law: (1) when the division of criminal justice services conducts a search of its criminal history records, maintained pursuant to subdivision six of section eight hundred thirty-seven of the executive law, and returns a report thereon, all references to a conviction for an offense described in paragraph (k) of subdivision three of this section shall be excluded from such report; and (2) the chief administrator of the courts shall develop and promulgate rules as may be necessary to ensure that no written or electronic report of a criminal history record search conducted by the office of court administration contains information relating to a conviction for an offense described in paragraph (k) of subdivision three of this section; and (B) where court records relevant to such matter cannot be located or have been destroyed, and a person or the person's attorney presents to an appropriate court employee a fingerprint record of the New York state division of criminal justice services, or a copy of a court disposition record or other relevant court record, which indicates that a criminal action or proceeding against such person was terminated by conviction of an offense described in paragraph (k) of subdivision three of this section, then promptly, and in any event within thirty days after such notice to such court employee, the chief administrator of the courts or his or her designee shall assure that such vacatur, dismissal, and expungement, including record destruction if requested, have been completed in accordance with subparagraph (i) of this paragraph. (c) Vacatur, dismissal and expungement as set forth in this subdivision is without prejudice to any person or such person's attorney seeking further relief pursuant to article four hundred forty of this chapter or any other law. Nothing in this section is intended or shall be interpreted to diminish or abrogate any right or remedy otherwise available to any person. (d) The office of court administration, in conjunction with the division of criminal justice services, shall develop an affirmative information campaign and widely disseminate to the public, through its website, public service announcements and other means, in multiple languages and through multiple outlets, information concerning the expungement, vacatur and resentencing of marihuana convictions established by the chapter of the laws of two thousand nineteen that added this paragraph, including, but not limited to, the automatic expungement of certain past convictions, the means by which an individual may file a motion for vacatur, dismissal and expungement of certain past convictions, and the impact of such changes on such person's criminal history records.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 160 - Fingerprinting and Photographing of Defendant After Arrest--Criminal Identification Records and Statistics160.55 - Order Upon Termination of Criminal Action by Conviction for Noncriminal Offense; Entry of Waiver; Administrative Findings.

noncriminal offense; entry of waiver; administrative findings. 1. Regardless of the class of offense for which a person is initially charged, upon the termination of a criminal action or proceeding against a person by the conviction of such person of a traffic infraction or a violation, other than the violation of operating a motor vehicle while ability impaired as described in subdivision one of section eleven hundred ninety-two of the vehicle and traffic law, unless the district attorney upon motion with not less than five days' notice to such person or his or her attorney demonstrates to the satisfaction of the court that the interests of justice require otherwise, or the court on its own motion with not less than five days' notice to such person or his or her attorney determines that the interests of justice require otherwise and states the reasons for such determination on the record, the clerk of the court wherein such criminal action or proceeding was terminated shall immediately notify the commissioner of the division of criminal justice services and the heads of all appropriate police departments and other law enforcement agencies that the action has been terminated by such conviction. Upon receipt of notification of such termination:(a) every photograph of such person and photographic plate or proof, and all palmprints and fingerprints taken or made of such person pursuant to the provisions of this article in regard to the action or proceeding terminated, and all duplicates and copies thereof, except a digital fingerprint image where authorized pursuant to paragraph (e) of this subdivision, except for the palmprints and fingerprints concerning a disposition of harassment in the second degree as defined in section 240.26 of the penal law, committed against a member of the same family or household as the defendant, as defined in subdivision one of section 530.11 of this chapter, and determined pursuant to subdivision eight-a of section 170.10 of this title, shall forthwith be, at the discretion of the recipient agency, either destroyed or returned to such person, or to the attorney who represented such person at the time of the termination of the action or proceeding, at the address given by such person or attorney during the action or proceeding, by the division of criminal justice services and by any police department or law enforcement agency having any such photograph, photographic plate or proof, palmprints or fingerprints in its possession or under its control;(b) any police department or law enforcement agency, including the division of criminal justice services, which transmitted or otherwise forwarded to any agency of the United States or of any other state or of any other jurisdiction outside the state of New York copies of any such photographs, photographic plates or proofs, palmprints and fingerprints, shall forthwith formally request in writing that all such copies be destroyed or returned to the police department or law enforcement agency which transmitted or forwarded them, and upon such return such department or agency shall, at its discretion, either destroy or return them as provided herein;(c) all official records and papers relating to the arrest or prosecution, including all duplicates and copies thereof, on file with the division of criminal justice services, police agency, or prosecutor's office shall be sealed and not made available to any person or public or private agency;(d) the records referred to in paragraph (c) of this subdivision shall be made available to the person accused or to such person's designated agent, and shall be made available to (i) a prosecutor in any proceeding in which the accused has moved for an order pursuant to section 170.56 or 210.46 of this chapter, or (ii) a law enforcement agency upon ex parte motion in any superior court, or in any district court, city court or the criminal court of the city of New York provided that such

court sealed the record, if such agency demonstrates to the satisfaction of the court that justice requires that such records be made available to it, or (iii) any state or local officer or agency with responsibility for the issuance of licenses to possess guns, when the accused has made application for such a license, or (iv) the New York state department of corrections and community supervision when the accused is under parole supervision as a result of conditional release or parole release granted by the New York state board of parole and the arrest which is the subject of the inquiry is one which occurred while the accused was under such supervision, or (v) the probation department responsible for supervision of the accused when the arrest which is the subject of the inquiry is one which occurred while the accused was under such supervision, or (vi) a police agency, probation department, sheriff's office, district attorney's office, department of correction of any municipality and parole department, for law enforcement purposes, upon arrest in instances in which the individual stands convicted of harassment in the second degree, as defined in section 240.26 of the penal law, committed against a member of the same family or household as the defendant, as defined in subdivision one of section 530.11 of this chapter, and determined pursuant to subdivision eight-a of section 170.10 of this title; and(e) where fingerprints subject to the provisions of this section have been received by the division of criminal justice services and have been filed by the division as digital images, such images may be retained, provided that a fingerprint card of the individual is on file with the division which was not sealed pursuant to this section or section 160.50 of this article.2. A report of the termination of the action or proceeding by conviction of a traffic violation or a violation other than the violation of operating a motor vehicle while ability impaired as described in subdivision one of section eleven hundred ninety-two of the vehicle and traffic law, shall be sufficient notice of sealing to the commissioner of the division of criminal justice services unless the report also indicates that the court directed that the record not be sealed in the interests of justice. Where the court has determined pursuant to subdivision one of this section that sealing is not in the interests of justice, the clerk of the court shall include notification of that determination in any report to such division of the disposition of the action or proceeding. When the defendant has been found guilty of a violation of harassment in the second degree and it was determined pursuant to subdivision eight-a of section 170.10 of this title that such violation was committed against a member of the same family or household as the defendant, the clerk of the court shall include notification of that determination in any report to such division of the disposition of the action or proceeding for purposes of paragraph (a) and subparagraph (vi) of paragraph (d) of subdivision one of this section.3. A person against whom a criminal action or proceeding was terminated by such person's conviction of a traffic infraction or violation other than the violation of operating a motor vehicle while ability impaired as described in subdivision one of section eleven hundred ninety-two of the vehicle and traffic law, prior to the effective date of this section, may upon motion apply to the court in which such termination occurred, upon not less than twenty days notice to the district attorney, for an order granting to such person the relief set forth in subdivision one of this section, and such order shall be granted unless the district attorney demonstrates to the satisfaction of the court that the interests of justice require otherwise.4. This section shall not apply to an action terminated in a manner described in paragraph (k) of subdivision two of section 160.50 of this chapter.5. (a) When a criminal action or proceeding is terminated against a person by the entry of a waiver of a hearing pursuant to paragraph (c) of subdivision ten of section eleven hundred ninety-two of the vehicle and traffic law or section forty-nine-b of the navigation law, the record of the criminal action shall be sealed in accordance with this subdivision. Upon the entry of such waiver, the court or the clerk of the court shall immediately notify the commissioner of the division of criminal justice services and the heads of all appropriate police departments and other law enforcement agencies that a waiver has been entered and that the record of the action shall be sealed when the person reaches the age of twenty-one or three years from the date of commission of the offense, whichever is the greater period of time. At the expiration of such period, the commissioner of the division of criminal justice services and the heads of all appropriate police departments and other law enforcement agencies shall take the actions required by paragraphs (a), (b) and (c) of subdivision one of section 160.50 of this article.(b) Where a person under the age of twenty-one is referred by the police to the department of motor vehicles for action pursuant to section eleven hundred ninety-two-a or eleven hundred ninety-four-a of the vehicle and traffic law, or section forty-nine-b of the navigation law and a finding in favor of the motorist or operator is rendered, the commissioner of the department of motor vehicles shall, as soon as practicable, but not later than three years from the date of commission of the offense or when such person reaches the age of twenty-one, whichever is the greater period of time, notify the commissioner of the division of criminal justice services and the heads of all appropriate police departments and other law enforcement agencies that such finding in favor of the motorist or operator was rendered. Upon receipt of such notification, the commissioner of the division of criminal justice services and the heads of such police departments and other law enforcement agencies shall take the actions required by paragraphs (a), (b) and (c) of subdivision one of section 160.50 of this article.(c) Where a person under the age of twenty-one is referred by the police to the department of motor vehicles for action pursuant to section eleven hundred ninety-two-a or eleven hundred ninety-four-a of the vehicle and traffic law, or section forty-nine-b of the navigation law, and no notification is received by the commissioner of the division of criminal justice services and the heads of all appropriate police departments and other law enforcement agencies pursuant to paragraph (b) of this subdivision, such commissioner of the division of criminal justice services and such heads of police departments and other law enforcement agencies shall, after three years from the date of commission of the offense or when the person reaches the age of twenty-one, whichever is the greater period of time, take the actions required by paragraphs (a), (b) and (c) of subdivision one of section 160.50 of this article. (a) every photograph of such person and photographic plate or proof, and all palmprints and fingerprints taken or made of such person pursuant to the provisions of this article in regard to the action or proceeding terminated, and all duplicates and copies thereof, except a digital fingerprint image where authorized pursuant to paragraph (e) of this subdivision, except for the palmprints and fingerprints concerning a disposition of harassment in the second degree as defined in section 240.26 of the penal law, committed against a member of the same family or household as the defendant, as defined in subdivision one of section 530.11 of this chapter,

and determined pursuant to subdivision eight-a of section 170.10 of this title, shall forthwith be, at the discretion of the recipient agency, either destroyed or returned to such person, or to the attorney who represented such person at the time of the termination of the action or proceeding, at the address given by such person or attorney during the action or proceeding, by the division of criminal justice services and by any police department or law enforcement agency having any such photograph, photographic plate or proof, palmprints or fingerprints in its possession or under its control; (b) any police department or law enforcement agency, including the division of criminal justice services, which transmitted or otherwise forwarded to any agency of the United States or of any other state or of any other jurisdiction outside the state of New York copies of any such photographs, photographic plates or proofs, palmprints and fingerprints, shall forthwith formally request in writing that all such copies be destroyed or returned to the police department or law enforcement agency which transmitted or forwarded them, and upon such return such department or agency shall, at its discretion, either destroy or return them as provided herein; (c) all official records and papers relating to the arrest or prosecution, including all duplicates and copies thereof, on file with the division of criminal justice services, police agency, or prosecutor's office shall be sealed and not made available to any person or public or private agency; (d) the records referred to in paragraph (c) of this subdivision shall be made available to the person accused or to such person's designated agent, and shall be made available to (i) a prosecutor in any proceeding in which the accused has moved for an order pursuant to section 170.56 or 210.46 of this chapter, or (ii) a law enforcement agency upon ex parte motion in any superior court, or in any district court, city court or the criminal court of the city of New York provided that such court sealed the record, if such agency demonstrates to the satisfaction of the court that justice requires that such records be made available to it, or (iii) any state or local officer or agency with responsibility for the issuance of licenses to possess guns, when the accused has made application for such a license, or (iv) the New York state department of corrections and community supervision when the accused is under parole supervision as a result of conditional release or parole release granted by the New York state board of parole and the arrest which is the subject of the inquiry is one which occurred while the accused was under such supervision, or (v) the probation department responsible for supervision of the accused when the arrest which is the subject of the inquiry is one which occurred while the accused was under such supervision, or (vi) a police agency, probation department, sheriff's office, district attorney's office, department of correction of any municipality and parole department, for law enforcement purposes, upon arrest in instances in which the individual stands convicted of harassment in the second degree, as defined in section 240.26 of the penal law, committed against a member of the same family or household as the defendant, as defined in subdivision one of section 530.11 of this chapter, and determined pursuant to subdivision eight-a of section 170.10 of this title; and (e) where fingerprints subject to the provisions of this section have been received by the division of criminal justice services and have been filed by the division as digital images, such images may be retained, provided that a fingerprint card of the individual is on file with the division which was not sealed pursuant to this section or section 160.50 of this article. 2. A report of the termination of the action or proceeding by conviction of a traffic violation or a violation other than the violation of operating a motor vehicle while ability impaired as described in subdivision one of section eleven hundred ninety-two of the vehicle and traffic law, shall be sufficient notice of sealing to the commissioner of the division of criminal justice services unless the report also indicates that the court directed that the record not be sealed in the interests of justice. Where the court has determined pursuant to subdivision one of this section that sealing is not in the interests of justice, the clerk of the court shall include notification of that determination in any report to such division of the disposition of the action or proceeding. When the defendant has been found guilty of a violation of harassment in the second degree and it was determined pursuant to subdivision eight-a of section 170.10 of this title that such violation was committed against a member of the same family or household as the defendant, the clerk of the court shall include notification of that determination in any report to such division of the disposition of the action or proceeding for purposes of paragraph (a) and subparagraph (vi) of paragraph (d) of subdivision one of this section. 3. A person against whom a criminal action or proceeding was terminated by such person's conviction of a traffic infraction or violation other than the violation of operating a motor vehicle while ability impaired as described in subdivision one of section eleven hundred ninety-two of the vehicle and traffic law, prior to the effective date of this section, may upon motion apply to the court in which such termination occurred, upon not less than twenty days notice to the district attorney, for an order granting to such person the relief set forth in subdivision one of this section, and such order shall be granted unless the district attorney demonstrates to the satisfaction of the court that the interests of justice require otherwise. 4. This section shall not apply to an action terminated in a manner described in paragraph (k) of subdivision two of section 160.50 of this chapter. 5. (a) When a criminal action or proceeding is terminated against a person by the entry of a waiver of a hearing pursuant to paragraph (c) of subdivision ten of section eleven hundred ninety-two of the vehicle and traffic law or section forty-nine-b of the navigation law, the record of the criminal action shall be sealed in accordance with this subdivision. Upon the entry of such waiver, the court or the clerk of the court shall immediately notify the commissioner of the division of criminal justice services and the heads of all appropriate police departments and other law enforcement agencies that a waiver has been entered and that the record of the action shall be sealed when the person reaches the age of twenty-one or three years from the date of commission of the offense, whichever is the greater period of time. At the expiration of such period, the commissioner of the division of criminal justice services and the heads of all appropriate police departments and other law enforcement agencies shall take the actions required by paragraphs (a), (b) and (c) of subdivision one of section 160.50 of this article. (b) Where a person under the age of twenty-one is referred by the police to the department of motor vehicles for action pursuant to section eleven hundred ninety-two-a or eleven hundred ninety-four-a of the vehicle and traffic law, or section forty-nine-b of the navigation law and a finding in favor of the motorist or operator is rendered, the commissioner of the department of motor vehicles shall, as soon as practicable, but not later than three years from the date of commission of the offense or when such person reaches the age of twenty-one, whichever is the greater period of time, notify the commissioner of the division

of criminal justice services and the heads of all appropriate police departments and other law enforcement agencies that such finding in favor of the motorist or operator was rendered. Upon receipt of such notification, the commissioner of the division of criminal justice services and the heads of such police departments and other law enforcement agencies shall take the actions required by paragraphs (a), (b) and (c) of subdivision one of section 160.50 of this article. (c) Where a person under the age of twenty-one is referred by the police to the department of motor vehicles for action pursuant to section eleven hundred ninety-two-a or eleven hundred ninety-four-a of the vehicle and traffic law, or section forty-nine-b of the navigation law, and no notification is received by the commissioner of the division of criminal justice services and the heads of all appropriate police departments and other law enforcement agencies pursuant to paragraph (b) of this subdivision, such commissioner of the division of criminal justice services and such heads of police departments and other law enforcement agencies shall, after three years from the date of commission of the offense or when the person reaches the age of twenty-one, whichever is the greater period of time, take the actions required by paragraphs (a), (b) and (c) of subdivision one of section 160.50 of this article.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 160 - Fingerprinting and Photographing of Defendant After Arrest--Criminal Identification Records and Statistics160.57 - Automatic Sealing of Convictions.

1. Convictions for certain traffic infractions or a crime defined in the laws of this state shall be sealed in accordance with this section as follows:(a) Convictions for subdivision one of section eleven hundred ninety-two of the vehicle and traffic law shall be sealed after three years.(b) Criminal convictions shall be sealed upon satisfaction of the following conditions:(i) for a misdemeanor conviction, at least three years have passed from the defendant's release from incarceration or the imposition of sentence if there was no sentence of incarceration. If the defendant is subsequently convicted of a crime before a prior conviction is sealed pursuant to this section, the calculation of time for such prior conviction shall start upon the same date as the time calculation starts for the subsequent criminal conviction;(ii) for a felony conviction, at least eight years have passed from the date the defendant was last released from incarceration for the sentence of the conviction eligible for sealing or from the imposition of sentence if there was no sentence of incarceration. A defendant's detention for an alleged violation of parole or post-release supervision shall not interfere with the time calculation prescribed herein unless and until supervision is revoked resulting in the defendant's reincarceration. If the defendant is subsequently convicted of a crime before a prior conviction is sealed pursuant to this section, the calculation of time for such prior conviction shall start upon the same date as the time calculation starts for the subsequent criminal conviction;(iii) the defendant does not have a subsequent criminal charge pending in this state;(iv) the defendant is not currently under the supervision of any probation or parole department for the conviction eligible for sealing;(v) the conviction is not for an offense defined as a sex offense or sexually violent offense under section one hundred sixty-eight-a of the correction law;(vi) the conviction is not for a class A felony offense defined in the penal law, other than class A felony offenses defined in article two hundred twenty of the penal law;(vii) the defendant is a natural person;(viii) the defendant does not have a subsequent felony charge pending in another jurisdiction that is not a felony charge related to reproductive or gender affirming care or the possession of cannabis which would not constitute a felony in New York. This subparagraph shall apply if and when appropriate federal authorities grant access to records necessary to query to effectuate the purposes of this subparagraph in an automated manner; and(ix) the defendant does not have a subsequent felony conviction in another jurisdiction in the preceding eight years that is not a felony conviction related to reproductive or gender affirming care or the possession of cannabis which would not constitute a felony in New York. This subparagraph shall apply if and when appropriate federal authorities grant access to records necessary to query to effectuate the purposes of this subparagraph in an automated manner.(c) If, after the applicable period of time for the sealing of a conviction has been satisfied, the conviction remains ineligible for sealing pursuant to subparagraphs (iii), (iv), (viii) or (ix) of paragraph (b) of this subdivision, the office of court administration shall subsequently check for eligibility no less than quarterly and upon subsequent checks, or the receipt of a form in accordance with paragraph (dd) of subdivision two of section two hundred twelve of the judiciary law, the conviction shall be sealed if all other conditions for sealing under this section are satisfied.(d) In accordance with all other applicable laws, rules, and regulations regarding the scope, access, use, disclosure, confidentiality and retention of criminal history information, records of convictions sealed pursuant to this section including photographs, photographic plates or proofs, palmprints, fingerprints or retina scans shall not be accessed by or made available to any person or public or private agency, except for:(i) the defendant and such defendant's counsel;(ii) any court, defense counsel or prosecutor for the purposes of a pending criminal proceeding or proceedings brought in a criminal court pursuant to article six-C of the correction law;(iii) qualified agencies, as defined in subdivision nine of section eight hundred thirty-five of the executive law, federal and state law enforcement agencies, and interstate and international authorities as defined in subdivision three of section two of the public authorities law, when acting within the scope of their law enforcement duties;(iv) the court, prosecutor, and defense counsel if the defendant becomes a witness in a criminal proceeding;(v) the court and parties if the defendant becomes a witness or party in a civil proceeding;(vi) when an individual is a defendant in a criminal proceeding or proceedings brought in a criminal court pursuant to article six-C of the correction law and the sealed records of conviction of a third party are integral to their defense. In such instances, use of sealed records of conviction shall be requested upon ex parte motion in any superior court, or in any district court, city court or the criminal court of the city of New York provided that such court is where the action is pending. The applicant must demonstrate to the satisfaction of the court that the records will be used for the purpose of this subparagraph;(vii) individuals or entities that are required by a local law in effect one year prior to the chapter of the laws of two thousand twenty-three that added this section, a state law, or a federal law or regulation to request and receive a fingerprint-based check of criminal history information. Nothing herein

shall prohibit the commissioner of education or the office of school personnel review and accountability from receiving or using convictions sealed pursuant to this section for purposes of subdivisions seven, seven-a and seven-b of section three hundred five of the education law;(viii) individuals or entities that are authorized by a local law in effect one year prior to the chapter of the laws of two thousand twenty-three that added this section, a state law, or a federal law or regulation to request and receive a fingerprint-based check of criminal history information in relation to the individual's fitness to have responsibility for the safety and well-being of children or adolescents, elderly individuals, individuals with disabilities, or otherwise vulnerable populations. The division of criminal justice services shall maintain an up to date list of citations of the local, state, and federal statutes or federal regulations authorizing the access described herein;(ix) any prospective employer of a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of this chapter, in relation to an application for employment as a police officer or peace officer, provided, however, that every person who is an applicant shall be furnished with a copy of all records obtained under this paragraph and afforded an opportunity to make an explanation thereto;(x) any federal, state or local officer or agency with responsibility for the issuance of licenses to possess a firearm, rifle or shotgun or with responsibility for conducting background checks before transfer or sale of a firearm or explosive, when the officer or agency is acting pursuant to such responsibility. This includes the criminal justice information services division of the federal bureau of investigation, for the purposes of responding to queries to the national instant background check system regarding attempts to purchase or otherwise take possession of firearms, rifles or shotguns, as defined in 18 U.S.C. § 921 (A)(3);(xi) for the purposes of civilian investigation or evaluation of a civilian complaint or civil action concerning law enforcement or prosecution actions, upon ex parte motion in any superior court, or in any district court, city court or the criminal court of the city of New York provided that such court sealed the record; the applicant must demonstrate to the satisfaction of the court that the records will be used for the purposes of this subparagraph;(xii) for information provided to an individual or entity pursuant to paragraph (e) of subdivision four of section eight hundred thirty-seven of the executive law or for bona fide research purposes provided all identifying information is removed;(xiii) when an individual seeks to avail themselves of a public program or benefit, including but not limited to an immigration benefit, for which the sealed records of conviction of a third party are otherwise authorized by law or legal process to be disclosed in furtherance of their application for such program or benefit. In such instances, the individual or their attorney shall request the use of sealed records pursuant to a form as prescribed by the chief administrator of the courts pursuant to paragraph (ee) of subdivision two of section two hundred twelve of the judiciary law;(xiv) for the purpose of collection of restitution, reparation, fines, surcharges, or fees imposed. In such instances, use of sealed records shall be requested upon ex parte motion in any superior court, or in any district court, city court, town court, village court, or criminal court of the city of New York provided that such court is where the action is pending. The applicant must demonstrate to the satisfaction of the court that the records will be used for the purpose of this subparagraph;(xv) transportation network companies that are required or authorized by state law to request criminal history information pursuant to section sixteen hundred ninety-nine of the vehicle and traffic law;(xvi) the state education department for the purposes of investigating professional misconduct as defined in subparagraph (i) of paragraph (a) of subdivision five of section sixty-five hundred nine of the education law, consideration of restoration of a professional license pursuant to section sixty-five hundred eleven of the education law, or determinations for issuing a license to practice a profession or issuing certificates and privileges for which prior licensure is required, for the professions under articles one hundred thirty-one, one hundred thirty-one-b, one hundred thirty-two, one hundred thirty-three, one hundred thirty-four, one hundred thirty-five, one hundred thirty-six, one hundred thirty-seven, one hundred thirty-nine, one hundred forty, one hundred forty-one, one hundred forty-three, one hundred forty-four, one hundred forty-five, one hundred forty-seven, one hundred forty-nine, one hundred fifty-three, one hundred fifty-four, one hundred fifty-five, one hundred fifty-six, one hundred fifty-seven, one hundred fifty-nine, one hundred sixty, one hundred sixty-two, one hundred sixty-three, one hundred sixty-four, and one hundred sixty-seven as such professions are defined in title eight of the education law, provided that the state education department certifies to the division of criminal justice services that it is investigating an individual licensed to practice a profession pursuant to article one hundred thirty of the education law for professional misconduct as defined in paragraph (a) of subdivision five of section sixty-five hundred nine of the education law, considering restoration of a professional license pursuant to section sixty-five hundred eleven of the education law, or making a determination for issuing a license to practice a profession or issuing certificates and privileges for which prior licensure is required as appropriate. Provided, further, that the board of regents may consider any prior conviction that formed the basis of a determination of the board of regents in a disciplinary proceeding pursuant to section sixty-five hundred ten of the education law and the rules and regulations promulgated pursuant thereto in an application for reconsideration, even if such conviction later becomes sealed pursuant to this section; and(xvii) the office of mental health and the office for people with developmental disabilities, where such agencies are statutorily authorized to receive such information, provided further, that such information may also be made available for case review under section 10.05 of the mental hygiene law, as well as to providers licensed, funded, designated, certified or otherwise authorized by the office of mental health or the office for people with developmental disabilities, where such information is included in the clinical record of any person under the care of or receiving services from such provider or program.(e) Where the sealing required by this section has not taken place, including where supporting court records cannot be located or have been destroyed, and a defendant or their attorney submits a valid form in accordance with paragraph (dd) of subdivision two of section two hundred twelve of the judiciary law of such fact to the office of court administration, such conviction shall be sealed as set forth in this subdivision within thirty days of the receipt of such form.(f) The department of corrections and community supervision, in coordination with the division of criminal justice services, shall provide the office of court administration with the data necessary to determine appropriate records to be sealed pursuant to this section, including but not limited to (i) the date

or dates of release from state incarceration of individuals who have a sentence of incarceration for a felony conviction, and (ii) the date or dates of initial parole or post-release supervision and corresponding date or dates of discharge, as applicable.(g) The chief administrative officer of each local correctional facility shall provide the office of court administration with the data necessary to determine appropriate records to be sealed pursuant to this section, including but not limited to the date or dates of release of individuals who have satisfied a definite sentence of imprisonment.2. Upon the sealing of a conviction pursuant to this section the office of court administration shall immediately notify the division of criminal justice services, the court of conviction, county clerks and the heads of all appropriate police and sheriff departments, prosecutors' offices and law enforcement agencies that the conviction is sealed. Upon receipt of such notification, records of or relating to such conviction shall be immediately sealed as follows:(a) Every photograph of the defendant and photographic plates or proof, and all palmprints, fingerprints and retina scans taken or made of the defendant in regard to the sealed conviction, and all duplicates, reproductions, and copies thereof, except a digital fingerprint that is on file with the division of criminal justice services for a conviction that has not been sealed pursuant to this section, shall be marked as sealed by any entity notified under this subdivision having any such photograph, photographic plate or proof, palmprint, fingerprints or retina scan in its possession or under its control by conspicuously indicating on the face of the record or at the beginning of the digitized file of the record that the record has been designated as sealed.(b) Every official record and paper and duplicates and copies thereof, including, but not limited to, judgments and orders of a court but not including published court decisions or opinions or records and briefs on appeal, relating to the sealed conviction, on file with the entity notified under this subdivision shall be marked as sealed by conspicuously indicating on the face of the record or at the beginning of the digitized file of the record that the record has been designated as sealed.(c) Entities subject to the requirements of this subdivision shall not use or access such sealed information unless otherwise authorized pursuant to this section or any other section of law.(d) Nothing in this section shall be construed to interfere with the applicable laws, rules and regulations requiring the division of criminal justice services to administer and maintain criminal history records as set forth in article thirty-five of the executive law.3. (a) Nothing in this section requires the sealing or destruction of DNA information maintained in the New York state DNA database, in accordance with article forty-nine-B of the executive law, of an individual whose conviction is sealed under this section.(b) Nothing in this section requires the sealing or destruction of records maintained by the department of motor vehicles, and nothing in this section shall be construed to contravene the vehicle and traffic law, the federal driver's privacy protection act (18 U.S.C 2721 et. seq.), the REAL ID Act of 2005 (Public Law 109-13; 49 U.S.C. 30301 note), section 7209 of the Intelligence Reform and Terrorism Prevention Act of 1986 (49 U.S.C. 31311), the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 49 U.S.C. 313), the Motor Carrier Safety Improvement Act of 1999 (Public Law 106-159), or regulations promulgated pursuant to any such chapter or act.(c) The division of criminal justice services is authorized to disclose a conviction that is sealed pursuant to this section to entities that are required by federal law, or by rules and regulations promulgated by a self-regulatory organization created under federal law, to consider sealed convictions. Such entities must certify to the division that they are required by federal law, or by rules and regulations promulgated by a self-regulatory organization that has been created under federal law, to make an inquiry about or consider records sealed pursuant to this section for purposes of employment, licensing, or clearance. To the extent permitted by federal law, a record sealed pursuant to this section may not be considered a conviction that would prohibit the employment, licensing or clearance of the defendant.(d) Nothing in this section shall prohibit entities required by federal law to consider sealed convictions, or by rules and regulations promulgated by a self-regulatory organization that has been created under federal law, from making an inquiry about or considering an applicant's criminal history for purposes of employment, licensing, or clearance from inquiring into convictions sealed pursuant to this section.(e) In any civil action, an official record of a conviction that has been sealed pursuant to this section may not be introduced as evidence of negligence against a person or entity that provided employment, contract labor or services, volunteer work, licensing, tenancy, a home purchase, a mortgage, an education, a loan, or insurance if such record was sealed and was not provided to the person or entity by or on behalf of a governmental entity in accordance with this section in response to such person's or entity's authorized and timely request for conviction history information.(f) A person or entity described in this subdivision, acting reasonably and in good faith, may not have a duty to investigate the fact of a prior conviction that has been sealed pursuant to this section.4. No defendant shall be required or permitted to waive eligibility for sealing pursuant to this section as part of a plea of guilty, sentence or any agreement related to a conviction for a violation of the laws of this state. Any such waiver is void and unenforceable.5. Sealing as set forth in subdivision two of this section is without prejudice to a defendant or their attorney seeking further relief pursuant to article four hundred forty of this chapter. Nothing in this section is intended or shall be interpreted to diminish or abrogate any rights or remedies otherwise available to the defendant.6. The office of court administration shall make diligent efforts to promptly seal all conviction records eligible for sealing under this section where such convictions were entered on or before the effective date of this section and, in any event, shall ensure sealing of such convictions is complete no later than three years after such effective date.7. A conviction which is sealed pursuant to this section is included within the definition of a conviction for the purposes of any criminal proceeding in which the fact of a prior conviction would enhance a penalty or is an element of the offense charged.8. Nothing in this section shall be construed to permit sealing of a conviction before the expiration or termination of a sentence of incarceration, parole, probation, or post-release supervision for such conviction.9. Nothing in this section shall be construed to affect or invalidate any active order of protection issued in relation to a conviction sealed under this section.10. Nothing in this section shall be construed to require or authorize the discharge of the requirement to pay any restitution, reparation, fines, surcharges, or fees imposed for a conviction sealed under this section or the sealing of a criminal or civil proceeding for the collection of any such amount due, unless such proceeding is otherwise eligible for sealing under this section or any other provision of law. (a) Convictions for subdivision one of

section eleven hundred ninety-two of the vehicle and traffic law shall be sealed after three years. (b) Criminal convictions shall be sealed upon satisfaction of the following conditions: (i) for a misdemeanor conviction, at least three years have passed from the defendant's release from incarceration or the imposition of sentence if there was no sentence of incarceration. If the defendant is subsequently convicted of a crime before a prior conviction is sealed pursuant to this section, the calculation of time for such prior conviction shall start upon the same date as the time calculation starts for the subsequent criminal conviction; (ii) for a felony conviction, at least eight years have passed from the date the defendant was last released from incarceration for the sentence of the conviction eligible for sealing or from the imposition of sentence if there was no sentence of incarceration. A defendant's detention for an alleged violation of parole or post-release supervision shall not interfere with the time calculation prescribed herein unless and until supervision is revoked resulting in the defendant's reincarceration. If the defendant is subsequently convicted of a crime before a prior conviction is sealed pursuant to this section, the calculation of time for such prior conviction shall start upon the same date as the time calculation starts for the subsequent criminal conviction; (iii) the defendant does not have a subsequent criminal charge pending in this state; (iv) the defendant is not currently under the supervision of any probation or parole department for the conviction eligible for sealing; (v) the conviction is not for an offense defined as a sex offense or sexually violent offense under section one hundred sixty-eight-a of the correction law; (vi) the conviction is not for a class A felony offense defined in the penal law, other than class A felony offenses defined in article two hundred twenty of the penal law; (vii) the defendant is a natural person; (viii) the defendant does not have a subsequent felony charge pending in another jurisdiction that is not a felony charge related to reproductive or gender affirming care or the possession of cannabis which would not constitute a felony in New York. This subparagraph shall apply if and when appropriate federal authorities grant access to records necessary to query to effectuate the purposes of this subparagraph in an automated manner; and (ix) the defendant does not have a subsequent felony conviction in another jurisdiction in the preceding eight years that is not a felony conviction related to reproductive or gender affirming care or the possession of cannabis which would not constitute a felony in New York. This subparagraph shall apply if and when appropriate federal authorities grant access to records necessary to query to effectuate the purposes of this subparagraph in an automated manner. (c) If, after the applicable period of time for the sealing of a conviction has been satisfied, the conviction remains ineligible for sealing pursuant to subparagraphs (iii), (iv), (viii) or (ix) of paragraph (b) of this subdivision, the office of court administration shall subsequently check for eligibility no less than quarterly and upon subsequent checks, or the receipt of a form in accordance with paragraph (dd) of subdivision two of section two hundred twelve of the judiciary law, the conviction shall be sealed if all other conditions for sealing under this section are satisfied. (d) In accordance with all other applicable laws, rules, and regulations regarding the scope, access, use, disclosure, confidentiality and retention of criminal history information, records of convictions sealed pursuant to this section including photographs, photographic plates or proofs, palmprints, fingerprints or retina scans shall not be accessed by or made available to any person or public or private agency, except for: (i) the defendant and such defendant's counsel; (ii) any court, defense counsel or prosecutor for the purposes of a pending criminal proceeding or proceedings brought in a criminal court pursuant to article six-C of the correction law; (iii) qualified agencies, as defined in subdivision nine of section eight hundred thirty-five of the executive law, federal and state law enforcement agencies, and interstate and international authorities as defined in subdivision three of section two of the public authorities law, when acting within the scope of their law enforcement duties; (iv) the court, prosecutor, and defense counsel if the defendant becomes a witness in a criminal proceeding; (v) the court and parties if the defendant becomes a witness or party in a civil proceeding; (vi) when an individual is a defendant in a criminal proceeding or proceedings brought in a criminal court pursuant to article six-C of the correction law and the sealed records of conviction of a third party are integral to their defense. In such instances, use of sealed records of conviction shall be requested upon ex parte motion in any superior court, or in any district court, city court or the criminal court of the city of New York provided that such court is where the action is pending. The applicant must demonstrate to the satisfaction of the court that the records will be used for the purpose of this subparagraph; (vii) individuals or entities that are required by a local law in effect one year prior to the chapter of the laws of two thousand twenty-three that added this section, a state law, or a federal law or regulation to request and receive a fingerprint-based check of criminal history information. Nothing herein shall prohibit the commissioner of education or the office of school personnel review and accountability from receiving or using convictions sealed pursuant to this section for purposes of subdivisions seven, seven-a and seven-b of section three hundred five of the education law; (viii) individuals or entities that are authorized by a local law in effect one year prior to the chapter of the laws of two thousand twenty-three that added this section, a state law, or a federal law or regulation to request and receive a fingerprint-based check of criminal history information in relation to the individual's fitness to have responsibility for the safety and well-being of children or adolescents, elderly individuals, individuals with disabilities, or otherwise vulnerable populations. The division of criminal justice services shall maintain an up to date list of citations of the local, state, and federal statutes or federal regulations authorizing the access described herein; (ix) any prospective employer of a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of this chapter, in relation to an application for employment as a police officer or peace officer, provided, however, that every person who is an applicant shall be furnished with a copy of all records obtained under this paragraph and afforded an opportunity to make an explanation thereto; (x) any federal, state or local officer or agency with responsibility for the issuance of licenses to possess a firearm, rifle or shotgun or with responsibility for conducting background checks before transfer or sale of a firearm or explosive, when the officer or agency is acting pursuant to such responsibility. This includes the criminal justice information services division of the federal bureau of investigation, for the purposes of responding to queries to the national instant background check system regarding attempts to purchase or otherwise take possession of firearms, rifles or shotguns, as defined in 18 U.S.C. § 921 (A)(3); (xi) for the purposes of civilian investigation or evaluation of a civilian complaint or civil action concerning law enforcement or

prosecution actions, upon ex parte motion in any superior court, or in any district court, city court or the criminal court of the city of New York provided that such court sealed the record; the applicant must demonstrate to the satisfaction of the court that the records will be used for the purposes of this subparagraph; (xii) for information provided to an individual or entity pursuant to paragraph (e) of subdivision four of section eight hundred thirty-seven of the executive law or for bona fide research purposes provided all identifying information is removed; (xiii) when an individual seeks to avail themselves of a public program or benefit, including but not limited to an immigration benefit, for which the sealed records of conviction of a third party are otherwise authorized by law or legal process to be disclosed in furtherance of their application for such program or benefit. In such instances, the individual or their attorney shall request the use of sealed records pursuant to a form as prescribed by the chief administrator of the courts pursuant to paragraph (ee) of subdivision two of section two hundred twelve of the judiciary law; (xiv) for the purpose of collection of restitution, reparation, fines, surcharges, or fees imposed. In such instances, use of sealed records shall be requested upon ex parte motion in any superior court, or in any district court, city court, town court, village court, or criminal court of the city of New York provided that such court is where the action is pending. The applicant must demonstrate to the satisfaction of the court that the records will be used for the purpose of this subparagraph; (xv) transportation network companies that are required or authorized by state law to request criminal history information pursuant to section sixteen hundred ninety-nine of the vehicle and traffic law; (xvi) the state education department for the purposes of investigating professional misconduct as defined in subparagraph (i) of paragraph (a) of subdivision five of section sixty-five hundred nine of the education law, consideration of restoration of a professional license pursuant to section sixty-five hundred eleven of the education law, or determinations for issuing a license to practice a profession or issuing certificates and privileges for which prior licensure is required, for the professions under articles one hundred thirty-one, one hundred thirty-one-b, one hundred thirty-two, one hundred thirty-three, one hundred thirty-four, one hundred thirty-five, one hundred thirty-six, one hundred thirty-seven, one hundred thirty-nine, one hundred forty, one hundred forty-one, one hundred forty-three, one hundred forty-four, one hundred forty-five, one hundred forty-seven, one hundred forty-nine, one hundred fifty-three, one hundred fifty-four, one hundred fifty-five, one hundred fifty-six, one hundred fifty-seven, one hundred fifty-nine, one hundred sixty, one hundred sixty-two, one hundred sixty-three, one hundred sixty-four, and one hundred sixty-seven as such professions are defined in title eight of the education law, provided that the state education department certifies to the division of criminal justice services that it is investigating an individual licensed to practice a profession pursuant to article one hundred thirty of the education law for professional misconduct as defined in paragraph (a) of subdivision five of section sixty-five hundred nine of the education law, considering restoration of a professional license pursuant to section sixty-five hundred eleven of the education law, or making a determination for issuing a license to practice a profession or issuing certificates and privileges for which prior licensure is required as appropriate. Provided, further, that the board of regents may consider any prior conviction that formed the basis of a determination of the board of regents in a disciplinary proceeding pursuant to section sixty-five hundred ten of the education law and the rules and regulations promulgated pursuant thereto in an application for reconsideration, even if such conviction later becomes sealed pursuant to this section; and (xvii) the office of mental health and the office for people with developmental disabilities, where such agencies are statutorily authorized to receive such information, provided further, that such information may also be made available for case review under section 10.05 of the mental hygiene law, as well as to providers licensed, funded, designated, certified or otherwise authorized by the office of mental health or the office for people with developmental disabilities, where such information is included in the clinical record of any person under the care of or receiving services from such provider or program. (e) Where the sealing required by this section has not taken place, including where supporting court records cannot be located or have been destroyed, and a defendant or their attorney submits a valid form in accordance with paragraph (dd) of subdivision two of section two hundred twelve of the judiciary law of such fact to the office of court administration, such conviction shall be sealed as set forth in this subdivision within thirty days of the receipt of such form. (f) The department of corrections and community supervision, in coordination with the division of criminal justice services, shall provide the office of court administration with the data necessary to determine appropriate records to be sealed pursuant to this section, including but not limited to (i) the date or dates of release from state incarceration of individuals who have a sentence of incarceration for a felony conviction, and (ii) the date or dates of initial parole or post-release supervision and corresponding date or dates of discharge, as applicable. (g) The chief administrative officer of each local correctional facility shall provide the office of court administration with the data necessary to determine appropriate records to be sealed pursuant to this section, including but not limited to the date or dates of release of individuals who have satisfied a definite sentence of imprisonment. 2. Upon the sealing of a conviction pursuant to this section the office of court administration shall immediately notify the division of criminal justice services, the court of conviction, county clerks and the heads of all appropriate police and sheriff departments, prosecutors' offices and law enforcement agencies that the conviction is sealed. Upon receipt of such notification, records of or relating to such conviction shall be immediately sealed as follows: (a) Every photograph of the defendant and photographic plates or proof, and all palmprints, fingerprints and retina scans taken or made of the defendant in regard to the sealed conviction, and all duplicates, reproductions, and copies thereof, except a digital fingerprint that is on file with the division of criminal justice services for a conviction that has not been sealed pursuant to this section, shall be marked as sealed by any entity notified under this subdivision having any such photograph, photographic plate or proof, palmprint, fingerprints or retina scan in its possession or under its control by conspicuously indicating on the face of the record or at the beginning of the digitized file of the record that the record has been designated as sealed. (b) Every official record and paper and duplicates and copies thereof, including, but not limited to, judgments and orders of a court but not including published court decisions or opinions or records and briefs on appeal, relating to the sealed conviction, on file with the entity notified under this subdivision shall be marked as sealed by conspicuously indicating on the face

of the record or at the beginning of the digitized file of the record that the record has been designated as sealed. (c) Entities subject to the requirements of this subdivision shall not use or access such sealed information unless otherwise authorized pursuant to this section or any other section of law. (d) Nothing in this section shall be construed to interfere with the applicable laws, rules and regulations requiring the division of criminal justice services to administer and maintain criminal history records as set forth in article thirty-five of the executive law. 3. (a) Nothing in this section requires the sealing or destruction of DNA information maintained in the New York state DNA database, in accordance with article forty-nine-B of the executive law, of an individual whose conviction is sealed under this section. (b) Nothing in this section requires the sealing or destruction of records maintained by the department of motor vehicles, and nothing in this section shall be construed to contravene the vehicle and traffic law, the federal driver's privacy protection act (18 U.S.C 2721 et. seq.), the REAL ID Act of 2005 (Public Law 109-13; 49 U.S.C. 30301 note), section 7209 of the Intelligence Reform and Terrorism Prevention Act of 1986 (49 U.S.C. 31311), the Commercial Motor Vehicle Safety Act of 1986 (Public Law 99-570; 49 U.S.C. 313), the Motor Carrier Safety Improvement Act of 1999 (Public Law 106-159), or regulations promulgated pursuant to any such chapter or act. (c) The division of criminal justice services is authorized to disclose a conviction that is sealed pursuant to this section to entities that are required by federal law, or by rules and regulations promulgated by a self-regulatory organization created under federal law, to consider sealed convictions. Such entities must certify to the division that they are required by federal law, or by rules and regulations promulgated by a self-regulatory organization that has been created under federal law, to make an inquiry about or consider records sealed pursuant to this section for purposes of employment, licensing, or clearance. To the extent permitted by federal law, a record sealed pursuant to this section may not be considered a conviction that would prohibit the employment, licensing or clearance of the defendant. (d) Nothing in this section shall prohibit entities required by federal law to consider sealed convictions, or by rules and regulations promulgated by a self-regulatory organization that has been created under federal law, from making an inquiry about or considering an applicant's criminal history for purposes of employment, licensing, or clearance from inquiring into convictions sealed pursuant to this section. (e) In any civil action, an official record of a conviction that has been sealed pursuant to this section may not be introduced as evidence of negligence against a person or entity that provided employment, contract labor or services, volunteer work, licensing, tenancy, a home purchase, a mortgage, an education, a loan, or insurance if such record was sealed and was not provided to the person or entity by or on behalf of a governmental entity in accordance with this section in response to such person's or entity's authorized and timely request for conviction history information. (f) A person or entity described in this subdivision, acting reasonably and in good faith, may not have a duty to investigate the fact of a prior conviction that has been sealed pursuant to this section. 4. No defendant shall be required or permitted to waive eligibility for sealing pursuant to this section as part of a plea of guilty, sentence or any agreement related to a conviction for a violation of the laws of this state. Any such waiver is void and unenforceable. 5. Sealing as set forth in subdivision two of this section is without prejudice to a defendant or their attorney seeking further relief pursuant to article four hundred forty of this chapter. Nothing in this section is intended or shall be interpreted to diminish or abrogate any rights or remedies otherwise available to the defendant. 6. The office of court administration shall make diligent efforts to promptly seal all conviction records eligible for sealing under this section where such convictions were entered on or before the effective date of this section and, in any event, shall ensure sealing of such convictions is complete no later than three years after such effective date. 7. A conviction which is sealed pursuant to this section is included within the definition of a conviction for the purposes of any criminal proceeding in which the fact of a prior conviction would enhance a penalty or is an element of the offense charged. 8. Nothing in this section shall be construed to permit sealing of a conviction before the expiration or termination of a sentence of incarceration, parole, probation, or post-release supervision for such conviction. 9. Nothing in this section shall be construed to affect or invalidate any active order of protection issued in relation to a conviction sealed under this section. 10. Nothing in this section shall be construed to require or authorize the discharge of the requirement to pay any restitution, reparation, fines, surcharges, or fees imposed for a conviction sealed under this section or the sealing of a criminal or civil proceeding for the collection of any such amount due, unless such proceeding is otherwise eligible for sealing under this section or any other provision of law.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 160 - Fingerprinting and Photographing of Defendant After Arrest--Criminal Identification Records and Statistics160.58 - Conditional Sealing of Certain Controlled Substance, Marihuana or Specified Offense Convictions.

or specified offense convictions. 1. A defendant convicted of any offense defined in article two hundred twenty or two hundred twenty-one of the penal law or a specified offense defined in subdivision five of section 410.91 of this chapter who has successfully completed a judicial diversion program under article two hundred sixteen of this chapter, or one of the programs heretofore known as drug treatment alternative to prison or another judicially sanctioned drug treatment program of similar duration, requirements and level of supervision, and has completed the sentence imposed for the offense or offenses, is eligible to have such offense or offenses sealed pursuant to this section. 2. The court that sentenced the defendant to a judicially sanctioned drug treatment program may on its own motion, or on the defendant's motion, order that all official records and papers relating to the arrest, prosecution and conviction which resulted in the defendant's participation in the judicially sanctioned drug treatment program be conditionally sealed. In such case, the court may also conditionally seal the arrest, prosecution and conviction records for no more than three of the defendant's prior eligible misdemeanors, which for purposes of this subdivision shall be limited to misdemeanor offenses defined in article two hundred twenty or two hundred twenty-one of the penal law. The court may only seal the records of the defendant's

arrests, prosecutions and convictions when:(a) the sentencing court has requested and received from the division of criminal justice services or the Federal Bureau of Investigation a fingerprint based criminal history record of the defendant, including any sealed or suppressed information. The division of criminal justice services shall also include a criminal history report, if any, from the Federal Bureau of Investigation regarding any criminal history information that occurred in other jurisdictions. The division is hereby authorized to receive such information from the Federal Bureau of Investigation for this purpose. The parties shall be permitted to examine these records;(b) the defendant or court has identified the misdemeanor conviction or convictions for which relief may be granted;(c) the court has received documentation that the sentences imposed on the eligible misdemeanor convictions have been completed, or if no such documentation is reasonably available, a sworn affidavit that the sentences imposed on the prior misdemeanors have been completed; and(d) the court has notified the district attorney of each jurisdiction in which the defendant has been convicted of an offense with respect to which sealing is sought, and the court or courts of record for such offenses, that the court is considering sealing the records of the defendant's eligible misdemeanor convictions. Both the district attorney and the court shall be given a reasonable opportunity, which shall not be less than thirty days, in which to comment and submit materials to aid the court in making such a determination.3. At the request of the defendant or the district attorney of a county in which the defendant committed a crime that is the subject of the sealing application, the court may conduct a hearing to consider and review any relevant evidence offered by either party that would aid the court in its decision whether to seal the records of the defendant's arrests, prosecutions and convictions. In making such a determination, the court shall consider any relevant factors, including but not limited to: (i) the circumstances and seriousness of the offense or offenses that resulted in the conviction or convictions; (ii) the character of the defendant, including his or her completion of the judicially sanctioned treatment program as described in subdivision one of this section; (iii) the defendant's criminal history; and (iv) the impact of sealing the defendant's records upon his or her rehabilitation and his or her successful and productive reentry and reintegration into society, and on public safety.4. When a court orders sealing pursuant to this section, all official records and papers relating to the arrests, prosecutions, and convictions, including all duplicates and copies thereof, on file with the division of criminal justice services or any court shall be sealed and not made available to any person or public or private agency; provided, however, the division shall retain any fingerprints, palmprints and photographs, or digital images of the same.5. When the court orders sealing pursuant to this section, the clerk of such court shall immediately notify the commissioner of the division of criminal justice services, and any court that sentenced the defendant for an offense which has been conditionally sealed, regarding the records that shall be sealed pursuant to this section.6. Records sealed pursuant to this subdivision shall be made available to:(a) the defendant or the defendant's designated agent;(b) qualified agencies, as defined in subdivision nine of section eight hundred thirty-five of the executive law, and federal and state law enforcement agencies, when acting within the scope of their law enforcement duties; or(c) any state or local officer or agency with responsibility for the issuance of licenses to possess guns, when the person has made application for such a license; or(d) any prospective employer of a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of this chapter, in relation to an application for employment as a police officer or peace officer; provided, however, that every person who is an applicant for the position of police officer or peace officer shall be furnished with a copy of all records obtained under this paragraph and afforded an opportunity to make an explanation thereto.7. The court shall not seal the defendant's record pursuant to this section while any charged offense is pending.8. If, subsequent to the sealing of records pursuant to this subdivision, the person who is the subject of such records is arrested for or formally charged with any misdemeanor or felony offense, such records shall be unsealed immediately and remain unsealed; provided, however, that if such new misdemeanor or felony arrest results in a termination in favor of the accused as defined in subdivision three of section 160.50 of this article or by conviction for a non criminal offense as described in section 160.55 of this article, such unsealed records shall be conditionally sealed pursuant to this section. (a) the sentencing court has requested and received from the division of criminal justice services or the Federal Bureau of Investigation a fingerprint based criminal history record of the defendant, including any sealed or suppressed information. The division of criminal justice services shall also include a criminal history report, if any, from the Federal Bureau of Investigation regarding any criminal history information that occurred in other jurisdictions. The division is hereby authorized to receive such information from the Federal Bureau of Investigation for this purpose. The parties shall be permitted to examine these records; (b) the defendant or court has identified the misdemeanor conviction or convictions for which relief may be granted; (c) the court has received documentation that the sentences imposed on the eligible misdemeanor convictions have been completed, or if no such documentation is reasonably available, a sworn affidavit that the sentences imposed on the prior misdemeanors have been completed; and (d) the court has notified the district attorney of each jurisdiction in which the defendant has been convicted of an offense with respect to which sealing is sought, and the court or courts of record for such offenses, that the court is considering sealing the records of the defendant's eligible misdemeanor convictions. Both the district attorney and the court shall be given a reasonable opportunity, which shall not be less than thirty days, in which to comment and submit materials to aid the court in making such a determination. 3. At the request of the defendant or the district attorney of a county in which the defendant committed a crime that is the subject of the sealing application, the court may conduct a hearing to consider and review any relevant evidence offered by either party that would aid the court in its decision whether to seal the records of the defendant's arrests, prosecutions and convictions. In making such a determination, the court shall consider any relevant factors, including but not limited to: (i) the circumstances and seriousness of the offense or offenses that resulted in the conviction or convictions; (ii) the character of the defendant, including his or her completion of the judicially sanctioned treatment program as described in subdivision one of this section; (iii) the defendant's criminal history; and (iv) the impact of sealing the defendant's records upon his or her rehabilitation and his or her successful and productive reentry and reintegration into society, and on public safety. 4. When a court orders sealing

pursuant to this section, all official records and papers relating to the arrests, prosecutions, and convictions, including all duplicates and copies thereof, on file with the division of criminal justice services or any court shall be sealed and not made available to any person or public or private agency; provided, however, the division shall retain any fingerprints, palmprints and photographs, or digital images of the same. 5. When the court orders sealing pursuant to this section, the clerk of such court shall immediately notify the commissioner of the division of criminal justice services, and any court that sentenced the defendant for an offense which has been conditionally sealed, regarding the records that shall be sealed pursuant to this section. 6. Records sealed pursuant to this subdivision shall be made available to: (a) the defendant or the defendant's designated agent; (b) qualified agencies, as defined in subdivision nine of section eight hundred thirty-five of the executive law, and federal and state law enforcement agencies, when acting within the scope of their law enforcement duties; or (c) any state or local officer or agency with responsibility for the issuance of licenses to possess guns, when the person has made application for such a license; or (d) any prospective employer of a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of this chapter, in relation to an application for employment as a police officer or peace officer; provided, however, that every person who is an applicant for the position of police officer or peace officer shall be furnished with a copy of all records obtained under this paragraph and afforded an opportunity to make an explanation thereto. 7. The court shall not seal the defendant's record pursuant to this section while any charged offense is pending. 8. If, subsequent to the sealing of records pursuant to this subdivision, the person who is the subject of such records is arrested for or formally charged with any misdemeanor or felony offense, such records shall be unsealed immediately and remain unsealed; provided, however, that if such new misdemeanor or felony arrest results in a termination in favor of the accused as defined in subdivision three of section 160.50 of this article or by conviction for a non criminal offense as described in section 160.55 of this article, such unsealed records shall be conditionally sealed pursuant to this section.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 160 - Fingerprinting and Photographing of Defendant After Arrest--Criminal Identification Records and Statistics160.59 - Sealing of Certain Convictions.

1. Definitions: As used in this section, the following terms shall have the following meanings:(a) "Eligible offense" shall mean any crime defined in the laws of this state other than a sex offense defined in article one hundred thirty of the penal law, an offense defined in article two hundred sixty-three of the penal law, a felony offense defined in article one hundred twenty-five of the penal law, a violent felony offense defined in section 70.02 of the penal law, a class A felony offense defined in the penal law, a felony offense defined in article one hundred five of the penal law where the underlying offense is not an eligible offense, an attempt to commit an offense that is not an eligible offense if the attempt is a felony, or an offense for which registration as a sex offender is required pursuant to article six-C of the correction law. For the purposes of this section, where the defendant is convicted of more than one eligible offense, committed as part of the same criminal transaction as defined in subdivision two of section 40.10 of this chapter, those offenses shall be considered one eligible offense.(b) "Sentencing judge" shall mean the judge who pronounced sentence upon the conviction under consideration, or if that judge is no longer sitting in a court in the jurisdiction in which the conviction was obtained, any other judge who is sitting in the criminal court where the judgment of conviction was entered.1-a. The chief administrator of the courts shall, pursuant to section 10.40 of this chapter, prescribe a form application which may be used by a defendant to apply for sealing pursuant to this section. Such form application shall include all the essential elements required by this section to be included in an application for sealing. Nothing in this subdivision shall be read to require a defendant to use such form application to apply for sealing.2. (a) A defendant who has been convicted of up to two eligible offenses but not more than one felony offense may apply to the court in which he or she was convicted of the most serious offense to have such conviction or convictions sealed. If all offenses are offenses with the same classification, the application shall be made to the court in which the defendant was last convicted.(b) An application shall contain (i) a copy of a certificate of disposition or other similar documentation for any offense for which the defendant has been convicted, or an explanation of why such certificate or other documentation is not available; (ii) a sworn statement of the defendant as to whether he or she has filed, or then intends to file, any application for sealing of any other eligible offense; (iii) a copy of any other such application that has been filed; (iv) a sworn statement as to the conviction or convictions for which relief is being sought; and (v) a sworn statement of the reason or reasons why the court should, in its discretion, grant such sealing, along with any supporting documentation.(c) A copy of any application for such sealing shall be served upon the district attorney of the county in which the conviction, or, if more than one, the convictions, was or were obtained. The district attorney shall notify the court within forty-five days if he or she objects to the application for sealing.(d) When such application is filed with the court, it shall be assigned to the sentencing judge unless more than one application is filed in which case the application shall be assigned to the county court or the supreme court of the county in which the criminal court is located, who shall request and receive from the division of criminal justice services a fingerprint based criminal history record of the defendant, including any sealed or suppressed records. The division of criminal justice services also shall include a criminal history report, if any, from the federal bureau of investigation regarding any criminal history information that occurred in other jurisdictions. The division is hereby authorized to receive such information from the federal bureau of investigation for this purpose, and to make such information available to the court, which may make this information available to the district attorney and the defendant.3. The sentencing judge, or county or supreme court shall summarily deny the defendant's application when:(a) the defendant is required to register as a sex offender pursuant to article six-C of the correction law; or(b) the defendant has previously obtained sealing of the maximum number of convictions allowable under section 160.58 of the criminal procedure law; or(c) the defendant has previously

obtained sealing of the maximum number of convictions allowable under subdivision four of this section; or(d) the time period specified in subdivision five of this section has not yet been satisfied; or(e) the defendant has an undisposed arrest or charge pending; or(f) the defendant was convicted of any crime after the date of the entry of judgement of the last conviction for which sealing is sought; or(g) the defendant has failed to provide the court with the required sworn statement of the reasons why the court should grant the relief requested; or(h) the defendant has been convicted of two or more felonies or more than two crimes.4. Provided that the application is not summarily denied for the reasons set forth in subdivision three of this section, a defendant who stands convicted of up to two eligible offenses, may obtain sealing of no more than two eligible offenses but not more than one felony offense.5. Any eligible offense may be sealed only after at least ten years have passed since the imposition of the sentence on the defendant's latest conviction or, if the defendant was sentenced to a period of incarceration, including a period of incarceration imposed in conjunction with a sentence of probation, the defendant's latest release from incarceration. In calculating the ten year period under this subdivision, any period of time the defendant spent incarcerated after the conviction for which the application for sealing is sought, shall be excluded and such ten year period shall be extended by a period or periods equal to the time served under such incarceration.6. Upon determining that the application is not subject to mandatory denial pursuant to subdivision three of this section and that the application is opposed by the district attorney, the sentencing judge or county or supreme court shall conduct a hearing on the application in order to consider any evidence offered by either party that would aid the sentencing judge in his or her decision whether to seal the records of the defendant's convictions. No hearing is required if the district attorney does not oppose the application.7. In considering any such application, the sentencing judge or county or supreme court shall consider any relevant factors, including but not limited to:(a) the amount of time that has elapsed since the defendant's last conviction;(b) the circumstances and seriousness of the offense for which the defendant is seeking relief, including whether the arrest charge was not an eligible offense;(c) the circumstances and seriousness of any other offenses for which the defendant stands convicted;(d) the character of the defendant, including any measures that the defendant has taken toward rehabilitation, such as participating in treatment programs, work, or schooling, and participating in community service or other volunteer programs;(e) any statements made by the victim of the offense for which the defendant is seeking relief;(f) the impact of sealing the defendant's record upon his or her rehabilitation and upon his or her successful and productive reentry and reintegration into society; and(g) the impact of sealing the defendant's record on public safety and upon the public's confidence in and respect for the law.8. When a sentencing judge or county or supreme court orders sealing pursuant to this section, all official records and papers relating to the arrests, prosecutions, and convictions, including all duplicates and copies thereof, on file with the division of criminal justice services or any court shall be sealed and not made available to any person or public or private agency except as provided for in subdivision nine of this section; provided, however, the division shall retain any fingerprints, palmprints and photographs, or digital images of the same. The clerk of such court shall immediately notify the commissioner of the division of criminal justice services regarding the records that shall be sealed pursuant to this section. The clerk also shall notify any court in which the defendant has stated, pursuant to paragraph (b) of subdivision two of this section, that he or she has filed or intends to file an application for sealing of any other eligible offense.9. Records sealed pursuant to this section shall be made available to:(a) the defendant or the defendant's designated agent;(b) qualified agencies, as defined in subdivision nine of section eight hundred thirty-five of the executive law, and federal and state law enforcement agencies, when acting within the scope of their law enforcement duties; or(c) any state or local officer or agency with responsibility for the issuance of licenses to possess guns, when the person has made application for such a license; or(d) any prospective employer of a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of this chapter, in relation to an application for employment as a police officer or peace officer; provided, however, that every person who is an applicant for the position of police officer or peace officer shall be furnished with a copy of all records obtained under this paragraph and afforded an opportunity to make an explanation thereto; or(e) the criminal justice information services division of the federal bureau of investigation, for the purposes of responding to queries to the national instant criminal background check system regarding attempts to purchase or otherwise take possession of firearms, as defined in 18 USC 921 (a) (3).10. A conviction which is sealed pursuant to this section is included within the definition of a conviction for the purposes of any criminal proceeding in which the fact of a prior conviction would enhance a penalty or is an element of the offense charged.11. No defendant shall be required or permitted to waive eligibility for sealing pursuant to this section as part of a plea of guilty, sentence or any agreement related to a conviction for an eligible offense and any such waiver shall be deemed void and wholly unenforceable. (a) "Eligible offense" shall mean any crime defined in the laws of this state other than a sex offense defined in article one hundred thirty of the penal law, an offense defined in article two hundred sixty-three of the penal law, a felony offense defined in article one hundred twenty-five of the penal law, a violent felony offense defined in section 70.02 of the penal law, a class A felony offense defined in the penal law, a felony offense defined in article one hundred five of the penal law where the underlying offense is not an eligible offense, an attempt to commit an offense that is not an eligible offense if the attempt is a felony, or an offense for which registration as a sex offender is required pursuant to article six-C of the correction law. For the purposes of this section, where the defendant is convicted of more than one eligible offense, committed as part of the same criminal transaction as defined in subdivision two of section 40.10 of this chapter, those offenses shall be considered one eligible offense. (b) "Sentencing judge" shall mean the judge who pronounced sentence upon the conviction under consideration, or if that judge is no longer sitting in a court in the jurisdiction in which the conviction was obtained, any other judge who is sitting in the criminal court where the judgment of conviction was entered. 1-a. The chief administrator of the courts shall, pursuant to section 10.40 of this chapter, prescribe a form application which may be used by a defendant to apply for sealing pursuant to this section. Such form application shall include all the essential elements required by this section to be included in an application for sealing. Nothing in this

subdivision shall be read to require a defendant to use such form application to apply for sealing. 2. (a) A defendant who has been convicted of up to two eligible offenses but not more than one felony offense may apply to the court in which he or she was convicted of the most serious offense to have such conviction or convictions sealed. If all offenses are offenses with the same classification, the application shall be made to the court in which the defendant was last convicted. (b) An application shall contain (i) a copy of a certificate of disposition or other similar documentation for any offense for which the defendant has been convicted, or an explanation of why such certificate or other documentation is not available; (ii) a sworn statement of the defendant as to whether he or she has filed, or then intends to file, any application for sealing of any other eligible offense; (iii) a copy of any other such application that has been filed; (iv) a sworn statement as to the conviction or convictions for which relief is being sought; and (v) a sworn statement of the reason or reasons why the court should, in its discretion, grant such sealing, along with any supporting documentation. (c) A copy of any application for such sealing shall be served upon the district attorney of the county in which the conviction, or, if more than one, the convictions, was or were obtained. The district attorney shall notify the court within forty-five days if he or she objects to the application for sealing. (d) When such application is filed with the court, it shall be assigned to the sentencing judge unless more than one application is filed in which case the application shall be assigned to the county court or the supreme court of the county in which the criminal court is located, who shall request and receive from the division of criminal justice services a fingerprint based criminal history record of the defendant, including any sealed or suppressed records. The division of criminal justice services also shall include a criminal history report, if any, from the federal bureau of investigation regarding any criminal history information that occurred in other jurisdictions. The division is hereby authorized to receive such information from the federal bureau of investigation for this purpose, and to make such information available to the court, which may make this information available to the district attorney and the defendant. 3. The sentencing judge, or county or supreme court shall summarily deny the defendant's application when: (a) the defendant is required to register as a sex offender pursuant to article six-C of the correction law; or (b) the defendant has previously obtained sealing of the maximum number of convictions allowable under section 160.58 of the criminal procedure law; or (c) the defendant has previously obtained sealing of the maximum number of convictions allowable under subdivision four of this section; or (d) the time period specified in subdivision five of this section has not yet been satisfied; or (e) the defendant has an undisposed arrest or charge pending; or (f) the defendant was convicted of any crime after the date of the entry of judgement of the last conviction for which sealing is sought; or (g) the defendant has failed to provide the court with the required sworn statement of the reasons why the court should grant the relief requested; or (h) the defendant has been convicted of two or more felonies or more than two crimes. 4. Provided that the application is not summarily denied for the reasons set forth in subdivision three of this section, a defendant who stands convicted of up to two eligible offenses, may obtain sealing of no more than two eligible offenses but not more than one felony offense. 5. Any eligible offense may be sealed only after at least ten years have passed since the imposition of the sentence on the defendant's latest conviction or, if the defendant was sentenced to a period of incarceration, including a period of incarceration imposed in conjunction with a sentence of probation, the defendant's latest release from incarceration. In calculating the ten year period under this subdivision, any period of time the defendant spent incarcerated after the conviction for which the application for sealing is sought, shall be excluded and such ten year period shall be extended by a period or periods equal to the time served under such incarceration. 6. Upon determining that the application is not subject to mandatory denial pursuant to subdivision three of this section and that the application is opposed by the district attorney, the sentencing judge or county or supreme court shall conduct a hearing on the application in order to consider any evidence offered by either party that would aid the sentencing judge in his or her decision whether to seal the records of the defendant's convictions. No hearing is required if the district attorney does not oppose the application. 7. In considering any such application, the sentencing judge or county or supreme court shall consider any relevant factors, including but not limited to: (a) the amount of time that has elapsed since the defendant's last conviction; (b) the circumstances and seriousness of the offense for which the defendant is seeking relief, including whether the arrest charge was not an eligible offense; (c) the circumstances and seriousness of any other offenses for which the defendant stands convicted; (d) the character of the defendant, including any measures that the defendant has taken toward rehabilitation, such as participating in treatment programs, work, or schooling, and participating in community service or other volunteer programs; (e) any statements made by the victim of the offense for which the defendant is seeking relief; (f) the impact of sealing the defendant's record upon his or her rehabilitation and upon his or her successful and productive reentry and reintegration into society; and (g) the impact of sealing the defendant's record on public safety and upon the public's confidence in and respect for the law. 8. When a sentencing judge or county or supreme court orders sealing pursuant to this section, all official records and papers relating to the arrests, prosecutions, and convictions, including all duplicates and copies thereof, on file with the division of criminal justice services or any court shall be sealed and not made available to any person or public or private agency except as provided for in subdivision nine of this section; provided, however, the division shall retain any fingerprints, palmprints and photographs, or digital images of the same. The clerk of such court shall immediately notify the commissioner of the division of criminal justice services regarding the records that shall be sealed pursuant to this section. The clerk also shall notify any court in which the defendant has stated, pursuant to paragraph (b) of subdivision two of this section, that he or she has filed or intends to file an application for sealing of any other eligible offense. 9. Records sealed pursuant to this section shall be made available to: (a) the defendant or the defendant's designated agent; (b) qualified agencies, as defined in subdivision nine of section eight hundred thirty-five of the executive law, and federal and state law enforcement agencies, when acting within the scope of their law enforcement duties; or (c) any state or local officer or agency with responsibility for the issuance of licenses to possess guns, when the person has made application for such a license; or (d) any prospective employer of a police officer or peace officer as those terms are defined in subdivisions thirty-three and thirty-four of section 1.20 of this chapter, in relation to an application for

employment as a police officer or peace officer; provided, however, that every person who is an applicant for the position of police officer or peace officer shall be furnished with a copy of all records obtained under this paragraph and afforded an opportunity to make an explanation thereto; or (e) the criminal justice information services division of the federal bureau of investigation, for the purposes of responding to queries to the national instant criminal background check system regarding attempts to purchase or otherwise take possession of firearms, as defined in 18 USC 921 (a) (3). 10. A conviction which is sealed pursuant to this section is included within the definition of a conviction for the purposes of any criminal proceeding in which the fact of a prior conviction would enhance a penalty or is an element of the offense charged. 11. No defendant shall be required or permitted to waive eligibility for sealing pursuant to this section as part of a plea of guilty, sentence or any agreement related to a conviction for an eligible offense and any such waiver shall be deemed void and wholly unenforceable.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 160 - Fingerprinting and Photographing of Defendant After Arrest--Criminal Identification Records and Statistics160.60 - Effect of Termination of Criminal Actions in Favor of the Accused.

accused. Upon the termination of a criminal action or proceeding against a person in favor of such person, as defined in subdivision two of section 160.50 of this chapter, the arrest and prosecution shall be deemed a nullity and the accused shall be restored, in contemplation of law, to the status he occupied before the arrest and prosecution. The arrest or prosecution shall not operate as a disqualification of any person so accused to pursue or engage in any lawful activity, occupation, profession, or calling. Except where specifically required or permitted by statute or upon specific authorization of a superior court, no such person shall be required to divulge information pertaining to the arrest or prosecution.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 170 - Proceedings Upon Information, Simplified Traffic Information, Prosecutor's Information and Misdemeanor Complaint From Arraignment to Plea170.10 - Arraignment Upon Information, Simplified Traffic Information, Prosecutor's Information or Misdemeanor Complaint; Defendant's Presence, Defendant's Rig

prosecutor's information or misdemeanor complaint; defendant's presence, defendant's rights, court's instructions and bail matters. 1. Following the filing with a local criminal court of an information, a simplified information, a prosecutor's information or a misdemeanor complaint, the defendant must be arraigned thereon. The defendant must appear personally at such arraignment except under the following circumstances:(a) In any case where a simplified information is filed and a procedure is provided by law which is applicable to all offenses charged in such simplified information and, if followed, would dispense with an arraignment or personal appearance of the defendant, nothing contained in this section affects the validity of such procedure or requires such personal appearance;(b) In any case in which the defendant's appearance is required by a summons or an appearance ticket, the court in its discretion may, for good cause shown, permit the defendant to appear by counsel instead of in person.2. Upon any arraignment at which the defendant is personally present, the court must immediately inform him, or cause him to be informed in its presence, of the charge or charges against him and must furnish him with a copy of the accusatory instrument.3. The defendant has the right to the aid of counsel at the arraignment and at every subsequent stage of the action. If he appears upon such arraignment without counsel, he has the following rights:(a) To an adjournment for the purpose of obtaining counsel; and(b) To communicate, free of charge, by letter or by telephone provided by the law enforcement facility where the defendant is held to a phone number located in the United States, or Puerto Rico, for the purposes of obtaining counsel and informing a relative or friend that he or she has been charged with an offense; and(c) To have counsel assigned by the court if he is financially unable to obtain the same; except that this paragraph does not apply where the accusatory instrument charges a traffic infraction or infractions only.4. Except as provided in subdivision five, the court must inform the defendant:(a) Of his rights as prescribed in subdivision three; and the court must not only accord him opportunity to exercise such rights but must itself take such affirmative action as is necessary to effectuate them; and(b) Where a traffic infraction or a misdemeanor relating to traffic is charged, that a judgment of conviction for such offense would in addition to subjecting the defendant to the sentence provided therefor render his license to drive a motor vehicle and his certificate of registration subject to suspension and revocation as prescribed by law and that a plea of guilty to such offense constitutes a conviction thereof to the same extent as a verdict of guilty after trial; and(c) Where the accusatory instrument is a simplified traffic information, that the defendant has a right to have a supporting deposition filed, as provided in section 100.25; and(d) Where the accusatory instrument is a misdemeanor complaint, that the defendant may not be prosecuted thereon or required to enter a plea thereto unless he consents to the same, and that in the absence of such consent such misdemeanor complaint will for prosecution purposes have to be replaced and superseded by an information; and(e) Where an information, a simplified information, a prosecutor's information, a misdemeanor complaint, a felony complaint or an indictment charges harassment in the second degree, as defined in section 240.26 of the penal law, if there is a judgment of conviction for such offense and such offense is determined to have been committed against a member of the same family or household as the defendant, as defined in subdivision one of section 530.11 of this chapter, the record of such conviction shall be accessible for law enforcement purposes and not sealed, as specified in paragraph (a) and subparagraph (vi) of paragraph (d) of subdivision one of section 160.55 of this title; and5. In any case in which a defendant has appeared for arraignment in response to a summons or an appearance ticket, a printed statement upon such process of any court instruction required by the provisions of subdivision four, other than those specified in paragraphs (d) and (e) thereof, constitutes compliance with such provisions with respect to the instruction so printed.6. If a defendant charged with a traffic infraction or infractions only desires to proceed without the aid of counsel, the court must permit him to do so. In all other cases, the

court must permit the defendant to proceed without the aid of counsel if it is satisfied that he made such decision with knowledge of the significance thereof, but if it is not so satisfied it may not proceed until the defendant is provided with counsel, either of his own choosing or by assignment. Regardless of the kind or nature of the charges, a defendant who proceeds at the arraignment without counsel does not waive his right to counsel, and the court must inform him that he continues to have such right as well as all the rights specified in subdivision three which are necessary to effectuate it, and that he may exercise such rights at any stage of the action.7. Upon the arraignment, the court, unless it intends to make a final disposition of the action immediately thereafter, must, as provided in subdivision one of section 530.20, issue a securing order either releasing the defendant on his own recognizance or fixing bail for his future appearance in the action; except that where a defendant appears by counsel pursuant to paragraph (b) of subdivision one of this section, the court must release the defendant on his own recognizance.8. Notwithstanding any other provision of law to the contrary, a local criminal court may not, at arraignment or within thirty days of arraignment on a simplified traffic information charging a violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of the vehicle and traffic law and upon which a notation has been made pursuant to subdivision twelve of section eleven hundred ninety-two of the vehicle and traffic law, accept a plea of guilty to a violation of any subdivision of section eleven hundred ninety-two of the vehicle and traffic law, nor to any other traffic infraction arising out of the same incident, nor to any other traffic infraction, violation or misdemeanor where the court is aware that such offense was charged pursuant to an accident involving death or serious physical injury, except upon written consent of the district attorney.8-a. (a) Where an information, a simplified information, a prosecutor's information, a misdemeanor complaint, a felony complaint or an indictment charges harassment in the second degree as defined in section 240.26 of the penal law, the people may serve upon the defendant and file with the court a notice alleging that such offense was committed against a member of the same family or household as the defendant, as defined in subdivision one of section 530.11 of this chapter. Such notice must be served within fifteen days after arraignment on an information, a simplified information, a prosecutor's information, a misdemeanor complaint, a felony complaint or an indictment for such charge and before trial. Such notice must include the name of the person alleged to be a member of the same family or household as the defendant and specify the specific family or household relationship as defined in subdivision one of section 530.11 of this chapter.(b) If a defendant, charged with harassment in the second degree as defined in section 240.26 of the penal law stipulates, or admits in the course of a plea disposition, that the person against whom the charged offense is alleged to have been committed is a member of the same family or household as the defendant, as defined in subdivision one of section 530.11 of this chapter, such allegation shall be deemed established for purposes of paragraph (a) and subparagraph (vi) of paragraph (d) of subdivision one of section 160.55 of this title. If the defendant denies such allegation, the people may, by proof beyond a reasonable doubt, prove as part of their case that the alleged victim of such offense was a member of the same family or household as the defendant. In such circumstances, the trier of fact shall make its determination with respect to such allegation orally on the record or in writing.9. Nothing contained in this section applies to the arraignment of corporate defendants, which is governed generally by the provisions of article six hundred.10. Notwithstanding any contrary provision of this section, when an off-hours arraignment part designated in accordance with paragraph (w) of subdivision one of section two hundred twelve of the judiciary law is in operation in the county in which the court is located, the court must adjourn the proceedings before it, and direct that the proceedings be continued in such off-hours part when the defendant has appeared before the court without counsel and no counsel is otherwise available at the time of such appearance to aid the defendant, unless the defendant desires to proceed without the aid of counsel and the court is satisfied, pursuant to subdivision six of this section, that the defendant made such decision with knowledge of the significance thereof. (a) In any case where a simplified information is filed and a procedure is provided by law which is applicable to all offenses charged in such simplified information and, if followed, would dispense with an arraignment or personal appearance of the defendant, nothing contained in this section affects the validity of such procedure or requires such personal appearance; (b) In any case in which the defendant's appearance is required by a summons or an appearance ticket, the court in its discretion may, for good cause shown, permit the defendant to appear by counsel instead of in person. 2. Upon any arraignment at which the defendant is personally present, the court must immediately inform him, or cause him to be informed in its presence, of the charge or charges against him and must furnish him with a copy of the accusatory instrument. 3. The defendant has the right to the aid of counsel at the arraignment and at every subsequent stage of the action. If he appears upon such arraignment without counsel, he has the following rights: (a) To an adjournment for the purpose of obtaining counsel; and (b) To communicate, free of charge, by letter or by telephone provided by the law enforcement facility where the defendant is held to a phone number located in the United States, or Puerto Rico, for the purposes of obtaining counsel and informing a relative or friend that he or she has been charged with an offense; and (c) To have counsel assigned by the court if he is financially unable to obtain the same; except that this paragraph does not apply where the accusatory instrument charges a traffic infraction or infractions only. 4. Except as provided in subdivision five, the court must inform the defendant: (a) Of his rights as prescribed in subdivision three; and the court must not only accord him opportunity to exercise such rights but must itself take such affirmative action as is necessary to effectuate them; and (b) Where a traffic infraction or a misdemeanor relating to traffic is charged, that a judgment of conviction for such offense would in addition to subjecting the defendant to the sentence provided therefor render his license to drive a motor vehicle and his certificate of registration subject to suspension and revocation as prescribed by law and that a plea of guilty to such offense constitutes a conviction thereof to the same extent as a verdict of guilty after trial; and (c) Where the accusatory instrument is a simplified traffic information, that the defendant has a right to have a supporting deposition filed, as provided in section 100.25; and (d) Where the accusatory instrument is a misdemeanor complaint, that the defendant may not be prosecuted thereon or required to enter a plea thereto unless he consents to the same, and that in the absence of such consent such misdemeanor complaint will for prosecution purposes have to be replaced

and superseded by an information; and (e) Where an information, a simplified information, a prosecutor's information, a misdemeanor complaint, a felony complaint or an indictment charges harassment in the second degree, as defined in section 240.26 of the penal law, if there is a judgment of conviction for such offense and such offense is determined to have been committed against a member of the same family or household as the defendant, as defined in subdivision one of section 530.11 of this chapter, the record of such conviction shall be accessible for law enforcement purposes and not sealed, as specified in paragraph (a) and subparagraph (vi) of paragraph (d) of subdivision one of section 160.55 of this title; and 5. In any case in which a defendant has appeared for arraignment in response to a summons or an appearance ticket, a printed statement upon such process of any court instruction required by the provisions of subdivision four, other than those specified in paragraphs (d) and (e) thereof, constitutes compliance with such provisions with respect to the instruction so printed. 6. If a defendant charged with a traffic infraction or infractions only desires to proceed without the aid of counsel, the court must permit him to do so. In all other cases, the court must permit the defendant to proceed without the aid of counsel if it is satisfied that he made such decision with knowledge of the significance thereof, but if it is not so satisfied it may not proceed until the defendant is provided with counsel, either of his own choosing or by assignment. Regardless of the kind or nature of the charges, a defendant who proceeds at the arraignment without counsel does not waive his right to counsel, and the court must inform him that he continues to have such right as well as all the rights specified in subdivision three which are necessary to effectuate it, and that he may exercise such rights at any stage of the action. 7. Upon the arraignment, the court, unless it intends to make a final disposition of the action immediately thereafter, must, as provided in subdivision one of section 530.20, issue a securing order either releasing the defendant on his own recognizance or fixing bail for his future appearance in the action; except that where a defendant appears by counsel pursuant to paragraph (b) of subdivision one of this section, the court must release the defendant on his own recognizance. 8. Notwithstanding any other provision of law to the contrary, a local criminal court may not, at arraignment or within thirty days of arraignment on a simplified traffic information charging a violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of the vehicle and traffic law and upon which a notation has been made pursuant to subdivision twelve of section eleven hundred ninety-two of the vehicle and traffic law, accept a plea of guilty to a violation of any subdivision of section eleven hundred ninety-two of the vehicle and traffic law, nor to any other traffic infraction arising out of the same incident, nor to any other traffic infraction, violation or misdemeanor where the court is aware that such offense was charged pursuant to an accident involving death or serious physical injury, except upon written consent of the district attorney. 8-a. (a) Where an information, a simplified information, a prosecutor's information, a misdemeanor complaint, a felony complaint or an indictment charges harassment in the second degree as defined in section 240.26 of the penal law, the people may serve upon the defendant and file with the court a notice alleging that such offense was committed against a member of the same family or household as the defendant, as defined in subdivision one of section 530.11 of this chapter. Such notice must be served within fifteen days after arraignment on an information, a simplified information, a prosecutor's information, a misdemeanor complaint, a felony complaint or an indictment for such charge and before trial. Such notice must include the name of the person alleged to be a member of the same family or household as the defendant and specify the specific family or household relationship as defined in subdivision one of section 530.11 of this chapter. (b) If a defendant, charged with harassment in the second degree as defined in section 240.26 of the penal law stipulates, or admits in the course of a plea disposition, that the person against whom the charged offense is alleged to have been committed is a member of the same family or household as the defendant, as defined in subdivision one of section 530.11 of this chapter, such allegation shall be deemed established for purposes of paragraph (a) and subparagraph (vi) of paragraph (d) of subdivision one of section 160.55 of this title. If the defendant denies such allegation, the people may, by proof beyond a reasonable doubt, prove as part of their case that the alleged victim of such offense was a member of the same family or household as the defendant. In such circumstances, the trier of fact shall make its determination with respect to such allegation orally on the record or in writing. 9. Nothing contained in this section applies to the arraignment of corporate defendants, which is governed generally by the provisions of article six hundred. 10. Notwithstanding any contrary provision of this section, when an off-hours arraignment part designated in accordance with paragraph (w) of subdivision one of section two hundred twelve of the judiciary law is in operation in the county in which the court is located, the court must adjourn the proceedings before it, and direct that the proceedings be continued in such off-hours part when the defendant has appeared before the court without counsel and no counsel is otherwise available at the time of such appearance to aid the defendant, unless the defendant desires to proceed without the aid of counsel and the court is satisfied, pursuant to subdivision six of this section, that the defendant made such decision with knowledge of the significance thereof.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 170 - Proceedings Upon Information, Simplified Traffic Information, Prosecutor's Information and Misdemeanor Complaint From Arraignment to Plea170.15 - Removal of Action From One Local Criminal Court to Another.

Under circumstances prescribed in this section, a criminal action based upon an information, a simplified information, a prosecutor's information or a misdemeanor complaint may be removed from one local criminal court to another: 1. When a defendant arrested by a police officer for an offense other than a felony, allegedly committed in a city or town, has, owing to special circumstances and pursuant to law, not been brought before the particular local criminal court which by reason of the situs of such offense has trial jurisdiction thereof, but, instead, before a local criminal court which does not have trial jurisdiction thereof, and therein stands charged with such offense by information, simplified information or misdemeanor complaint, such local criminal court must arraign

him upon such accusatory instrument. If the defendant desires to enter a plea of guilty thereto immediately following such arraignment, such local criminal court must permit him to do so and must thereafter conduct the action to judgment. Otherwise, it must remit the action, together with all pertinent papers and documents, to the local criminal court which has trial jurisdiction of the action, and the latter court must then conduct such action to judgment or other final disposition. 2. When a defendant arrested by a police officer for an offense other than a felony has been brought before a superior court judge sitting as a local criminal court for arraignment upon an information, simplified information or misdemeanor complaint charging such offense, such judge must, as a local criminal court, arraign the defendant upon such accusatory instrument. Such judge must then remit the action, together with all pertinent papers and documents, to a local criminal court having trial jurisdiction thereof. The latter court must then conduct such action to judgment or other final disposition. 3. At any time within the period provided by section 255.20, where a defendant is arraigned upon an information, a simplified information, a prosecutor's information or a misdemeanor complaint pending in a city court, town court or a village court having trial jurisdiction thereof, a judge of the county court of the county in which such city court, town court or village court is located may, upon motion of the defendant or the people, order that the action be transferred for disposition from the court in which the matter is pending to another designated local criminal court of the county, upon the ground that disposition thereof within a reasonable time in the court from which removal is sought is unlikely owing to:(a) Death, disability or other incapacity or disqualification of all of the judges of such court; or(b) Inability of such court to form a jury in a case, in which the defendant is entitled to and has requested a jury trial.4. Notwithstanding any provision of this section to the contrary, in any county outside a city having a population of one million or more, upon or after arraignment of a defendant on an information, a simplified information, a prosecutor's information or a misdemeanor complaint pending in a local criminal court, such court may, upon motion of the defendant and after giving the district attorney an opportunity to be heard, order that the action be removed from the court in which the matter is pending to another local criminal court in the same county which has been designated a court formed to address a matter of special concern based upon the status of the defendant or the victim, commonly known as a "problem solving court," including, but not limited to, drug court, domestic violence court, youth court, mental health court, and veterans court, by the chief administrator of the courts, and such problem solving court may then conduct such action to judgment or other final disposition; provided, however, that an order of removal issued under this subdivision shall not take effect until five days after the date the order is issued unless, prior to such effective date, the problem solving court notifies the court that issued the order that:(a) it will not accept the action, in which event the order shall not take effect, or(b) it will accept the action on a date prior to such effective date, in which event the order shall take effect upon such prior date.Upon providing notification pursuant to paragraph (a) or (b) of this subdivision, the problem solving court shall promptly give notice to the defendant, his or her counsel and the district attorney.5. (a) Notwithstanding any provision of this section to the contrary, in any county outside a city having a population of one million or more, upon or after arraignment of a defendant on an information, a simplified information, a prosecutor's information or a misdemeanor complaint pending in a local criminal court, such court may, upon motion of the defendant and after giving the district attorney an opportunity to be heard, order that the action be removed from the court in which the matter is pending to another local criminal court in the same county, or with consent of the district attorney and the district attorney of the adjoining county to another court in such adjoining county, that has been designated as a human trafficking court or veterans treatment court by the chief administrator of the courts, and such human trafficking court or veterans treatment court may then conduct such action to judgment or other final deposition; provided, however, that no court may order removal pursuant to this subdivision to a veterans treatment court of a family offense charge described in subdivision one of section 530.11 of this chapter where the accused and the person alleged to be the victim of such offense charged are members of the same family or household as defined in such subdivision one of section 530.11; and provided further that an order of removal issued under this subdivision shall not take effect until five days after the date the order is issued unless, prior to such effective date, the human trafficking court or veterans treatment court notifies the court that issued the order that:i. it will not accept the action, in which event the order shall not take effect; orii. it will accept the action on a date prior to such effective date, in which event the order shall take effect upon such prior date.(b) Upon providing notification pursuant to subparagraph i or ii of paragraph (a) of this subdivision, the human trafficking court or veterans treatment court shall promptly give notice to the defendant, his or her counsel, and the district attorney. (a) Death, disability or other incapacity or disqualification of all of the judges of such court; or (b) Inability of such court to form a jury in a case, in which the defendant is entitled to and has requested a jury trial. 4. Notwithstanding any provision of this section to the contrary, in any county outside a city having a population of one million or more, upon or after arraignment of a defendant on an information, a simplified information, a prosecutor's information or a misdemeanor complaint pending in a local criminal court, such court may, upon motion of the defendant and after giving the district attorney an opportunity to be heard, order that the action be removed from the court in which the matter is pending to another local criminal court in the same county which has been designated a court formed to address a matter of special concern based upon the status of the defendant or the victim, commonly known as a "problem solving court," including, but not limited to, drug court, domestic violence court, youth court, mental health court, and veterans court, by the chief administrator of the courts, and such problem solving court may then conduct such action to judgment or other final disposition; provided, however, that an order of removal issued under this subdivision shall not take effect until five days after the date the order is issued unless, prior to such effective date, the problem solving court notifies the court that issued the order that: (a) it will not accept the action, in which event the order shall not take effect, or (b) it will accept the action on a date prior to such effective date, in which event the order shall take effect upon such prior date. Upon providing notification pursuant to paragraph (a) or (b) of this subdivision, the problem solving court shall promptly give notice to the defendant, his or her counsel and the district attorney. 5. (a) Notwithstanding any provision of this section to the contrary, in any county outside a city having a population of one million or

more, upon or after arraignment of a defendant on an information, a simplified information, a prosecutor's information or a misdemeanor complaint pending in a local criminal court, such court may, upon motion of the defendant and after giving the district attorney an opportunity to be heard, order that the action be removed from the court in which the matter is pending to another local criminal court in the same county, or with consent of the district attorney and the district attorney of the adjoining county to another court in such adjoining county, that has been designated as a human trafficking court or veterans treatment court by the chief administrator of the courts, and such human trafficking court or veterans treatment court may then conduct such action to judgment or other final deposition; provided, however, that no court may order removal pursuant to this subdivision to a veterans treatment court of a family offense charge described in subdivision one of section 530.11 of this chapter where the accused and the person alleged to be the victim of such offense charged are members of the same family or household as defined in such subdivision one of section 530.11; and provided further that an order of removal issued under this subdivision shall not take effect until five days after the date the order is issued unless, prior to such effective date, the human trafficking court or veterans treatment court notifies the court that issued the order that: i. it will not accept the action, in which event the order shall not take effect; or ii. it will accept the action on a date prior to such effective date, in which event the order shall take effect upon such prior date. (b) Upon providing notification pursuant to subparagraph i or ii of paragraph (a) of this subdivision, the human trafficking court or veterans treatment court shall promptly give notice to the defendant, his or her counsel, and the district attorney.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 170 - Proceedings Upon Information, Simplified Traffic Information, Prosecutor's Information and Misdemeanor Complaint From Arraignment to Plea170.20 - Divestiture of Jurisdiction by Indictment; Removal of Case to Superior Court at District Attorney's Instance.

superior court at district attorney's instance. 1. If at any time before entry of a plea of guilty to or commencement of a trial of a local criminal court accusatory instrument containing a charge of misdemeanor, an indictment charging the defendant with such misdemeanor is filed in a superior court, the local criminal court is thereby divested of jurisdiction of such misdemeanor charge and all proceedings therein with respect thereto are terminated. 2. At any time before entry of a plea of guilty to or commencement of a trial of an accusatory instrument specified in subdivision one, the district attorney may apply for an adjournment of the proceedings in the local criminal court upon the ground that he intends to present the misdemeanor charge in question to a grand jury with a view to prosecuting it by indictment in a superior court. In such case, the local criminal court must adjourn the proceedings to a date which affords the district attorney reasonable opportunity to pursue such action, and may subsequently grant such further adjournments for that purpose as are reasonable under the circumstances. Following the granting of such adjournment or adjournments, the proceedings must be as follows:(a) If such charge is presented to a grand jury within the designated period and either an indictment or a dismissal of such charge results, the local criminal court is thereby divested of jurisdiction of such charge, and all proceedings in the local criminal court with respect thereto are terminated.(b) If the misdemeanor charge is not presented to a grand jury within the designated period, the proceedings in the local criminal court must continue. (a) If such charge is presented to a grand jury within the designated period and either an indictment or a dismissal of such charge results, the local criminal court is thereby divested of jurisdiction of such charge, and all proceedings in the local criminal court with respect thereto are terminated. (b) If the misdemeanor charge is not presented to a grand jury within the designated period, the proceedings in the local criminal court must continue.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 170 - Proceedings Upon Information, Simplified Traffic Information, Prosecutor's Information and Misdemeanor Complaint From Arraignment to Plea170.25 - Divestiture of Jurisdiction by Indictment; Removal of Case to Superior Court at Defendant's Instance.

superior court at defendant's instance. 1. At any time before entry of a plea of guilty to or commencement of a trial of a local criminal court accusatory instrument containing a charge of misdemeanor, a superior court having jurisdiction to prosecute such misdemeanor charge by indictment may, upon motion of the defendant made upon notice to the district attorney, showing good cause to believe that the interests of justice so require, order that such charge be prosecuted by indictment and that the district attorney present it to the grand jury for such purpose. 2. Such order stays the proceedings in the local criminal court pending submission of the charge to the grand jury. Upon the subsequent filing of an indictment in the superior court, the proceedings in the local criminal court terminate and the defendant must be required to appear for arraignment upon the indictment in the manner prescribed in subdivisions one and two of section 210.10. Upon the subsequent filing of a grand jury dismissal of the charge, the proceedings in the local criminal court terminate and the superior court must, if the defendant is not at liberty on his own recognizance, discharge him from custody or exonerate his bail, as the case may be. 3. At any time before entry of a plea of guilty to or commencement of a trial of or within thirty days of arraignment on an accusatory instrument specified in subdivision one, whichever occurs first, the defendant may apply to the local criminal court for an adjournment of the proceedings therein upon the ground that he intends to make a motion in a superior court, pursuant to subdivision one, for an order that the misdemeanor charge be prosecuted by indictment. In such case, the local criminal court must adjourn the proceedings to a date which affords the defendant reasonable opportunity to pursue such action, and may subsequently grant such further adjournments for that purpose as are reasonable under the circumstances. Following the granting of such adjournment or adjournments, the proceedings must be as follows:(a) If a motion in a superior court is not made by the defendant within the designated period, the proceedings in the local

criminal court must continue.(b) If a motion in a superior court is made by the defendant within the designated period, such motion stays the proceedings in the local criminal court until the entry of an order determining such motion.(c) If the superior court enters an order granting the motion, such order stays the proceedings in the local criminal court as provided in subdivision two; and upon a subsequent indictment or dismissal of such charge by the grand jury, the proceedings in the local criminal court terminate as provided in subdivision two.(d) If the superior court enters an order denying the motion, the proceedings in the local criminal court must continue.4. Upon application of a defendant who on the basis of an order issued by a superior court pursuant to subdivision one is awaiting grand jury action, and who, at the time of such order or subsequent thereto, has been committed to the custody of the sheriff pending grand jury action, and who has been confined in such custody for a period of more than forty-five days without the occurrence of any grand jury action or disposition, the superior court which issued such order must release him on his own recognizance unless:(a) The lack of a grand jury disposition during such period of confinement was due to the defendant's request, action or condition, or occurred with his consent; or(b) The people have shown good cause why such order of release should not be issued. Such good cause must consist of some compelling fact or circumstance which precluded grand jury action within the prescribed period or rendered the same against the interest of justice. (a) If a motion in a superior court is not made by the defendant within the designated period, the proceedings in the local criminal court must continue. (b) If a motion in a superior court is made by the defendant within the designated period, such motion stays the proceedings in the local criminal court until the entry of an order determining such motion. (c) If the superior court enters an order granting the motion, such order stays the proceedings in the local criminal court as provided in subdivision two; and upon a subsequent indictment or dismissal of such charge by the grand jury, the proceedings in the local criminal court terminate as provided in subdivision two. (d) If the superior court enters an order denying the motion, the proceedings in the local criminal court must continue. 4. Upon application of a defendant who on the basis of an order issued by a superior court pursuant to subdivision one is awaiting grand jury action, and who, at the time of such order or subsequent thereto, has been committed to the custody of the sheriff pending grand jury action, and who has been confined in such custody for a period of more than forty-five days without the occurrence of any grand jury action or disposition, the superior court which issued such order must release him on his own recognizance unless: (a) The lack of a grand jury disposition during such period of confinement was due to the defendant's request, action or condition, or occurred with his consent; or (b) The people have shown good cause why such order of release should not be issued. Such good cause must consist of some compelling fact or circumstance which precluded grand jury action within the prescribed period or rendered the same against the interest of justice.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 170 - Proceedings Upon Information, Simplified Traffic Information, Prosecutor's Information and Misdemeanor Complaint From Arraignment to Plea170.30 - Motion to Dismiss Information, Simplified Information, Prosecutor's Information or Misdemeanor Complaint.

prosecutor's information or misdemeanor complaint. 1. After arraignment upon an information, a simplified information, a prosecutor's information or a misdemeanor complaint, the local criminal court may, upon motion of the defendant, dismiss such instrument or any count thereof upon the ground that:(a) It is defective, within the meaning of section 170.35; or(b) The defendant has received immunity from prosecution for the offense charged, pursuant to sections 50.20 or 190.40; or(c) The prosecution is barred by reason of a previous prosecution, pursuant to section 40.20; or(d) The prosecution is untimely, pursuant to section 30.10; or(e) The defendant has been denied the right to a speedy trial; or(f) There exists some other jurisdictional or legal impediment to conviction of the defendant for the offense charged; or(g) Dismissal is required in furtherance of justice, within the meaning of section 170.40.2. A motion pursuant to this section, except a motion pursuant to paragraph (e) of subdivision one, should be made within the period provided by section 255.20. A motion made pursuant to paragraph (e) of subdivision one should be made prior to the commencement of trial or entry of a plea of guilty.3. Upon the motion, a defendant who is in a position adequately to raise more than one ground in support thereof should raise every such ground upon which he intends to challenge the accusatory instrument. A subsequent motion based upon such a ground not so raised may be summarily denied, although the court, in the interest of justice and for good cause shown, may in its discretion entertain and dispose of such a motion on the merits notwithstanding.4. After arraignment upon an information, a simplified information, a prosecutor's information or misdemeanor complaint on a charge of prostitution pursuant to section 230.00 of the penal law the local criminal court may dismiss such charge in its discretion in the interest of justice on the ground that a defendant participated in services provided to him or her. (a) It is defective, within the meaning of section 170.35; or (b) The defendant has received immunity from prosecution for the offense charged, pursuant to sections 50.20 or 190.40; or (c) The prosecution is barred by reason of a previous prosecution, pursuant to section 40.20; or (d) The prosecution is untimely, pursuant to section 30.10; or (e) The defendant has been denied the right to a speedy trial; or (f) There exists some other jurisdictional or legal impediment to conviction of the defendant for the offense charged; or (g) Dismissal is required in furtherance of justice, within the meaning of section 170.40. 2. A motion pursuant to this section, except a motion pursuant to paragraph (e) of subdivision one, should be made within the period provided by section 255.20. A motion made pursuant to paragraph (e) of subdivision one should be made prior to the commencement of trial or entry of a plea of guilty. 3. Upon the motion, a defendant who is in a position adequately to raise more than one ground in support thereof should raise every such ground upon which he intends to challenge the accusatory instrument. A subsequent motion based upon such a ground not so raised may be summarily denied, although the court, in the interest of justice and for good cause shown, may in its discretion entertain and dispose of such a motion on the merits notwithstanding. 4. After arraignment upon an information, a simplified information, a prosecutor's information or misdemeanor complaint on a charge of prostitution pursuant to section 230.00 of the penal law the local criminal

court may dismiss such charge in its discretion in the interest of justice on the ground that a defendant participated in services provided to him or her.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 170 - Proceedings Upon Information, Simplified Traffic Information, Prosecutor's Information and Misdemeanor Complaint From Arraignment to Plea170.35 - Motion to Dismiss Information, Simplified Information, Prosecutor's Information or Misdemeanor Complaint; as Defective.

prosecutor's information or misdemeanor complaint; as defective. 1. An information, a simplified information, a prosecutor's information or a misdemeanor complaint, or a count thereof, is defective within the meaning of paragraph (a) of subdivision one of section 170.30 when:(a) It is not sufficient on its face pursuant to the requirements of section 100.40; provided that such an instrument or count may not be dismissed as defective, but must instead be amended, where the defect or irregularity is of a kind that may be cured by amendment and where the people move to so amend; or(b) The allegations demonstrate that the court does not have jurisdiction of the offense charged; or(c) The statute defining the offense charged is unconstitutional or otherwise invalid.2. An information is also defective when it is filed in replacement of a misdemeanor complaint pursuant to section 170.65 but without satisfying the requirements stated therein.3. A prosecutor's information is also defective when:(a) It is filed at the direction of a grand jury, pursuant to section 190.70, and the offense or offenses charged are not among those authorized by such grand jury direction; or(b) It is filed by the district attorney at his own instance, pursuant to subdivision two of section 100.50, and the factual allegations of the original information underlying it and any supporting depositions are not legally sufficient to support the charge in the prosecutor's information. (a) It is not sufficient on its face pursuant to the requirements of section 100.40; provided that such an instrument or count may not be dismissed as defective, but must instead be amended, where the defect or irregularity is of a kind that may be cured by amendment and where the people move to so amend; or (b) The allegations demonstrate that the court does not have jurisdiction of the offense charged; or (c) The statute defining the offense charged is unconstitutional or otherwise invalid. 2. An information is also defective when it is filed in replacement of a misdemeanor complaint pursuant to section 170.65 but without satisfying the requirements stated therein. 3. A prosecutor's information is also defective when: (a) It is filed at the direction of a grand jury, pursuant to section 190.70, and the offense or offenses charged are not among those authorized by such grand jury direction; or (b) It is filed by the district attorney at his own instance, pursuant to subdivision two of section 100.50, and the factual allegations of the original information underlying it and any supporting depositions are not legally sufficient to support the charge in the prosecutor's information.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 170 - Proceedings Upon Information, Simplified Traffic Information, Prosecutor's Information and Misdemeanor Complaint From Arraignment to Plea170.40 - Motion to Dismiss Information, Simplified Traffic Information, Prosecutor's Information or Misdemeanor Complaint; in Furtherance of Justice.

prosecutor's information or misdemeanor complaint; in furtherance of justice. 1. An information, a simplified traffic information, a prosecutor's information or a misdemeanor complaint, or any count thereof, may be dismissed in the interest of justice, as provided in paragraph (g) of subdivision one of section 170.30 when, even though there may be no basis for dismissal as a matter of law upon any ground specified in paragraphs (a) through (f) of said subdivision one of section 170.30, such dismissal is required as a matter of judicial discretion by the existence of some compelling factor, consideration or circumstance clearly demonstrating that conviction or prosecution of the defendant upon such accusatory instrument or count would constitute or result in injustice. In determining whether such compelling factor, consideration, or circumstance exists, the court must, to the extent applicable, examine and consider, individually and collectively, the following:(a) the seriousness and circumstances of the offense;(b) the extent of harm caused by the offense;(c) the evidence of guilt, whether admissible or inadmissible at trial;(d) the history, character and condition of the defendant;(e) any exceptionally serious misconduct of law enforcement personnel in the investigation, arrest and prosecution of the defendant;(f) the purpose and effect of imposing upon the defendant a sentence authorized for the offense;(g) the impact of a dismissal on the safety or welfare of the community;(h) the impact of a dismissal upon the confidence of the public in the criminal justice system;(i) where the court deems it appropriate, the attitude of the complainant or victim with respect to the motion;(j) any other relevant fact indicating that a judgment of conviction would serve no useful purpose.2. An order dismissing an accusatory instrument specified in subdivision one in the interest of justice may be issued upon motion of the people or of the court itself as well as upon that of the defendant. Upon issuing such an order, the court must set forth its reasons therefor upon the record. (a) the seriousness and circumstances of the offense; (b) the extent of harm caused by the offense; (c) the evidence of guilt, whether admissible or inadmissible at trial; (d) the history, character and condition of the defendant; (e) any exceptionally serious misconduct of law enforcement personnel in the investigation, arrest and prosecution of the defendant; (f) the purpose and effect of imposing upon the defendant a sentence authorized for the offense; (g) the impact of a dismissal on the safety or welfare of the community; (h) the impact of a dismissal upon the confidence of the public in the criminal justice system; (i) where the court deems it appropriate, the attitude of the complainant or victim with respect to the motion; (j) any other relevant fact indicating that a judgment of conviction would serve no useful purpose. 2. An order dismissing an accusatory instrument specified in subdivision one in the interest of justice may be issued upon motion of the people or of the court itself as well as upon that of the defendant. Upon issuing such an order, the court must set forth its reasons therefor upon the record.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 170 - Proceedings Upon Information, Simplified Traffic Information, Prosecutor's Information and Misdemeanor Complaint From Arraignment to Plea170.45 - Motion to Dismiss Information, Simplified Traffic Information, Prosecutor's Information or Misdemeanor Complaint; Procedure.

prosecutor's information or misdemeanor complaint; procedure. The procedural rules prescribed in section 210.45 with respect to the making, consideration and disposition of a motion to dismiss an indictment are also applicable to a motion to dismiss an information, a simplified traffic information, a prosecutor's information or a misdemeanor complaint.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 170 - Proceedings Upon Information, Simplified Traffic Information, Prosecutor's Information and Misdemeanor Complaint From Arraignment to Plea170.50 - Motion in Superior Court to Dismiss Prosecutor's Information.

1. At any time after arraignment in a local criminal court upon a prosecutor's information filed at the direction of a grand jury and before entry of a plea of guilty thereto or commencement of a trial thereof, the local criminal court wherein the prosecutor's information is filed may, upon motion of the defendant, dismiss such prosecutor's information or a count thereof upon the ground that:(a) The evidence before the grand jury was not legally sufficient to support the charge; or(b) The grand jury proceeding resulting in the filing of such prosecutor's information was defective.2. The criteria and procedures for consideration and disposition of such motion are the same as those prescribed in sections 210.30 and 210.35, governing consideration and disposition of a motion to dismiss an indictment on the ground of insufficiency of grand jury evidence or of a defective grand jury proceeding; and, where appropriate, the general procedural rules prescribed in section 210.45 for consideration and disposition of a motion to dismiss an indictment are also applicable.3. Upon dismissing a prosecutor's information or a count thereof pursuant to this section, the court may, upon application of the people, in its discretion authorize the people to resubmit the charge or charges to the same or another grand jury. In the absence of such authorization, such charge or charges may not be resubmitted to a grand jury. The rules prescribed in subdivisions eight and nine of section 210.45 concerning the discharge of a defendant from custody or exoneration of bail in the absence of an authorization to resubmit an indictment to a grand jury, and concerning the issuance of a securing order and the effective period thereof where such an authorization is issued, apply equally where a prosecutor's information is dismissed pursuant to this section. (a) The evidence before the grand jury was not legally sufficient to support the charge; or (b) The grand jury proceeding resulting in the filing of such prosecutor's information was defective. 2. The criteria and procedures for consideration and disposition of such motion are the same as those prescribed in sections 210.30 and 210.35, governing consideration and disposition of a motion to dismiss an indictment on the ground of insufficiency of grand jury evidence or of a defective grand jury proceeding; and, where appropriate, the general procedural rules prescribed in section 210.45 for consideration and disposition of a motion to dismiss an indictment are also applicable. 3. Upon dismissing a prosecutor's information or a count thereof pursuant to this section, the court may, upon application of the people, in its discretion authorize the people to resubmit the charge or charges to the same or another grand jury. In the absence of such authorization, such charge or charges may not be resubmitted to a grand jury. The rules prescribed in subdivisions eight and nine of section 210.45 concerning the discharge of a defendant from custody or exoneration of bail in the absence of an authorization to resubmit an indictment to a grand jury, and concerning the issuance of a securing order and the effective period thereof where such an authorization is issued, apply equally where a prosecutor's information is dismissed pursuant to this section.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 170 - Proceedings Upon Information, Simplified Traffic Information, Prosecutor's Information and Misdemeanor Complaint From Arraignment to Plea170.55 - Adjournment in Contemplation of Dismissal.

1. Upon or after arraignment in a local criminal court upon an information, a simplified information, a prosecutor's information or a misdemeanor complaint, and before entry of a plea of guilty thereto or commencement of a trial thereof, the court may, upon motion of the people or the defendant and with the consent of the other party, or upon the court's own motion with the consent of both the people and the defendant, order that the action be "adjourned in contemplation of dismissal," as prescribed in subdivision two. 2. An adjournment in contemplation of dismissal is an adjournment of the action without date ordered with a view to ultimate dismissal of the accusatory instrument in furtherance of justice. Upon issuing such an order, the court must release the defendant on his own recognizance. Upon application of the people, made at any time not more than six months, or in the case of a family offense as defined in subdivision one of section 530.11 of this chapter, one year, after the issuance of such order, the court may restore the case to the calendar upon a determination that dismissal of the accusatory instrument would not be in furtherance of justice, and the action must thereupon proceed. If the case is not so restored within such six months or one year period, the accusatory instrument is, at the expiration of such period, deemed to have been dismissed by the court in furtherance of justice. 3. In conjunction with an adjournment in contemplation of dismissal the court may issue a temporary order of protection pursuant to section 530.12 or 530.13 of this chapter, requiring the defendant to observe certain specified conditions of conduct. 4. Where the local criminal court information, simplified information, prosecutor's information, or misdemeanor complaint charges a crime or violation between spouses or between parent and child, or between members of the same family or household, as the term "members of the same

family or household" is defined in subdivision one of section 530.11 of this chapter, the court may as a condition of an adjournment in contemplation of dismissal order, require that the defendant participate in an educational program addressing the issues of spousal abuse and family violence. 5. The court may grant an adjournment in contemplation of dismissal on condition that the defendant participate in dispute resolution and comply with any award or settlement resulting therefrom. 6. The court may as a condition of an adjournment in contemplation of dismissal order, require the defendant to perform services for a public or not-for-profit corporation, association, institution or agency. Such condition may only be imposed where the defendant has consented to the amount and conditions of such service. The court may not impose such conditions in excess of the length of the adjournment. 6-a. The court may, as a condition of an authorized adjournment in contemplation of dismissal, where the defendant has been charged with an offense and the elements of such offense meet the criteria of an "eligible offense" and such person qualified as an "eligible person" as such terms are defined in section four hundred fifty-eight-l of the social services law, require the defendant to participate in an education reform program in accordance with section four hundred fifty-eight-l of the social services law. 7. The court may, as a condition of an adjournment in contemplation of dismissal order, where a defendant is under twenty-one years of age and is charged with (a) a misdemeanor or misdemeanors other than section eleven hundred ninety-two of the vehicle and traffic law, in which the record indicates the consumption of alcohol by the defendant may have been a contributing factor, or (b) a violation of paragraph (a) of subdivision one of section sixty-five-b of the alcoholic beverage control law, require the defendant to attend an alcohol awareness program established pursuant to subdivision (a) of section 19.07 of the mental hygiene law. 8. The granting of an adjournment in contemplation of dismissal shall not be deemed to be a conviction or an admission of guilt. No person shall suffer any disability or forfeiture as a result of such an order. Upon the dismissal of the accusatory instrument pursuant to this section, the arrest and prosecution shall be deemed a nullity and the defendant shall be restored, in contemplation of law, to the status he occupied before his arrest and prosecution. 9. Notwithstanding any other provision of this section, a court may not issue an order adjourning an action in contemplation of dismissal if the offense is for a violation of the vehicle and traffic law related to the operation of a motor vehicle (except one related to parking, stopping or standing), or a violation of a local law, rule or ordinance related to the operation of a motor vehicle (except one related to parking, stopping or standing), if such offense was committed by the holder of a commercial learner's permit or a commercial driver's license or was committed in a commercial motor vehicle, as defined in subdivision four of section five hundred one-a of the vehicle and traffic law.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 170 - Proceedings Upon Information, Simplified Traffic Information, Prosecutor's Information and Misdemeanor Complaint From Arraignment to Plea170.56 - Adjournment in Contemplation of Dismissal in Cases Involving Marihuana.

marihuana. 1. Upon or after arraignment in a local criminal court upon an information, a prosecutor's information or a misdemeanor complaint, where the sole remaining count or counts charge a violation or violations of section 222.10, 222.15, 222.25, 222.30, 222.45 or 222.50 of the penal law, or upon summons for a nuisance offense under section sixty-five-c of the alcoholic beverage control law and before the entry of a plea of guilty thereto or commencement of a trial thereof, the court, upon motion of a defendant, may order that all proceedings be suspended and the action adjourned in contemplation of dismissal, or upon a finding that adjournment would not be necessary or appropriate and the setting forth in the record of the reasons for such findings, may dismiss in furtherance of justice the accusatory instrument; provided, however, that the court may not order such adjournment in contemplation of dismissal or dismiss the accusatory instrument if: (a) the defendant has previously been granted such adjournment in contemplation of dismissal, or (b) the defendant has previously been granted a dismissal under this section, or (c) the defendant has previously been convicted of any offense involving controlled substances, or (d) the defendant has previously been convicted of a crime and the district attorney does not consent or (e) the defendant has previously been adjudicated a youthful offender on the basis of any act or acts involving controlled substances and the district attorney does not consent. Notwithstanding the limitations set forth in this subdivision, the court may order that all proceedings be suspended and the action adjourned in contemplation of dismissal based upon a finding of exceptional circumstances. For purposes of this subdivision, exceptional circumstances exist when, regardless of the ultimate disposition of the case, the entry of a plea of guilty is likely to result in severe or ongoing consequences, including, but not limited to, potential or actual immigration consequences. 2. Upon ordering the action adjourned in contemplation of dismissal, the court must set and specify such conditions for the adjournment as may be appropriate, and such conditions may include placing the defendant under the supervision of any public or private agency. At any time prior to dismissal the court may modify the conditions or extend or reduce the term of the adjournment, except that the total period of adjournment shall not exceed twelve months. Upon violation of any condition fixed by the court, the court may revoke its order and restore the case to the calendar and the prosecution thereupon must proceed. If the case is not so restored to the calendar during the period fixed by the court, the accusatory instrument is, at the expiration of such period, deemed to have been dismissed in the furtherance of justice. 3. Upon or after dismissal of such charges against a defendant not previously convicted of a crime, the court shall order that all official records and papers, relating to the defendant's arrest and prosecution, whether on file with the court, a police agency, or the New York state division of criminal justice services, be sealed and, except as otherwise provided in paragraph (d) of subdivision one of section 160.50 of this chapter, not made available to any person or public or private agency; except, such records shall be made available under order of a court for the purpose of determining whether, in subsequent proceedings, such person qualifies under this section for a dismissal or adjournment in contemplation of dismissal of the accusatory instrument. 4. Upon the granting of an order pursuant to subdivision three, the arrest and prosecution shall be deemed a nullity and the defendant shall be restored, in

contemplation of law, to the status he occupied before his arrest and prosecution.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 170 - Proceedings Upon Information, Simplified Traffic Information, Prosecutor's Information and Misdemeanor Complaint From Arraignment to Plea170.60 - Requirement of Plea to Information, Simplified Information or Prosecutor's Information.

prosecutor's information. Unless an information, a simplified information or a prosecutor's information is dismissed or the criminal action thereon terminated or abated pursuant to a provision of this article or some other provision of law, the defendant must be required to enter a plea thereto.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 170 - Proceedings Upon Information, Simplified Traffic Information, Prosecutor's Information and Misdemeanor Complaint From Arraignment to Plea170.65 - Replacement of Misdemeanor Complaint by Information and Waiver Thereof.

thereof. 1. A defendant against whom a misdemeanor complaint is pending is not required to enter a plea thereto. For purposes of prosecution, such instrument must, except as provided in subdivision three, be replaced by an information, and the defendant must be arraigned thereon. If the misdemeanor complaint is supplemented by a supporting deposition and such instruments taken together satisfy the requirements for a valid information, such misdemeanor complaint is deemed to have been converted to and to constitute a replacing information. 2. An information which replaces a misdemeanor complaint need not charge the same offense or offenses, but at least one count thereof must charge the commission by the defendant of an offense based upon conduct which was the subject of the misdemeanor complaint. In addition, the information may, subject to the rules of joinder, charge any other offense which the factual allegations thereof or of any supporting depositions accompanying it are legally sufficient to support, even though such offense is not based upon conduct which was the subject of the misdemeanor complaint. 3. A defendant who has been arraigned upon a misdemeanor complaint may waive prosecution by information and consent to be prosecuted upon the misdemeanor complaint. In such case, the defendant must be required, either upon the date of the waiver or subsequent thereto, to enter a plea to the misdemeanor complaint.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 170 - Proceedings Upon Information, Simplified Traffic Information, Prosecutor's Information and Misdemeanor Complaint From Arraignment to Plea170.70 - Release of Defendant Upon Failure to Replace Misdemeanor Complaint by Information.

complaint by information. Upon application of a defendant against whom a misdemeanor complaint is pending in a local criminal court, and who, either at the time of his arraignment thereon or subsequent thereto, has been committed to the custody of the sheriff pending disposition of the action, and who has been confined in such custody for a period of more than five days, not including Sunday, without any information having been filed in replacement of such misdemeanor complaint, the criminal court must release the defendant on his own recognizance unless: 1. The defendant has waived prosecution by information and consented to be prosecuted upon the misdemeanor complaint, pursuant to subdivision three of section 170.65; or 2. The court is satisfied that there is good cause why such order of release should not be issued. Such good cause must consist of some compelling fact or circumstance which precluded replacement of the misdemeanor complaint by an information or a prosecutor's information within the prescribed period.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 170 - Proceedings Upon Information, Simplified Traffic Information, Prosecutor's Information and Misdemeanor Complaint From Arraignment to Plea170.80 - Proceedings Regarding Certain Prostitution Charges; Certain Persons Aged Sixteen or Seventeen.

persons aged sixteen or seventeen. 1. Notwithstanding any other provision of law, at any time at or after arraignment on a charge of prostitution pursuant to section 230.00 of the penal law, after consultation with counsel, a knowing and voluntary plea of guilty has been entered to such charge, any judge or justice hearing any stage of such case may, upon consent of the defendant after consultation with counsel:(a) conditionally convert such charge in accordance with subdivision three of this section and retain it as a person in need of supervision proceeding for all purposes, and shall make such proceeding fully subject to the provisions and grant any relief available under article seven of the family court act; and/or(b) order the provision of any of the specialized services enumerated in title eight-A of article six of the social services law, as may be reasonably available.2. In the event of a conviction by plea or verdict to such charge or charges of prostitution or loitering for the purposes of prostitution as described in subdivision one of this section, the court must find that the person is a youthful offender for the purpose of such charge and proceed in accordance with article seven hundred twenty of this chapter, provided, however, that the available sentence shall be the sentence that may be imposed for a violation as defined in subdivision three of section 10.00 of the penal law. In such case, the records of the investigation and proceedings relating to such charge shall be sealed in accordance with section 720.35 of this chapter.3. (a) When a charge of prostitution or loitering for the purposes of prostitution has been conditionally converted to a person in need of supervision

proceeding pursuant to subdivision one of this section, the defendant shall be deemed a "sexually exploited child" as defined in subdivision one of section four hundred forty-seven-a of the social services law and therefore shall not be considered an adult for purposes related to the charges in the person in need of supervision proceeding. Sections seven hundred eighty-one, seven hundred eighty-two, seven hundred eighty-two-a, seven hundred eighty-three and seven hundred eighty-four of the family court act shall apply to any proceeding conditionally converted under this section.(b) The court after hearing from the parties shall state the condition or conditions of such conversion, which may include the individual's participation in specialized services provided pursuant to title eight-A of article six of the social services law and other appropriate services available to persons in need of supervision in accordance with article seven of the family court act.(c)(i) The court may, upon written application by the people at any time during the pendency of the person in need of supervision proceeding or during any disposition thereof, but in no event later than the individual's eighteenth birthday, restore the accusatory instrument if the court is satisfied by competent proof that the individual, without just cause, is not in substantial compliance with the condition or conditions of the conversion.(ii) Notice of such an application to restore an accusatory instrument shall be served on the person and his or her counsel by the court. The notice shall include a statement setting forth a reasonable description of why the person is not in substantial compliance with the condition or conditions of the conversion and a date upon which such person shall appear before the court. The court shall afford the person the right to counsel and the right to be heard. Upon such appearance, the court must advise the person of the contents of the notice and the consequences of a finding of failure to substantially comply with the conditions of conversion. At the time of such appearance the court must ask the person whether he or she wishes to make any statement with respect to such alleged failure to substantially comply. In determining whether such person has failed to substantially comply with the terms of the conversion, the court shall conduct a hearing at which time such person may cross-examine witnesses and present evidence on his or her own behalf. Any findings the court shall make, shall be made on the court record. If the court finds that such person did not substantially comply, it may restore the accusatory instrument pursuant to subparagraph (i) of this paragraph, modify the terms of conversion in accordance with this section or otherwise continue such terms as in its discretion it deems just and proper.(iii) If such accusatory instrument is restored pursuant to subparagraph (i) of this paragraph, the proceeding shall continue in accordance with subdivision two of this section. If the individual does not comply with services or does not return to court, the individual shall be returned in accordance with the provisions of article seven of the family court act.4. At the conclusion of a person in need of supervision proceeding pursuant to this section, all records of the investigation and proceedings relating to such proceedings, including records created before the charge was conditionally converted, shall be sealed in accordance with section 720.35 of this chapter. (a) conditionally convert such charge in accordance with subdivision three of this section and retain it as a person in need of supervision proceeding for all purposes, and shall make such proceeding fully subject to the provisions and grant any relief available under article seven of the family court act; and/or (b) order the provision of any of the specialized services enumerated in title eight-A of article six of the social services law, as may be reasonably available. 2. In the event of a conviction by plea or verdict to such charge or charges of prostitution or loitering for the purposes of prostitution as described in subdivision one of this section, the court must find that the person is a youthful offender for the purpose of such charge and proceed in accordance with article seven hundred twenty of this chapter, provided, however, that the available sentence shall be the sentence that may be imposed for a violation as defined in subdivision three of section 10.00 of the penal law. In such case, the records of the investigation and proceedings relating to such charge shall be sealed in accordance with section 720.35 of this chapter. 3. (a) When a charge of prostitution or loitering for the purposes of prostitution has been conditionally converted to a person in need of supervision proceeding pursuant to subdivision one of this section, the defendant shall be deemed a "sexually exploited child" as defined in subdivision one of section four hundred forty-seven-a of the social services law and therefore shall not be considered an adult for purposes related to the charges in the person in need of supervision proceeding. Sections seven hundred eighty-one, seven hundred eighty-two, seven hundred eighty-two-a, seven hundred eighty-three and seven hundred eighty-four of the family court act shall apply to any proceeding conditionally converted under this section. (b) The court after hearing from the parties shall state the condition or conditions of such conversion, which may include the individual's participation in specialized services provided pursuant to title eight-A of article six of the social services law and other appropriate services available to persons in need of supervision in accordance with article seven of the family court act. (c)(i) The court may, upon written application by the people at any time during the pendency of the person in need of supervision proceeding or during any disposition thereof, but in no event later than the individual's eighteenth birthday, restore the accusatory instrument if the court is satisfied by competent proof that the individual, without just cause, is not in substantial compliance with the condition or conditions of the conversion. (ii) Notice of such an application to restore an accusatory instrument shall be served on the person and his or her counsel by the court. The notice shall include a statement setting forth a reasonable description of why the person is not in substantial compliance with the condition or conditions of the conversion and a date upon which such person shall appear before the court. The court shall afford the person the right to counsel and the right to be heard. Upon such appearance, the court must advise the person of the contents of the notice and the consequences of a finding of failure to substantially comply with the conditions of conversion. At the time of such appearance the court must ask the person whether he or she wishes to make any statement with respect to such alleged failure to substantially comply. In determining whether such person has failed to substantially comply with the terms of the conversion, the court shall conduct a hearing at which time such person may cross-examine witnesses and present evidence on his or her own behalf. Any findings the court shall make, shall be made on the court record. If the court finds that such person did not substantially comply, it may restore the accusatory instrument pursuant to subparagraph (i) of this paragraph, modify the terms of conversion in accordance with this section or otherwise continue such terms as in its discretion it deems just and proper. (iii) If such accusatory instrument is restored pursuant to subparagraph (i) of

this paragraph, the proceeding shall continue in accordance with subdivision two of this section. If the individual does not comply with services or does not return to court, the individual shall be returned in accordance with the provisions of article seven of the family court act. 4. At the conclusion of a person in need of supervision proceeding pursuant to this section, all records of the investigation and proceedings relating to such proceedings, including records created before the charge was conditionally converted, shall be sealed in accordance with section 720.35 of this chapter.

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rights, court's instructions and bail matters. 1. Upon the defendant's arraignment before a local criminal court upon a felony complaint, the court must immediately inform him, or cause him to be informed in its presence, of the charge or charges against him and that the primary purpose of the proceedings upon such felony complaint is to determine whether the defendant is to be held for the action of a grand jury with respect to the charges contained therein. The court must furnish the defendant with a copy of the felony complaint. 2. The defendant has a right to a prompt hearing upon the issue of whether there is sufficient evidence to warrant the court in holding him for the action of a grand jury, but he may waive such right. 3. The defendant has a right to the aid of counsel at the arraignment and at every subsequent stage of the action, and, if he appears upon such arraignment without counsel, has the following rights:(a) To an adjournment for the purpose of obtaining counsel; and(b) To communicate, free of charge, by letter or by telephone provided by the law enforcement facility where the defendant is held to a phone number located in the United States or Puerto Rico, for the purpose of obtaining counsel and informing a relative or friend that he or she has been charged with an offense; and(c) To have counsel assigned by the court in any case where he is financially unable to obtain the same.4. The court must inform the defendant of all rights specified in subdivisions two and three. The court must accord the defendant opportunity to exercise such rights and must itself take such affirmative action as is necessary to effectuate them.5. If the defendant desires to proceed without the aid of counsel, the court must permit him to do so if it is satisfied that he made such decision with knowledge of the significance thereof, but if it is not so satisfied it may not proceed until the defendant is provided with counsel, either of his own choosing or by assignment. A defendant who proceeds at the arraignment without counsel does not waive his right to counsel, and the court must inform him that he continues to have such right as well as all the rights specified in subdivision three which are necessary to effectuate it, and that he may exercise such rights at any stage of the action.6. Upon the arraignment, the court, unless it intends immediately thereafter to dismiss the felony complaint and terminate the action, must issue a securing order which, as provided in subdivision two of section 530.20, either releases the defendant on his own recognizance or fixes bail or commits him to the custody of the sheriff for his future appearance in such action.7. Notwithstanding any contrary provision of this section, when an off-hours arraignment part designated in accordance with paragraph (w) of subdivision one of section two hundred twelve of the judiciary law is in operation in the county in which the court is located, the court must adjourn the proceedings before it, and direct that the proceedings be continued in such off-hours part when the defendant has appeared before the court without counsel and no counsel is otherwise available at the time of such appearance to aid the defendant. (a) To an adjournment for the purpose of obtaining counsel; and (b) To communicate, free of charge, by letter or by telephone provided by the law enforcement facility where the defendant is held to a phone number located in the United States or Puerto Rico, for the purpose of obtaining counsel and informing a relative or friend that he or she has been charged with an offense; and (c) To have counsel assigned by the court in any case where he is financially unable to obtain the same. 4. The court must inform the defendant of all rights specified in subdivisions two and three. The court must accord the defendant opportunity to exercise such rights and must itself take such affirmative action as is necessary to effectuate them. 5. If the defendant desires to proceed without the aid of counsel, the court must permit him to do so if it is satisfied that he made such decision with knowledge of the significance thereof, but if it is not so satisfied it may not proceed until the defendant is provided with counsel, either of his own choosing or by assignment. A defendant who proceeds at the arraignment without counsel does not waive his right to counsel, and the court must inform him that he continues to have such right as well as all the rights specified in subdivision three which are necessary to effectuate it, and that he may exercise such rights at any stage of the action. 6. Upon the arraignment, the court, unless it intends immediately thereafter to dismiss the felony complaint and terminate the action, must issue a securing order which, as provided in subdivision two of section 530.20, either releases the defendant on his own recognizance or fixes bail or commits him to the custody of the sheriff for his future appearance in such action. 7. Notwithstanding any contrary provision of this section, when an off-hours arraignment part designated in accordance with paragraph (w) of subdivision one of section two hundred twelve of the judiciary law is in operation in the county in which the court is located, the court must adjourn the proceedings before it, and direct that the proceedings be continued in such off-hours part when the defendant has appeared before the court without counsel and no counsel is otherwise available at the time of such appearance to aid the defendant.

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local criminal court to another. Under circumstances prescribed in this section, a criminal action based upon a pending felony complaint may be removed from one local criminal court to another: 1. When a defendant arrested by a police officer for a felony

allegedly committed in a town has not been brought before the town court of the town, or as the case may be before the village court of the village, in which the felony charged was allegedly committed, but, instead, to another local criminal court of the county and there stands charged with such offense by felony complaint, such latter court must arraign him upon such felony complaint. Such court must then either:(a) Dispose of the felony complaint pursuant to this article. If such disposition results in a reduction of the felony charge and the filing of an information or prosecutor's information charging a misdemeanor or a petty offense pursuant to section 180.50 or subdivision two or three of section 180.70, such court must conduct the action to judgment or other final disposition; or(b) Remit the action upon the felony complaint, together with all pertinent papers and documents, to the town court of the town, or as the case may be to the village court of the village, in which the felony charged was allegedly committed. In such case, the latter court must dispose of the felony complaint pursuant to this article.1-a. When a defendant arrested by a police officer for a felony allegedly committed in a city has not been brought before the city court of such city but, instead, to the local criminal court of an adjoining town or village of the same county and there stands charged with such offense by felony complaint, such latter court must arraign him upon such felony complaint. Such court must then either:(a) Dispose of the felony complaint pursuant to this article. If such disposition results in a reduction of the felony charge and the filing of an information or prosecutor's information charging a misdemeanor or a petty offense pursuant to section 180.50 or subdivision two or three of section 180.70 of this article, such court must conduct the action to judgment or other final disposition; or(b) Remit the action upon the felony complaint, together with all pertinent papers and documents, to the city court of the city in which the felony charged was allegedly committed. In such case, the latter court must dispose of the felony complaint pursuant to this article.2. When a defendant arrested by a police officer for a felony has been brought before a superior court judge sitting as a local criminal court for arraignment upon a felony complaint charging such felony, such judge must, as a local criminal court, arraign the defendant upon such felony complaint. Such court must then either:(a) Dispose of the felony complaint pursuant to this article. If however, such disposition results in a reduction of the charge and the filing of an information or prosecutor's information charging a misdemeanor or a petty offense, such judge, after arraigning the defendant upon such accusatory instrument, must remit the action, together with all pertinent papers and documents, to a local criminal court having trial jurisdiction of the offense charged, and the latter court must then conduct the action to judgment or other final disposition; or(b) Remit the action upon the felony complaint, together with all pertinent papers and documents, to a local criminal court having geographical jurisdiction over the area in which the felony charged was allegedly committed. In such case, such latter court must dispose of the felony complaint pursuant to this article.3. Notwithstanding any provision of this section to the contrary, in any county outside a city having a population of one million or more, upon or after arraignment of a defendant on a felony complaint pending in a local criminal court having preliminary jurisdiction thereof, such court may, upon motion of the defendant and with the consent of the district attorney, order that the action be removed from the court in which the matter is pending to another local criminal court in the same county which has been designated a drug court by the chief administrator of the courts, and such drug court may then dispose of such felony complaint pursuant to this article; provided, however, that an order of removal issued under this subdivision shall not take effect until five days after the date the order is issued unless, prior to such effective date, the drug court notifies the court that issued the order that:(a) it will not accept the action, in which event the order shall not take effect, or(b) it will accept the action on a date prior to such effective date, in which event the order shall take effect upon such prior date.Upon providing notification pursuant to paragraph (a) or (b) of this subdivision, the drug court shall promptly give notice to the defendant, his or her counsel and the district attorney.4. (a) Notwithstanding any provision of this section to the contrary, in any county outside a city having a population of one million or more, upon or after arraignment of a defendant on a felony complaint pending in a local criminal court having preliminary jurisdiction thereof, such court may, upon motion of the defendant and after giving the district attorney an opportunity to be heard, order that the action be removed from the court in which the matter is pending to another local criminal court in the same county, or with consent of the district attorney and the district attorney of the adjoining county to another court in such adjoining county, that has been designated as a human trafficking court or veterans treatment court by the chief administrator of the courts, and such human trafficking court or veterans treatment court may then conduct such action to judgment or other final disposition; provided, however, that no court may order removal pursuant to this subdivision to a veterans treatment court of a family offense charge described in subdivision one of section 530.11 of this chapter where the accused and the person alleged to be the victim of such offense charged are members of the same family or household as defined in such subdivision one of section 530.11; and provided further an order of removal issued under this subdivision shall not take effect until five days after the date the order is issued unless, prior to such effective date, the human trafficking court or veterans treatment court notifies the court that issued the order that:i. it will not accept the action, in which event the order shall not take effect; orii. it will accept the action on a date prior to such effective date, in which event the order shall take effect upon such prior date.(b) Upon providing notification pursuant to subparagraph i or ii of paragraph (a) of this subdivision, the human trafficking court or veterans treatment court shall promptly give notice to the defendant, his or her counsel and the district attorney. (a) Dispose of the felony complaint pursuant to this article. If such disposition results in a reduction of the felony charge and the filing of an information or prosecutor's information charging a misdemeanor or a petty offense pursuant to section 180.50 or subdivision two or three of section 180.70, such court must conduct the action to judgment or other final disposition; or (b) Remit the action upon the felony complaint, together with all pertinent papers and documents, to the town court of the town, or as the case may be to the village court of the village, in which the felony charged was allegedly committed. In such case, the latter court must dispose of the felony complaint pursuant to this article. 1-a. When a defendant arrested by a police officer for a felony allegedly committed in a city has not been brought before the city court of such city but, instead, to the local criminal court of an adjoining town or village of the same county and there stands charged with such offense by felony complaint, such latter court must arraign him upon such

felony complaint. Such court must then either: (a) Dispose of the felony complaint pursuant to this article. If such disposition results in a reduction of the felony charge and the filing of an information or prosecutor's information charging a misdemeanor or a petty offense pursuant to section 180.50 or subdivision two or three of section 180.70 of this article, such court must conduct the action to judgment or other final disposition; or (b) Remit the action upon the felony complaint, together with all pertinent papers and documents, to the city court of the city in which the felony charged was allegedly committed. In such case, the latter court must dispose of the felony complaint pursuant to this article. 2. When a defendant arrested by a police officer for a felony has been brought before a superior court judge sitting as a local criminal court for arraignment upon a felony complaint charging such felony, such judge must, as a local criminal court, arraign the defendant upon such felony complaint. Such court must then either: (a) Dispose of the felony complaint pursuant to this article. If however, such disposition results in a reduction of the charge and the filing of an information or prosecutor's information charging a misdemeanor or a petty offense, such judge, after arraigning the defendant upon such accusatory instrument, must remit the action, together with all pertinent papers and documents, to a local criminal court having trial jurisdiction of the offense charged, and the latter court must then conduct the action to judgment or other final disposition; or (b) Remit the action upon the felony complaint, together with all pertinent papers and documents, to a local criminal court having geographical jurisdiction over the area in which the felony charged was allegedly committed. In such case, such latter court must dispose of the felony complaint pursuant to this article. 3. Notwithstanding any provision of this section to the contrary, in any county outside a city having a population of one million or more, upon or after arraignment of a defendant on a felony complaint pending in a local criminal court having preliminary jurisdiction thereof, such court may, upon motion of the defendant and with the consent of the district attorney, order that the action be removed from the court in which the matter is pending to another local criminal court in the same county which has been designated a drug court by the chief administrator of the courts, and such drug court may then dispose of such felony complaint pursuant to this article; provided, however, that an order of removal issued under this subdivision shall not take effect until five days after the date the order is issued unless, prior to such effective date, the drug court notifies the court that issued the order that: (a) it will not accept the action, in which event the order shall not take effect, or (b) it will accept the action on a date prior to such effective date, in which event the order shall take effect upon such prior date. Upon providing notification pursuant to paragraph (a) or (b) of this subdivision, the drug court shall promptly give notice to the defendant, his or her counsel and the district attorney. 4. (a) Notwithstanding any provision of this section to the contrary, in any county outside a city having a population of one million or more, upon or after arraignment of a defendant on a felony complaint pending in a local criminal court having preliminary jurisdiction thereof, such court may, upon motion of the defendant and after giving the district attorney an opportunity to be heard, order that the action be removed from the court in which the matter is pending to another local criminal court in the same county, or with consent of the district attorney and the district attorney of the adjoining county to another court in such adjoining county, that has been designated as a human trafficking court or veterans treatment court by the chief administrator of the courts, and such human trafficking court or veterans treatment court may then conduct such action to judgment or other final disposition; provided, however, that no court may order removal pursuant to this subdivision to a veterans treatment court of a family offense charge described in subdivision one of section 530.11 of this chapter where the accused and the person alleged to be the victim of such offense charged are members of the same family or household as defined in such subdivision one of section 530.11; and provided further an order of removal issued under this subdivision shall not take effect until five days after the date the order is issued unless, prior to such effective date, the human trafficking court or veterans treatment court notifies the court that issued the order that: i. it will not accept the action, in which event the order shall not take effect; or ii. it will accept the action on a date prior to such effective date, in which event the order shall take effect upon such prior date. (b) Upon providing notification pursuant to subparagraph i or ii of paragraph (a) of this subdivision, the human trafficking court or veterans treatment court shall promptly give notice to the defendant, his or her counsel and the district attorney.

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be taken. If the defendant waives a hearing upon the felony complaint, the court must either: 1. Order that the defendant be held for the action of a grand jury of the appropriate superior court with respect to the charge or charges contained in the felony complaint. In such case, the court must promptly transmit to such superior court the order, the felony complaint, the supporting depositions and all other pertinent documents. Until such papers are received by the superior court, the action is deemed to be still pending in the local criminal court; or 2. Make inquiry, pursuant to section 180.50, for the purpose of determining whether the felony complaint should be dismissed and an information, a prosecutor's information or a misdemeanor complaint filed with the court in lieu thereof.

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court following hearing or waiver of hearing. Where the local criminal court has held a defendant for the action of a grand jury, the district attorney may, at any time before such matter is submitted to the grand jury, apply, ex parte, to the appropriate superior court for an order directing that the felony complaint and other papers transmitted to such court pursuant to subdivision one of section 180.30 be returned to the local criminal court for reconsideration of the action to be taken. The superior court may issue such an

order if it is satisfied that the felony complaint is defective or that such action is required in the interest of justice.

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1. Whether or not the defendant waives a hearing upon the felony complaint, the local criminal court may, upon consent of the district attorney, make inquiry for the purpose of determining whether (a) the available facts and evidence relating to the conduct underlying the felony complaint provide a basis for charging the defendant with an offense other than a felony, and (b) if so, whether the charge should, in the manner prescribed in subdivision three, be reduced from one for a felony to one for a non-felony offense. Upon such inquiry, the court may question any person who it believes may possess information relevant to the matter, including the defendant if he wishes to be questioned. 2. If after such inquiry the court is satisfied that there is reasonable cause to believe that the defendant committed an offense other than a felony, it may order the indicated reduction as follows:(a) If there is not reasonable cause to believe that the defendant committed a felony in addition to the non-felony offense in question, the court may as a matter of right order a reduction of the charge to one for the non-felony offense;(b) If there is reasonable cause to believe that the defendant committed a felony in addition to the non-felony offense, the court may order a reduction of the charge to one for the non-felony offense only if (i) it is satisfied that such reduction is in the interest of justice, and (ii) the district attorney consents thereto; provided, however, that the court may not order such reduction where there is reasonable cause to believe that the defendant committed a class A felony, other than those defined in article two hundred twenty of the penal law, or any armed felony as defined in subdivision forty-one of section 1.20.3. A charge is "reduced" from a felony to a non-felony offense, within the meaning of this section, by replacing the felony complaint with, or converting it to, another local criminal court accusatory instrument, as follows:(a) If the factual allegations of the felony complaint and/or any supporting depositions are legally sufficient to support the charge that the defendant committed the non-felony offense in question, the court may:(i) Direct the district attorney to file with the court a prosecutor's information charging the defendant with such non-felony offense; or(ii) Request the complainant of the felony complaint to file with the court an information charging the defendant with such non-felony offense. If such an information is filed, any supporting deposition supporting or accompanying the felony complaint is deemed also to support or accompanying the replacing information; or(iii) Convert the felony complaint, or a copy thereof, into an information by notations upon or attached thereto which make the necessary and appropriate changes in the title of the instrument and in the names of the offense or offenses charged. In case of such conversion, any supporting deposition supporting or accompanying the felony complaint is deemed also to support or accompany the information to which it has been converted;(b) If the non-felony offense in question is a misdemeanor, and if the factual allegations of the felony complaint together with those of any supporting depositions, though providing reasonable cause to believe that the defendant committed such misdemeanor are not legally sufficient to support such misdemeanor charge, the court may cause such felony complaint to be replaced by or converted to a misdemeanor complaint charging the misdemeanor in question, in the manner prescribed in subparagraphs two and three of paragraph (a) of this subdivision.(c) An information, a prosecutor's information or a misdemeanor complaint filed pursuant to this section may, pursuant to the ordinary rules of joinder, charge two or more offenses, and it may jointly charge with each offense any two or more defendants originally so charged in the felony complaint;(d) Upon the filing of an information, a prosecutor's information or a misdemeanor complaint pursuant to this section, the court must dismiss the felony complaint from which such accusatory instrument is derived. It must then arraign the defendant upon the new accusatory instrument and inform him of his rights in connection therewith in the manner provided in section 170.10.4. Upon making any finding other than that specified in subdivision two, the court must conduct a hearing upon the felony complaint, unless the defendant has waived the same. In the case of such waiver the court must order that the defendant be held for the action of a grand jury. (a) If there is not reasonable cause to believe that the defendant committed a felony in addition to the non-felony offense in question, the court may as a matter of right order a reduction of the charge to one for the non-felony offense; (b) If there is reasonable cause to believe that the defendant committed a felony in addition to the non-felony offense, the court may order a reduction of the charge to one for the non-felony offense only if (i) it is satisfied that such reduction is in the interest of justice, and (ii) the district attorney consents thereto; provided, however, that the court may not order such reduction where there is reasonable cause to believe that the defendant committed a class A felony, other than those defined in article two hundred twenty of the penal law, or any armed felony as defined in subdivision forty-one of section 1.20. 3. A charge is "reduced" from a felony to a non-felony offense, within the meaning of this section, by replacing the felony complaint with, or converting it to, another local criminal court accusatory instrument, as follows: (a) If the factual allegations of the felony complaint and/or any supporting depositions are legally sufficient to support the charge that the defendant committed the non-felony offense in question, the court may: (i) Direct the district attorney to file with the court a prosecutor's information charging the defendant with such non-felony offense; or (ii) Request the complainant of the felony complaint to file with the court an information charging the defendant with such non-felony offense. If such an information is filed, any supporting deposition supporting or accompanying the felony complaint is deemed also to support or accompanying the replacing information; or (iii) Convert the felony complaint, or a copy thereof, into an information by notations upon or attached thereto which make the necessary and appropriate changes in the title of the instrument and in the names of the offense or offenses charged. In case of such conversion, any supporting deposition supporting or accompanying the felony complaint is deemed also to support or accompany the information to which it has been converted; (b) If the non-felony offense in question is a misdemeanor, and if the factual allegations of the felony complaint together with those of any supporting depositions, though providing reasonable cause to believe that the defendant committed such

misdemeanor are not legally sufficient to support such misdemeanor charge, the court may cause such felony complaint to be replaced by or converted to a misdemeanor complaint charging the misdemeanor in question, in the manner prescribed in subparagraphs two and three of paragraph (a) of this subdivision. (c) An information, a prosecutor's information or a misdemeanor complaint filed pursuant to this section may, pursuant to the ordinary rules of joinder, charge two or more offenses, and it may jointly charge with each offense any two or more defendants originally so charged in the felony complaint; (d) Upon the filing of an information, a prosecutor's information or a misdemeanor complaint pursuant to this section, the court must dismiss the felony complaint from which such accusatory instrument is derived. It must then arraign the defendant upon the new accusatory instrument and inform him of his rights in connection therewith in the manner provided in section 170.10. 4. Upon making any finding other than that specified in subdivision two, the court must conduct a hearing upon the felony complaint, unless the defendant has waived the same. In the case of such waiver the court must order that the defendant be held for the action of a grand jury.

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thereof. A hearing upon a felony complaint must be conducted as follows: 1. The district attorney must conduct such hearing on behalf of the people. 2. The defendant may as a matter of right be present at such hearing. 3. The court must read to the defendant the felony complaint and any supporting depositions unless the defendant waives such reading. 4. Each witness, whether called by the people or by the defendant, must, unless he would be authorized to give unsworn evidence at a trial, testify under oath. Each witness, including any defendant testifying in his own behalf, may be cross-examined. 5. The people must call and examine witnesses and offer evidence in support of the charge. 6. The defendant may, as a matter of right, testify in his own behalf. 7. Upon request of the defendant, the court may, as a matter of discretion, permit him to call and examine other witnesses or to produce other evidence in his behalf. 8. Upon such a hearing, only non-hearsay evidence is admissible to demonstrate reasonable cause to believe that the defendant committed a felony; except that reports of experts and technicians in professional and scientific fields and sworn statements of the kinds specified in subdivisions two and three of section 190.30 are admissible to the same extent as in a grand jury proceeding, unless the court determines, upon application of the defendant, that such hearsay evidence is, under the particular circumstances of the case, not sufficiently reliable, in which case the court shall require that the witness testify in person and be subject to cross-examination. 9. The court may, upon application of the defendant, exclude the public from the hearing and direct that no disclosure be made of the proceedings. 10. Such hearing should be completed at one session. In the interest of justice, however, it may be adjourned by the court but, in the absence of a showing of good cause therefor, no such adjournment may be for more than one day.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 180 - Proceedings Upon Felony Complaint From Arraignment Thereon Through Disposition Thereof180.70 - Proceedings Upon Felony Complaint; Disposition of Felony Complaint After Hearing.

complaint after hearing. At the conclusion of a hearing, the court must dispose of the felony complaint as follows: 1. If there is reasonable cause to believe that the defendant committed a felony, the court must, except as provided in subdivision three, order that the defendant be held for the action of a grand jury of the appropriate superior court, and it must promptly transmit to such superior court the order, the felony complaint, the supporting depositions and all other pertinent documents. Until such papers are received by the superior court, the action is deemed to be still pending in the local criminal court. 2. If there is not reasonable cause to believe that the defendant committed a felony but there is reasonable cause to believe that he committed an offense other than a felony, the court may, by means of procedures prescribed in subdivision three of section 180.50, reduce the charge to one for such non-felony offense. 3. If there is reasonable cause to believe that the defendant committed a felony in addition to a non-felony offense, the court may, instead of ordering the defendant held for the action of a grand jury as provided in subdivision one, reduce the charge to one for such non-felony offense as provided in subdivision two, if (a) it is satisfied that such reduction is in the interest of justice, and (b) the district attorney consents thereto; provided, however, that the court may not order such reduction where there is reasonable cause to believe the defendant committed a class A felony, other than those defined in article two hundred twenty of the penal law, or any armed felony as defined in subdivision forty-one of section 1.20. 4. If there is not reasonable cause to believe that the defendant committed any offense, the court must dismiss the felony complaint and discharge the defendant from custody if he is in custody, or, if he is at liberty on bail, it must exonerate the bail.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 180 - Proceedings Upon Felony Complaint From Arraignment Thereon Through Disposition Thereof180.75 - Proceedings Upon Felony Complaint; Juvenile Offender.

1. When a juvenile offender or adolescent offender is arraigned before the youth part of a superior court or the most accessible magistrate designated by the appellate division of the supreme court in the applicable department to act as a youth part, the provisions of article seven hundred twenty-two of this chapter shall apply in lieu of the provisions of sections 180.30, 180.50 and 180.70 of this article.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 180 - Proceedings Upon Felony Complaint From Arraignment Thereon Through Disposition Thereof180.80 - Proceedings Upon Felony Complaint; Release of Defendant From Custody Upon Failure of Timely Disposition.

custody upon failure of timely disposition. Upon application of a defendant against whom a felony complaint has been filed with a local criminal court or the youth part of a superior court, and who, since the time of his arrest or subsequent thereto, has been held in custody pending disposition of such felony complaint, and who has been confined in such custody for a period of more than one hundred twenty hours or, in the event that a Saturday, Sunday or legal holiday occurs during such custody, one hundred forty-four hours, without either a disposition of the felony complaint or commencement of a hearing thereon, the court must release him on his own recognizance unless: 1. The failure to dispose of the felony complaint or to commence a hearing thereon during such period of confinement was due to the defendant's request, action or condition, or occurred with his consent; or 2. Prior to the application:(a) The district attorney files with the court a written certification that an indictment has been voted; or(b) An indictment or a direction to file a prosecutor's information charging an offense based upon conduct alleged in the felony complaint was filed by a grand jury; or3. The court is satisfied that the people have shown good cause why such order of release should not be issued. Such good cause must consist of some compelling fact or circumstance which precluded disposition of the felony complaint within the prescribed period or rendered such action against the interest of justice. (a) The district attorney files with the court a written certification that an indictment has been voted; or (b) An indictment or a direction to file a prosecutor's information charging an offense based upon conduct alleged in the felony complaint was filed by a grand jury; or 3. The court is satisfied that the people have shown good cause why such order of release should not be issued. Such good cause must consist of some compelling fact or circumstance which precluded disposition of the felony complaint within the prescribed period or rendered such action against the interest of justice.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 180 - Proceedings Upon Felony Complaint From Arraignment Thereon Through Disposition Thereof180.85 - Termination of Prosecution.

1. After arraignment of a defendant upon a felony complaint, other than a felony complaint charging an offense defined in section 125.10, 125.15, 125.20, 125.25, 125.26 or 125.27 of the penal law, either party or the local criminal court or superior court before which the action is pending, on its own motion, may move in accordance with the provisions of this section for an order terminating prosecution of the charges contained in such felony complaint on consent of the parties. 2. A motion to terminate a prosecution pursuant to this section may only be made where the count or counts of the felony complaint have not been presented to a grand jury or otherwise disposed of in accordance with this chapter. Such motion shall be filed in writing with the local criminal court or superior court in which the felony complaint is pending not earlier than twelve months following the date of arraignment on such felony complaint. Upon the filing of such motion, the court shall fix a return date and provide the parties with at least thirty days' written notice of the motion and return date. 3. Where, upon motion to terminate a prosecution pursuant to this section, both parties consent to such termination, the court, on the return date of such motion, shall enter an order terminating such prosecution. For purposes of this subdivision, a party that is given written notice of a motion to terminate a prosecution shall be deemed to consent to such termination unless, prior to the return date of such motion, such party files a notice of opposition thereto with the court. Except as otherwise provided in subdivision four, where such a notice of opposition is filed, the court, on the return date of the motion, shall enter an order denying the motion to terminate the prosecution. 4. Notwithstanding any other provision of this section, where the people file a notice of opposition pursuant to subdivision three, the court, on the return date of the motion, may defer disposition of such motion for a period of forty-five days. In such event, if the count or counts of such felony complaint are presented to a grand jury or otherwise disposed of within such period, the court, upon the expiration thereof, shall enter an order denying the motion to terminate the prosecution. If such count or counts are not presented to a grand jury or otherwise disposed of within such period, the court, upon the expiration thereof, shall enter an order terminating the prosecution unless, within the forty-five day period, the people, on at least five days' written notice to the defendant, show good cause for their failure to present or otherwise dispose of such count or counts. If such good cause is shown, the court, upon expiration of the forty-five day period, shall enter an order denying the motion to terminate the prosecution. 5. Notwithstanding any other provision of law, the defendant's appearance in court on the return date of the motion or on any other date shall not be required as a prerequisite to entry of an order under this section. 6. The period from the filing of a motion pursuant to this section until entry of an order disposing of such motion shall not, by reason of such motion, be considered a period of delay for purposes of subdivision four of section 30.30, nor shall such period, by reason of such motion, be excluded in computing the time within which the people must be ready for trial pursuant to such section 30.30. 7. Where a prosecution is terminated pursuant to this section, nothing contained herein shall preclude the people from subsequently filing an indictment charging the same count or counts provided such filing is in accordance with the provisions of this section, article thirty and any other relevant provisions of this chapter. Where the people indicate their intention to seek an indictment following the entry of an order terminating a prosecution pursuant to this section, the court shall, notwithstanding any provision of section 160.50 to the contrary, stay sealing under that section for a reasonable period not to exceed thirty days to permit the people an opportunity to pursue such indictment. 8. Where an order denying a party's motion to terminate a prosecution is entered pursuant to this section, such party may not file a subsequent motion to terminate the prosecution pursuant to this section for at least six

months from the date on which such order is entered. 9. Notwithstanding any other provision of this section, where a motion to terminate a prosecution is filed with a local criminal court pursuant to subdivision two, and, prior to the determination thereof, such court is divested of jurisdiction by the filing of an indictment charging the offense or offenses contained in the felony complaint, such motion shall be deemed to have been denied as of the date of such divestiture. 10. The chief administrator of the courts, in consultation with the director of the division of criminal justice services and representatives of appropriate prosecutorial and criminal defense organizations in the state, shall adopt forms for the motion to terminate a prosecution authorized by subdivision one and for the notice of opposition specified in subdivision three.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 185 - Alternate Method of Arraignment185.10 - Definition of Terms.

As used in this article: 1. "Independent audio-visual system" shall mean an electronic system for the transmission and receiving of audio and visual signals, encompassing encoded signals, frequency domain multiplexing or other suitable means to preclude the unauthorized reception and decoding of the signals by commercially available television receivers, channel converters, or other available receiving devices. 2. "Electronic arraignment" means an arraignment in which various participants, including the defendant, are not personally present in the court but in which all of the participants are simultaneously able to see and hear reproductions of the voices and images of the judge, counsels, defendant, police officer and any other appropriate participant, by means of an independent audio-visual system. * NB Expired September 1, 1983

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 185 - Alternate Method of Arraignment185.20 - Electronic Arraignment.

Notwithstanding the provisions of subdivision nine of section 1.20, sections 110.10, 120.10, 120.40, 120.90, 140.20, 140.27, 140.40, 170.10 and 180.10 of this chapter or any other provision of law as they pertain to a defendant's personal appearance at arraignment, in Suffolk county, the court in its discretion may dispense with the defendant's personal appearance at the arraignment and conduct an electronic arraignment, provided that: 1. The defendant has waived in writing his right to personally appear at his arraignment and has consented to be arraigned by the electronic arraignment process; 2. The district attorney has consented to the electronic arraignment process for the defendant; 3. The personal appearance of the defendant at the arraignment would result in an unreasonable delay in the preliminary proceeding; and 4. The chief administrator of the courts has authorized the use of electronic arraignments for the court, pursuant to the provisions of section 185.40 of this article. * NB Expired September 1, 1983

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 185 - Alternate Method of Arraignment185.30 - Conditions and Limitations on Electronic Arraignment.

Whenever a person is arraigned by means of an electronic arraignment, the following conditions and limitations shall apply: 1. The defendant may not enter a plea of guilty; 2. The electronic arraignment process may be used only when the accusatory instrument does not charge a felony; 3. No electronic recording of an electronic arraignment may be made, viewed or inspected except as may be authorized by rules of the chief administrator of the courts; and 4. Stenographic recording of the arraignment shall be made to the same extent as if it were an ordinary arraignment rather than an electronic arraignment. * NB Expired September 1, 1983

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle H - Preliminary Proceedings in Local Criminal CourtArticle 185 - Alternate Method of Arraignment185.40 - Approval by the Chief Administrator of the Courts.

1. The appropriate administrative judge shall submit to the chief administrator of the courts a written proposal for the use of electronic arraignments for a particular court and the precincts under the jurisdiction of that court. If the chief administrator of the courts approves the proposal, installation of an independent audio-visual system may begin. 2. Upon completion of the installation of an independent audio-visual system, the commission on cable television shall inspect, test and examine the independent audio-visual system and certify to the chief administrator of the courts whether the system complies with the definition of an independent audio-visual system and is technically suitable for the conducting of electronic arraignments as intended. 3. The use by a court of an approved independent audio-visual system for the purpose of authorized electronic arraignments, shall be for a period of two years from the date of authorization by the chief administrator of the courts. 4. The chief administrator of the courts may withdraw approval of the authorization at any time. * NB Expired September 1, 1983

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.05 - Grand Jury; Definition and General Functions.

A grand jury is a body consisting of not less than sixteen nor more than twenty-three persons, impaneled by a superior court and constituting a part of such court, the functions of which are to hear and examine evidence concerning offenses and concerning misconduct, nonfeasance and neglect in public office, whether criminal or otherwise, and to take action with respect to such evidence as provided in section 190.60.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.10 - Grand Jury; for What Courts Drawn.

The appellate division of each judicial department shall adopt rules governing the number and the terms for which grand juries shall be drawn and impaneled by the superior courts within its department; provided, however, that a grand jury may be drawn and impaneled for any extraordinary term of the supreme court upon the order of a justice assigned to hold such term.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.15 - Grand Jury; Duration of Term and Discharge.

1. A term of a superior court for which a grand jury has been impaneled remains in existence at least until and including the opening date of the next term of such court for which a grand jury has been designated. Upon such date, or within five days preceding it, the court may, upon declaration of both the grand jury and the district attorney that such grand jury has not yet completed or will be unable to complete certain business before it, extend the term of court and the existence of such grand jury to a specified future date, and may subsequently order further extensions for such purpose. 2. At any time when a grand jury is in recess and no other appropriate grand jury is in existence in the county, the court may, upon application of the district attorney or of a defendant held by a local criminal court for the action of a grand jury, order such grand jury reconvened for the purpose of dealing with a matter requiring grand jury action.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.20 - Grand Jury; Formation, Organization and Other Matters Preliminary to Assumption of Duties.

preliminary to assumption of duties. 1. The mode of selecting grand jurors and of drawing and impaneling grand juries is governed by the judiciary law. 2. Neither the grand jury panel nor any individual grand juror may be challenged, but the court may:(a) At any time before a grand jury is sworn, discharge the panel and summon another panel if it finds that the original panel does not substantially conform to the requirements of the judiciary law; or(b) At any time after a grand juror is drawn, refuse to swear him, or discharge him after he has been sworn, upon a finding that he is disqualified from service pursuant to the judiciary law, or incapable of performing his duties because of bias or prejudice, or guilty of misconduct in the performance of his duties such as to impair the proper functioning of the grand jury.3. After a grand jury has been impaneled, the court must appoint one of the grand jurors as foreman and another to act as foreman during any absence or disability of the foreman. At some time before commencement of their duties, the grand jurors must appoint one of their number as secretary to keep records material to the conduct of the grand jury's business.4. The grand jurors must be sworn by the court. The oath may be in any form or language which requires the grand jurors to perform their duties faithfully.5. After a grand jury has been sworn, the court must deliver or cause to be delivered to each grand juror a printed copy of all the provisions of this article, and the court may, in addition, give the grand jurors any oral and written instructions relating to the proper performance of their duties as it deems necessary or appropriate.6. If two or more grand juries are impaneled at the same court term, the court may thereafter, for good cause, transfer grand jurors from one panel to another, and any grand juror so transferred is deemed to have been sworn as a member of the panel to which he has been transferred. (a) At any time before a grand jury is sworn, discharge the panel and summon another panel if it finds that the original panel does not substantially conform to the requirements of the judiciary law; or (b) At any time after a grand juror is drawn, refuse to swear him, or discharge him after he has been sworn, upon a finding that he is disqualified from service pursuant to the judiciary law, or incapable of performing his duties because of bias or prejudice, or guilty of misconduct in the performance of his duties such as to impair the proper functioning of the grand jury. 3. After a grand jury has been impaneled, the court must appoint one of the grand jurors as foreman and another to act as foreman during any absence or disability of the foreman. At some time before commencement of their duties, the grand jurors must appoint one of their number as secretary to keep records material to the conduct of the grand jury's business. 4. The grand jurors must be sworn by the court. The oath may be in any form or language which requires the grand jurors to perform their duties faithfully. 5. After a grand jury has been sworn, the court must deliver or cause to be delivered to each grand juror a printed copy of all the provisions of this article, and the court may, in addition, give the grand jurors any oral and written instructions relating to the proper performance of their duties as it deems necessary or appropriate. 6. If two or more grand juries are impaneled at the same court term, the court may thereafter, for good cause, transfer grand jurors from one panel to another, and any grand juror so transferred is deemed to have been sworn as a member of the panel to which he has been transferred.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.25 - Grand Jury; Proceedings and Operation in General.

1. Proceedings of a grand jury are not valid unless at least sixteen of its members are present. The finding of an indictment, a direction to file a prosecutor's information, a decision to submit a grand jury report and every other affirmative official action or decision requires the concurrence of at least twelve members thereof. 2. The foreman or any other grand juror may administer an oath to any witness appearing before the grand jury. 3. Except as provided in subdivision three-a of this section, during the deliberations and voting of a grand jury, only the grand jurors may be present in the grand jury room. During its other proceedings,

the following persons, in addition to witnesses, may, as the occasion requires, also be present:(a) The district attorney;(b) A clerk or other public servant authorized to assist the grand jury in the administrative conduct of its proceedings;(c) A stenographer authorized to record the proceedings of the grand jury;(d) An interpreter. Upon request of the grand jury, the prosecutor must provide an interpreter to interpret the testimony of any witness who does not speak the English language well enough to be readily understood. Such interpreter must, if he has not previously taken the constitutional oath of office, first take an oath before the grand jury that he will faithfully interpret the testimony of the witness and that he will keep secret all matters before such grand jury within his knowledge;(e) A public servant holding a witness in custody. When a person held in official custody is a witness before a grand jury, a public servant assigned to guard him during his grand jury appearance may accompany him in the grand jury room. Such public servant must, if he has not previously taken the constitutional oath of office, first take an oath before the grand jury that he will keep secret all matters before it within his knowledge.(f) An attorney representing a witness pursuant to section 190.52 of this chapter while that witness is present.(g) An operator, as that term is defined in section 190.32 of this chapter, while the videotaped examination of either a special witness or a child witness is being played.(h) A social worker, rape crisis counselor, psychologist or other professional providing emotional support to a child witness twelve years old or younger, or a social worker or informal caregiver, as provided in subdivision two of section two hundred six of the elder law, for a vulnerable elderly person as provided in subdivision three of section 260.31 of the penal law, who is called to give evidence in a grand jury proceeding concerning a crime defined in article one hundred twenty-one, article one hundred thirty, article two hundred sixty, section 120.10, 125.10, 125.15, 125.20, 125.25, 125.26, 125.27, 255.25, 255.26 or 255.27 of the penal law provided that the district attorney consents. Such support person shall not provide the witness with an answer to any question or otherwise participate in such proceeding and shall first take an oath before the grand jury that he or she will keep secret all matters before such grand jury within his or her knowledge.3-a. Upon the request of a deaf or hearing-impaired grand juror, the prosecutor shall provide a sign language interpreter for such juror. Such interpreter shall be present during all proceedings of the grand jury which the deaf or hearing-impaired grand juror attends, including deliberation and voting. The interpreter shall, if he or she has not previously taken the constitutional oath of office, first take an oath before the grand jury that he or she will faithfully interpret the testimony of the witnesses and the statements of the prosecutor, judge and grand jurors; keep secret all matters before such grand jury within his or her knowledge; and not seek to influence the deliberations and voting of such grand jury.4. (a) Grand jury proceedings are secret, and no grand juror, or other person specified in subdivision three of this section or section 215.70 of the penal law, may, except in the lawful discharge of his duties or upon written order of the court, disclose the nature or substance of any grand jury testimony, evidence, or any decision, result or other matter attending a grand jury proceeding. For the purpose of assisting the grand jury in conducting its investigation, evidence obtained by a grand jury may be independently examined by the district attorney, members of his staff, police officers specifically assigned to the investigation, and such other persons as the court may specifically authorize. Such evidence may not be disclosed to other persons without a court order. Nothing contained herein shall prohibit a witness from disclosing his own testimony.(b) When a district attorney obtains evidence during a grand jury proceeding which provides reasonable cause to suspect that a child has been abused or maltreated, as those terms are defined by section ten hundred twelve of the family court act, he must apply to the court supervising the grand jury for an order permitting disclosure of such evidence to the state central register of child abuse and maltreatment. A district attorney need not apply to the court for such order if he has previously made or caused a report to be made to the state central register of child abuse and maltreatment pursuant to section four hundred thirteen of the social services law and the evidence obtained during the grand jury proceeding, or substantially similar information, was included in such report. The district attorney's application to the court shall be made ex parte and in camera. The court must grant the application and permit the district attorney to disclose the evidence to the state central register of child abuse and maltreatment unless the court finds that such disclosure would jeopardize the life or safety of any person or interfere with a continuing grand jury proceeding.5. The grand jury is the exclusive judge of the facts with respect to any matter before it.6. The legal advisors of the grand jury are the court and the district attorney, and the grand jury may not seek or receive legal advice from any other source. Where necessary or appropriate, the court or the district attorney, or both, must instruct the grand jury concerning the law with respect to its duties or any matter before it, and such instructions must be recorded in the minutes. (a) The district attorney; (b) A clerk or other public servant authorized to assist the grand jury in the administrative conduct of its proceedings; (c) A stenographer authorized to record the proceedings of the grand jury; (d) An interpreter. Upon request of the grand jury, the prosecutor must provide an interpreter to interpret the testimony of any witness who does not speak the English language well enough to be readily understood. Such interpreter must, if he has not previously taken the constitutional oath of office, first take an oath before the grand jury that he will faithfully interpret the testimony of the witness and that he will keep secret all matters before such grand jury within his knowledge; (e) A public servant holding a witness in custody. When a person held in official custody is a witness before a grand jury, a public servant assigned to guard him during his grand jury appearance may accompany him in the grand jury room. Such public servant must, if he has not previously taken the constitutional oath of office, first take an oath before the grand jury that he will keep secret all matters before it within his knowledge. (f) An attorney representing a witness pursuant to section 190.52 of this chapter while that witness is present. (g) An operator, as that term is defined in section 190.32 of this chapter, while the videotaped examination of either a special witness or a child witness is being played. (h) A social worker, rape crisis counselor, psychologist or other professional providing emotional support to a child witness twelve years old or younger, or a social worker or informal caregiver, as provided in subdivision two of section two hundred six of the elder law, for a vulnerable elderly person as provided in subdivision three of section 260.31 of the penal law, who is called to give evidence in a grand jury proceeding concerning a crime defined in article one hundred twenty-one, article one hundred thirty, article two hundred sixty, section 120.10, 125.10, 125.15, 125.20, 125.25,

125.26, 125.27, 255.25, 255.26 or 255.27 of the penal law provided that the district attorney consents. Such support person shall not provide the witness with an answer to any question or otherwise participate in such proceeding and shall first take an oath before the grand jury that he or she will keep secret all matters before such grand jury within his or her knowledge. 3-a. Upon the request of a deaf or hearing-impaired grand juror, the prosecutor shall provide a sign language interpreter for such juror. Such interpreter shall be present during all proceedings of the grand jury which the deaf or hearing-impaired grand juror attends, including deliberation and voting. The interpreter shall, if he or she has not previously taken the constitutional oath of office, first take an oath before the grand jury that he or she will faithfully interpret the testimony of the witnesses and the statements of the prosecutor, judge and grand jurors; keep secret all matters before such grand jury within his or her knowledge; and not seek to influence the deliberations and voting of such grand jury. 4. (a) Grand jury proceedings are secret, and no grand juror, or other person specified in subdivision three of this section or section 215.70 of the penal law, may, except in the lawful discharge of his duties or upon written order of the court, disclose the nature or substance of any grand jury testimony, evidence, or any decision, result or other matter attending a grand jury proceeding. For the purpose of assisting the grand jury in conducting its investigation, evidence obtained by a grand jury may be independently examined by the district attorney, members of his staff, police officers specifically assigned to the investigation, and such other persons as the court may specifically authorize. Such evidence may not be disclosed to other persons without a court order. Nothing contained herein shall prohibit a witness from disclosing his own testimony. (b) When a district attorney obtains evidence during a grand jury proceeding which provides reasonable cause to suspect that a child has been abused or maltreated, as those terms are defined by section ten hundred twelve of the family court act, he must apply to the court supervising the grand jury for an order permitting disclosure of such evidence to the state central register of child abuse and maltreatment. A district attorney need not apply to the court for such order if he has previously made or caused a report to be made to the state central register of child abuse and maltreatment pursuant to section four hundred thirteen of the social services law and the evidence obtained during the grand jury proceeding, or substantially similar information, was included in such report. The district attorney's application to the court shall be made ex parte and in camera. The court must grant the application and permit the district attorney to disclose the evidence to the state central register of child abuse and maltreatment unless the court finds that such disclosure would jeopardize the life or safety of any person or interfere with a continuing grand jury proceeding. 5. The grand jury is the exclusive judge of the facts with respect to any matter before it. 6. The legal advisors of the grand jury are the court and the district attorney, and the grand jury may not seek or receive legal advice from any other source. Where necessary or appropriate, the court or the district attorney, or both, must instruct the grand jury concerning the law with respect to its duties or any matter before it, and such instructions must be recorded in the minutes.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.30 - Grand Jury; Rules of Evidence.

1. Except as otherwise provided in this section, the provisions of article sixty, governing rules of evidence and related matters with respect to criminal proceedings in general, are, where appropriate, applicable to grand jury proceedings. 2. A report or a copy of a report made by a public servant or by a person employed by a public servant or agency who is a physicist, chemist, coroner or medical examiner, firearms identification expert, examiner of questioned documents, fingerprint technician, or an expert or technician in some comparable scientific or professional field, concerning the results of an examination, comparison or test performed by him in connection with a case which is the subject of a grand jury proceeding, may, when certified by such person as a report made by him or as a true copy thereof, be received in such grand jury proceeding as evidence of the facts stated therein. 2-a. When the electronic transmission of a certified report, or certified copy thereof, of the kind described in subdivision two or three-a of this section or a sworn statement or copy thereof, of the kind described in subdivision three of this section results in a written document, such written document may be received in such grand jury proceeding provided that: (a) a transmittal memorandum completed by the person sending the report contains a certification that the report has not been altered and a description of the report specifying the number of pages; and (b) the person who receives the electronically transmitted document certifies that such document and transmittal memorandum were so received; and (c) a certified report or a certified copy or sworn statement or sworn copy thereof is filed with the court within twenty days following arraignment upon the indictment; and (d) where such written document is a sworn statement or sworn copy thereof of the kind described in subdivision three of this section, such sworn statement or sworn copy thereof is also provided to the defendant or his counsel within twenty days following arraignment upon the indictment. 3. A written or oral statement, under oath, by a person attesting to one or more of the following matters may be received in such grand jury proceeding as evidence of the facts stated therein:(a) that person's ownership or lawful custody of, or license to occupy, premises, as defined in section 140.00 of the penal law, and of the defendant's lack of license or privilege to enter or remain thereupon;(b) that person's ownership of, or possessory right in, property, the nature and monetary amount of any damage thereto and the defendant's lack of right to damage or tamper with the property;(c) that person's ownership or lawful custody of, or license to possess property, as defined in section 155.00 of the penal law, including an automobile or other vehicle, its value and the defendant's lack of superior or equal right to possession thereof;(d) that person's ownership of a vehicle and the absence of his consent to the defendant's taking, operating, exercising control over or using it;(e) that person's qualifications as a dealer or other expert in appraising or evaluating a particular type of property, his expert opinion as to the value of a certain item or items of property of that type, and the basis for his opinion;(f) that person's identity as an ostensible maker, drafter, drawer, endorser or other signator of a written instrument and its falsity within the meaning of section 170.00 of the penal law;(g) that person's ownership of, or possessory right in, a credit card account number or debit card account number, and the defendant's lack of superior or equal right

to use or possession thereof.Provided, however, that no such statement shall be admitted when an adversarial examination of such person has been previously ordered pursuant to subdivision 8 of section 180.60, unless a transcript of such examination is admitted.3-a. A sex offender registration form, sex offender registration continuation/supplemental form, sex offender registry address verification form, sex offender change of address form or a copy of such form maintained by the division of criminal justice services concerning an individual who is the subject of a grand jury proceeding, may, when certified by a person designated by the commissioner of the division of criminal justice services as the person to certify such records, as a true copy thereof, be received in such grand jury proceeding as evidence of the facts stated therein.4. An examination of a child witness or a special witness by the district attorney videotaped pursuant to section 190.32 of this chapter may be received in evidence in such grand jury proceeding as the testimony of such witness.5. Nothing in subdivisions two, three or four of this section shall be construed to limit the power of the grand jury to cause any person to be called as a witness pursuant to subdivision three of section 190.50.6. Wherever it is provided in article sixty that the court in a criminal proceeding must rule upon the competency of a witness to testify or upon the admissibility of evidence, such ruling may in an equivalent situation in a grand jury proceeding, be made by the district attorney.7. Wherever it is provided in article sixty that a court presiding at a jury trial must instruct the jury with respect to the significance, legal effect or evaluation of evidence, the district attorney, in an equivalent situation in a grand jury proceeding, may so instruct the grand jury.8. (a) A business record may be received in such grand jury proceedings as evidence of the following facts and similar facts stated therein:(i) a person's use of, subscription to and charges and payments for communication equipment and services including but not limited to equipment or services provided by telephone companies and internet service providers, but not including recorded conversations or images communicated thereby; and(ii) financial transactions, and a person's ownership or possessory interest in any account, at a bank, insurance company, brokerage, exchange or banking organization as defined in section two of the banking law.(b) Any business record offered for consideration by a grand jury pursuant to paragraph (a) of this subdivision must be accompanied by a written statement, under oath, that (i) contains a list or description of the records it accompanies, (ii) attests in substance that the person making the statement is a duly authorized custodian of the records or other employee or agent of the business who is familiar with such records, and (iii) attests in substance that such records were made in the regular course of business and that it was the regular course of such business to make such records at the time of the recorded act, transaction, occurrence or event, or within a reasonable time thereafter. Such written statement may also include a statement identifying the name and job description of the person making the statement, specifying the matters set forth in subparagraph (ii) of this paragraph and attesting that the business has made a diligent search and does not possess a particular record or records addressing a matter set forth in paragraph (a) of this subdivision, and such statement may be received at grand jury proceedings as evidence of the fact that the business does not possess such record or records. When records of a business are accompanied by more than one sworn written statement of its employees or agents, such statements may be considered together in determining the admissibility of the records under this subdivision. For the purpose of this subdivision, the term "business records" does not include any records prepared by law enforcement agencies or prepared by any entity in anticipation of litigation.(c) Any business record offered to a grand jury pursuant to paragraph (a) of this subdivision that includes material beyond that described in such paragraph (a) shall be redacted to exclude such additional material, or received subject to a limiting instruction that the grand jury shall not consider such additional material in support of any criminal charge.(d) No such records shall be admitted when an adversarial examination of such a records custodian or other employee of such business who was familiar with such records has been previously ordered pursuant to subdivision eight of section 180.60 of this chapter, unless a transcript of such examination is admitted.(e) Nothing in this subdivision shall affect the admissibility of business records in the grand jury on any basis other than that set forth in this subdivision. (a) that person's ownership or lawful custody of, or license to occupy, premises, as defined in section 140.00 of the penal law, and of the defendant's lack of license or privilege to enter or remain thereupon; (b) that person's ownership of, or possessory right in, property, the nature and monetary amount of any damage thereto and the defendant's lack of right to damage or tamper with the property; (c) that person's ownership or lawful custody of, or license to possess property, as defined in section 155.00 of the penal law, including an automobile or other vehicle, its value and the defendant's lack of superior or equal right to possession thereof; (d) that person's ownership of a vehicle and the absence of his consent to the defendant's taking, operating, exercising control over or using it; (e) that person's qualifications as a dealer or other expert in appraising or evaluating a particular type of property, his expert opinion as to the value of a certain item or items of property of that type, and the basis for his opinion; (f) that person's identity as an ostensible maker, drafter, drawer, endorser or other signator of a written instrument and its falsity within the meaning of section 170.00 of the penal law; (g) that person's ownership of, or possessory right in, a credit card account number or debit card account number, and the defendant's lack of superior or equal right to use or possession thereof. Provided, however, that no such statement shall be admitted when an adversarial examination of such person has been previously ordered pursuant to subdivision 8 of section 180.60, unless a transcript of such examination is admitted. 3-a. A sex offender registration form, sex offender registration continuation/supplemental form, sex offender registry address verification form, sex offender change of address form or a copy of such form maintained by the division of criminal justice services concerning an individual who is the subject of a grand jury proceeding, may, when certified by a person designated by the commissioner of the division of criminal justice services as the person to certify such records, as a true copy thereof, be received in such grand jury proceeding as evidence of the facts stated therein. 4. An examination of a child witness or a special witness by the district attorney videotaped pursuant to section 190.32 of this chapter may be received in evidence in such grand jury proceeding as the testimony of such witness. 5. Nothing in subdivisions two, three or four of this section shall be construed to limit the power of the grand jury to cause any person to be called as a witness pursuant to subdivision three of section 190.50. 6. Wherever it is provided in article sixty that the court in a criminal proceeding must rule upon the competency of a witness

to testify or upon the admissibility of evidence, such ruling may in an equivalent situation in a grand jury proceeding, be made by the district attorney. 7. Wherever it is provided in article sixty that a court presiding at a jury trial must instruct the jury with respect to the significance, legal effect or evaluation of evidence, the district attorney, in an equivalent situation in a grand jury proceeding, may so instruct the grand jury. 8. (a) A business record may be received in such grand jury proceedings as evidence of the following facts and similar facts stated therein: (i) a person's use of, subscription to and charges and payments for communication equipment and services including but not limited to equipment or services provided by telephone companies and internet service providers, but not including recorded conversations or images communicated thereby; and (ii) financial transactions, and a person's ownership or possessory interest in any account, at a bank, insurance company, brokerage, exchange or banking organization as defined in section two of the banking law. (b) Any business record offered for consideration by a grand jury pursuant to paragraph (a) of this subdivision must be accompanied by a written statement, under oath, that (i) contains a list or description of the records it accompanies, (ii) attests in substance that the person making the statement is a duly authorized custodian of the records or other employee or agent of the business who is familiar with such records, and (iii) attests in substance that such records were made in the regular course of business and that it was the regular course of such business to make such records at the time of the recorded act, transaction, occurrence or event, or within a reasonable time thereafter. Such written statement may also include a statement identifying the name and job description of the person making the statement, specifying the matters set forth in subparagraph (ii) of this paragraph and attesting that the business has made a diligent search and does not possess a particular record or records addressing a matter set forth in paragraph (a) of this subdivision, and such statement may be received at grand jury proceedings as evidence of the fact that the business does not possess such record or records. When records of a business are accompanied by more than one sworn written statement of its employees or agents, such statements may be considered together in determining the admissibility of the records under this subdivision. For the purpose of this subdivision, the term "business records" does not include any records prepared by law enforcement agencies or prepared by any entity in anticipation of litigation. (c) Any business record offered to a grand jury pursuant to paragraph (a) of this subdivision that includes material beyond that described in such paragraph (a) shall be redacted to exclude such additional material, or received subject to a limiting instruction that the grand jury shall not consider such additional material in support of any criminal charge. (d) No such records shall be admitted when an adversarial examination of such a records custodian or other employee of such business who was familiar with such records has been previously ordered pursuant to subdivision eight of section 180.60 of this chapter, unless a transcript of such examination is admitted. (e) Nothing in this subdivision shall affect the admissibility of business records in the grand jury on any basis other than that set forth in this subdivision.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.32 - Videotaped Examination; Definitions, Application, Order and Procedure.

procedure. 1. Definitions. As used in this section:(a) "Child witness" means a person twelve years old or less whom the people intend to call as witness in a grand jury proceeding to give evidence concerning any crime defined in article one hundred thirty or two hundred sixty or section 255.25, 255.26 or 255.27 of the penal law of which the person was a victim.(b) "Special witness" means a person whom the people intend to call as a witness in a grand jury proceeding and who is either:(i) Unable to attend and testify in person in the grand jury proceeding because the person is either physically ill or incapacitated; or(ii) More than twelve years old and who is likely to suffer very severe emotional or mental stress if required to testify in person concerning any crime defined in article one hundred thirty or two hundred sixty or section 255.25, 255.26 or 255.27 of the penal law to which the person was a witness or of which the person was a victim.(c) "Operator" means a person employed by the district attorney who operates the video camera to record the examination of a child witness or a special witness.2. In lieu of requiring a witness who is a child witness to appear in person and give evidence in a grand jury proceeding, the district attorney may cause the examination of such witness to be videotaped in accordance with the provisions of subdivision five of this section.3. Whenever the district attorney has reason to believe that a witness is a special witness, he may make an ex parte application to the court for an order authorizing the videotaping of an examination of such special witness and the subsequent introduction in evidence in a grand jury proceeding of that videotape in lieu of the live testimony of such special witness. The application must be in writing, must state the grounds of the application and must contain sworn allegations of fact, whether of the district attorney or another person or persons, supporting such grounds. Such allegations may be based upon personal knowledge of the deponent or upon information and belief, provided, that in the latter event, the sources of such information and the grounds for such belief are stated.4. If the court is satisfied that a witness is a special witness, it shall issue an order authorizing the videotaping of such special witness in accordance with the provisions of subdivision five of this section. The court order and the application and all supporting papers shall not be disclosed to any person except upon further court order.5. The videotaping of an examination either of a child witness or a special witness shall proceed as follows:(a) An examination of a child witness or a special witness which is to be videotaped pursuant to this section may be conducted anywhere and at any time provided that the operator begins the videotape by recording a statement by the district attorney of the date, time and place of the examination. In addition, the district attorney shall identify himself, the operator and all other persons present.(b) An accurate clock with a sweep second hand shall be placed next to or behind the witness in such position as to enable the operator to videotape the clock and the witness together during the entire examination. In the alternative, a date and time generator shall be used to superimpose the day, hour, minute and second over the video portion of the recording during the entire examination.(c) A social worker, rape crisis counselor, psychologist or other professional providing emotional support to a child

witness or to a special witness, as defined in subparagraph (ii) of paragraph (b) of subdivision one of this section, or any of those persons enumerated in paragraphs (a), (b), (c), (d), (e), (f) and (g) of subdivision three of section 190.25 may be present during the videotaping except that a doctor, nurse or other medical assistant also may be present if required by the attendant circumstances. Each person present, except the witness, must, if he has not previously taken a constitutional oath of office or an oath that he will keep secret all matters before a grand jury, must take an oath on the record that he will keep secret the videotaped examination.(d) The district attorney shall state for the record the name of the witness, and the caption and the grand jury number, if any, of the case. If the witness to be examined is a child witness, the date of the witness' birth must be recorded. If the witness to be examined is a special witness, the date of the order authorizing the videotaped examination and the name of the justice who issued the order shall be recorded.(e) If the witness will give sworn testimony, the administration of the oath must be recorded. If the witness will give unsworn testimony, a statement that the testimony is not under oath must be recorded.(f) If the examination requires the use of more than one tape, the operator shall record a statement of the district attorney at the end of each tape declaring that such tape has ended and referring to the succeeding tape. At the beginning of such succeeding tape, the operator shall record a statement of the district attorney identifying himself, the witness being examined and the number of tapes which have been used to record the examination of such witness. At the conclusion of the examination the operator shall record a statement of the district attorney certifying that the recording has been completed, the number of tapes on which the recording has been made and that such tapes constitute a complete and accurate record of the examination of the witness.(g) A videotape of an examination conducted pursuant to this section shall not be edited unless upon further order of the court.6. When the videotape is introduced in evidence and played in the grand jury, the grand jury stenographer shall record the examination in the same manner as if the witness had testified in person.7. Custody of the videotape shall be maintained in the same manner as custody of the grand jury minutes. (a) "Child witness" means a person twelve years old or less whom the people intend to call as witness in a grand jury proceeding to give evidence concerning any crime defined in article one hundred thirty or two hundred sixty or section 255.25, 255.26 or 255.27 of the penal law of which the person was a victim. (b) "Special witness" means a person whom the people intend to call as a witness in a grand jury proceeding and who is either: (i) Unable to attend and testify in person in the grand jury proceeding because the person is either physically ill or incapacitated; or (ii) More than twelve years old and who is likely to suffer very severe emotional or mental stress if required to testify in person concerning any crime defined in article one hundred thirty or two hundred sixty or section 255.25, 255.26 or 255.27 of the penal law to which the person was a witness or of which the person was a victim. (c) "Operator" means a person employed by the district attorney who operates the video camera to record the examination of a child witness or a special witness. 2. In lieu of requiring a witness who is a child witness to appear in person and give evidence in a grand jury proceeding, the district attorney may cause the examination of such witness to be videotaped in accordance with the provisions of subdivision five of this section. 3. Whenever the district attorney has reason to believe that a witness is a special witness, he may make an ex parte application to the court for an order authorizing the videotaping of an examination of such special witness and the subsequent introduction in evidence in a grand jury proceeding of that videotape in lieu of the live testimony of such special witness. The application must be in writing, must state the grounds of the application and must contain sworn allegations of fact, whether of the district attorney or another person or persons, supporting such grounds. Such allegations may be based upon personal knowledge of the deponent or upon information and belief, provided, that in the latter event, the sources of such information and the grounds for such belief are stated. 4. If the court is satisfied that a witness is a special witness, it shall issue an order authorizing the videotaping of such special witness in accordance with the provisions of subdivision five of this section. The court order and the application and all supporting papers shall not be disclosed to any person except upon further court order. 5. The videotaping of an examination either of a child witness or a special witness shall proceed as follows: (a) An examination of a child witness or a special witness which is to be videotaped pursuant to this section may be conducted anywhere and at any time provided that the operator begins the videotape by recording a statement by the district attorney of the date, time and place of the examination. In addition, the district attorney shall identify himself, the operator and all other persons present. (b) An accurate clock with a sweep second hand shall be placed next to or behind the witness in such position as to enable the operator to videotape the clock and the witness together during the entire examination. In the alternative, a date and time generator shall be used to superimpose the day, hour, minute and second over the video portion of the recording during the entire examination. (c) A social worker, rape crisis counselor, psychologist or other professional providing emotional support to a child witness or to a special witness, as defined in subparagraph (ii) of paragraph (b) of subdivision one of this section, or any of those persons enumerated in paragraphs (a), (b), (c), (d), (e), (f) and (g) of subdivision three of section 190.25 may be present during the videotaping except that a doctor, nurse or other medical assistant also may be present if required by the attendant circumstances. Each person present, except the witness, must, if he has not previously taken a constitutional oath of office or an oath that he will keep secret all matters before a grand jury, must take an oath on the record that he will keep secret the videotaped examination. (d) The district attorney shall state for the record the name of the witness, and the caption and the grand jury number, if any, of the case. If the witness to be examined is a child witness, the date of the witness' birth must be recorded. If the witness to be examined is a special witness, the date of the order authorizing the videotaped examination and the name of the justice who issued the order shall be recorded. (e) If the witness will give sworn testimony, the administration of the oath must be recorded. If the witness will give unsworn testimony, a statement that the testimony is not under oath must be recorded. (f) If the examination requires the use of more than one tape, the operator shall record a statement of the district attorney at the end of each tape declaring that such tape has ended and referring to the succeeding tape. At the beginning of such succeeding tape, the operator shall record a statement of the district attorney identifying himself, the witness being examined and the number of tapes which have been used to record the examination of such witness. At the conclusion of the examination the operator shall

record a statement of the district attorney certifying that the recording has been completed, the number of tapes on which the recording has been made and that such tapes constitute a complete and accurate record of the examination of the witness. (g) A videotape of an examination conducted pursuant to this section shall not be edited unless upon further order of the court. 6. When the videotape is introduced in evidence and played in the grand jury, the grand jury stenographer shall record the examination in the same manner as if the witness had testified in person. 7. Custody of the videotape shall be maintained in the same manner as custody of the grand jury minutes.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.35 - Grand Jury; Definitions of Terms.

The term definitions contained in section 50.10 are applicable to sections 190.40, 190.45 and 190.50.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.40 - Grand Jury; Witnesses, Compulsion of Evidence and Immunity.

1. Every witness in a grand jury proceeding must give any evidence legally requested of him regardless of any protest or belief on his part that it may tend to incriminate him. 2. A witness who gives evidence in a grand jury proceeding receives immunity unless:(a) He has effectively waived such immunity pursuant to section 190.45; or(b) Such evidence is not responsive to any inquiry and is gratuitously given or volunteered by the witness with knowledge that it is not responsive.(c) The evidence given by the witness consists only of books, papers, records or other physical evidence of an enterprise, as defined in subdivision one of section 175.00 of the penal law, the production of which is required by a subpoena duces tecum, and the witness does not possess a privilege against self-incrimination with respect to the production of such evidence. Any further evidence given by the witness entitles the witness to immunity except as provided in subparagraph (a) and (b) of this subdivision. (a) He has effectively waived such immunity pursuant to section 190.45; or (b) Such evidence is not responsive to any inquiry and is gratuitously given or volunteered by the witness with knowledge that it is not responsive. (c) The evidence given by the witness consists only of books, papers, records or other physical evidence of an enterprise, as defined in subdivision one of section 175.00 of the penal law, the production of which is required by a subpoena duces tecum, and the witness does not possess a privilege against self-incrimination with respect to the production of such evidence. Any further evidence given by the witness entitles the witness to immunity except as provided in subparagraph (a) and (b) of this subdivision.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.45 - Grand Jury; Waiver of Immunity.

1. A waiver of immunity is a written instrument subscribed by a person who is or is about to become a witness in a grand jury proceeding, stipulating that he waives his privilege against self-incrimination and any possible or prospective immunity to which he would otherwise become entitled, pursuant to section 190.40, as a result of giving evidence in such proceeding. 2. A waiver of immunity is not effective unless and until it is sworn to before the grand jury conducting the proceeding in which the subscriber has been called as a witness. 3. A person who is called by the people as a witness in a grand jury proceeding and requested by the district attorney to subscribe and swear to a waiver of immunity before giving evidence has a right to confer with counsel before deciding whether he will comply with such request, and, if he desires to avail himself of such right, he must be accorded a reasonable time in which to obtain and confer with counsel for such purpose. The district attorney must inform the witness of all such rights before obtaining his execution of such a waiver of immunity. Any waiver obtained, subscribed or sworn to in violation of the provisions of this subdivision is invalid and ineffective. 4. If a grand jury witness subscribes and swears to a waiver of immunity upon a written agreement with the district attorney that the interrogation will be limited to certain specified subjects, matters or areas of conduct, and if after the commencement of his testimony he is interrogated and testifies concerning another subject, matter or area of conduct not included in such written agreement, he receives immunity with respect to any further testimony which he may give concerning such other subject, matter or area of conduct and the waiver of immunity is to that extent ineffective.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.50 - Grand Jury; Who May Call Witnesses; Defendant as Witness.

1. Except as provided in this section, no person has a right to call a witness or appear as a witness in a grand jury proceeding. 2. The people may call as a witness in a grand jury proceeding any person believed by the district attorney to possess relevant information or knowledge. 3. The grand jury may cause to be called as a witness any person believed by it to possess relevant information or knowledge. If the grand jury desires to hear any such witness who was not called by the people, it may direct the district attorney to issue and serve a subpoena upon such witness, and the district attorney must comply with such direction. At any time after such a direction, however, or at any time after the service of a subpoena pursuant to such a direction and before the return date thereof, the people may apply to the court which impaneled the grand jury for an order vacating or modifying such direction or subpoena on the ground that such is in the public interest. Upon such application, the court may in its discretion vacate the direction or subpoena, attach reasonable conditions thereto, or make other appropriate qualification thereof. 4. Notwithstanding the provisions of

subdivision three, the district attorney may demand that any witness thus called at the instance of the grand jury sign a waiver of immunity pursuant to section 190.45 before being sworn, and upon such demand no oath may be administered to such witness unless and until he complies therewith. 5. Although not called as a witness by the people or at the instance of the grand jury, a person has a right to be a witness in a grand jury proceeding under circumstances prescribed in this subdivision:(a) When a criminal charge against a person is being or is about to be or has been submitted to a grand jury, such person has a right to appear before such grand jury as a witness in his own behalf if, prior to the filing of any indictment or any direction to file a prosecutor's information in the matter, he serves upon the district attorney of the county a written notice making such request and stating an address to which communications may be sent. The district attorney is not obliged to inform such a person that such a grand jury proceeding against him is pending, in progress or about to occur unless such person is a defendant who has been arraigned in a local criminal court upon a currently undisposed of felony complaint charging an offense which is a subject of the prospective or pending grand jury proceeding. In such case, the district attorney must notify the defendant or his attorney of the prospective or pending grand jury proceeding and accord the defendant a reasonable time to exercise his right to appear as a witness therein;(b) Upon service upon the district attorney of a notice requesting appearance before a grand jury pursuant to paragraph (a), the district attorney must notify the foreman of the grand jury of such request, and must subsequently serve upon the applicant, at the address specified by him, a notice that he will be heard by the grand jury at a given time and place. Upon appearing at such time and place, and upon signing and submitting to the grand jury a waiver of immunity pursuant to section 190.45, such person must be permitted to testify before the grand jury and to give any relevant and competent evidence concerning the case under consideration. Upon giving such evidence, he is subject to examination by the people.(c) Any indictment or direction to file a prosecutor's information obtained or filed in violation of the provisions of paragraph (a) or (b) is invalid and, upon a motion made pursuant to section 170.50 or section 210.20, must be dismissed; provided that a motion based upon such ground must be made not more than five days after the defendant has been arraigned upon the indictment or, as the case may be, upon the prosecutor's information resulting from the grand jury's direction to file the same. If the contention is not so asserted in timely fashion, it is waived and the indictment or prosecutor's information may not thereafter be challenged on such ground.6. A defendant or person against whom a criminal charge is being or is about to be brought in a grand jury proceeding may request the grand jury, either orally or in writing, to cause a person designated by him to be called as a witness in such proceeding. The grand jury may as a matter of discretion grant such request and cause such witness to be called pursuant to subdivision three.7. Where a subpoena is made pursuant to this section, all papers and proceedings relating to the subpoena and any motion to quash, fix conditions, modify or compel compliance shall be kept secret and not disclosed to the public by any public officer or public employee or any other individual described in section 215.70 of the penal law. This subdivision shall not apply where the person subpoenaed and the prosecutor waive the provisions of this subdivision.This subdivision shall not prevent the publication of decisions and orders made in connection with such proceedings or motions, provided the caption and content of the decision are written or altered by the court to reasonably preclude identification of the person subpoenaed. (a) When a criminal charge against a person is being or is about to be or has been submitted to a grand jury, such person has a right to appear before such grand jury as a witness in his own behalf if, prior to the filing of any indictment or any direction to file a prosecutor's information in the matter, he serves upon the district attorney of the county a written notice making such request and stating an address to which communications may be sent. The district attorney is not obliged to inform such a person that such a grand jury proceeding against him is pending, in progress or about to occur unless such person is a defendant who has been arraigned in a local criminal court upon a currently undisposed of felony complaint charging an offense which is a subject of the prospective or pending grand jury proceeding. In such case, the district attorney must notify the defendant or his attorney of the prospective or pending grand jury proceeding and accord the defendant a reasonable time to exercise his right to appear as a witness therein; (b) Upon service upon the district attorney of a notice requesting appearance before a grand jury pursuant to paragraph (a), the district attorney must notify the foreman of the grand jury of such request, and must subsequently serve upon the applicant, at the address specified by him, a notice that he will be heard by the grand jury at a given time and place. Upon appearing at such time and place, and upon signing and submitting to the grand jury a waiver of immunity pursuant to section 190.45, such person must be permitted to testify before the grand jury and to give any relevant and competent evidence concerning the case under consideration. Upon giving such evidence, he is subject to examination by the people. (c) Any indictment or direction to file a prosecutor's information obtained or filed in violation of the provisions of paragraph (a) or (b) is invalid and, upon a motion made pursuant to section 170.50 or section 210.20, must be dismissed; provided that a motion based upon such ground must be made not more than five days after the defendant has been arraigned upon the indictment or, as the case may be, upon the prosecutor's information resulting from the grand jury's direction to file the same. If the contention is not so asserted in timely fashion, it is waived and the indictment or prosecutor's information may not thereafter be challenged on such ground. 6. A defendant or person against whom a criminal charge is being or is about to be brought in a grand jury proceeding may request the grand jury, either orally or in writing, to cause a person designated by him to be called as a witness in such proceeding. The grand jury may as a matter of discretion grant such request and cause such witness to be called pursuant to subdivision three. 7. Where a subpoena is made pursuant to this section, all papers and proceedings relating to the subpoena and any motion to quash, fix conditions, modify or compel compliance shall be kept secret and not disclosed to the public by any public officer or public employee or any other individual described in section 215.70 of the penal law. This subdivision shall not apply where the person subpoenaed and the prosecutor waive the provisions of this subdivision. This subdivision shall not prevent the publication of decisions and orders made in connection with such proceedings or motions, provided the caption and content of the decision are written or altered by the court to reasonably preclude identification of the person subpoenaed.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.52 - Grand Jury; Attorney for Witness.

1. Any person who appears as a witness and has signed a waiver of immunity in a grand jury proceeding, has a right to an attorney as provided in this section. Such a witness may appear with a retained attorney, or if he is financially unable to obtain counsel, an attorney who shall be assigned by the superior court which impaneled the grand jury. Such assigned attorney shall be assigned pursuant to the same plan and in the same manner as counsel are provided to persons charged with crime pursuant to section seven hundred twenty-two of the county law. 2. The attorney for such witness may be present with the witness in the grand jury room. The attorney may advise the witness, but may not otherwise take any part in the proceeding. 3. The superior court which impaneled the grand jury shall have the same power to remove an attorney from the grand jury room as such court has with respect to an attorney in a courtroom.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.55 - Grand Jury; Matters to Be Heard and Examined; Duties and Authority of District Attorney.

authority of district attorney. 1. A grand jury may hear and examine evidence concerning the alleged commission of any offense prosecutable in the courts of the county, and concerning any misconduct, nonfeasance or neglect in public office by a public servant, whether criminal or otherwise. 2. District attorneys are required or authorized to submit evidence to grand juries under the following circumstances:(a) A district attorney must submit to a grand jury evidence concerning a felony allegedly committed by a defendant who, on the basis of a felony complaint filed with a local criminal court of the county, has been held for the action of a grand jury of such county, except where indictment has been waived by the defendant pursuant to article one hundred ninety-five.(b) A district attorney must submit to a grand jury evidence concerning a misdemeanor allegedly committed by a defendant who has been charged therewith by a local criminal court accusatory instrument, in any case where a superior court of the county has, pursuant to subdivision one of section 170.25, ordered that such misdemeanor charge be prosecuted by indictment in a superior court.(c) A district attorney may submit to a grand jury any available evidence concerning an offense prosecutable in the courts of the county, or concerning misconduct, nonfeasance or neglect in public office by a public servant, whether criminal or otherwise. (a) A district attorney must submit to a grand jury evidence concerning a felony allegedly committed by a defendant who, on the basis of a felony complaint filed with a local criminal court of the county, has been held for the action of a grand jury of such county, except where indictment has been waived by the defendant pursuant to article one hundred ninety-five. (b) A district attorney must submit to a grand jury evidence concerning a misdemeanor allegedly committed by a defendant who has been charged therewith by a local criminal court accusatory instrument, in any case where a superior court of the county has, pursuant to subdivision one of section 170.25, ordered that such misdemeanor charge be prosecuted by indictment in a superior court. (c) A district attorney may submit to a grand jury any available evidence concerning an offense prosecutable in the courts of the county, or concerning misconduct, nonfeasance or neglect in public office by a public servant, whether criminal or otherwise.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.60 - Grand Jury; Action to Be Taken.

After hearing and examining evidence as prescribed in section 190.55, a grand jury may: 1. Indict a person for an offense, as provided in section 190.65; 2. Direct the district attorney to file a prosecutor's information with a local criminal court, as provided in section 190.70; 3. Direct the district attorney to file a request for removal to the family court, as provided in section 190.71 of this article. 4. Dismiss the charge before it, as provided in section 190.75; 5. Submit a grand jury report, as provided in section 190.85.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.65 - Grand Jury; When Indictment Is Authorized.

1. Subject to the rules prescribing the kinds of offenses which may be charged in an indictment, a grand jury may indict a person for an offense when (a) the evidence before it is legally sufficient to establish that such person committed such offense provided, however, such evidence is not legally sufficient when corroboration that would be required, as a matter of law, to sustain a conviction for such offense is absent, and (b) competent and admissible evidence before it provides reasonable cause to believe that such person committed such offense. 2. The offense or offenses for which a grand jury may indict a person in any particular case are not limited to that or those which may have been designated, at the commencement of the grand jury proceeding, to be the subject of the inquiry; and even in a case submitted to it upon a court order, pursuant to the provisions of section 170.25, directing that a misdemeanor charge pending in a local criminal court be prosecuted by indictment, the grand jury may indict the defendant for a felony if the evidence so warrants. 3. Upon voting to indict a person, a grand jury must, through its foreman or acting foreman, file an indictment with the court by which it was impaneled.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.70 - Grand Jury; Direction to File Prosecutor's Information and Related Matters.

related matters. 1. Except in a case submitted to it pursuant to the provisions of section 170.25, a grand jury may direct the district attorney to file in a local criminal court a prosecutor's information charging a person with an offense other than a felony when (a) the evidence before it is legally sufficient to establish that such person committed such offense, and (b) competent and admissible evidence before it provides reasonable cause to believe that such person committed such offense. In such case, the grand jury must, through its foreman or acting foreman, file such direction with the court by which it was impaneled. 2. Such direction must be signed by the foreman or acting foreman. It must contain a plain and concise statement of the conduct constituting the offense to be charged, equivalent in content and precision to the factual statement required to be contained in an indictment pursuant to subdivision seven of section 200.50. Subject to the rules prescribed in sections 200.20 and 200.40 governing joinder in a single indictment of multiple offenses and multiple defendants, such grand jury direction may, where appropriate, specify multiple offenses of less than felony grade and multiple defendants, and may direct that the prospective prosecutor's information charge a single defendant with multiple offenses, or multiple defendants jointly with either a single offense or multiple offenses. 3. Upon the filing of such grand jury direction, the court must, unless such direction is insufficient on its face, issue an order approving such direction and ordering the district attorney to file such a prosecutor's information in a designated local criminal court having trial jurisdiction of the offense or offenses in question.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.71 - Grand Jury; Direction to File Request for Removal to Family Court.

court.(a) Except as provided in subdivision six of section 200.20 of this chapter, a grand jury may not indict (i) a person thirteen years of age for any conduct or crime other than conduct constituting a crime defined in subdivisions one and two of section 125.25 (murder in the second degree) or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) a person fourteen or fifteen years of age for any conduct or crime other than conduct constituting a crime defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); paragraphs (a) and (b) of subdivision one, paragraphs (a) and (b) of subdivision two and paragraphs (a) and (b) of subdivision three of section 130.35 (rape in the first degree); former subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of former section 130.50; 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law; or defined in the penal law as an attempt to commit murder in the second degree or kidnapping in the first degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law.(b) A grand jury may vote to file a request to remove a charge to the family court if it finds that a person sixteen, or commencing October first, two thousand nineteen, seventeen years of age or younger did an act which, if done by a person over the age of sixteen, or commencing October first, two thousand nineteen, seventeen, would constitute a crime provided (1) such act is one for which it may not indict; (2) it does not indict such person for a crime; and (3) the evidence before it is legally sufficient to establish that such person did such act and competent and admissible evidence before it provides reasonable cause to believe that such person did such act.(c) Upon voting to remove a charge to the family court pursuant to subdivision (b) of this section, the grand jury must, through its foreman or acting foreman, file a request to transfer such charge to the family court. Such request shall be filed with the court by which it was impaneled. It must (1) allege that a person named therein did any act which, if done by a person over the age of sixteen, would constitute a crime; (2) specify the act and the time and place of its commission; and (3) be signed by the foreman or the acting foreman.(d) Upon the filing of such grand jury request, the court must, unless such request is improper or insufficient on its face, issue an order approving such request and direct that the charge be removed to the family court in accordance with the provisions of article seven hundred twenty-five of this chapter. (a) Except as provided in subdivision six of section 200.20 of this chapter, a grand jury may not indict (i) a person thirteen years of age for any conduct or crime other than conduct constituting a crime defined in subdivisions one and two of section 125.25 (murder in the second degree) or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law; (ii) a person fourteen or fifteen years of age for any conduct or crime other than conduct constituting a crime defined in subdivisions one and two of section 125.25 (murder in the second degree) and in subdivision three of such section provided that the underlying crime for the murder charge is one for which such person is criminally responsible; 135.25 (kidnapping in the first degree); 150.20 (arson in the first degree); subdivisions one and two of section 120.10 (assault in the first degree); 125.20 (manslaughter in the first degree); paragraphs (a) and (b) of subdivision one, paragraphs (a) and (b) of subdivision two and paragraphs (a) and (b) of subdivision three of section 130.35 (rape in the first degree); former subdivisions one and two of section 130.35 (rape in the first degree); subdivisions one and two of former section 130.50; 130.70 (aggravated sexual abuse in the first degree); 140.30 (burglary in the first degree); subdivision one of section 140.25 (burglary in the second degree); 150.15 (arson in the second degree); 160.15 (robbery in the first degree); subdivision two of section 160.10 (robbery in the second degree) of the penal law; or section 265.03 of the penal law, where such machine gun or such firearm is possessed on school grounds, as that phrase is defined in subdivision fourteen of section 220.00 of the penal law; or defined in the penal law as an attempt to commit murder in the second degree or kidnapping in the first

degree, or such conduct as a sexually motivated felony, where authorized pursuant to section 130.91 of the penal law. (b) A grand jury may vote to file a request to remove a charge to the family court if it finds that a person sixteen, or commencing October first, two thousand nineteen, seventeen years of age or younger did an act which, if done by a person over the age of sixteen, or commencing October first, two thousand nineteen, seventeen, would constitute a crime provided (1) such act is one for which it may not indict; (2) it does not indict such person for a crime; and (3) the evidence before it is legally sufficient to establish that such person did such act and competent and admissible evidence before it provides reasonable cause to believe that such person did such act. (c) Upon voting to remove a charge to the family court pursuant to subdivision (b) of this section, the grand jury must, through its foreman or acting foreman, file a request to transfer such charge to the family court. Such request shall be filed with the court by which it was impaneled. It must (1) allege that a person named therein did any act which, if done by a person over the age of sixteen, would constitute a crime; (2) specify the act and the time and place of its commission; and (3) be signed by the foreman or the acting foreman. (d) Upon the filing of such grand jury request, the court must, unless such request is improper or insufficient on its face, issue an order approving such request and direct that the charge be removed to the family court in accordance with the provisions of article seven hundred twenty-five of this chapter.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.75 - Grand Jury; Dismissal of Charge.

1. If upon a charge that a designated person committed a crime, either (a) the evidence before the grand jury is not legally sufficient to establish that such person committed such crime or any other offense, or (b) the grand jury is not satisfied that there is reasonable cause to believe that such person committed such crime or any other offense, it must dismiss the charge. In such case, the grand jury must, through its foreman or acting foreman, file its finding of dismissal with the court by which it was impaneled. 2. If the defendant was previously held for the action of the grand jury by a local criminal court, the superior court to which such dismissal is presented must order the defendant released from custody if he is in the custody of the sheriff, or, if he is at liberty on bail, it must exonerate the bail. 3. When a charge has been so dismissed, it may not again be submitted to a grand jury unless the court in its discretion authorizes or directs the people to resubmit such charge to the same or another grand jury. If in such case the charge is again dismissed, it may not again be submitted to a grand jury. 4. Whenever all charges against a designated person have been so dismissed, the district attorney must within ninety days of the filing of the finding of such dismissal, notify that person of the dismissal by regular mail to his last known address unless resubmission has been permitted pursuant to subdivision three of this section or an order of postponement of such service is obtained upon a showing of good cause and exigent circumstances.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.80 - Grand Jury; Release of Defendant Upon Failure of Timely Grand Jury Action.

jury action. Upon application of a defendant who on the basis of a felony complaint has been held by a local criminal court for the action of a grand jury, and who, at the time of such order or subsequent thereto, has been committed to the custody of the sheriff pending such grand jury action, and who has been confined in such custody for a period of more than forty-five days, or, in the case of a juvenile offender or adolescent offender, thirty days, without the occurrence of any grand jury action or disposition pursuant to subdivision one, two or three of section 190.60, the superior court by which such grand jury was or is to be impaneled must release him on his own recognizance unless:(a) The lack of a grand jury disposition during such period of confinement was due to the defendant's request, action or condition, or occurred with his consent; or(b) The people have shown good cause why such order of release should not be issued. Such good cause must consist of some compelling fact or circumstance which precluded grand jury action within the prescribed period or rendered the same against the interest of justice. (a) The lack of a grand jury disposition during such period of confinement was due to the defendant's request, action or condition, or occurred with his consent; or (b) The people have shown good cause why such order of release should not be issued. Such good cause must consist of some compelling fact or circumstance which precluded grand jury action within the prescribed period or rendered the same against the interest of justice.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.85 - Grand Jury; Grand Jury Reports.

1. The grand jury may submit to the court by which it was impaneled, a report:(a) Concerning misconduct, non-feasance or neglect in public office by a public servant as the basis for a recommendation of removal or disciplinary action; or(b) Stating that after investigation of a public servant it finds no misconduct, non-feasance or neglect in office by him provided that such public servant has requested the submission of such report; or(c) Proposing recommendations for legislative, executive or administrative action in the public interest based upon stated findings.2. The court to which such report is submitted shall examine it and the minutes of the grand jury and, except as otherwise provided in subdivision four, shall make an order accepting and filing such report as a public record only if the court is satisfied that it complies with the provisions of subdivision one and that:(a) The report is based upon facts revealed in the course of an investigation authorized by section 190.55 and is supported by the preponderance of the credible and legally admissible evidence; and(b) When the report is submitted pursuant to paragraph (a) of subdivision one, that each person named therein was afforded an opportunity to testify before the grand jury prior to the filing of such report, and when the report is submitted pursuant to paragraph (b) or (c) of subdivision one, it is not critical of an identified or identifiable person.3. The order

accepting a report pursuant to paragraph (a) of subdivision one, and the report itself, must be sealed by the court and may not be filed as a public record, or be subject to subpoena or otherwise be made public until at least thirty-one days after a copy of the order and the report are served upon each public servant named therein, or if an appeal is taken pursuant to section 190.90, until the affirmance of the order accepting the report, or until reversal of the order sealing the report, or until dismissal of the appeal of the named public servant by the appellate division, whichever occurs later. Such public servant may file with the clerk of the court an answer to such report, not later than twenty days after service of the order and report upon him. Such an answer shall plainly and concisely state the facts and law constituting the defense of the public servant to the charges in said report, and, except for those parts of the answer which the court may determine to be scandalously or prejudicially and unnecessarily inserted therein, shall become an appendix to the report. Upon the expiration of the time set forth in this subdivision, the district attorney shall deliver a true copy of such report, and the appendix if any, for appropriate action, to each public servant or body having removal or disciplinary authority over each public servant named therein.4. Upon the submission of a report pursuant to subdivision one, if the court finds that the filing of such report as a public record, may prejudice fair consideration of a pending criminal matter, it must order such report sealed and such report may not be subject to subpoena or public inspection during the pendency of such criminal matter, except upon order of the court.5. Whenever the court to which a report is submitted pursuant to paragraph (a) of subdivision one is not satisfied that the report complies with the provisions of subdivision two, it may direct that additional testimony be taken before the same grand jury, or it must make an order sealing such report, and the report may not be filed as a public record, or be subject to subpoena or otherwise be made public. (a) Concerning misconduct, non-feasance or neglect in public office by a public servant as the basis for a recommendation of removal or disciplinary action; or (b) Stating that after investigation of a public servant it finds no misconduct, non-feasance or neglect in office by him provided that such public servant has requested the submission of such report; or (c) Proposing recommendations for legislative, executive or administrative action in the public interest based upon stated findings. 2. The court to which such report is submitted shall examine it and the minutes of the grand jury and, except as otherwise provided in subdivision four, shall make an order accepting and filing such report as a public record only if the court is satisfied that it complies with the provisions of subdivision one and that: (a) The report is based upon facts revealed in the course of an investigation authorized by section 190.55 and is supported by the preponderance of the credible and legally admissible evidence; and (b) When the report is submitted pursuant to paragraph (a) of subdivision one, that each person named therein was afforded an opportunity to testify before the grand jury prior to the filing of such report, and when the report is submitted pursuant to paragraph (b) or (c) of subdivision one, it is not critical of an identified or identifiable person. 3. The order accepting a report pursuant to paragraph (a) of subdivision one, and the report itself, must be sealed by the court and may not be filed as a public record, or be subject to subpoena or otherwise be made public until at least thirty-one days after a copy of the order and the report are served upon each public servant named therein, or if an appeal is taken pursuant to section 190.90, until the affirmance of the order accepting the report, or until reversal of the order sealing the report, or until dismissal of the appeal of the named public servant by the appellate division, whichever occurs later. Such public servant may file with the clerk of the court an answer to such report, not later than twenty days after service of the order and report upon him. Such an answer shall plainly and concisely state the facts and law constituting the defense of the public servant to the charges in said report, and, except for those parts of the answer which the court may determine to be scandalously or prejudicially and unnecessarily inserted therein, shall become an appendix to the report. Upon the expiration of the time set forth in this subdivision, the district attorney shall deliver a true copy of such report, and the appendix if any, for appropriate action, to each public servant or body having removal or disciplinary authority over each public servant named therein. 4. Upon the submission of a report pursuant to subdivision one, if the court finds that the filing of such report as a public record, may prejudice fair consideration of a pending criminal matter, it must order such report sealed and such report may not be subject to subpoena or public inspection during the pendency of such criminal matter, except upon order of the court. 5. Whenever the court to which a report is submitted pursuant to paragraph (a) of subdivision one is not satisfied that the report complies with the provisions of subdivision two, it may direct that additional testimony be taken before the same grand jury, or it must make an order sealing such report, and the report may not be filed as a public record, or be subject to subpoena or otherwise be made public.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 190 - The Grand Jury and Its Proceedings190.90 - Grand Jury; Appeal From Order Concerning Grand Jury Reports.

1. When a court makes an order accepting a report of a grand jury pursuant to paragraph (a) of subdivision one of section 190.85, any public servant named therein may appeal the order; and when a court makes an order sealing a report of a grand jury pursuant to subdivision five of section 190.85, the district attorney or other attorney designated by the grand jury may appeal the order. 2. When a court makes an order sealing a report of a grand jury pursuant to subdivision five of section 190.85, the district attorney or other attorney designated by the grand jury may, within ten days after service of a copy of the order and report upon each public servant named in the report, appeal the order to the appellate division of the department in which the order was made, by filing in duplicate a notice of appeal from the order with the clerk of the court in which the order was made and by serving a copy of such notice of appeal upon each such public servant. Notwithstanding any contrary provision of section 190.85, a true copy of the report of the grand jury shall be served, together with such notice of appeal, upon each such public servant. 3. The mode of and time for perfecting an appeal pursuant to this section, and the mode of and procedure for the argument thereof, are determined by the rules of the appellate division of the department in which the appeal is brought. Such rules shall prescribe the matters referred to in

subdivision one of section 460.70 and in section 460.80, except that such appeal is a preferred cause and the appellate division of each department shall promulgate rules to effectuate such preference. 4. The record and all other presentations on appeal shall remain sealed, except that upon reversal of the order sealing the report or dismissal of the appeal of the named public servant by the appellate division, the report of the grand jury, with the appendix, if any, shall be filed as a public record as provided in subdivision three of section 190.85. 5. The procedure provided for in this section shall be the exclusive manner of reviewing an order made pursuant to section 190.85 and the appellate division of the supreme court shall be the sole court having jurisdiction of such an appeal. The order of the appellate division finally determining such appeal shall not be subject to review in any other court or proceeding. 6. The grand jury in an appeal pursuant to this section shall be represented by the district attorney unless the report relates to him or his office, in which event the grand jury may designate another attorney.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 195 - Waiver of Indictment195.10 - Waiver of Indictment; in General.

1. A defendant may waive indictment and consent to be prosecuted by superior court information when:(a) a local criminal court has held the defendant for the action of a grand jury; and(b) the defendant is not charged with a class A felony punishable by death or life imprisonment; and(c) the district attorney consents to the waiver.2. A defendant may waive indictment pursuant to subdivision one in either:(a) the local criminal court in which the order was issued holding the defendant for action of a grand jury, at the time such order is issued; or(b) the appropriate superior court, at any time prior to the filing of an indictment by the grand jury. (a) a local criminal court has held the defendant for the action of a grand jury; and (b) the defendant is not charged with a class A felony punishable by death or life imprisonment; and (c) the district attorney consents to the waiver. 2. A defendant may waive indictment pursuant to subdivision one in either: (a) the local criminal court in which the order was issued holding the defendant for action of a grand jury, at the time such order is issued; or (b) the appropriate superior court, at any time prior to the filing of an indictment by the grand jury.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 195 - Waiver of Indictment195.20 - Waiver of Indictment; Written Instrument.

A waiver of indictment shall be evidenced by a written instrument, which shall contain the name of the court in which it is executed, the title of the action, and the name, date and approximate time and place of each offense to be charged in the superior court information to be filed by the district attorney pursuant to section 195.40. The offenses named may include any offense for which the defendant was held for action of a grand jury and any offense or offenses properly joinable therewith pursuant to sections 200.20 and 200.40. The written waiver shall also contain a statement by the defendant that he is aware that:(a) under the constitution of the state of New York he has the right to be prosecuted by indictment filed by a grand jury;(b) he waives such right and consents to be prosecuted by superior court information to be filed by the district attorney;(c) the superior court information to be filed by the district attorney will charge the offenses named in the written waiver; and(d) the superior court information to be filed by the district attorney will have the same force and effect as an indictment filed by a grand jury.The written waiver shall be signed by the defendant in open court in the presence of his attorney. The consent of the district attorney shall be endorsed thereon. (a) under the constitution of the state of New York he has the right to be prosecuted by indictment filed by a grand jury; (b) he waives such right and consents to be prosecuted by superior court information to be filed by the district attorney; (c) the superior court information to be filed by the district attorney will charge the offenses named in the written waiver; and (d) the superior court information to be filed by the district attorney will have the same force and effect as an indictment filed by a grand jury. The written waiver shall be signed by the defendant in open court in the presence of his attorney. The consent of the district attorney shall be endorsed thereon.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 195 - Waiver of Indictment195.30 - Waiver of Indictment; Approval of Waiver by the Court.

The court shall determine whether the waiver of indictment complies with the provisions of sections 195.10 and 195.20. If satisfied that the waiver complies with such provisions, the court shall approve the waiver and execute a written order to that effect. When the waiver is approved by a local criminal court, the local criminal court shall promptly transmit to the appropriate superior court the written waiver and order approving the waiver, along with all other documents pertinent to the action. Until such papers are received by the superior court, the action is deemed to be pending in the local criminal court.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 195 - Waiver of Indictment195.40 - Waiver of Indictment; Filing of Superior Court Information.

When indictment is waived in a superior court the district attorney shall file a superior court information in such court at the time the waiver is executed. When indictment is waived in a local criminal court the district attorney shall file a superior court information in the appropriate superior court within ten days of the execution of the court order approving the waiver. Upon application of a defendant whose waiver of indictment has been approved by the court, and who, at the time of such approval or subsequent thereto, has been committed to the custody of the sheriff pending disposition of the action, and who has been confined in such custody for a period of more than ten days from the date of approval without the filing by the district attorney of a superior court information, the superior court must release him on his own recognizance unless:(a) The failure of the district attorney to file a superior court

information during such period of confinement was due to defendant's request, action or condition or occurred with his consent; or(b) The people have shown good cause why such order of release should not be issued. Such good cause must consist of some compelling fact or circumstance which precluded the filing of the superior court information within the prescribed period. (a) The failure of the district attorney to file a superior court information during such period of confinement was due to defendant's request, action or condition or occurred with his consent; or (b) The people have shown good cause why such order of release should not be issued. Such good cause must consist of some compelling fact or circumstance which precluded the filing of the superior court information within the prescribed period.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 210 - Proceedings in Superior Court From Filing of Indictment to Plea210.05 - Indictment and Superior Court Information Exclusive Methods of Prosecution.

prosecution. The only methods of prosecuting an offense in a superior court are by an indictment filed therewith by a grand jury or by a superior court information filed therewith by a district attorney.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 210 - Proceedings in Superior Court From Filing of Indictment to Plea210.10 - Requirement of and Methods of Securing Defendant's Appearance for Arraignment Upon Indictment.

for arraignment upon indictment. After an indictment has been filed with a superior court, the defendant must be arraigned thereon. He must appear personally at such arraignment, and his appearance may be secured as follows: 1. If the defendant was previously held by a local criminal court for the action of the grand jury, and if he is confined in the custody of the sheriff pursuant to a previous court order issued in the same criminal action, the superior court must direct the sheriff to produce the defendant for arraignment on a specified date and the sheriff must comply with such direction. The court must give at least two days notice of the time and place of the arraignment to an attorney, if any, who has previously filed a notice of appearance in behalf of the defendant with such superior court, or if no such notice of appearance has been filed, to an attorney, if any, who filed a notice of appearance in behalf of the defendant with the local criminal court. 2. If a felony complaint against the defendant was pending in a local criminal court or if the defendant was previously held by a local criminal court for the action of the grand jury, and if the defendant is at liberty on his or her own recognizance or on bail pursuant to a previous court order issued in the same criminal action, the superior court must, upon at least two days notice to the defendant and his or her surety, to any person other than the defendant who posted cash bail and to any attorney who would be entitled to notice under circumstances prescribed in subdivision one, direct the defendant to appear before the superior court for arraignment on a specified date. If the defendant fails to appear on such date, the court may issue a bench warrant and, in addition, may forfeit the bail, if any. Upon taking the defendant into custody pursuant to such bench warrant, the executing police officer must without unnecessary delay bring the defendant before such superior court for arraignment. If such superior court is not available, the executing police officer may bring the defendant to the local correctional facility of the county in which such superior court sits, to be detained there until not later than the commencement of the next session of such court occurring on the next business day. 3. If the defendant has not previously been held by a local criminal court for the action of the grand jury and the filing of the indictment constituted the commencement of the criminal action, the superior court must order the indictment to be filed as a sealed instrument until the defendant is produced or appears for arraignment, and must issue a superior court warrant of arrest. Upon the request of the district attorney, in lieu of a superior court warrant of arrest, the court may issue a summons if it is satisfied that the defendant will respond thereto. Upon the request of the district attorney, in lieu of a warrant of arrest or summons, the court may instead authorize the district attorney to direct the defendant to appear for arraignment on a designated date if it is satisfied that the defendant will so appear. A superior court warrant of arrest is executable anywhere in the state. Such warrant may be addressed to any police officer whose geographical area of employment embraces either the place where the offense charged was allegedly committed or the locality of the court by which the warrant is issued. It must be executed in the same manner as an ordinary warrant of arrest, as provided in section 120.80, and following the arrest the executing police officer must without unnecessary delay perform all recording, fingerprinting, photographing and other preliminary police duties required in the particular case, and bring the defendant before the superior court. If such superior court is not available, the executing police officer may bring the defendant to the local correctional facility of the county in which such superior court sits, to be detained there until not later than the commencement of the next session of such court occurring on the next business day. 4. A superior court warrant of arrest may be executed by (a) any police officer to whom it is addressed or (b) any other police officer delegated to execute it under circumstances prescribed in subdivisions five and six. 5. The issuing court may authorize the delegation of such warrant. Where the issuing court has so authorized, a police officer to whom a superior court warrant of arrest is addressed may delegate another police officer to whom it is not addressed to execute such warrant as his agent when:(a) He has reasonable cause to believe that the defendant is in a particular county other than the one in which the warrant is returnable; and(b) The geographical area of employment of the delegated police officer embraces the locality where the arrest is to be made.6. Under circumstances specified in subdivision five, the police officer to whom the warrant is addressed may inform the delegated officer, by telecommunication, mail or any other means, of the issuance of the warrant, of the offense charged in the underlying accusatory instrument and of all other pertinent details, and may request such officer to act as his or her agent in arresting the defendant pursuant to such warrant. Upon such request, the delegated police officer is to the same extent as the delegating officer, authorized to make such arrest pursuant to the warrant within the geographical area of such delegated officer's employment. Upon so arresting

the defendant, he or she must without unnecessary delay deliver the defendant or cause the defendant to be delivered to the custody of the police officer by whom he or she was so delegated, and the latter must then without unnecessary delay bring the defendant before a court in which such warrant is returnable. If such court is not available, the delegating officer may bring the defendant to the local correctional facility of the county in which such court sits, to be detained there until not later than the commencement of the next session of such court occurring on the next business day. (a) He has reasonable cause to believe that the defendant is in a particular county other than the one in which the warrant is returnable; and (b) The geographical area of employment of the delegated police officer embraces the locality where the arrest is to be made. 6. Under circumstances specified in subdivision five, the police officer to whom the warrant is addressed may inform the delegated officer, by telecommunication, mail or any other means, of the issuance of the warrant, of the offense charged in the underlying accusatory instrument and of all other pertinent details, and may request such officer to act as his or her agent in arresting the defendant pursuant to such warrant. Upon such request, the delegated police officer is to the same extent as the delegating officer, authorized to make such arrest pursuant to the warrant within the geographical area of such delegated officer's employment. Upon so arresting the defendant, he or she must without unnecessary delay deliver the defendant or cause the defendant to be delivered to the custody of the police officer by whom he or she was so delegated, and the latter must then without unnecessary delay bring the defendant before a court in which such warrant is returnable. If such court is not available, the delegating officer may bring the defendant to the local correctional facility of the county in which such court sits, to be detained there until not later than the commencement of the next session of such court occurring on the next business day.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 210 - Proceedings in Superior Court From Filing of Indictment to Plea210.15 - Arraignment Upon Indictment; Defendant's Rights, Court's Instructions and Bail Matters.

instructions and bail matters. 1. Upon the defendant's arraignment before a superior court upon an indictment, the court must immediately inform him, or cause him to be informed in its presence, of the charge or charges against him, and the district attorney must cause him to be furnished with a copy of the indictment. 2. The defendant has a right to the aid of counsel at the arraignment and at every subsequent stage of the action, and, if he appears upon such arraignment without counsel, has the following rights:(a) To an adjournment for the purpose of obtaining counsel; and(b) To communicate, free of charge, by letter or by telephone provided by the law enforcement facility where the defendant is held to a phone number located in the United States or Puerto Rico, for the purposes of obtaining counsel and informing a relative or friend that he or she has been charged with an offense; and(c) To have counsel assigned by the court in any case where he is financially unable to obtain the same.3. The court must inform the defendant of all rights specified in subdivision two. The court must accord the defendant opportunity to exercise such rights and must itself take such affirmative action as is necessary to effectuate them.5. If the defendant desires to proceed without the aid of counsel, the court must permit him to do so if it is satisfied that he made such decision with knowledge of the significance thereof, but if it is not so satisfied it may not proceed until the defendant is provided with counsel, either of his own choosing or by assignment. A defendant who proceeds at the arraignment without counsel does not waive his right to counsel, and the court must inform him that he continues to have such right as well as all the rights specified in subdivision two which are necessary to effectuate it, and that he may exercise such rights at any stage of the action.6. Upon the arraignment, the court, unless it intends to make a final disposition of the action immediately thereafter, must, as provided in section 530.40, issue a securing order, releasing the defendant on his own recognizance or fixing bail or committing him to the custody of the sheriff for his future appearance in such action. (a) To an adjournment for the purpose of obtaining counsel; and (b) To communicate, free of charge, by letter or by telephone provided by the law enforcement facility where the defendant is held to a phone number located in the United States or Puerto Rico, for the purposes of obtaining counsel and informing a relative or friend that he or she has been charged with an offense; and (c) To have counsel assigned by the court in any case where he is financially unable to obtain the same. 3. The court must inform the defendant of all rights specified in subdivision two. The court must accord the defendant opportunity to exercise such rights and must itself take such affirmative action as is necessary to effectuate them. 5. If the defendant desires to proceed without the aid of counsel, the court must permit him to do so if it is satisfied that he made such decision with knowledge of the significance thereof, but if it is not so satisfied it may not proceed until the defendant is provided with counsel, either of his own choosing or by assignment. A defendant who proceeds at the arraignment without counsel does not waive his right to counsel, and the court must inform him that he continues to have such right as well as all the rights specified in subdivision two which are necessary to effectuate it, and that he may exercise such rights at any stage of the action. 6. Upon the arraignment, the court, unless it intends to make a final disposition of the action immediately thereafter, must, as provided in section 530.40, issue a securing order, releasing the defendant on his own recognizance or fixing bail or committing him to the custody of the sheriff for his future appearance in such action.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 210 - Proceedings in Superior Court From Filing of Indictment to Plea210.16 - Requirement of HIV Related Testing in Certain Cases.

1. (a) In a case where an indictment or a superior court information has been filed with a superior court which charges the defendant with a felony offense enumerated in any section of article one hundred thirty of the penal law where an act of "vaginal sexual contact", "oral sexual contact" or "anal sexual contact," as those terms are defined in section 130.00 of the penal law, is required as an essential element for the commission thereof, the court shall, upon a request of the victim within six months of the date of the

crimes charged, order that the defendant submit to human immunodeficiency virus (HIV) related testing. Testing of a defendant shall be ordered when the result would provide medical benefit to the victim or a psychological benefit to the victim. Medical benefit shall be found when the following elements are satisfied: (i) a decision is pending about beginning, continuing, or discontinuing a medical intervention for the victim; and (ii) the result of an HIV test of the accused could affect that decision, and could provide relevant information beyond that which would be provided by an HIV test of the victim. If testing the defendant would provide medical benefit to the victim or a psychological benefit to the victim, then the testing is to be conducted by a state, county, or local public health officer designated by the order. Test results, which shall not be disclosed to the court, shall be communicated to the defendant and the victim named in the order in accordance with the provisions of section twenty-seven hundred eighty-five-a of the public health law.(b) For the purposes of this section, the terms "victim" and "applicant" mean the person with whom the defendant is charged to have engaged in an act of "vaginal sexual contact", "oral sexual contact" or "anal sexual contact", as those terms are defined in section 130.00 of the penal law, where such conduct with such victim was the basis for charging the defendant with an offense specified in paragraph (a) of this subdivision.2. Any request made by the victim pursuant to this section must be in writing, filed with the court within six months of the date of the crimes charged, and provided by the court to the defendant or his or her counsel. The request must be filed with the court prior to or within forty-eight hours after the indictment or superior court information has been filed with the superior court; provided however that, for good cause shown, the court may permit such request to be filed at a later stage of the action within six months of the date of the crimes charged.3. At any stage in the action within six months of the date of the crimes charged, prior to the final disposition of the indictment or superior court information and while the defendant is charged with an offense specified in paragraph (a) of subdivision one of this section, the victim may request that the defendant submit to a follow-up HIV related test. Such request must be in writing, filed with the court and provided by the court to the defendant or his or her counsel. Upon a finding that the follow-up HIV related test is medically appropriate the court must order that the defendant submit to such test. The court shall not make such finding of medical appropriateness unless the follow-up HIV related test is to be administered a sufficient time after the charged offense to be consistent with guidelines that may be issued by the commissioner of health. There shall be no more than one follow-up HIV related test absent a showing of extraordinary circumstances.4. Any requests, related papers and orders made or filed pursuant to this section, together with any papers or proceedings related thereto, shall be sealed by the court and not made available for any purpose, except as may be necessary for the conduct of judicial proceedings directly related to the provisions of this section. All proceedings on such requests shall be held in camera.5. The application for an order to compel a defendant to undergo an HIV related test may be made by the victim but, if the victim is an infant or incompetent person, the application may also be made by a representative as defined in section twelve hundred one of the civil practice law and rules. The application must state that: (a) the applicant was the victim of the offense enumerated in paragraph (a) of subdivision one of this section of which the defendant is charged; and (b) the applicant has been offered pre-HIV test counseling and post-HIV test counseling by a public health officer in accordance with article twenty-seven-F of the public health law and has been advised, in accordance with any guidelines that may be issued by the commissioner of health, of (i) the limitations on the information to be obtained through an HIV test on the proposed subject; (ii) current scientific assessments of the risk of transmission of HIV from the exposure he or she may have experienced; and (iii) the need for the applicant to undergo HIV related testing to definitively determine his or her HIV status.6. The court shall conduct a hearing only if necessary to determine if the applicant is the victim of the offense of which the defendant is charged or to determine whether a follow-up test is medically appropriate. The court ordered test must be performed within forty-eight hours of the date on which the court ordered the test, provided, however, that whenever the defendant is not tested within the period prescribed by the court, the court must again order that the defendant undergo an HIV related test. The defendant shall be advised of information as to HIV testing and medical treatment in accordance with any guidelines that may be issued by the commissioner of health.7. (a) Test results shall be disclosed subject to the following limitations, which shall be specified in any order issued pursuant to this section:(i) disclosure of confidential HIV related information shall be limited to that information which is necessary to fulfill the purpose for which the order is granted; and(ii) disclosure of confidential HIV related information shall be made to the defendant upon his or her request, and disclosure to a person other than the defendant shall be limited to the person making the application; redisclosure shall be permitted only to the victim, the victim's immediate family, guardian, physicians, attorneys, medical or mental health providers and to his or her past and future contacts to whom there was or is a reasonable risk of HIV transmission and shall not be permitted to any other person or the court.(b) Unless inconsistent with this section, the court's order shall direct compliance with and conform to the provisions of article twenty-seven-F of the public health law. Such order shall include measures to protect against disclosure to others of the identity and HIV status of the applicant and of the person tested and may include such other measures as the court deems necessary to protect confidential information.8. Any failure to comply with the provisions of this section or section twenty-seven hundred eighty-five-a of the public health law shall not impair or affect the validity of any proceeding upon the indictment or superior court information.9. No information obtained as a result of a consent, hearing or court order for testing issued pursuant to this section nor any information derived therefrom may be used as evidence in any criminal or civil proceeding against the defendant which relates to events that were the basis for charging the defendant with an offense enumerated in paragraph (a) of subdivision one of this section, provided however that nothing in this section shall prevent prosecution of a witness testifying in any court hearing held pursuant to this section for perjury pursuant to article two hundred ten of the penal law. (b) For the purposes of this section, the terms "victim" and "applicant" mean the person with whom the defendant is charged to have engaged in an act of "vaginal sexual contact", "oral sexual contact" or "anal sexual contact", as those terms are defined in section 130.00 of the penal law, where such conduct with such victim was the basis for charging the defendant with an offense specified in paragraph (a) of this

subdivision. 2. Any request made by the victim pursuant to this section must be in writing, filed with the court within six months of the date of the crimes charged, and provided by the court to the defendant or his or her counsel. The request must be filed with the court prior to or within forty-eight hours after the indictment or superior court information has been filed with the superior court; provided however that, for good cause shown, the court may permit such request to be filed at a later stage of the action within six months of the date of the crimes charged. 3. At any stage in the action within six months of the date of the crimes charged, prior to the final disposition of the indictment or superior court information and while the defendant is charged with an offense specified in paragraph (a) of subdivision one of this section, the victim may request that the defendant submit to a follow-up HIV related test. Such request must be in writing, filed with the court and provided by the court to the defendant or his or her counsel. Upon a finding that the follow-up HIV related test is medically appropriate the court must order that the defendant submit to such test. The court shall not make such finding of medical appropriateness unless the follow-up HIV related test is to be administered a sufficient time after the charged offense to be consistent with guidelines that may be issued by the commissioner of health. There shall be no more than one follow-up HIV related test absent a showing of extraordinary circumstances. 4. Any requests, related papers and orders made or filed pursuant to this section, together with any papers or proceedings related thereto, shall be sealed by the court and not made available for any purpose, except as may be necessary for the conduct of judicial proceedings directly related to the provisions of this section. All proceedings on such requests shall be held in camera. 5. The application for an order to compel a defendant to undergo an HIV related test may be made by the victim but, if the victim is an infant or incompetent person, the application may also be made by a representative as defined in section twelve hundred one of the civil practice law and rules. The application must state that: (a) the applicant was the victim of the offense enumerated in paragraph (a) of subdivision one of this section of which the defendant is charged; and (b) the applicant has been offered pre-HIV test counseling and post-HIV test counseling by a public health officer in accordance with article twenty-seven-F of the public health law and has been advised, in accordance with any guidelines that may be issued by the commissioner of health, of (i) the limitations on the information to be obtained through an HIV test on the proposed subject; (ii) current scientific assessments of the risk of transmission of HIV from the exposure he or she may have experienced; and (iii) the need for the applicant to undergo HIV related testing to definitively determine his or her HIV status. 6. The court shall conduct a hearing only if necessary to determine if the applicant is the victim of the offense of which the defendant is charged or to determine whether a follow-up test is medically appropriate. The court ordered test must be performed within forty-eight hours of the date on which the court ordered the test, provided, however, that whenever the defendant is not tested within the period prescribed by the court, the court must again order that the defendant undergo an HIV related test. The defendant shall be advised of information as to HIV testing and medical treatment in accordance with any guidelines that may be issued by the commissioner of health. 7. (a) Test results shall be disclosed subject to the following limitations, which shall be specified in any order issued pursuant to this section: (i) disclosure of confidential HIV related information shall be limited to that information which is necessary to fulfill the purpose for which the order is granted; and (ii) disclosure of confidential HIV related information shall be made to the defendant upon his or her request, and disclosure to a person other than the defendant shall be limited to the person making the application; redisclosure shall be permitted only to the victim, the victim's immediate family, guardian, physicians, attorneys, medical or mental health providers and to his or her past and future contacts to whom there was or is a reasonable risk of HIV transmission and shall not be permitted to any other person or the court. (b) Unless inconsistent with this section, the court's order shall direct compliance with and conform to the provisions of article twenty-seven-F of the public health law. Such order shall include measures to protect against disclosure to others of the identity and HIV status of the applicant and of the person tested and may include such other measures as the court deems necessary to protect confidential information. 8. Any failure to comply with the provisions of this section or section twenty-seven hundred eighty-five-a of the public health law shall not impair or affect the validity of any proceeding upon the indictment or superior court information. 9. No information obtained as a result of a consent, hearing or court order for testing issued pursuant to this section nor any information derived therefrom may be used as evidence in any criminal or civil proceeding against the defendant which relates to events that were the basis for charging the defendant with an offense enumerated in paragraph (a) of subdivision one of this section, provided however that nothing in this section shall prevent prosecution of a witness testifying in any court hearing held pursuant to this section for perjury pursuant to article two hundred ten of the penal law.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 210 - Proceedings in Superior Court From Filing of Indictment to Plea210.20 - Motion to Dismiss or Reduce Indictment.

1. After arraignment upon an indictment, the superior court may, upon motion of the defendant, dismiss such indictment or any count thereof upon the ground that:(a) Such indictment or count is defective, within the meaning of section 210.25; or(b) The evidence before the grand jury was not legally sufficient to establish the offense charged or any lesser included offense; or(c) The grand jury proceeding was defective, within the meaning of section 210.35; or(d) The defendant has immunity with respect to the offense charged, pursuant to section 50.20 or 190.40; or(e) The prosecution is barred by reason of a previous prosecution, pursuant to section 40.20; or(f) The prosecution is untimely, pursuant to section 30.10; or(g) The defendant has been denied the right to a speedy trial; or(h) There exists some other jurisdictional or legal impediment to conviction of the defendant for the offense charged; or(i) Dismissal is required in the interest of justice, pursuant to section 210.40.1-a. After arraignment upon an indictment, if the superior court, upon motion of the defendant pursuant to this subdivision or paragraph b of subdivision one of this section challenging the legal sufficiency of the evidence before the grand jury, finds that the evidence before the grand jury was not legally

sufficient to establish the commission by the defendant of the offense charged in any count contained within the indictment, but was legally sufficient to establish the commission of a lesser included offense, it shall order the count or counts of the indictment with respect to which the finding is made reduced to allege the most serious lesser included offense with respect to which the evidence before the grand jury was sufficient, except that where the most serious lesser included offense thus found is a petty offense, and the court does not find evidence of the commission of any crime in any other count of the indictment, it shall order the indictment dismissed and a prosecutor's information charging the petty offense filed in the appropriate local criminal court. The motion to dismiss or reduce any count of an indictment based on legal insufficiency to establish the offense charged shall be made in accordance with the procedure set forth in subdivisions one through seven of section 210.45, provided however, the court shall state on the record the basis for its determination. Upon entering an order pursuant to this subdivision, the court shall consider the appropriateness of any securing order issued pursuant to article 510 of this chapter.2. A motion pursuant to this section, except a motion pursuant to paragraph (g) of subdivision one, should be made within the period provided in section 255.20. A motion made pursuant to paragraph (g) of subdivision one must be made prior to the commencement of trial or entry of a plea of guilty.3. Upon the motion, a defendant who is in a position adequately to raise more than one ground in support thereof should raise every such ground upon which he intends to challenge the indictment. A subsequent motion based upon any such ground not so raised may be summarily denied, although the court, in the interest of justice and for good cause shown, may in its discretion entertain and dispose of such a motion on the merits notwithstanding.4. Upon dismissing an indictment or a count thereof upon any of the grounds specified in paragraphs (a), (b), (c) and (i) of subdivision one, or, upon dismissing a superior court information or a count thereof upon any of the grounds specified in paragraphs (a) or (i) of subdivision one, the court may, upon application of the people, in its discretion authorize the people to submit the charge or charges to the same or another grand jury. When the dismissal is based upon some other ground, such authorization may not be granted. In the absence of authorization to submit or resubmit, the order of dismissal constitutes a bar to any further prosecution of such charge or charges, by indictment or otherwise, in any criminal court within the county.5. If the court dismisses one or more counts of an indictment, against a defendant who was under the age of sixteen at the time of the commission of the crime and who did not lack criminal responsibility for such crime by reason of infancy, and one or more other counts of the indictment having been joined in the indictment solely with the dismissed count pursuant to subdivision six of section 200.20 is not dismissed, the court must direct that such count be removed to the family court in accordance with article seven hundred twenty-five of this chapter.6. The effectiveness of an order reducing a count or counts of an indictment or dismissing an indictment and directing the filing of a prosecutor's information or dismissing a count or counts of an indictment charging murder in the first degree shall be stayed for thirty days following the entry of such order unless such stay is otherwise waived by the people. On or before the conclusion of such thirty-day period, the people shall exercise one of the following options:(a) Accept the court's order by filing a reduced indictment, by dismissing the indictment and filing a prosecutor's information, or by filing an indictment containing any count or counts remaining after dismissal of the count or counts charging murder in the first degree, as appropriate;(b) Resubmit the subject count or counts to the same or a different grand jury within thirty days of the entry of the order or such additional time as the court may permit upon a showing of good cause; provided, however, that if in such case an order is again entered with respect to such count or counts pursuant to subdivision one-a of this section, such count or counts may not again be submitted to a grand jury. Where the people exercise this option, the effectiveness of the order further shall be stayed pending a determination by the grand jury and the filing of a new indictment, if voted, charging the resubmitted count or counts;(c) Appeal the order pursuant to subdivision one or one-a of section 450.20. Where the people exercise this option, the effectiveness of the order further shall be stayed in accordance with the provisions of subdivision two of section 460.40.If the people fail to exercise one of the foregoing options, the court's order shall take effect and the people shall comply with paragraph (a) of this subdivision. (a) Such indictment or count is defective, within the meaning of section 210.25; or (b) The evidence before the grand jury was not legally sufficient to establish the offense charged or any lesser included offense; or (c) The grand jury proceeding was defective, within the meaning of section 210.35; or (d) The defendant has immunity with respect to the offense charged, pursuant to section 50.20 or 190.40; or (e) The prosecution is barred by reason of a previous prosecution, pursuant to section 40.20; or (f) The prosecution is untimely, pursuant to section 30.10; or (g) The defendant has been denied the right to a speedy trial; or (h) There exists some other jurisdictional or legal impediment to conviction of the defendant for the offense charged; or (i) Dismissal is required in the interest of justice, pursuant to section 210.40. 1-a. After arraignment upon an indictment, if the superior court, upon motion of the defendant pursuant to this subdivision or paragraph b of subdivision one of this section challenging the legal sufficiency of the evidence before the grand jury, finds that the evidence before the grand jury was not legally sufficient to establish the commission by the defendant of the offense charged in any count contained within the indictment, but was legally sufficient to establish the commission of a lesser included offense, it shall order the count or counts of the indictment with respect to which the finding is made reduced to allege the most serious lesser included offense with respect to which the evidence before the grand jury was sufficient, except that where the most serious lesser included offense thus found is a petty offense, and the court does not find evidence of the commission of any crime in any other count of the indictment, it shall order the indictment dismissed and a prosecutor's information charging the petty offense filed in the appropriate local criminal court. The motion to dismiss or reduce any count of an indictment based on legal insufficiency to establish the offense charged shall be made in accordance with the procedure set forth in subdivisions one through seven of section 210.45, provided however, the court shall state on the record the basis for its determination. Upon entering an order pursuant to this subdivision, the court shall consider the appropriateness of any securing order issued pursuant to article 510 of this chapter. 2. A motion pursuant to this section, except a motion pursuant to paragraph (g) of subdivision one, should be made within the period provided in section 255.20. A motion made pursuant to paragraph (g) of

subdivision one must be made prior to the commencement of trial or entry of a plea of guilty. 3. Upon the motion, a defendant who is in a position adequately to raise more than one ground in support thereof should raise every such ground upon which he intends to challenge the indictment. A subsequent motion based upon any such ground not so raised may be summarily denied, although the court, in the interest of justice and for good cause shown, may in its discretion entertain and dispose of such a motion on the merits notwithstanding. 4. Upon dismissing an indictment or a count thereof upon any of the grounds specified in paragraphs (a), (b), (c) and (i) of subdivision one, or, upon dismissing a superior court information or a count thereof upon any of the grounds specified in paragraphs (a) or (i) of subdivision one, the court may, upon application of the people, in its discretion authorize the people to submit the charge or charges to the same or another grand jury. When the dismissal is based upon some other ground, such authorization may not be granted. In the absence of authorization to submit or resubmit, the order of dismissal constitutes a bar to any further prosecution of such charge or charges, by indictment or otherwise, in any criminal court within the county. 5. If the court dismisses one or more counts of an indictment, against a defendant who was under the age of sixteen at the time of the commission of the crime and who did not lack criminal responsibility for such crime by reason of infancy, and one or more other counts of the indictment having been joined in the indictment solely with the dismissed count pursuant to subdivision six of section 200.20 is not dismissed, the court must direct that such count be removed to the family court in accordance with article seven hundred twenty-five of this chapter. 6. The effectiveness of an order reducing a count or counts of an indictment or dismissing an indictment and directing the filing of a prosecutor's information or dismissing a count or counts of an indictment charging murder in the first degree shall be stayed for thirty days following the entry of such order unless such stay is otherwise waived by the people. On or before the conclusion of such thirty-day period, the people shall exercise one of the following options: (a) Accept the court's order by filing a reduced indictment, by dismissing the indictment and filing a prosecutor's information, or by filing an indictment containing any count or counts remaining after dismissal of the count or counts charging murder in the first degree, as appropriate; (b) Resubmit the subject count or counts to the same or a different grand jury within thirty days of the entry of the order or such additional time as the court may permit upon a showing of good cause; provided, however, that if in such case an order is again entered with respect to such count or counts pursuant to subdivision one-a of this section, such count or counts may not again be submitted to a grand jury. Where the people exercise this option, the effectiveness of the order further shall be stayed pending a determination by the grand jury and the filing of a new indictment, if voted, charging the resubmitted count or counts; (c) Appeal the order pursuant to subdivision one or one-a of section 450.20. Where the people exercise this option, the effectiveness of the order further shall be stayed in accordance with the provisions of subdivision two of section 460.40. If the people fail to exercise one of the foregoing options, the court's order shall take effect and the people shall comply with paragraph (a) of this subdivision.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 210 - Proceedings in Superior Court From Filing of Indictment to Plea210.25 - Motion to Dismiss Indictment; as Defective.

An indictment or a count thereof is defective within the meaning of paragraph (a) of subdivision one of section 210.20 when: 1. It does not substantially conform to the requirements stated in article two hundred; provided that an indictment may not be dismissed as defective, but must instead be amended, where the defect or irregularity is of a kind that may be cured by amendment, pursuant to section 200.70, and where the people move to so amend; or 2. The allegations demonstrate that the court does not have jurisdiction of the offense charged; or 3. The statute defining the offense charged is unconstitutional or otherwise invalid.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 210 - Proceedings in Superior Court From Filing of Indictment to Plea210.30 - Motion to Dismiss or Reduce Indictment on Ground of Insufficiency of Grand Jury Evidence; Motion to Inspect Grand Jury Minutes.

insufficiency of grand jury evidence; motion to inspect grand jury minutes. 1. A motion to dismiss an indictment or a count thereof pursuant to paragraph (b) of subdivision one of section 210.20 or a motion to reduce a count or counts of an indictment pursuant to subdivision one-a of section 210.20 must be preceded or accompanied by a motion to inspect the grand jury minutes, as prescribed in subdivision two of this section. 2. A motion to inspect grand jury minutes is a motion by a defendant requesting an examination by the court and the defendant of the stenographic minutes of a grand jury proceeding resulting in an indictment for the purpose of determining whether the evidence before the grand jury was legally sufficient to support the charges or a charge contained in such indictment. 3. Unless good cause exists to deny the motion to inspect the grand jury minutes, the court must grant the motion. It must then proceed to examine the minutes and to determine the motion to dismiss or reduce the indictment. If the court, after examining the minutes, finds that release of the minutes, or certain portions thereof, to the parties is necessary to assist the court in making its determination on the motion, it may release the minutes or such portions thereof to the parties. Provided, however, such release shall be limited to that grand jury testimony which is relevant to a determination of whether the evidence before the grand jury was legally sufficient to support a charge or charges contained in such indictment. Prior to such release the district attorney shall be given an opportunity to present argument to the court that the release of the minutes, or any portion thereof, would not be in the public interest. For purposes of this section, the minutes shall include any materials submitted to the grand jury pursuant to subdivision eight of section 190.30 of this chapter. 4. If the court determines that there is not reasonable cause to believe that the evidence before the grand jury may have been legally insufficient, it may in its discretion either (a) deny both the motion to inspect and the motion to dismiss or reduce, or (b) grant the motion to inspect notwithstanding and proceed to examine the minutes and to determine the motion to dismiss or reduce. 5. In any case, the court must place on the record its ruling upon the motion to inspect. 6.

The validity of an order denying any motion made pursuant to this section is not reviewable upon an appeal from an ensuing judgment of conviction based upon legally sufficient trial evidence. 7. Notwithstanding any other provision of law, where the indictment is filed against a juvenile offender or adolescent offender, the court shall dismiss the indictment or count thereof where the evidence before the grand jury was not legally sufficient to establish the offense charged or any lesser included offense for which the defendant is criminally responsible. Upon such dismissal, unless the court shall authorize the people to resubmit the charge to a subsequent grand jury, and upon a finding that there was sufficient evidence to believe defendant is a juvenile delinquent as defined in subdivision (a) of section seven hundred twelve of the family court act and upon specifying the act or acts it found sufficient evidence to believe defendant committed, the court may direct that such matter be removed to family court in accordance with the provisions of article seven hundred twenty-five of this chapter.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 210 - Proceedings in Superior Court From Filing of Indictment to Plea210.35 - Motion to Dismiss Indictment; Defective Grand Jury Proceeding.

A grand jury proceeding is defective within the meaning of paragraph (c) of subdivision one of section 210.20 when: 1. The grand jury was illegally constituted; or 2. The proceeding is conducted before fewer than sixteen grand jurors; or 3. Fewer than twelve grand jurors concur in the finding of the indictment; or 4. The defendant is not accorded an opportunity to appear and testify before the grand jury in accordance with the provisions of section 190.50; or 5. The proceeding otherwise fails to conform to the requirements of article one hundred ninety to such degree that the integrity thereof is impaired and prejudice to the defendant may result.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 210 - Proceedings in Superior Court From Filing of Indictment to Plea210.40 - Motion to Dismiss Indictment; in Furtherance of Justice.

1. An indictment or any count thereof may be dismissed in furtherance of justice, as provided in paragraph (i) of subdivision one of section 210.20, when, even though there may be no basis for dismissal as a matter of law upon any ground specified in paragraphs (a) through (h) of said subdivision one of section 210.20, such dismissal is required as a matter of judicial discretion by the existence of some compelling factor, consideration or circumstance clearly demonstrating that conviction or prosecution of the defendant upon such indictment or count would constitute or result in injustice. In determining whether such compelling factor, consideration, or circumstance exists, the court must, to the extent applicable, examine and consider, individually and collectively, the following:(a) the seriousness and circumstances of the offense;(b) the extent of harm caused by the offense;(c) the evidence of guilt, whether admissible or inadmissible at trial;(d) the history, character and condition of the defendant;(e) any exceptionally serious misconduct of law enforcement personnel in the investigation, arrest and prosecution of the defendant;(f) the purpose and effect of imposing upon the defendant a sentence authorized for the offense;(g) the impact of a dismissal upon the confidence of the public in the criminal justice system;(h) the impact of a dismissal on the safety or welfare of the community;(i) where the court deems it appropriate, the attitude of the complainant or victim with respect to the motion;(j) any other relevant fact indicating that a judgment of conviction would serve no useful purpose.2. In addition to the grounds specified in subdivision one of this section, a count alleging enterprise corruption in violation of article four hundred sixty of the penal law may be dismissed in the interest of justice where prosecution of that count is inconsistent with the stated legislative findings in said article. Upon a motion pursuant to this section, the court must inspect the evidence before the grand jury and such other evidence or information as it may deem proper.3. An order dismissing an indictment in the interest of justice may be issued upon motion of the people or of the court itself as well as upon that of the defendant. Upon issuing such an order, the court must set forth its reasons therefor upon the record. (a) the seriousness and circumstances of the offense; (b) the extent of harm caused by the offense; (c) the evidence of guilt, whether admissible or inadmissible at trial; (d) the history, character and condition of the defendant; (e) any exceptionally serious misconduct of law enforcement personnel in the investigation, arrest and prosecution of the defendant; (f) the purpose and effect of imposing upon the defendant a sentence authorized for the offense; (g) the impact of a dismissal upon the confidence of the public in the criminal justice system; (h) the impact of a dismissal on the safety or welfare of the community; (i) where the court deems it appropriate, the attitude of the complainant or victim with respect to the motion; (j) any other relevant fact indicating that a judgment of conviction would serve no useful purpose. 2. In addition to the grounds specified in subdivision one of this section, a count alleging enterprise corruption in violation of article four hundred sixty of the penal law may be dismissed in the interest of justice where prosecution of that count is inconsistent with the stated legislative findings in said article. Upon a motion pursuant to this section, the court must inspect the evidence before the grand jury and such other evidence or information as it may deem proper. 3. An order dismissing an indictment in the interest of justice may be issued upon motion of the people or of the court itself as well as upon that of the defendant. Upon issuing such an order, the court must set forth its reasons therefor upon the record.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 210 - Proceedings in Superior Court From Filing of Indictment to Plea210.45 - Motion to Dismiss Indictment; Procedure.

1. A motion to dismiss an indictment pursuant to section 210.20 must be made in writing and upon reasonable notice to the people. If the motion is based upon the existence or occurrence of facts, the motion papers must contain sworn allegations thereof, whether

by the defendant or by another person or persons. Such sworn allegations may be based upon personal knowledge of the affiant or upon information and belief, provided that in the latter event the affiant must state the sources of such information and the grounds of such belief. The defendant may further submit documentary evidence supporting or tending to support the allegations of the moving papers. 2. The people may file with the court, and in such case must serve a copy thereof upon the defendant or his counsel, an answer denying or admitting any or all of the allegations of the moving papers, and may further submit documentary evidence refuting or tending to refute such allegations. 3. After all papers of both parties have been filed, and after all documentary evidence, if any, has been submitted, the court must consider the same for the purpose of determining whether the motion is determinable without a hearing to resolve questions of fact. 4. The court must grant the motion without conducting a hearing if:(a) The moving papers allege a ground constituting legal basis for the motion pursuant to subdivision one of section 210.20; and(b) Such ground, if based upon the existence or occurrence of facts, is supported by sworn allegations of all facts essential to support the motion; and(c) The sworn allegations of fact essential to support the motion are either conceded by the people to be true or are conclusively substantiated by unquestionable documentary proof.5. The court may deny the motion without conducting a hearing if:(a) The moving papers do not allege any ground constituting legal basis for the motion pursuant to subdivision one of section 210.20; or(b) The motion is based upon the existence or occurrence of facts, and the moving papers do not contain sworn allegations supporting all the essential facts; or(c) An allegation of fact essential to support the motion is conclusively refuted by unquestionable documentary proof.6. If the court does not determine the motion pursuant to subdivision four or five, it must conduct a hearing and make findings of fact essential to the determination thereof. The defendant has a right to be present in person at such hearing but may waive such right.7. Upon such a hearing, the defendant has the burden of proving by a preponderance of the evidence every fact essential to support the motion.8. When the court dismisses the entire indictment without authorizing resubmission of the charge or charges to a grand jury, it must order that the defendant be discharged from custody if he is in the custody of the sheriff, or if he is at liberty on bail it must exonerate the bail.9. When the court dismisses the entire indictment but authorizes resubmission of the charge or charges to a grand jury, such authorization is, for purposes of this subdivision, deemed to constitute an order holding the defendant for the action of a grand jury with respect to such charge or charges. Such order must be accompanied by a securing order either releasing the defendant on his own recognizance or fixing bail or committing him to the custody of the sheriff pending resubmission of the case to the grand jury and the grand jury's disposition thereof. Such securing order remains in effect until the first to occur of any of the following:(a) A statement to the court by the people that they do not intend to resubmit the case to a grand jury;(b) Arraignment of the defendant upon an indictment or prosecutor's information filed as a result of resubmission of the case to a grand jury. Upon such arraignment, the arraigning court must issue a new securing order;(c) The filing with the court of a grand jury dismissal of the case following resubmission thereof;(d) The expiration of a period of forty-five days from the date of issuance of the order; provided that such period may, for good cause shown, be extended by the court to a designated subsequent date if such be necessary to accord the people reasonable opportunity to resubmit the case to a grand jury.Upon the termination of the effectiveness of the securing order pursuant to paragraph (a), (c) or (d), the court must immediately order that the defendant be discharged from custody if he is in the custody of the sheriff, or if he is at liberty on bail it must exonerate the bail. Although expiration of the period of time specified in paragraph (d) without any resubmission or grand jury disposition of the case terminates the effectiveness of the securing order, it does not terminate the effectiveness of the order authorizing resubmission. (a) The moving papers allege a ground constituting legal basis for the motion pursuant to subdivision one of section 210.20; and (b) Such ground, if based upon the existence or occurrence of facts, is supported by sworn allegations of all facts essential to support the motion; and (c) The sworn allegations of fact essential to support the motion are either conceded by the people to be true or are conclusively substantiated by unquestionable documentary proof. 5. The court may deny the motion without conducting a hearing if: (a) The moving papers do not allege any ground constituting legal basis for the motion pursuant to subdivision one of section 210.20; or (b) The motion is based upon the existence or occurrence of facts, and the moving papers do not contain sworn allegations supporting all the essential facts; or (c) An allegation of fact essential to support the motion is conclusively refuted by unquestionable documentary proof. 6. If the court does not determine the motion pursuant to subdivision four or five, it must conduct a hearing and make findings of fact essential to the determination thereof. The defendant has a right to be present in person at such hearing but may waive such right. 7. Upon such a hearing, the defendant has the burden of proving by a preponderance of the evidence every fact essential to support the motion. 8. When the court dismisses the entire indictment without authorizing resubmission of the charge or charges to a grand jury, it must order that the defendant be discharged from custody if he is in the custody of the sheriff, or if he is at liberty on bail it must exonerate the bail. 9. When the court dismisses the entire indictment but authorizes resubmission of the charge or charges to a grand jury, such authorization is, for purposes of this subdivision, deemed to constitute an order holding the defendant for the action of a grand jury with respect to such charge or charges. Such order must be accompanied by a securing order either releasing the defendant on his own recognizance or fixing bail or committing him to the custody of the sheriff pending resubmission of the case to the grand jury and the grand jury's disposition thereof. Such securing order remains in effect until the first to occur of any of the following: (a) A statement to the court by the people that they do not intend to resubmit the case to a grand jury; (b) Arraignment of the defendant upon an indictment or prosecutor's information filed as a result of resubmission of the case to a grand jury. Upon such arraignment, the arraigning court must issue a new securing order; (c) The filing with the court of a grand jury dismissal of the case following resubmission thereof; (d) The expiration of a period of forty-five days from the date of issuance of the order; provided that such period may, for good cause shown, be extended by the court to a designated subsequent date if such be necessary to accord the people reasonable opportunity to resubmit the case to a grand jury. Upon the termination of the effectiveness of the securing order pursuant to paragraph (a), (c) or (d), the court must immediately order that the defendant be

discharged from custody if he is in the custody of the sheriff, or if he is at liberty on bail it must exonerate the bail. Although expiration of the period of time specified in paragraph (d) without any resubmission or grand jury disposition of the case terminates the effectiveness of the securing order, it does not terminate the effectiveness of the order authorizing resubmission.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 210 - Proceedings in Superior Court From Filing of Indictment to Plea210.46 - Adjournment in Contemplation of Dismissal in Marihuana Cases in a Superior Court.

in a superior court. Upon or after arraignment in a superior court upon an indictment where the sole remaining count or counts charge a violation or violations of section 221.05, 221.10, 221.15, 221.35 or 221.40 of the penal law and before the entry of a plea of guilty thereto or commencement of a trial thereof, the court, upon motion of a defendant, may order that all proceedings be suspended and the action adjourned in contemplation of dismissal or may dismiss the indictment in furtherance of justice, in accordance with the provisions of section 170.56 of this chapter.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 210 - Proceedings in Superior Court From Filing of Indictment to Plea210.47 - Adjournment in Contemplation of Dismissal in Misdemeanor Cases in Superior Court.

in superior court. Upon or after the arraignment in a superior court upon an indictment where the sole remaining count or counts charge a misdemeanor offense, and before the entry of a plea of guilty thereto or commencement of a trial thereof, the court, upon motion of the people or the defendant and with the consent of the other party, or upon the court's own motion with the consent of both the people and the defendant, may order that all proceedings be suspended and the action adjourned in contemplation of dismissal, in accordance with the provisions of section 170.55 of this chapter.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 210 - Proceedings in Superior Court From Filing of Indictment to Plea210.50 - Requirement of Plea.

Unless an indictment is dismissed or the criminal action thereon terminated or abated pursuant to the provisions of this article or some other provision of law, the defendant must be required to enter a plea thereto.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 215 - Adjournment in Contemplation of Dismissal for Purposes of Referring Selected Felonies to Dispute Resolution215.10 - Referral of Selected Felonies to Dispute Resolution.

Upon or after arraignment in a local criminal court upon a felony complaint, or upon or after arraignment in a superior court upon an indictment or superior court information, and before final disposition thereof, the court, with the consent of the people and of the defendant, and with reasonable notice to the victim and an opportunity for the victim to be heard, may order that the action be adjourned in contemplation of dismissal, for the purpose of referring the action to a community dispute center established pursuant to article twenty-one-A of the judiciary law. Provided, however, that the court may not order any action adjourned in contemplation of dismissal if the defendant is charged therein with: (i) a class A felony, or (ii) a violent felony offense as defined in section 70.02 of the penal law, or (iii) any drug offense as defined in article two hundred twenty of the penal law, or (iv) a felony upon the conviction of which defendant must be sentenced as a second felony offender, a second violent felony offender, or a persistent violent felony offender pursuant to sections 70.06, 70.04 and 70.08 of the penal law, or a felony upon the conviction of which defendant may be sentenced as a persistent felony offender pursuant to section 70.10 of such law.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 215 - Adjournment in Contemplation of Dismissal for Purposes of Referring Selected Felonies to Dispute Resolution215.20 - Victim; Definition.

For purposes of section 215.10 of this article, "victim" means any person alleged to have sustained physical or financial injury to person or property as a direct result of the crime or crimes charged in a felony complaint, superior court information, or indictment.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 215 - Adjournment in Contemplation of Dismissal for Purposes of Referring Selected Felonies to Dispute Resolution215.30 - Adjournment in Contemplation of Dismissal; Restoration to Calendar; Dismissal of Action.

calendar; dismissal of action. Upon issuing an order adjourning an action in contemplation of dismissal pursuant to section 215.10 of this article, the court must release the defendant on his own recognizance and refer the action to a dispute resolution center established pursuant to article twenty-one-A of the judiciary law. No later than forty-five days after an action has been referred to a dispute resolution center, such center must advise the district attorney as to whether the charges against defendant have been resolved. Thereafter, if defendant has agreed to pay a fine, restitution or reparation, the district attorney must be advised every thirty days as to the status of such fine, restitution or reparation. Upon application of the people, made at any time not more than six months after the issuance of an order adjourning an action in contemplation of dismissal, the court may restore the action to the calendar upon a determination that dismissal of the accusatory instrument would not be in furtherance of justice, and the action must

thereupon proceed. Notwithstanding the foregoing, where defendant has agreed to pay a fine, restitution, or reparation, but has not paid such fine, restitution or reparation, upon application of the people, made at any time not more than one year after the issuance of an order adjourning an action in contemplation of dismissal, the court may restore the action to the calendar upon a determination that defendant has failed to pay such fine, restitution, or reparation, and the action must thereupon proceed.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 215 - Adjournment in Contemplation of Dismissal for Purposes of Referring Selected Felonies to Dispute Resolution215.40 - Dismissal of Action; Effect Thereof; Records.

If an action has not been restored to the calendar within six months, or where the defendant has agreed to pay a fine, restitution or reparation but has not paid such fine, restitution or reparation, within one year, of the issuance of an order adjourning the action in contemplation of dismissal, the accusatory instrument shall be deemed to have been dismissed by the court in furtherance of justice at the expiration of such six month or one year period, as the case may be. Upon dismissal of an action, the arrest and prosecution shall be deemed a nullity, and defendant shall be restored to the status he or she occupied before his or her arrest and prosecution. All papers and records relating to an action that has been dismissed pursuant to this section shall be subject to the sealing provisions of section 160.50 of this chapter.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 216 - Judicial Diversion Program for Certain Felony Offenders216.00 - Definitions.

The following definitions are applicable to this article: 1. * "Eligible defendant" means any person who stands charged in an indictment or a superior court information with a class B, C, D or E felony offense defined in article one hundred seventy-nine, two hundred twenty or two hundred twenty-two of the penal law, an offense defined in sections 105.10 and 105.13 of the penal law provided that the underlying crime for the conspiracy charge is a class B, C, D or E felony offense defined in article one hundred seventy-nine, two hundred twenty or two hundred twenty-two of the penal law, auto stripping in the second degree as defined in section 165.10 of the penal law, auto stripping in the first degree as defined in section 165.11 of the penal law, identity theft in the second degree as defined in section 190.79 of the penal law, identity theft in the first degree as defined in section 190.80 of the penal law, or any other specified offense as defined in subdivision five of section 410.91 of this chapter, provided, however, a defendant is not an "eligible defendant" if he or she: * NB Effective until July 5, 2028 * "Eligible defendant" means any person who stands charged in an indictment or a superior court information with a class B, C, D or E felony offense defined in article two hundred twenty or two hundred twenty-two of the penal law, an offense defined in sections 105.10 and 105.13 of the penal law provided that the underlying crime for the conspiracy charge is a class B, C, D or E felony offense defined in article two hundred twenty or two hundred twenty-two of the penal law, auto stripping in the second degree as defined in section 165.10 of the penal law, auto stripping in the first degree as defined in section 165.11 of the penal law, identity theft in the second degree as defined in section 190.79 of the penal law, identity theft in the first degree as defined in section 190.80 of the penal law, or any other specified offense as defined in subdivision five of section 410.91 of this chapter, provided, however, a defendant is not an "eligible defendant" if he or she: * NB Effective July 5, 2028(a) within the preceding ten years, excluding any time during which the offender was incarcerated for any reason between the time of commission of the previous felony and the time of commission of the present felony, has previously been convicted of: (i) a violent felony offense as defined in section 70.02 of the penal law or (ii) any other offense for which a merit time allowance is not available pursuant to subparagraph (ii) of paragraph (d) of subdivision one of section eight hundred three of the correction law, or (iii) a class A felony offense defined in article two hundred twenty of the penal law; or(b) has previously been adjudicated a second violent felony offender pursuant to section 70.04 of the penal law or a persistent violent felony offender pursuant to section 70.08 of the penal law.A defendant who also stands charged with a violent felony offense as defined in section 70.02 of the penal law or an offense for which merit time allowance is not available pursuant to subparagraph (ii) of paragraph (d) of subdivision one of section eight hundred three of the correction law for which the court must, upon the defendant's conviction thereof, sentence the defendant to incarceration in state prison is not an eligible defendant while such charges are pending. A defendant who is excluded from the judicial diversion program pursuant to this paragraph or paragraph (a) or (b) of this subdivision may become an eligible defendant upon the prosecutor's consent.2. "Alcohol and substance use evaluation" means a written assessment and report by a court-approved entity or licensed health care professional experienced in the treatment of alcohol and substance use disorder, or by an addiction and substance abuse counselor credentialed by the office of addiction services and supports pursuant to section 19.07 of the mental hygiene law, which shall include:(a) an evaluation as to whether the defendant has a history of alcohol or substance use disorder, as such terms are defined in the diagnostic and statistical manual of mental disorders, fifth edition, and a co-occurring mental disorder or mental illness and the relationship between such use and mental disorder or mental illness, if any;(b) a recommendation as to whether the defendant's alcohol or substance use, if any, could be effectively addressed by judicial diversion in accordance with this article;(c) a recommendation as to the treatment modality, level of care and length of any proposed treatment to effectively address the defendant's alcohol or substance use and any co-occurring mental disorder or illness; and(d) any other information, factor, circumstance, or recommendation deemed relevant by the assessing entity or specifically requested by the court. (a) within the preceding ten years, excluding any time during which the offender was incarcerated for any reason between the time of commission of the previous felony and the time of commission of the present felony, has previously been convicted of: (i) a violent felony offense as defined in section 70.02 of the penal law or (ii) any other offense for which a merit time allowance is not available pursuant to subparagraph (ii) of paragraph (d) of subdivision one of section

eight hundred three of the correction law, or (iii) a class A felony offense defined in article two hundred twenty of the penal law; or (b) has previously been adjudicated a second violent felony offender pursuant to section 70.04 of the penal law or a persistent violent felony offender pursuant to section 70.08 of the penal law. A defendant who also stands charged with a violent felony offense as defined in section 70.02 of the penal law or an offense for which merit time allowance is not available pursuant to subparagraph (ii) of paragraph (d) of subdivision one of section eight hundred three of the correction law for which the court must, upon the defendant's conviction thereof, sentence the defendant to incarceration in state prison is not an eligible defendant while such charges are pending. A defendant who is excluded from the judicial diversion program pursuant to this paragraph or paragraph (a) or (b) of this subdivision may become an eligible defendant upon the prosecutor's consent. 2. "Alcohol and substance use evaluation" means a written assessment and report by a court-approved entity or licensed health care professional experienced in the treatment of alcohol and substance use disorder, or by an addiction and substance abuse counselor credentialed by the office of addiction services and supports pursuant to section 19.07 of the mental hygiene law, which shall include: (a) an evaluation as to whether the defendant has a history of alcohol or substance use disorder, as such terms are defined in the diagnostic and statistical manual of mental disorders, fifth edition, and a co-occurring mental disorder or mental illness and the relationship between such use and mental disorder or mental illness, if any; (b) a recommendation as to whether the defendant's alcohol or substance use, if any, could be effectively addressed by judicial diversion in accordance with this article; (c) a recommendation as to the treatment modality, level of care and length of any proposed treatment to effectively address the defendant's alcohol or substance use and any co-occurring mental disorder or illness; and (d) any other information, factor, circumstance, or recommendation deemed relevant by the assessing entity or specifically requested by the court.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle I - Preliminary Proceedings in Superior CourtArticle 216 - Judicial Diversion Program for Certain Felony Offenders216.05 - Judicial Diversion Program; Court Procedures.

1. At any time after the arraignment of an eligible defendant, but prior to the entry of a plea of guilty or the commencement of trial, the court at the request of the eligible defendant, may order an alcohol and substance use evaluation. An eligible defendant may decline to participate in such an evaluation at any time. The defendant shall provide a written authorization, in compliance with the requirements of any applicable state or federal laws, rules or regulations authorizing disclosure of the results of the assessment to the defendant's attorney, the prosecutor, the local probation department, the court, authorized court personnel and other individuals specified in such authorization for the sole purpose of determining whether the defendant should be offered judicial diversion for treatment for substance use, alcohol use and any co-occurring mental disorder or mental illness. 2. Upon receipt of the completed alcohol and substance use evaluation report, the court shall provide a copy of the report to the eligible defendant and the prosecutor. 3. (a) Upon receipt of the evaluation report either party may request a hearing on the issue of whether the eligible defendant should be offered alcohol or substance use treatment pursuant to this article. At such a proceeding, which shall be held as soon as practicable so as to facilitate early intervention in the event that the defendant is found to need alcohol or substance use treatment, the court may consider oral and written arguments, may take testimony from witnesses offered by either party, and may consider any relevant evidence including, but not limited to, evidence that:(i) the defendant had within the preceding ten years (excluding any time during which the offender was incarcerated for any reason between the time of the acts that led to the youthful offender adjudication and the time of commission of the present offense) been adjudicated a youthful offender for: (A) a violent felony offense as defined in section 70.02 of the penal law; or (B) any offense for which a merit time allowance is not available pursuant to subparagraph (ii) of paragraph (d) of subdivision one of section eight hundred three of the correction law; and(ii) in the case of a felony offense defined in subdivision five of section 410.91 of this chapter, or section 165.10, 165.11, 190.79 or 190.80 of the penal law, any statement of or submitted by the victim, as defined in paragraph (a) of subdivision two of section 380.50 of this chapter.(b) Upon completion of such a proceeding, the court shall consider and make findings of fact with respect to whether:(i) the defendant is an eligible defendant as defined in subdivision one of section 216.00 of this article;(ii) the defendant has a history of alcohol or substance use;(iii) such alcohol or substance use is a contributing factor to the defendant's criminal behavior;(iv) the defendant's participation in judicial diversion could effectively address such use; and(v) institutional confinement of the defendant is or may not be necessary for the protection of the public.4. When an authorized court determines, pursuant to paragraph (b) of subdivision three of this section, that an eligible defendant should be offered alcohol or substance use treatment, or when the parties and the court agree to an eligible defendant's participation in alcohol or substance use treatment, an eligible defendant may be allowed to participate in the judicial diversion program offered by this article. Prior to the court's issuing an order granting judicial diversion, the eligible defendant shall be required to enter a plea of guilty to the charge or charges; provided, however, that no such guilty plea shall be required when:(a) the people and the court consent to the entry of such an order without a plea of guilty; or(b) based on a finding of exceptional circumstances, the court determines that a plea of guilty shall not be required. For purposes of this subdivision, exceptional circumstances exist when, regardless of the ultimate disposition of the case, the entry of a plea of guilty is likely to result in severe collateral consequences.5. The defendant shall agree on the record or in writing to abide by the release conditions set by the court, which, shall include: participation in a specified period of alcohol or substance use treatment at a specified program or programs identified by the court, which may include periods of detoxification, residential or outpatient treatment, or both, as determined after taking into account the views of the health care professional who conducted the alcohol and substance use evaluation and any health care professionals responsible for providing such treatment or monitoring the defendant's progress in such treatment; and may include: (i) periodic court appearances, which may include periodic urinalysis; (ii) a

requirement that the defendant refrain from engaging in criminal behaviors; (iii) if the defendant needs treatment for opioid use, that he or she may participate in and receive medically prescribed drug treatments under the care of a health care professional licensed or certified under title eight of the education law, acting within his or her lawful scope of practice, provided that no court shall require the use of any specified type or brand of drug during the course of medically prescribed drug treatments.6. Upon an eligible defendant's agreement to abide by the conditions set by the court, the court shall issue a securing order providing for bail or release on the defendant's own recognizance and conditioning any release upon the agreed upon conditions. The period of alcohol or substance use treatment shall begin as specified by the court and as soon as practicable after the defendant's release, taking into account the availability of treatment, so as to facilitate early intervention with respect to the defendant's substance use or condition and the effectiveness of the treatment program. In the event that a treatment program is not immediately available or becomes unavailable during the course of the defendant's participation in the judicial diversion program, the court may release the defendant pursuant to the securing order.7. When participating in judicial diversion treatment pursuant to this article, any resident of this state who is covered under a private health insurance policy or contract issued for delivery in this state pursuant to article thirty-two, forty-three or forty-seven of the insurance law or article forty-four of the public health law, or who is covered by a self-funded plan which provides coverage for the diagnosis and treatment of chemical abuse and chemical dependence however defined in such policy; shall first seek reimbursement for such treatment in accordance with the provisions of such policy or contract.8. During the period of a defendant's participation in the judicial diversion program, the court shall retain jurisdiction of the defendant, provided, however, that the court may allow such defendant to (i) reside in another jurisdiction, or (ii) participate in alcohol and substance use treatment and other programs in the jurisdiction where the defendant resides or in any other jurisdiction, while participating in a judicial diversion program under conditions set by the court and agreed to by the defendant pursuant to subdivisions five and six of this section. The court may require the defendant to appear in court at any time to enable the court to monitor the defendant's progress in alcohol or substance use treatment. The court shall provide notice, reasonable under the circumstances, to the people, the treatment provider, the defendant and the defendant's counsel whenever it orders or otherwise requires the appearance of the defendant in court. Failure to appear as required without reasonable cause therefor shall constitute a violation of the conditions of the court's agreement with the defendant.9. (a) If at any time during the defendant's participation in the judicial diversion program, the court has reasonable grounds to believe that the defendant has violated a release condition in an important respect or has willfully failed to appear before the court as requested, the court except as provided in subdivision two of section 510.50 of this chapter regarding a failure to appear, shall direct the defendant to appear or issue a bench warrant to a police officer or an appropriate peace officer directing him or her to take the defendant into custody and bring the defendant before the court without unnecessary delay; provided, however, that under no circumstances shall a defendant who requires treatment for opioid use be deemed to have violated a release condition on the basis of his or her participation in medically prescribed drug treatments under the care of a health care professional licensed or certified under title eight of the education law, acting within his or her lawful scope of practice. The relevant provisions of section 530.60 of this chapter relating to issuance of securing orders shall apply to such proceedings under this subdivision.(b) In determining whether a defendant violated a condition of his or her release under the judicial diversion program, the court may conduct a summary hearing consistent with due process and sufficient to satisfy the court that the defendant has, in fact, violated the condition.(c) If the court determines that the defendant has violated a condition of his or her release under the judicial diversion program, the court may modify the conditions thereof, reconsider the order of recognizance or bail pursuant to subdivision two of section 510.30 of this chapter, or terminate the defendant's participation in the judicial diversion program; and when applicable proceed with the defendant's sentencing in accordance with the agreement. Notwithstanding any provision of law to the contrary, the court may impose any sentence authorized for the crime of conviction in accordance with the plea agreement, or any lesser sentence authorized to be imposed on a felony drug offender pursuant to paragraph (b) or (c) of subdivision two of section 70.70 of the penal law taking into account the length of time the defendant spent in residential treatment and how best to continue treatment while the defendant is serving that sentence. In determining what action to take for a violation of a release condition, the court shall consider all relevant circumstances, including the views of the prosecutor, the defense and the alcohol or substance use treatment provider, and the extent to which persons who ultimately successfully complete a drug treatment regimen sometimes relapse by not abstaining from alcohol or substance use or by failing to comply fully with all requirements imposed by a treatment program. The court shall also consider using a system of graduated and appropriate responses or sanctions designed to address such inappropriate behaviors, protect public safety and facilitate, where possible, successful completion of the alcohol or substance use treatment program.(d) Nothing in this subdivision shall be construed as preventing a court from terminating a defendant's participation in the judicial diversion program for violating a release condition when such a termination is necessary to preserve public safety. Nor shall anything in this subdivision be construed as precluding the prosecution of a defendant for the commission of a different offense while participating in the judicial diversion program.(e) A defendant may at any time advise the court that he or she wishes to terminate participation in the judicial diversion program, at which time the court shall proceed with the case and, where applicable, shall impose sentence in accordance with the plea agreement. Notwithstanding any provision of law to the contrary, the court may impose any sentence authorized for the crime of conviction in accordance with the plea agreement, or any lesser sentence authorized to be imposed on a felony drug offender pursuant to paragraph (b) or (c) of subdivision two of section 70.70 of the penal law taking into account the length of time the defendant spent in residential treatment and how best to continue treatment while the defendant is serving that sentence.10. Upon the court's determination that the defendant has successfully completed the required period of alcohol or substance use treatment and has otherwise satisfied the conditions required for successful completion of the judicial diversion program, the court shall comply with the terms and conditions it set for final

disposition when it accepted the defendant's agreement to participate in the judicial diversion program. Such disposition may include, but is not limited to: (a) requiring the defendant to undergo a period of interim probation supervision and, upon the defendant's successful completion of the interim probation supervision term, notwithstanding the provision of any other law, permitting the defendant to withdraw his or her guilty plea and dismissing the indictment; or (b) requiring the defendant to undergo a period of interim probation supervision and, upon successful completion of the interim probation supervision term, notwithstanding the provision of any other law, permitting the defendant to withdraw his or her guilty plea, enter a guilty plea to a misdemeanor offense and sentencing the defendant as promised in the plea agreement, which may include a period of probation supervision pursuant to section 65.00 of the penal law; or (c) allowing the defendant to withdraw his or her guilty plea and dismissing the indictment.11. Nothing in this article shall be construed as restricting or prohibiting courts or district attorneys from using other lawful procedures or models for placing appropriate persons into alcohol or substance use treatment. (i) the defendant had within the preceding ten years (excluding any time during which the offender was incarcerated for any reason between the time of the acts that led to the youthful offender adjudication and the time of commission of the present offense) been adjudicated a youthful offender for: (A) a violent felony offense as defined in section 70.02 of the penal law; or (B) any offense for which a merit time allowance is not available pursuant to subparagraph (ii) of paragraph (d) of subdivision one of section eight hundred three of the correction law; and (ii) in the case of a felony offense defined in subdivision five of section 410.91 of this chapter, or section 165.10, 165.11, 190.79 or 190.80 of the penal law, any statement of or submitted by the victim, as defined in paragraph (a) of subdivision two of section 380.50 of this chapter. (b) Upon completion of such a proceeding, the court shall consider and make findings of fact with respect to whether: (i) the defendant is an eligible defendant as defined in subdivision one of section 216.00 of this article; (ii) the defendant has a history of alcohol or substance use; (iii) such alcohol or substance use is a contributing factor to the defendant's criminal behavior; (iv) the defendant's participation in judicial diversion could effectively address such use; and (v) institutional confinement of the defendant is or may not be necessary for the protection of the public. 4. When an authorized court determines, pursuant to paragraph (b) of subdivision three of this section, that an eligible defendant should be offered alcohol or substance use treatment, or when the parties and the court agree to an eligible defendant's participation in alcohol or substance use treatment, an eligible defendant may be allowed to participate in the judicial diversion program offered by this article. Prior to the court's issuing an order granting judicial diversion, the eligible defendant shall be required to enter a plea of guilty to the charge or charges; provided, however, that no such guilty plea shall be required when: (a) the people and the court consent to the entry of such an order without a plea of guilty; or (b) based on a finding of exceptional circumstances, the court determines that a plea of guilty shall not be required. For purposes of this subdivision, exceptional circumstances exist when, regardless of the ultimate disposition of the case, the entry of a plea of guilty is likely to result in severe collateral consequences. 5. The defendant shall agree on the record or in writing to abide by the release conditions set by the court, which, shall include: participation in a specified period of alcohol or substance use treatment at a specified program or programs identified by the court, which may include periods of detoxification, residential or outpatient treatment, or both, as determined after taking into account the views of the health care professional who conducted the alcohol and substance use evaluation and any health care professionals responsible for providing such treatment or monitoring the defendant's progress in such treatment; and may include: (i) periodic court appearances, which may include periodic urinalysis; (ii) a requirement that the defendant refrain from engaging in criminal behaviors; (iii) if the defendant needs treatment for opioid use, that he or she may participate in and receive medically prescribed drug treatments under the care of a health care professional licensed or certified under title eight of the education law, acting within his or her lawful scope of practice, provided that no court shall require the use of any specified type or brand of drug during the course of medically prescribed drug treatments. 6. Upon an eligible defendant's agreement to abide by the conditions set by the court, the court shall issue a securing order providing for bail or release on the defendant's own recognizance and conditioning any release upon the agreed upon conditions. The period of alcohol or substance use treatment shall begin as specified by the court and as soon as practicable after the defendant's release, taking into account the availability of treatment, so as to facilitate early intervention with respect to the defendant's substance use or condition and the effectiveness of the treatment program. In the event that a treatment program is not immediately available or becomes unavailable during the course of the defendant's participation in the judicial diversion program, the court may release the defendant pursuant to the securing order. 7. When participating in judicial diversion treatment pursuant to this article, any resident of this state who is covered under a private health insurance policy or contract issued for delivery in this state pursuant to article thirty-two, forty-three or forty-seven of the insurance law or article forty-four of the public health law, or who is covered by a self-funded plan which provides coverage for the diagnosis and treatment of chemical abuse and chemical dependence however defined in such policy; shall first seek reimbursement for such treatment in accordance with the provisions of such policy or contract. 8. During the period of a defendant's participation in the judicial diversion program, the court shall retain jurisdiction of the defendant, provided, however, that the court may allow such defendant to (i) reside in another jurisdiction, or (ii) participate in alcohol and substance use treatment and other programs in the jurisdiction where the defendant resides or in any other jurisdiction, while participating in a judicial diversion program under conditions set by the court and agreed to by the defendant pursuant to subdivisions five and six of this section. The court may require the defendant to appear in court at any time to enable the court to monitor the defendant's progress in alcohol or substance use treatment. The court shall provide notice, reasonable under the circumstances, to the people, the treatment provider, the defendant and the defendant's counsel whenever it orders or otherwise requires the appearance of the defendant in court. Failure to appear as required without reasonable cause therefor shall constitute a violation of the conditions of the court's agreement with the defendant. 9. (a) If at any time during the defendant's participation in the judicial diversion program, the court has reasonable grounds to believe that the defendant has violated a release condition in an

important respect or has willfully failed to appear before the court as requested, the court except as provided in subdivision two of section 510.50 of this chapter regarding a failure to appear, shall direct the defendant to appear or issue a bench warrant to a police officer or an appropriate peace officer directing him or her to take the defendant into custody and bring the defendant before the court without unnecessary delay; provided, however, that under no circumstances shall a defendant who requires treatment for opioid use be deemed to have violated a release condition on the basis of his or her participation in medically prescribed drug treatments under the care of a health care professional licensed or certified under title eight of the education law, acting within his or her lawful scope of practice. The relevant provisions of section 530.60 of this chapter relating to issuance of securing orders shall apply to such proceedings under this subdivision. (b) In determining whether a defendant violated a condition of his or her release under the judicial diversion program, the court may conduct a summary hearing consistent with due process and sufficient to satisfy the court that the defendant has, in fact, violated the condition. (c) If the court determines that the defendant has violated a condition of his or her release under the judicial diversion program, the court may modify the conditions thereof, reconsider the order of recognizance or bail pursuant to subdivision two of section 510.30 of this chapter, or terminate the defendant's participation in the judicial diversion program; and when applicable proceed with the defendant's sentencing in accordance with the agreement. Notwithstanding any provision of law to the contrary, the court may impose any sentence authorized for the crime of conviction in accordance with the plea agreement, or any lesser sentence authorized to be imposed on a felony drug offender pursuant to paragraph (b) or (c) of subdivision two of section 70.70 of the penal law taking into account the length of time the defendant spent in residential treatment and how best to continue treatment while the defendant is serving that sentence. In determining what action to take for a violation of a release condition, the court shall consider all relevant circumstances, including the views of the prosecutor, the defense and the alcohol or substance use treatment provider, and the extent to which persons who ultimately successfully complete a drug treatment regimen sometimes relapse by not abstaining from alcohol or substance use or by failing to comply fully with all requirements imposed by a treatment program. The court shall also consider using a system of graduated and appropriate responses or sanctions designed to address such inappropriate behaviors, protect public safety and facilitate, where possible, successful completion of the alcohol or substance use treatment program. (d) Nothing in this subdivision shall be construed as preventing a court from terminating a defendant's participation in the judicial diversion program for violating a release condition when such a termination is necessary to preserve public safety. Nor shall anything in this subdivision be construed as precluding the prosecution of a defendant for the commission of a different offense while participating in the judicial diversion program. (e) A defendant may at any time advise the court that he or she wishes to terminate participation in the judicial diversion program, at which time the court shall proceed with the case and, where applicable, shall impose sentence in accordance with the plea agreement. Notwithstanding any provision of law to the contrary, the court may impose any sentence authorized for the crime of conviction in accordance with the plea agreement, or any lesser sentence authorized to be imposed on a felony drug offender pursuant to paragraph (b) or (c) of subdivision two of section 70.70 of the penal law taking into account the length of time the defendant spent in residential treatment and how best to continue treatment while the defendant is serving that sentence. 10. Upon the court's determination that the defendant has successfully completed the required period of alcohol or substance use treatment and has otherwise satisfied the conditions required for successful completion of the judicial diversion program, the court shall comply with the terms and conditions it set for final disposition when it accepted the defendant's agreement to participate in the judicial diversion program. Such disposition may include, but is not limited to: (a) requiring the defendant to undergo a period of interim probation supervision and, upon the defendant's successful completion of the interim probation supervision term, notwithstanding the provision of any other law, permitting the defendant to withdraw his or her guilty plea and dismissing the indictment; or (b) requiring the defendant to undergo a period of interim probation supervision and, upon successful completion of the interim probation supervision term, notwithstanding the provision of any other law, permitting the defendant to withdraw his or her guilty plea, enter a guilty plea to a misdemeanor offense and sentencing the defendant as promised in the plea agreement, which may include a period of probation supervision pursuant to section 65.00 of the penal law; or (c) allowing the defendant to withdraw his or her guilty plea and dismissing the indictment. 11. Nothing in this article shall be construed as restricting or prohibiting courts or district attorneys from using other lawful procedures or models for placing appropriate persons into alcohol or substance use treatment.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 220 - The Plea220.10 - Plea; Kinds of Pleas.

The only kinds of pleas which may be entered to an indictment are those specified in this section: 1. The defendant may as a matter of right enter a plea of "not guilty" to the indictment. 2. Except as provided in subdivision five, the defendant may as a matter of right enter a plea of "guilty" to the entire indictment. 3. Except as provided in subdivision five, where the indictment charges but one crime, the defendant may, with both the permission of the court and the consent of the people, enter a plea of guilty of a lesser included offense. 4. Except as provided in subdivision five, where the indictment charges two or more offenses in separate counts, the defendant may, with both the permission of the court and the consent of the people, enter a plea of:(a) Guilty of one or more but not all of the offenses charged; or(b) Guilty of a lesser included offense with respect to any or all of the offenses charged; or(c) Guilty of any combination of offenses charged and lesser offenses included within other offenses charged.5. (a) (i) Where the indictment charges one of the class A felonies defined in article two hundred twenty of the penal law or the attempt to commit any such class A felony, then any plea of guilty entered pursuant to subdivision three or four of this section must be or must include at least a plea of guilty of a class B felony.(iii) Where the indictment charges one of the class B felonies defined in article two hundred

twenty of the penal law then any plea of guilty entered pursuant to subdivision three or four must be or must include at least a plea of guilty of a class D felony.(b) Where the indictment charges any class B felony, other than a class B felony defined in article two hundred twenty of the penal law or a class B violent felony offense as defined in subdivision one of section 70.02 of the penal law, then any plea of guilty entered pursuant to subdivision three or four must be or must include at least a plea of guilty of a felony.(c) Where the indictment charges a felony, other than a class A felony or class B felony defined in article two hundred twenty of the penal law or class B or class C violent felony offense as defined in subdivision one of section 70.02 of the penal law, and it appears that the defendant has previously been subjected to a predicate felony conviction as defined in penal law section 70.06 then any plea of guilty entered pursuant to subdivision three or four must be or must include at least a plea of guilty of a felony.(d) Where the indictment charges a class A felony, other than those defined in article two hundred twenty of the penal law, or charges a class B or class C violent felony offense as defined in subdivision one of section 70.02 of the penal law, then a plea of guilty entered pursuant to subdivision three or four must be as follows:(i) Where the indictment charges a class A felony offense or a class B violent felony offense which is also an armed felony offense then a plea of guilty must include at least a plea of guilty to a class C violent felony offense;(ii) Except as provided in subparagraph (i) of this paragraph, where the indictment charges a class B violent felony offense or a class C violent felony offense, then a plea of guilty must include at least a plea of guilty to a class D violent felony offense;(iii) Where the indictment charges the class D violent felony offense of criminal possession of a weapon in the third degree as defined in subdivision four of section 265.02 of the penal law, and the defendant has not been previously convicted of a class A misdemeanor defined in the penal law in the five years preceding the commission of the offense, then a plea of guilty must be either to the class E violent felony offense of attempted criminal possession of a weapon in the third degree or to the class A misdemeanor of criminal possession of a weapon in the fourth degree as defined in subdivision one of section 265.01 of the penal law;(iv) Where the indictment charges the class D violent felony offenses of criminal possession of a weapon in the third degree as defined in subdivision four of section 265.02 of the penal law and the provisions of subparagraph (iii) of this paragraph do not apply, or subdivision five, seven or eight of section 265.02 of the penal law, then a plea of guilty must include at least a plea of guilty to a class E violent felony offense.(e) A defendant may not enter a plea of guilty to the crime of murder in the first degree as defined in section 125.27 of the penal law; provided, however, that a defendant may enter such a plea with both the permission of the court and the consent of the people when the agreed upon sentence is either life imprisonment without parole or a term of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole.(f) The provisions of this subdivision shall apply irrespective of whether the defendant is thereby precluded from entering a plea of guilty of any lesser included offense.(g) Where the defendant is a juvenile offender, the provisions of paragraphs (a), (b), (c) and (d) of this subdivision shall not apply and any plea entered pursuant to subdivision three or four of this section, must be as follows:(i) If the indictment charges a person fourteen or fifteen years old with the crime of murder in the second degree any plea of guilty entered pursuant to subdivision three or four must be a plea of guilty of a crime for which the defendant is criminally responsible;(ii) If the indictment does not charge a crime specified in subparagraph (i) of this paragraph, then any plea of guilty entered pursuant to subdivision three or four of this section must be a plea of guilty of a crime for which the defendant is criminally responsible unless a plea of guilty is accepted pursuant to subparagraph (iii) of this paragraph;(iii) Where the indictment does not charge a crime specified in subparagraph (i) of this paragraph, the district attorney may recommend removal of the action to the family court. Upon making such recommendation the district attorney shall submit a subscribed memorandum setting forth: (1) a recommendation that the interests of justice would best be served by removal of the action to the family court; and (2) if the indictment charges a thirteen year old with the crime of murder in the second degree, or a fourteen or fifteen year old with the crimes of rape in the first degree as defined in paragraph (a) of subdivision one, paragraph (a) of subdivision two and paragraph (a) of subdivision three of section 130.35 of the penal law, rape in the first degree as formerly defined in subdivision one of section 130.35 of the penal law, a crime formerly defined in subdivision one of section 130.50 of the penal law, or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter specific factors, one or more of which reasonably supports the recommendation, showing, (i) mitigating circumstances that bear directly upon the manner in which the crime was committed, or (ii) where the defendant was not the sole participant in the crime, that the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution, or (iii) possible deficiencies in proof of the crime, or (iv) where the juvenile offender has no previous adjudications of having committed a designated felony act, as defined in subdivision eight of section 301.2 of the family court act, regardless of the age of the offender at the time of commission of the act, that the criminal act was not part of a pattern of criminal behavior and, in view of the history of the offender, is not likely to be repeated.If the court is of the opinion based on specific factors set forth in the district attorney's memorandum that the interests of justice would best be served by removal of the action to the family court, a plea of guilty of a crime or act for which the defendant is not criminally responsible may be entered pursuant to subdivision three or four of this section, except that a thirteen year old charged with the crime of murder in the second degree may only plead to a designated felony act, as defined in subdivision eight of section 301.2 of the family court act.Upon accepting any such plea, the court must specify upon the record the portion or portions of the district attorney's statement the court is relying upon as the basis of its opinion and that it believes the interests of justice would best be served by removal of the proceeding to the family court. Such plea shall then be deemed to be a juvenile delinquency fact determination and the court upon entry thereof must direct that the action be removed to the family court in accordance with the provisions of article seven hundred twenty-five of this chapter.(g-1) Where a defendant is an adolescent offender, the provisions of paragraphs (a), (b), (c) and (d) of this subdivision shall not apply. Where the plea is to an offense constituting a misdemeanor, the plea shall be deemed replaced by an order of fact-finding in a juvenile delinquency proceeding, pursuant to section 346.1 of the family court act, and the action shall be removed to the family

court in accordance with article seven hundred twenty-five of this chapter. Where the plea is to an offense constituting a felony, the court may remove the action to the family court in accordance with section 722.23 and article seven hundred twenty-five of this chapter.(h) Where the indictment charges the class E felony offense of aggravated harassment of an employee by an incarcerated individual as defined in section 240.32 of the penal law, then a plea of guilty must include at least a plea of guilty to a class E felony.6. The defendant may, with both the permission of the court and the consent of the people, enter a plea of not responsible by reason of mental disease or defect to the indictment in the manner prescribed in section 220.15 of this chapter. (a) Guilty of one or more but not all of the offenses charged; or (b) Guilty of a lesser included offense with respect to any or all of the offenses charged; or (c) Guilty of any combination of offenses charged and lesser offenses included within other offenses charged. 5. (a) (i) Where the indictment charges one of the class A felonies defined in article two hundred twenty of the penal law or the attempt to commit any such class A felony, then any plea of guilty entered pursuant to subdivision three or four of this section must be or must include at least a plea of guilty of a class B felony. (iii) Where the indictment charges one of the class B felonies defined in article two hundred twenty of the penal law then any plea of guilty entered pursuant to subdivision three or four must be or must include at least a plea of guilty of a class D felony. (b) Where the indictment charges any class B felony, other than a class B felony defined in article two hundred twenty of the penal law or a class B violent felony offense as defined in subdivision one of section 70.02 of the penal law, then any plea of guilty entered pursuant to subdivision three or four must be or must include at least a plea of guilty of a felony. (c) Where the indictment charges a felony, other than a class A felony or class B felony defined in article two hundred twenty of the penal law or class B or class C violent felony offense as defined in subdivision one of section 70.02 of the penal law, and it appears that the defendant has previously been subjected to a predicate felony conviction as defined in penal law section 70.06 then any plea of guilty entered pursuant to subdivision three or four must be or must include at least a plea of guilty of a felony. (d) Where the indictment charges a class A felony, other than those defined in article two hundred twenty of the penal law, or charges a class B or class C violent felony offense as defined in subdivision one of section 70.02 of the penal law, then a plea of guilty entered pursuant to subdivision three or four must be as follows: (i) Where the indictment charges a class A felony offense or a class B violent felony offense which is also an armed felony offense then a plea of guilty must include at least a plea of guilty to a class C violent felony offense; (ii) Except as provided in subparagraph (i) of this paragraph, where the indictment charges a class B violent felony offense or a class C violent felony offense, then a plea of guilty must include at least a plea of guilty to a class D violent felony offense; (iii) Where the indictment charges the class D violent felony offense of criminal possession of a weapon in the third degree as defined in subdivision four of section 265.02 of the penal law, and the defendant has not been previously convicted of a class A misdemeanor defined in the penal law in the five years preceding the commission of the offense, then a plea of guilty must be either to the class E violent felony offense of attempted criminal possession of a weapon in the third degree or to the class A misdemeanor of criminal possession of a weapon in the fourth degree as defined in subdivision one of section 265.01 of the penal law; (iv) Where the indictment charges the class D violent felony offenses of criminal possession of a weapon in the third degree as defined in subdivision four of section 265.02 of the penal law and the provisions of subparagraph (iii) of this paragraph do not apply, or subdivision five, seven or eight of section 265.02 of the penal law, then a plea of guilty must include at least a plea of guilty to a class E violent felony offense. (e) A defendant may not enter a plea of guilty to the crime of murder in the first degree as defined in section 125.27 of the penal law; provided, however, that a defendant may enter such a plea with both the permission of the court and the consent of the people when the agreed upon sentence is either life imprisonment without parole or a term of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole. (f) The provisions of this subdivision shall apply irrespective of whether the defendant is thereby precluded from entering a plea of guilty of any lesser included offense. (g) Where the defendant is a juvenile offender, the provisions of paragraphs (a), (b), (c) and (d) of this subdivision shall not apply and any plea entered pursuant to subdivision three or four of this section, must be as follows: (i) If the indictment charges a person fourteen or fifteen years old with the crime of murder in the second degree any plea of guilty entered pursuant to subdivision three or four must be a plea of guilty of a crime for which the defendant is criminally responsible; (ii) If the indictment does not charge a crime specified in subparagraph (i) of this paragraph, then any plea of guilty entered pursuant to subdivision three or four of this section must be a plea of guilty of a crime for which the defendant is criminally responsible unless a plea of guilty is accepted pursuant to subparagraph (iii) of this paragraph; (iii) Where the indictment does not charge a crime specified in subparagraph (i) of this paragraph, the district attorney may recommend removal of the action to the family court. Upon making such recommendation the district attorney shall submit a subscribed memorandum setting forth: (1) a recommendation that the interests of justice would best be served by removal of the action to the family court; and (2) if the indictment charges a thirteen year old with the crime of murder in the second degree, or a fourteen or fifteen year old with the crimes of rape in the first degree as defined in paragraph (a) of subdivision one, paragraph (a) of subdivision two and paragraph (a) of subdivision three of section 130.35 of the penal law, rape in the first degree as formerly defined in subdivision one of section 130.35 of the penal law, a crime formerly defined in subdivision one of section 130.50 of the penal law, or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter specific factors, one or more of which reasonably supports the recommendation, showing, (i) mitigating circumstances that bear directly upon the manner in which the crime was committed, or (ii) where the defendant was not the sole participant in the crime, that the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution, or (iii) possible deficiencies in proof of the crime, or (iv) where the juvenile offender has no previous adjudications of having committed a designated felony act, as defined in subdivision eight of section 301.2 of the family court act, regardless of the age of the offender at the time of commission of the act, that the criminal act was not part of a pattern of criminal behavior and, in view of the history of the offender, is not likely to be repeated. If the court is of the opinion based on specific

factors set forth in the district attorney's memorandum that the interests of justice would best be served by removal of the action to the family court, a plea of guilty of a crime or act for which the defendant is not criminally responsible may be entered pursuant to subdivision three or four of this section, except that a thirteen year old charged with the crime of murder in the second degree may only plead to a designated felony act, as defined in subdivision eight of section 301.2 of the family court act. Upon accepting any such plea, the court must specify upon the record the portion or portions of the district attorney's statement the court is relying upon as the basis of its opinion and that it believes the interests of justice would best be served by removal of the proceeding to the family court. Such plea shall then be deemed to be a juvenile delinquency fact determination and the court upon entry thereof must direct that the action be removed to the family court in accordance with the provisions of article seven hundred twenty-five of this chapter. (g-1) Where a defendant is an adolescent offender, the provisions of paragraphs (a), (b), (c) and (d) of this subdivision shall not apply. Where the plea is to an offense constituting a misdemeanor, the plea shall be deemed replaced by an order of fact-finding in a juvenile delinquency proceeding, pursuant to section 346.1 of the family court act, and the action shall be removed to the family court in accordance with article seven hundred twenty-five of this chapter. Where the plea is to an offense constituting a felony, the court may remove the action to the family court in accordance with section 722.23 and article seven hundred twenty-five of this chapter. (h) Where the indictment charges the class E felony offense of aggravated harassment of an employee by an incarcerated individual as defined in section 240.32 of the penal law, then a plea of guilty must include at least a plea of guilty to a class E felony. 6. The defendant may, with both the permission of the court and the consent of the people, enter a plea of not responsible by reason of mental disease or defect to the indictment in the manner prescribed in section 220.15 of this chapter.

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defect. 1. The defendant may, with both the permission of the court and the consent of the people, enter a plea of not responsible by reason of mental disease or defect to the entire indictment. The district attorney must state to the court either orally on the record or in a writing filed with the court that the people consent to the entry of such plea and that the people are satisfied that the affirmative defense of lack of criminal responsibility by reason of mental disease or defect would be proven by the defendant at a trial by a preponderance of the evidence. The district attorney must further state to the court in detail the evidence available to the people with respect to the offense or offenses charged in the indictment, including all psychiatric evidence available or known to the people. If necessary, the court may conduct a hearing before accepting such plea. The district attorney must further state to the court the reasons for recommending such plea. The reasons shall be stated in detail and not in conclusory terms. 2. Counsel for the defendant must state that in his opinion defendant has the capacity to understand the proceedings and to assist in his own defense and that the defendant understands the consequences of a plea of not responsible by reason of mental disease or defect. Counsel for the defendant must further state whether in his opinion defendant has any viable defense to the offense or offenses charged in the indictment other than the affirmative defense of lack of criminal responsibility by reason of mental disease or defect. Counsel for the defendant must further state in detail the psychiatric evidence available to the defendant with respect to such latter affirmative defense. 3. Before accepting a plea of not responsible by reason of mental disease or defect, the court must address the defendant in open court and determine that he understands each of the following:(a) The nature of the charge to which the plea is offered, and the consequences of such plea;(b) That he has the right to plead not guilty or to persist in that plea if it has already been entered;(c) That he has the right to be tried by a jury, the right to the assistance of counsel, the right to confront and cross-examine witnesses against him, and the right not to be compelled to incriminate himself;(d) That if he pleads not responsible by reason of mental disease or defect there will be no trial with respect to the charges contained in the indictment, so that by offering such plea he waives the right to such trial;(e) That if he pleads not responsible by reason of mental disease or defect the court will ask him questions about the offense or offenses charged in the indictment and that he will thereby waive his right not to be compelled to incriminate himself; and(f) That the acceptance of a plea of not responsible by reason of mental disease or defect is the equivalent of a verdict of not responsible by reason of mental disease or defect after trial.4. The court shall not accept a plea of not responsible by reason of mental disease or defect without first determining that there is a factual basis for such plea. The court must address the defendant personally in open court and determine that the plea is voluntary, knowingly made, and not the result of force, threats, or promises. The court must inquire whether the defendant's willingness to plead results from prior discussions between the district attorney and counsel for the defendant. The court must be satisfied that the defendant understands the proceedings against him, has sufficient capacity to assist in his own defense and understands the consequences of a plea of not responsible by reason of mental disease or defect. The court may make such inquiry as it deems necessary or appropriate for the purpose of making the determinations required by this section.5. Before accepting a plea of not responsible by reason of mental disease or defect, the court must find and state each of the following on the record in detail and not in conclusory terms:(a) That it is satisfied that each element of the offense or offenses charged in the indictment would be established beyond a reasonable doubt at a trial;(b) That the affirmative defense of lack of criminal responsibility by reason of mental disease or defect would be proven by the defendant at a trial by a preponderance of the evidence;(c) That the defendant has the capacity to understand the proceedings against him and to assist in his own defense;(d) That such plea by the defendant is knowingly and voluntarily made and that there is a factual basis for the plea;(e) That the acceptance of such plea is required in the interest of the public in the effective administration of justice.6. When a plea of not responsible by reason of mental disease or defect is accepted by the court and recorded upon the minutes, the provisions of section 330.20 of this chapter shall govern all subsequent proceedings against the defendant. (a) The nature of the charge to which the plea

is offered, and the consequences of such plea; (b) That he has the right to plead not guilty or to persist in that plea if it has already been entered; (c) That he has the right to be tried by a jury, the right to the assistance of counsel, the right to confront and cross-examine witnesses against him, and the right not to be compelled to incriminate himself; (d) That if he pleads not responsible by reason of mental disease or defect there will be no trial with respect to the charges contained in the indictment, so that by offering such plea he waives the right to such trial; (e) That if he pleads not responsible by reason of mental disease or defect the court will ask him questions about the offense or offenses charged in the indictment and that he will thereby waive his right not to be compelled to incriminate himself; and (f) That the acceptance of a plea of not responsible by reason of mental disease or defect is the equivalent of a verdict of not responsible by reason of mental disease or defect after trial. 4. The court shall not accept a plea of not responsible by reason of mental disease or defect without first determining that there is a factual basis for such plea. The court must address the defendant personally in open court and determine that the plea is voluntary, knowingly made, and not the result of force, threats, or promises. The court must inquire whether the defendant's willingness to plead results from prior discussions between the district attorney and counsel for the defendant. The court must be satisfied that the defendant understands the proceedings against him, has sufficient capacity to assist in his own defense and understands the consequences of a plea of not responsible by reason of mental disease or defect. The court may make such inquiry as it deems necessary or appropriate for the purpose of making the determinations required by this section. 5. Before accepting a plea of not responsible by reason of mental disease or defect, the court must find and state each of the following on the record in detail and not in conclusory terms: (a) That it is satisfied that each element of the offense or offenses charged in the indictment would be established beyond a reasonable doubt at a trial; (b) That the affirmative defense of lack of criminal responsibility by reason of mental disease or defect would be proven by the defendant at a trial by a preponderance of the evidence; (c) That the defendant has the capacity to understand the proceedings against him and to assist in his own defense; (d) That such plea by the defendant is knowingly and voluntarily made and that there is a factual basis for the plea; (e) That the acceptance of such plea is required in the interest of the public in the effective administration of justice. 6. When a plea of not responsible by reason of mental disease or defect is accepted by the court and recorded upon the minutes, the provisions of section 330.20 of this chapter shall govern all subsequent proceedings against the defendant.

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1. A "lesser included offense," within the meaning of subdivisions four and five of section 220.10 relating to the entry of a plea of guilty to an offense of lesser grade than one charged in a count of an indictment, means not only a "lesser included offense" as that term is defined in subdivision thirty-seven of section 1.20, but also one which is deemed to be such pursuant to the following rules:(a) Where the only culpable mental state required for the crime charged is that the proscribed conduct be performed intentionally, any lesser offense consisting of reckless or criminally negligent, instead of intentional, performance of the same conduct is deemed to constitute a lesser included offense;(b) Where the only culpable mental state required for the crime charged is that the proscribed conduct be performed recklessly, any lesser offense consisting of criminally negligent, instead of reckless, performance of the same conduct is deemed to constitute a lesser included offense;(c) Where according to the allegations of a count a defendant's participation in the crime charged consisted in whole or in part of solicitation of another person to engage in the proscribed conduct, the offense of criminal solicitation, in any appropriate degree, is, with respect to such defendant, deemed to constitute a lesser included offense;(d) Where according to the allegations of a count a defendant's participation in the crime charged consisted in whole or in part of conspiratorial agreement or conduct with another person to engage in the proscribed conduct, the crime of conspiracy, in any appropriate degree, is, with respect to such defendant, deemed to constitute a lesser included offense;(e) Where according to the allegations of a count charging a felony a defendant's participation in such felony consisted in whole or in part of providing another person with means or opportunity for engaging in the proscribed conduct, the crime of criminal facilitation, in any appropriate degree, is, with respect to such defendant, deemed to constitute a lesser included offense;(f) Where the crime charged is assault or attempted assault, in any degree, allegedly committed by intentionally causing or attempting to cause physical injury to a person by the immediate use of physical force against him, or where the crime charged is menacing, as defined in section 120.15 of the penal law, the offense of harassment, as defined in subdivision one of section 240.25 of the penal law, is deemed to constitute a lesser included offense;(g) Where the crime charged is murder in the second degree as defined in subdivision three of section 125.25 of the penal law, allegedly committed in the course of the commission or attempted commission of a designated one of the underlying felonies enumerated in said subdivision, or during immediate flight therefrom, such designated underlying felony or attempted felony is deemed to constitute a lesser included offense. If such designated underlying felony is alleged to be robbery, burglary, kidnapping, or arson, without specification of the degree thereof, or an attempt to commit the same, a plea of guilty may be entered to the lowest degree thereof only, or as the case may be to attempted commission of such felony in its lowest degree, unless the allegations of the count clearly indicate the existence of all the elements of a higher degree;(h) Where the crime charged is criminal sale of a controlled substance, any offense of criminal sale or possession of a controlled substance, in any degree, is deemed to constitute a lesser included offense.(i) Where the crime charged is criminal possession of a controlled substance, any offense of criminal possession of a controlled substance, in any degree, is deemed to constitute a lesser included offense.(j) Where the offense charged is unlawful disposal of hazardous wastes in violation of section 27-0914 of the environmental conservation law, any offense of unlawful disposal or possession of hazardous wastes as set forth in sections 71-2707, 71-2709, 71-2711 and 71-2713 of such law, in any degree, is deemed to constitute a lesser included offense;(k) Where the offense charged is

unlawful possession of hazardous wastes in violation of section 27-0914 of the environmental conservation law, any offense of unlawful possession of hazardous wastes as set forth in sections 71-2707 and 71-2709 of such law, in any degree, is deemed to constitute a lesser included offense.2. An offense is deemed to be a lesser included offense with respect to a crime charged in an indictment, pursuant to the provisions of subdivision one, only for purposes of conviction upon a plea of guilty and not for purposes of conviction by verdict. For the latter purpose, an offense constitutes a lesser included one only when it conforms to the definition of that term contained in subdivision thirty-seven of section 1.20. (a) Where the only culpable mental state required for the crime charged is that the proscribed conduct be performed intentionally, any lesser offense consisting of reckless or criminally negligent, instead of intentional, performance of the same conduct is deemed to constitute a lesser included offense; (b) Where the only culpable mental state required for the crime charged is that the proscribed conduct be performed recklessly, any lesser offense consisting of criminally negligent, instead of reckless, performance of the same conduct is deemed to constitute a lesser included offense; (c) Where according to the allegations of a count a defendant's participation in the crime charged consisted in whole or in part of solicitation of another person to engage in the proscribed conduct, the offense of criminal solicitation, in any appropriate degree, is, with respect to such defendant, deemed to constitute a lesser included offense; (d) Where according to the allegations of a count a defendant's participation in the crime charged consisted in whole or in part of conspiratorial agreement or conduct with another person to engage in the proscribed conduct, the crime of conspiracy, in any appropriate degree, is, with respect to such defendant, deemed to constitute a lesser included offense; (e) Where according to the allegations of a count charging a felony a defendant's participation in such felony consisted in whole or in part of providing another person with means or opportunity for engaging in the proscribed conduct, the crime of criminal facilitation, in any appropriate degree, is, with respect to such defendant, deemed to constitute a lesser included offense; (f) Where the crime charged is assault or attempted assault, in any degree, allegedly committed by intentionally causing or attempting to cause physical injury to a person by the immediate use of physical force against him, or where the crime charged is menacing, as defined in section 120.15 of the penal law, the offense of harassment, as defined in subdivision one of section 240.25 of the penal law, is deemed to constitute a lesser included offense; (g) Where the crime charged is murder in the second degree as defined in subdivision three of section 125.25 of the penal law, allegedly committed in the course of the commission or attempted commission of a designated one of the underlying felonies enumerated in said subdivision, or during immediate flight therefrom, such designated underlying felony or attempted felony is deemed to constitute a lesser included offense. If such designated underlying felony is alleged to be robbery, burglary, kidnapping, or arson, without specification of the degree thereof, or an attempt to commit the same, a plea of guilty may be entered to the lowest degree thereof only, or as the case may be to attempted commission of such felony in its lowest degree, unless the allegations of the count clearly indicate the existence of all the elements of a higher degree; (h) Where the crime charged is criminal sale of a controlled substance, any offense of criminal sale or possession of a controlled substance, in any degree, is deemed to constitute a lesser included offense. (i) Where the crime charged is criminal possession of a controlled substance, any offense of criminal possession of a controlled substance, in any degree, is deemed to constitute a lesser included offense. (j) Where the offense charged is unlawful disposal of hazardous wastes in violation of section 27-0914 of the environmental conservation law, any offense of unlawful disposal or possession of hazardous wastes as set forth in sections 71-2707, 71-2709, 71-2711 and 71-2713 of such law, in any degree, is deemed to constitute a lesser included offense; (k) Where the offense charged is unlawful possession of hazardous wastes in violation of section 27-0914 of the environmental conservation law, any offense of unlawful possession of hazardous wastes as set forth in sections 71-2707 and 71-2709 of such law, in any degree, is deemed to constitute a lesser included offense. 2. An offense is deemed to be a lesser included offense with respect to a crime charged in an indictment, pursuant to the provisions of subdivision one, only for purposes of conviction upon a plea of guilty and not for purposes of conviction by verdict. For the latter purpose, an offense constitutes a lesser included one only when it conforms to the definition of that term contained in subdivision thirty-seven of section 1.20.

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indictments. 1. A plea of guilty not embracing the entire indictment, entered pursuant to the provisions of subdivision four or five of section 220.10, is a "plea of guilty to part of the indictment." 2. The entry and acceptance of a plea of guilty to part of the indictment constitutes a disposition of the entire indictment. 3. (a) (i) Except as provided in paragraph (b), or in paragraph (c) dealing with juvenile offenders, a plea of guilty, whether to the entire indictment or to part of the indictment, may, with both the permission of the court and the consent of the people, be entered and accepted upon the condition that it constitutes a complete disposition of one or more other indictments against the defendant then pending.(ii) If the other indictment or indictments are pending in a different court or courts, they shall not be disposed of under this subdivision unless the other courts and the appropriate prosecutors also transmit their written permission and consent as provided in subdivision four of section 220.50 of this article; in such a case the court in which the plea is entered shall so notify the other courts which, upon such notice, shall dismiss the appropriate indictments pending therein.(b) (i) A plea of guilty, whether to the entire indictment or to part of the indictment for any crime other than a class A felony, may not be accepted on the condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged a class A-I felony as defined in article two hundred twenty of the penal law or the attempt to commit any such class A-I felony, except that an eligible youth, as defined in subdivision two of section 720.10, may plea to a class B felony, upon consent of the district attorney, for purposes of adjudication as a youthful offender.(ii) Where it appears that the defendant has previously been subjected to a predicate felony conviction as defined in paragraph (b) of subdivision (1) of section

70.06 of the penal law, a plea of guilty, whether to the entire indictment or to part of the indictment, of any offense other than a felony may not be accepted on the condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged a felony, other than a class A felony or a class B or class C violent felony offense as defined in subdivision one of section 70.02 of the penal law.(iii) A plea of guilty, whether to the entire indictment or part of the indictment for any crime other than a class A felony or a class B or class C violent felony offense as defined in subdivision one of section 70.02 of the penal law, may not be accepted on the condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged a class A felony, other than those defined in article two hundred twenty of the penal law, or a class B violent felony offense which is also an armed felony offense.(iv) Except as provided in subparagraph (iii) of this paragraph, a plea of guilty, whether to the entire indictment or part of the indictment, for any crime other than a class A felony or a class B, C, or D violent felony offense as defined in subdivision one of section 70.02 of the penal law, may not be accepted on the condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged a class B or class C violent felony offense as defined in subdivision one of section 70.02 of the penal law,(v) A plea of guilty, whether to the entire indictment or part of the indictment, for any crime other than a violent felony offense as defined in section 70.02 of the penal law, may not be accepted on the condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged the class D violent felony offenses of criminal possession of a weapon in the third degree as defined in subdivision four, five, seven or eight of section 265.02 of the penal law; provided, however, a plea of guilty, whether to the entire indictment or part of the indictment, for the class A misdemeanor of criminal possession of a weapon in the fourth degree as defined in subdivision one of section 265.01 of the penal law may be accepted on the condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged the class D violent felony offense of criminal possession of a weapon in the third degree as defined in subdivision four of section 265.02 of the penal law when the defendant has not been previously convicted of a class A misdemeanor defined in the penal law in the five years preceding the commission of the offense.(vi) A plea of guilty, whether to the entire indictment or to part of the indictment for any crime other than a felony, may not be accepted on the condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged a class B felony other than a class B violent felony offense as defined in subdivision one of section 70.02 of the penal law.(vii) A defendant may not enter a plea of guilty to the crime of murder in the first degree as defined in section 125.27 of the penal law; provided, however, that a defendant may enter such a plea with both the permission of the court and the consent of the people when the agreed upon sentence is either life imprisonment without parole or a term of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole.(viii) A plea of guilty, whether to the entire indictment or to part of the indictment for any crime other than a class A or class B felony may not be accepted on condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged a class A-II felony defined in article two hundred twenty of the penal law or the attempt to commit any such felony.(ix) A plea of guilty, whether to the entire indictment or to part of the indictment for any crime other than a class B, a class C, or a class D felony, may not be accepted on condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged a class B felony defined in article two hundred twenty of the penal law.(c) Where the defendant is a juvenile offender, a plea of guilty, whether to the entire indictment or to part of the indictment, of any offense other than one for which the defendant is criminally responsible may not be accepted on the condition that it constitutes a complete disposition of one or more other indictments against the defendant. (ii) If the other indictment or indictments are pending in a different court or courts, they shall not be disposed of under this subdivision unless the other courts and the appropriate prosecutors also transmit their written permission and consent as provided in subdivision four of section 220.50 of this article; in such a case the court in which the plea is entered shall so notify the other courts which, upon such notice, shall dismiss the appropriate indictments pending therein. (b) (i) A plea of guilty, whether to the entire indictment or to part of the indictment for any crime other than a class A felony, may not be accepted on the condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged a class A-I felony as defined in article two hundred twenty of the penal law or the attempt to commit any such class A-I felony, except that an eligible youth, as defined in subdivision two of section 720.10, may plea to a class B felony, upon consent of the district attorney, for purposes of adjudication as a youthful offender. (ii) Where it appears that the defendant has previously been subjected to a predicate felony conviction as defined in paragraph (b) of subdivision (1) of section 70.06 of the penal law, a plea of guilty, whether to the entire indictment or to part of the indictment, of any offense other than a felony may not be accepted on the condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged a felony, other than a class A felony or a class B or class C violent felony offense as defined in subdivision one of section 70.02 of the penal law. (iii) A plea of guilty, whether to the entire indictment or part of the indictment for any crime other than a class A felony or a class B or class C violent felony offense as defined in subdivision one of section 70.02 of the penal law, may not be accepted on the condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged a class A felony, other than those defined in article two hundred twenty of the penal law, or a class B violent felony offense which is also an armed felony offense. (iv) Except as provided in subparagraph (iii) of this paragraph, a plea of guilty, whether to the entire indictment or part of the indictment, for any crime other than a class A felony or a class B, C, or D violent felony offense as defined in subdivision one of section 70.02 of the penal law, may not be accepted on the condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged a class B or class C violent felony offense as defined in subdivision one of section 70.02 of the penal law, (v) A plea of guilty, whether to the entire indictment or part of the indictment, for any crime other than a violent felony offense as defined in section 70.02 of the penal law, may not be accepted on the condition that

it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged the class D violent felony offenses of criminal possession of a weapon in the third degree as defined in subdivision four, five, seven or eight of section 265.02 of the penal law; provided, however, a plea of guilty, whether to the entire indictment or part of the indictment, for the class A misdemeanor of criminal possession of a weapon in the fourth degree as defined in subdivision one of section 265.01 of the penal law may be accepted on the condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged the class D violent felony offense of criminal possession of a weapon in the third degree as defined in subdivision four of section 265.02 of the penal law when the defendant has not been previously convicted of a class A misdemeanor defined in the penal law in the five years preceding the commission of the offense. (vi) A plea of guilty, whether to the entire indictment or to part of the indictment for any crime other than a felony, may not be accepted on the condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged a class B felony other than a class B violent felony offense as defined in subdivision one of section 70.02 of the penal law. (vii) A defendant may not enter a plea of guilty to the crime of murder in the first degree as defined in section 125.27 of the penal law; provided, however, that a defendant may enter such a plea with both the permission of the court and the consent of the people when the agreed upon sentence is either life imprisonment without parole or a term of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole. (viii) A plea of guilty, whether to the entire indictment or to part of the indictment for any crime other than a class A or class B felony may not be accepted on condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged a class A-II felony defined in article two hundred twenty of the penal law or the attempt to commit any such felony. (ix) A plea of guilty, whether to the entire indictment or to part of the indictment for any crime other than a class B, a class C, or a class D felony, may not be accepted on condition that it constitutes a complete disposition of one or more other indictments against the defendant wherein is charged a class B felony defined in article two hundred twenty of the penal law. (c) Where the defendant is a juvenile offender, a plea of guilty, whether to the entire indictment or to part of the indictment, of any offense other than one for which the defendant is criminally responsible may not be accepted on the condition that it constitutes a complete disposition of one or more other indictments against the defendant.

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In any case where the defendant offers to enter a plea of guilty of a misdemeanor to constitute a disposition of the entire indictment or to constitute a complete disposition of one or more other indictments, or both, and the permission of the court and the consent of the people must be withheld solely upon the ground that it appears the defendant has previously been subjected to a predicate felony conviction as defined in paragraph (b) of subdivision one of section 70.06 of the penal law the court, if the defendant does not admit such predicate felony conviction, may conduct the hearing required by section 400.21 for the purpose of determining whether the plea may be entered or must be rejected. The finding upon any such hearing shall also be binding upon the defendant for the purpose of sentence.

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A plea of not guilty constitutes a denial of every allegation of the indictment.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 220 - The Plea220.51 - Notice Before Entry of Plea or Trial Involving a Public Official.

official. Prior to trial, and before accepting a defendant's plea to a count or counts of an indictment or a superior court information charging a felony offense, the court must individually advise the defendant, on the record, that if at the time of the alleged felony crime the defendant was a public official, as defined in subdivision six of section one hundred fifty-six of the retirement and social security law, the defendant's plea of guilty and the court's acceptance thereof or conviction after trial may result in proceedings for the reduction or revocation of such defendant's pension pursuant to article three-B of the retirement and social security law.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 220 - The Plea220.60 - Plea; Change of Plea.

1. A defendant who has entered a plea of not guilty to an indictment may as a matter of right withdraw such plea at any time before rendition of a verdict and enter a plea of guilty to the entire indictment pursuant to subdivision two, but subject to the limitation in subdivision five of section 220.10. 2. A defendant who has entered a plea of not guilty to an indictment may, with both the permission of the court and the consent of the people, withdraw such plea at any time before the rendition of a verdict and enter: (a) a plea of guilty to part of the indictment pursuant to subdivision three or four but subject to the limitation in subdivision five of section 220.10, or (b) a plea of not responsible by reason of mental disease or defect to the indictment pursuant to section 220.15 of this chapter. 3. At any time before the imposition of sentence, the court in its discretion may permit a defendant who has entered a plea of guilty to the entire indictment or to part of the indictment, or a plea of not responsible by reason of mental disease or defect, to withdraw such plea, and in such event the entire indictment, as it existed at the time of such plea, is restored. 4. When a special

information has been filed pursuant to section 200.61 or 200.62 of this chapter, a defendant may enter a plea of guilty to the count or counts of the indictment to which the special information applies without admitting the allegations of the special information. Whenever a defendant enters a plea of guilty to the count or counts of the indictment to which the special information applies without admitting the allegations of the special information, the court must, unless the people consent otherwise, conduct a hearing in accordance with paragraph (b) of subdivision two of section 200.62 or paragraph (b) of subdivision three of section 200.61 of this chapter, whichever is applicable.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 230 - Removal of Action230.10 - Removal of Action; From Supreme Court to County Court and From County Court to Supreme Court; at Instance of Court.

county court to supreme court; at instance of court. Upon order of an appropriate court or judge, made at its or his own instance pursuant to rules established by the appellate division of the appropriate department, (a) an indictment filed with the supreme court at a term held in a particular county outside of New York City may, prior to entry of a plea of guilty thereto or commencement of a trial thereof, be removed to the county court of such county, and (b) an indictment filed in a county court may similarly be removed to the supreme court at a term held or to be held in the same county. Each of the appellate divisions of the second, third and fourth departments may establish rules authorizing such removals with respect to the superior courts within its department, and prescribing the courts or judges who may order such removals and other procedural matters involved therein.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 230 - Removal of Action230.11 - Removal of Action to Certain Courts Within a County.

1. In any county outside a city having a population of one million or more, upon or after arraignment of a defendant on an indictment pending in a superior court having jurisdiction thereof, such court may, upon motion of the defendant and after giving the district attorney an opportunity to be heard, order that the action be removed from the court in which the matter is pending to another court in the same county that has been designated as a human trafficking court or veterans treatment court by the chief administrator of the courts, and such human trafficking court or veterans treatment court may then conduct such action to judgment or other final disposition; provided, however, that no court may order removal pursuant to this section to a veterans treatment court of a family offense charge described in subdivision one of section 530.11 of this chapter where the accused and the person alleged to be the victim of such offense charged are members of the same family or household as defined in such subdivision one of section 530.11; and provided further that an order of removal issued under this subdivision shall not take effect until five days after the date the order is issued unless, prior to such effective date, the human trafficking court or veterans treatment court notifies the court that issued the order that:(a) it will not accept the action, in which event the order shall not take effect; or(b) it will accept the action on a date prior to such effective date, in which event the order shall take effect upon such prior date.2. Upon providing notification pursuant to paragraph (a) or (b) of subdivision one of this section, the human trafficking court or veterans treatment court shall promptly give notice to the defendant, his or her counsel and the district attorney. (a) it will not accept the action, in which event the order shall not take effect; or (b) it will accept the action on a date prior to such effective date, in which event the order shall take effect upon such prior date. 2. Upon providing notification pursuant to paragraph (a) or (b) of subdivision one of this section, the human trafficking court or veterans treatment court shall promptly give notice to the defendant, his or her counsel and the district attorney.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 230 - Removal of Action230.20 - Removal of Action; Removal From County Court to Supreme Court and Change of Venue; Upon Motion of Party.

and change of venue; upon motion of party. 1. At any time within the period provided by section 255.20, the appellate division of the department embracing the county, upon motion of either the defendant or the people, may, for good cause shown, order that the indictment and action be removed from the county court to the supreme court at a term held or to be held in the same county. 2. At any time within the period provided by section 255.20, the appellate division of the department embracing the county in which the superior court is located may, upon motion of either the defendant or the people demonstrating reasonable cause to believe that a fair and impartial trial cannot be had in such county, order either:(a) that the indictment and action be removed from such superior court to a designated superior court of or located in another county; or(b) that the commissioner of jurors of such county, in consultation with the appropriate administrative judge of the judicial district in which the county is located, expand the pool of jurors to encompass prospective jurors from the jury lists of counties that are within the judicial district in which, and that are geographically contiguous with the county in which, such superior court is located.In making such determination the appellate division shall consider, among other factors, the hardship on potential jurors and the potential depletion of a county's qualified juror list that may result from an order expanding the jury pool. An order of removal under paragraph (a) herein must, if the defendant is in custody at the time, include a provision for transfer of custody by the sheriff or other appropriate public servant of the county of confinement to the sheriff or other appropriate public servant of the county to which the action has been removed. If the order is issued upon motion of the people, the appellate division may impose such conditions as it deems equitable and appropriate to insure that the removal does not subject the defendant to an unreasonable burden in making his defense. Any additional cost to the people incurred in

complying with the order must be borne by the county from which the action originated.3. Any motion made pursuant to this section must be based upon papers stating the grounds therefor, and must be made within the period provided by section 255.20 and upon five days notice thereof together with service of the moving papers upon, as the case may be, (a) the district attorney or (b) either the defendant or his counsel. In any case, the motion must be made returnable either during the appellate division term during which such moving papers are served or during the next term thereof.4. If the appellate division grants the motion and orders a removal of the action, a certified copy of such order must be filed with the clerk of the superior court in which the indictment is pending. Such clerk must thereupon transmit such instrument, together with the pertinent papers and proceedings of the action, including all undertakings for appearances of the defendant and of the witnesses, or a certified copy or copies of the same, to the term of the superior court to which the action has been removed. Such latter court must then proceed to conduct the action to judgment or other final disposition. (a) that the indictment and action be removed from such superior court to a designated superior court of or located in another county; or (b) that the commissioner of jurors of such county, in consultation with the appropriate administrative judge of the judicial district in which the county is located, expand the pool of jurors to encompass prospective jurors from the jury lists of counties that are within the judicial district in which, and that are geographically contiguous with the county in which, such superior court is located. In making such determination the appellate division shall consider, among other factors, the hardship on potential jurors and the potential depletion of a county's qualified juror list that may result from an order expanding the jury pool. An order of removal under paragraph (a) herein must, if the defendant is in custody at the time, include a provision for transfer of custody by the sheriff or other appropriate public servant of the county of confinement to the sheriff or other appropriate public servant of the county to which the action has been removed. If the order is issued upon motion of the people, the appellate division may impose such conditions as it deems equitable and appropriate to insure that the removal does not subject the defendant to an unreasonable burden in making his defense. Any additional cost to the people incurred in complying with the order must be borne by the county from which the action originated. 3. Any motion made pursuant to this section must be based upon papers stating the grounds therefor, and must be made within the period provided by section 255.20 and upon five days notice thereof together with service of the moving papers upon, as the case may be, (a) the district attorney or (b) either the defendant or his counsel. In any case, the motion must be made returnable either during the appellate division term during which such moving papers are served or during the next term thereof. 4. If the appellate division grants the motion and orders a removal of the action, a certified copy of such order must be filed with the clerk of the superior court in which the indictment is pending. Such clerk must thereupon transmit such instrument, together with the pertinent papers and proceedings of the action, including all undertakings for appearances of the defendant and of the witnesses, or a certified copy or copies of the same, to the term of the superior court to which the action has been removed. Such latter court must then proceed to conduct the action to judgment or other final disposition.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 230 - Removal of Action230.21 - Removal of Action to Certain Courts in an Adjoining County.

1. In any county outside a city having a population of one million or more, the court may, upon motion of the defendant and with consent of the district attorney and the district attorney of the adjoining county that has a superior court designated a human trafficking court or veterans treatment court by the chief administrator of the courts, order that the indictment and action be removed from the court in which the matter is pending to such human trafficking court or veterans treatment court, whereupon such court may then conduct such action to judgment or other final disposition; provided, however, that no court may order removal to a veterans treatment court of a family offense charge described in subdivision one of section 530.11 of this chapter pursuant to this section where the accused and the person alleged to be the victim of such offense charged are members of the same family or household as defined in such subdivision one of section 530.11; and provided further that an order of removal issued under this subdivision shall not take effect until five days after the date the order is issued unless, prior to such effective date, the human trafficking court or veterans treatment court notifies the court that issued the order that:(a) it will not accept the action, in which event the order shall not take effect, or(b) it will accept the action on a date prior to such effective date, in which event the order shall take effect upon such prior date.2. Upon providing notification pursuant to paragraph (a) or (b) of subdivision one of this section, the human trafficking court or veterans treatment court shall promptly give notice to the defendant, his or her counsel and the district attorney of both counties. (a) it will not accept the action, in which event the order shall not take effect, or (b) it will accept the action on a date prior to such effective date, in which event the order shall take effect upon such prior date. 2. Upon providing notification pursuant to paragraph (a) or (b) of subdivision one of this section, the human trafficking court or veterans treatment court shall promptly give notice to the defendant, his or her counsel and the district attorney of both counties.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 230 - Removal of Action230.30 - Removal of Action; Stay of Trial Pending Motion Therefor.

1. At any time when a timely motion for removal of an action from the county court to the supreme court or for a change of venue may be made pursuant to section 230.20, a justice holding a term of the supreme court in the district in which the indictment is pending, or a justice of the appellate division of the department in which the indictment is pending, upon application of either the defendant or the people, may, in his discretion and for good cause shown, order that the trial of such indictment be stayed for a designated period, not to exceed thirty days from the issuance of such order, to allow the applicant party to make a motion in the

appropriate court for removal of the action from a county court to the supreme court or for a change of venue. 2. Such an order may be issued only upon an application made in writing and after reasonable notice and opportunity to be heard has been accorded the other party. 3. Upon issuing the order, the supreme court justice or appellate division justice must cause the order to be filed with the clerk of the court in which the indictment is pending. Thereafter, no further proceedings may be had in such court until a motion for removal or change of venue, as the case may be, if made within the designated period, has been determined, or until such designated period has expired without any such motion having been made. 4. When such an application for a stay has been made to and denied by a justice of the supreme court or a justice of the appellate division, a second such application may not be made to any other such justice.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 230 - Removal of Action230.40 - Removal of Action; Determinations and Rulings Before and After Removal; by Which Courts Made.

removal; by which courts made. Upon any removal of an indictment and action from one superior court to another pursuant to the provisions of this article, determinations and rulings with respect to the action made before such removal are not thereby rendered invalid. All subsequent determinations and rulings must be made by the court to which the action is removed; and such latter court is deemed to have control of the grand jury minutes underlying the indictment for the purpose of determining post-removal motions addressed to the legal sufficiency of the grand jury evidence or the validity of the grand jury proceeding.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 245 - Discovery245.10 - Timing of Discovery.

1. (a) Subject to subparagraph (iv) of this paragraph, the prosecution shall perform its initial discovery obligations under subdivision one of section 245.20 of this article as soon as practicable but not later than the time periods specified in subparagraphs (i) and (ii) of this paragraph, as applicable. Portions of materials claimed to be non-discoverable may be withheld pending a determination and ruling of the court under section 245.70 of this article; but the defendant shall be notified in writing that information has not been disclosed under a particular subdivision of such section, and the discoverable portions of such materials shall be disclosed to the extent practicable. When the discoverable materials, including video footage from body-worn cameras, surveillance cameras, or dashboard cameras, are exceptionally voluminous or, despite diligent, good faith efforts, are otherwise not in the actual possession of the prosecution, the time period in this paragraph may be stayed by up to an additional thirty calendar days without need for a motion pursuant to subdivision two of section 245.70 of this article.(i) When a defendant is in custody during the pendency of the criminal case, the prosecution shall perform its initial discovery obligations within twenty calendar days after the defendant's arraignment on an indictment, superior court information, prosecutor's information, information, simplified information, misdemeanor complaint or felony complaint.(ii) When the defendant is not in custody during the pendency of the criminal case, the prosecution shall perform its initial discovery obligations within thirty-five calendar days after the defendant's arraignment on an indictment, superior court information, prosecutor's information, information, simplified information, misdemeanor complaint or felony complaint.(iii) Notwithstanding the previous provisions of this section, the prosecutor's obligations shall not apply to a simplified information charging a traffic infraction under the vehicle and traffic law, or to an information charging one or more petty offenses as defined by the municipal code of a village, town, city, or county, that do not carry a statutorily authorized sentence of imprisonment, and where the defendant stands charged before the court with no crime or offense, provided however that nothing in this subparagraph shall prevent a defendant from filing a motion for disclosure of such items and information under subdivision one of section 245.20 of this article. The court shall, at the first appearance, advise the defendant of their right to file a motion for discovery.(iv)(A) Portions of materials claimed to be non-discoverable may be withheld pending a determination and ruling of the court under section 245.70 of this article; but the defendant shall be notified in writing that information has not been disclosed under a particular subdivision of such section, and the discoverable portions of such materials shall be disclosed to the extent practicable. Information related to or evidencing the identity of a 911 caller, the victim or witness of an offense defined under article one hundred thirty or sections 230.34 and 230.34-a of the penal law, or any other victim or witness of a crime where the defendant has substantiated affiliation with a criminal enterprise as defined in subdivision three of section 460.10 of the penal law may be withheld, provided, however, the defendant may move the court for disclosure.(B) When the discoverable materials are exceptionally voluminous or, despite diligent, good faith efforts, are otherwise not in the actual possession of the prosecution, the time period in this paragraph may be extended pursuant to a motion pursuant to subdivision two of section 245.70 of this article. For purposes of this article, voluminous materials may include, but are not limited to, video footage from body worn cameras, surveillance cameras or dashboard cameras.(b) The prosecution shall perform its supplemental discovery obligations under subdivision three of section 245.20 of this article as soon as practicable but not later than fifteen calendar days prior to the first scheduled trial date.(c) The prosecution shall disclose statements of the defendant as described in paragraph (a) of subdivision one of section 245.20 of this article to any defendant who has been arraigned in a local criminal court upon a currently undisposed of felony complaint charging an offense which is a subject of a prospective or pending grand jury proceeding, no later than forty-eight hours before the time scheduled for the defendant to testify at a grand jury proceeding pursuant to subdivision five of section 190.50 of this part.2. Defendant's performance of obligations. The defendant shall perform his or her discovery obligations under subdivision four of section 245.20 of this article not later than thirty calendar days after being served with the prosecution's certificate of compliance pursuant to subdivision one of section 245.50 of this article, except that portions of materials claimed to be

non-discoverable may be withheld pending a determination and ruling of the court under section 245.70 of this article; but the prosecution must be notified in writing that information has not been disclosed under a particular section. (i) When a defendant is in custody during the pendency of the criminal case, the prosecution shall perform its initial discovery obligations within twenty calendar days after the defendant's arraignment on an indictment, superior court information, prosecutor's information, information, simplified information, misdemeanor complaint or felony complaint. (ii) When the defendant is not in custody during the pendency of the criminal case, the prosecution shall perform its initial discovery obligations within thirty-five calendar days after the defendant's arraignment on an indictment, superior court information, prosecutor's information, information, simplified information, misdemeanor complaint or felony complaint. (iii) Notwithstanding the previous provisions of this section, the prosecutor's obligations shall not apply to a simplified information charging a traffic infraction under the vehicle and traffic law, or to an information charging one or more petty offenses as defined by the municipal code of a village, town, city, or county, that do not carry a statutorily authorized sentence of imprisonment, and where the defendant stands charged before the court with no crime or offense, provided however that nothing in this subparagraph shall prevent a defendant from filing a motion for disclosure of such items and information under subdivision one of section 245.20 of this article. The court shall, at the first appearance, advise the defendant of their right to file a motion for discovery. (iv)(A) Portions of materials claimed to be non-discoverable may be withheld pending a determination and ruling of the court under section 245.70 of this article; but the defendant shall be notified in writing that information has not been disclosed under a particular subdivision of such section, and the discoverable portions of such materials shall be disclosed to the extent practicable. Information related to or evidencing the identity of a 911 caller, the victim or witness of an offense defined under article one hundred thirty or sections 230.34 and 230.34-a of the penal law, or any other victim or witness of a crime where the defendant has substantiated affiliation with a criminal enterprise as defined in subdivision three of section 460.10 of the penal law may be withheld, provided, however, the defendant may move the court for disclosure. (B) When the discoverable materials are exceptionally voluminous or, despite diligent, good faith efforts, are otherwise not in the actual possession of the prosecution, the time period in this paragraph may be extended pursuant to a motion pursuant to subdivision two of section 245.70 of this article. For purposes of this article, voluminous materials may include, but are not limited to, video footage from body worn cameras, surveillance cameras or dashboard cameras. (b) The prosecution shall perform its supplemental discovery obligations under subdivision three of section 245.20 of this article as soon as practicable but not later than fifteen calendar days prior to the first scheduled trial date. (c) The prosecution shall disclose statements of the defendant as described in paragraph (a) of subdivision one of section 245.20 of this article to any defendant who has been arraigned in a local criminal court upon a currently undisposed of felony complaint charging an offense which is a subject of a prospective or pending grand jury proceeding, no later than forty-eight hours before the time scheduled for the defendant to testify at a grand jury proceeding pursuant to subdivision five of section 190.50 of this part. 2. Defendant's performance of obligations. The defendant shall perform his or her discovery obligations under subdivision four of section 245.20 of this article not later than thirty calendar days after being served with the prosecution's certificate of compliance pursuant to subdivision one of section 245.50 of this article, except that portions of materials claimed to be non-discoverable may be withheld pending a determination and ruling of the court under section 245.70 of this article; but the prosecution must be notified in writing that information has not been disclosed under a particular section.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 245 - Discovery245.20 - Automatic Discovery.

1. Initial discovery for the defendant. The prosecution shall disclose to the defendant, and permit the defendant to discover, inspect, copy, photograph and test, all items and information that relate to the subject matter of the case and are in the possession, custody or control of the prosecution or persons under the prosecution's direction or control, including but not limited to:(a) All written or recorded statements, and the substance of all oral statements, made by the defendant or a co-defendant to a public servant engaged in law enforcement activity or to a person then acting under his or her direction or in cooperation with him or her.(b) All transcripts of the testimony of a person who has testified before a grand jury, including but not limited to the defendant or a co-defendant. If in the exercise of reasonable diligence, and due to the limited availability of transcription resources, a transcript is unavailable for disclosure within the time period specified in subdivision one of section 245.10 of this article, such time period may be stayed by up to an additional thirty calendar days without need for a motion pursuant to subdivision two of section 245.70 of this article; except that such disclosure shall be made as soon as practicable and not later than thirty calendar days before the first scheduled trial date, unless an order is obtained pursuant to section 245.70 of this article. When the court is required to review grand jury transcripts, the prosecution shall disclose such transcripts to the court expeditiously upon receipt by the prosecutor, notwithstanding the otherwise-applicable time periods for disclosure in this article.(c) The names and adequate contact information for all persons other than law enforcement personnel whom the prosecutor knows to have evidence or information relevant to any offense charged or to any potential defense thereto, including a designation by the prosecutor as to which of those persons may be called as witnesses. Nothing in this paragraph shall require the disclosure of physical addresses; provided, however, upon a motion and good cause shown the court may direct the disclosure of a physical address. Information under this subdivision relating to the identity of a 911 caller, the victim or witness of an offense defined under article one hundred thirty or section 230.34 or 230.34-a of the penal law, any other victim or witness of a crime where the defendant has substantiated affiliation with a criminal enterprise as defined in subdivision three of section 460.10 of the penal law, or a confidential informant may be withheld, and redacted from discovery materials, without need for a motion pursuant to section 245.70 of this article; but the prosecution shall notify the defendant in writing that such information has not been disclosed, unless the court rules otherwise for good cause shown.(d) The name and work

affiliation of all law enforcement personnel whom the prosecutor knows to have evidence or information relevant to any offense charged or to any potential defense thereto, including a designation by the prosecutor as to which of those persons may be called as witnesses. Information under this subdivision relating to undercover personnel may be withheld, and redacted from discovery materials, without need for a motion pursuant to section 245.70 of this article; but the prosecution shall notify the defendant in writing that such information has not been disclosed, unless the court rules otherwise for good cause shown.(e) All statements, written or recorded or summarized in any writing or recording, made by persons who have evidence or information relevant to any offense charged or to any potential defense thereto, including all police reports, notes of police and other investigators, and law enforcement agency reports. This provision also includes statements, written or recorded or summarized in any writing or recording, by persons to be called as witnesses at pre-trial hearings.(f) Expert opinion evidence, including the name, business address, current curriculum vitae, a list of publications, and a list of proficiency tests and results administered or taken within the past ten years of each expert witness whom the prosecutor intends to call as a witness at trial or a pre-trial hearing, and all reports prepared by the expert that pertain to the case, or if no report is prepared, a written statement of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. This paragraph does not alter or in any way affect the procedures, obligations or rights set forth in section 250.10 of this title. If in the exercise of reasonable diligence this information is unavailable for disclosure within the time period specified in subdivision one of section 245.10 of this article, that period shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article; except that the prosecution shall notify the defendant in writing that such information has not been disclosed, and such disclosure shall be made as soon as practicable and not later than sixty calendar days before the first scheduled trial date, unless an order is obtained pursuant to section 245.70 of this article. When the prosecution's expert witness is being called in response to disclosure of an expert witness by the defendant, the court shall alter a scheduled trial date, if necessary, to allow the prosecution thirty calendar days to make the disclosure and the defendant thirty calendar days to prepare and respond to the new materials.(g) All tapes or other electronic recordings, including all electronic recordings of 911 telephone calls made or received in connection with the alleged criminal incident, and a designation by the prosecutor as to which of the recordings under this paragraph the prosecution intends to introduce at trial or a pre-trial hearing. If the discoverable materials under this paragraph exceed ten hours in total length, the prosecution may disclose only the recordings that it intends to introduce at trial or a pre-trial hearing, along with a list of the source and approximate quantity of other recordings and their general subject matter if known, and the defendant shall have the right upon request to obtain recordings not previously disclosed. The prosecution shall disclose the requested materials as soon as practicable and not less than fifteen calendar days after the defendant's request, unless an order is obtained pursuant to section 245.70 of this article. The prosecution may withhold the names and identifying information of any person who contacted 911 without the need for a protective order pursuant to section 245.70 of this article, provided, however, the defendant may move the court for disclosure. If the prosecution intends to call such person as a witness at a trial or hearing, the prosecution must disclose the name and contact information of such witness no later than fifteen days before such trial or hearing, or as soon as practicable.(h) All photographs and drawings made or completed by a public servant engaged in law enforcement activity, or which were made by a person whom the prosecutor intends to call as a witness at trial or a pre-trial hearing, or which relate to the subject matter of the case.(i) All photographs, photocopies and reproductions made by or at the direction of law enforcement personnel of any property prior to its release pursuant to section 450.10 of the penal law.(j) All reports, documents, records, data, calculations or writings, including but not limited to preliminary tests and screening results and bench notes and analyses performed or stored electronically, concerning physical or mental examinations, or scientific tests or experiments or comparisons, relating to the criminal action or proceeding which were made by or at the request or direction of a public servant engaged in law enforcement activity, or which were made by a person whom the prosecutor intends to call as a witness at trial or a pre-trial hearing, or which the prosecution intends to introduce at trial or a pre-trial hearing. Information under this paragraph also includes, but is not limited to, laboratory information management system records relating to such materials, any preliminary or final findings of non-conformance with accreditation, industry or governmental standards or laboratory protocols, and any conflicting analyses or results by laboratory personnel regardless of the laboratory's final analysis or results. If the prosecution submitted one or more items for testing to, or received results from, a forensic science laboratory or similar entity not under the prosecution's direction or control, the court on motion of a party shall issue subpoenas or orders to such laboratory or entity to cause materials under this paragraph to be made available for disclosure. The prosecution shall not be required to provide information related to the results of physical or mental examinations, or scientific tests or experiments or comparisons, unless and until such examinations, tests, experiments, or comparisons have been completed.(k) All evidence and information, including that which is known to police or other law enforcement agencies acting on the government's behalf in the case, that tends to: (i) negate the defendant's guilt as to a charged offense; (ii) reduce the degree of or mitigate the defendant's culpability as to a charged offense; (iii) support a potential defense to a charged offense; (iv) impeach the credibility of a testifying prosecution witness; (v) undermine evidence of the defendant's identity as a perpetrator of a charged offense; (vi) provide a basis for a motion to suppress evidence; or (vii) mitigate punishment. Information under this subdivision shall be disclosed whether or not such information is recorded in tangible form and irrespective of whether the prosecutor credits the information. The prosecutor shall disclose the information expeditiously upon its receipt and shall not delay disclosure if it is obtained earlier than the time period for disclosure in subdivision one of section 245.10 of this article.(l) A summary of all promises, rewards and inducements made to, or in favor of, persons who may be called as witnesses, as well as requests for consideration by persons who may be called as witnesses and copies of all documents relevant to a promise, reward or inducement.(m) A list of all tangible objects obtained from, or allegedly possessed by, the defendant or a co-defendant. The list shall include a designation by the

prosecutor as to which objects were physically or constructively possessed by the defendant and were recovered during a search or seizure by a public servant or an agent thereof, and which tangible objects were recovered by a public servant or an agent thereof after allegedly being abandoned by the defendant. If the prosecution intends to prove the defendant's possession of any tangible objects by means of a statutory presumption of possession, it shall designate such intention as to each such object. If reasonably practicable, the prosecution shall also designate the location from which each tangible object was recovered. There is also a right to inspect, copy, photograph and test the listed tangible objects.(n) Whether a search warrant has been executed and all documents relating thereto, including but not limited to the warrant, the warrant application, supporting affidavits, a police inventory of all property seized under the warrant, and a transcript of all testimony or other oral communications offered in support of the warrant application.(o) All tangible property that relates to the subject matter of the case, along with a designation of which items the prosecution intends to introduce in its case-in-chief at trial or a pre-trial hearing. If in the exercise of reasonable diligence the prosecutor has not formed an intention within the time period specified in subdivision one of section 245.10 of this article that an item under this subdivision will be introduced at trial or a pre-trial hearing, the prosecution shall notify the defendant in writing, and the time period in which to designate items as exhibits shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article; but the disclosure shall be made as soon as practicable and subject to the continuing duty to disclose in section 245.60 of this article.(p) A complete record of judgments of conviction for all defendants and all persons designated as potential prosecution witnesses pursuant to paragraph (c) of this subdivision, other than those witnesses who are experts.(q) When it is known to the prosecution, the existence of any pending criminal action against all persons designated as potential prosecution witnesses pursuant to paragraph (c) of this subdivision.(r) The approximate date, time and place of the offense or offenses charged and of the defendant's seizure and arrest.(s) In any prosecution alleging a violation of the vehicle and traffic law, where the defendant is charged by indictment, superior court information, prosecutor's information, information, or simplified information, all records of calibration, certification, inspection, repair or maintenance of machines and instruments utilized to perform any scientific tests and experiments, including but not limited to any test of a person's breath, blood, urine or saliva, for the period of six months prior and six months after such test was conducted, including the records of gas chromatography related to the certification of all reference standards and the certification certificate, if any, held by the operator of the machine or instrument. The time period required by subdivision one of section 245.10 of this article shall not apply to the disclosure of records created six months after a test was conducted, but such disclosure shall be made as soon as practicable and in any event, the earlier of fifteen days following receipt, or fifteen days before the first scheduled trial date.(t) In any prosecution alleging a violation of section 156.05 or 156.10 of the penal law, the time, place and manner such violation occurred.(u) (i) A copy of all electronically created or stored information seized or obtained by or on behalf of law enforcement from: (A) the defendant as described in subparagraph (ii) of this paragraph; or (B) a source other than the defendant which relates to the subject matter of the case.(ii) If the electronically created or stored information originates from a device, account, or other electronically stored source that the prosecution believes the defendant owned, maintained, or had lawful access to and is within the possession, custody or control of the prosecution or persons under the prosecution's direction or control, the prosecution shall provide a complete copy of the electronically created or stored information from the device or account or other source.(iii) If possession of such electronically created or stored information would be a crime under New York state or federal law, the prosecution shall make those portions of the electronically created or stored information that are not criminal to possess available as specified under this paragraph and shall afford counsel for the defendant access to inspect contraband portions at a supervised location that provides regular and reasonable hours for such access, such as a prosecutor's office, police station, or court.(iv) This paragraph shall not be construed to alter or in any way affect the right to be free from unreasonable searches and seizures or such other rights a suspect or defendant may derive from the state constitution or the United States constitution. If in the exercise of reasonable diligence the information under this paragraph is not available for disclosure within the time period required by subdivision one of section 245.10 of this article, that period shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article, except that the prosecution shall notify the defendant in writing that such information has not been disclosed, and such disclosure shall be made as soon as practicable and not later than forty-five calendar days before the first scheduled trial date, unless an order is obtained pursuant to section 245.70 of this article.2. Duties of the prosecution. The prosecutor shall make a diligent, good faith effort to ascertain the existence of material or information discoverable under subdivision one of this section and to cause such material or information to be made available for discovery where it exists but is not within the prosecutor's possession, custody or control; provided that the prosecutor shall not be required to obtain by subpoena duces tecum material or information which the defendant may thereby obtain. For purposes of subdivision one of this section, all items and information related to the prosecution of a charge in the possession of any New York state or local police or law enforcement agency shall be deemed to be in the possession of the prosecution. The prosecution shall also identify any laboratory having contact with evidence related to the prosecution of a charge. This subdivision shall not require the prosecutor to ascertain the existence of witnesses not known to the police or another law enforcement agency, or the written or recorded statements thereof, under paragraph (c) or (e) of subdivision one of this section.3. Supplemental discovery for the defendant. The prosecution shall disclose to the defendant a list of all misconduct and criminal acts of the defendant not charged in the indictment, superior court information, prosecutor's information, information, or simplified information, which the prosecution intends to use at trial for purposes of (a) impeaching the credibility of the defendant, or (b) as substantive proof of any material issue in the case. In addition the prosecution shall designate whether it intends to use each listed act for impeachment and/or as substantive proof.4. Reciprocal discovery for the prosecution. (a) The defendant shall, subject to constitutional limitations, disclose to the prosecution, and permit the prosecution to discover, inspect, copy or photograph, any material and relevant evidence within the defendant's or

counsel for the defendant's possession or control that is discoverable under paragraphs (f), (g), (h), (j), (l) and (o) of subdivision one of this section, which the defendant intends to introduce at trial or a pre-trial hearing, and the names, addresses, birth dates, and all statements, written or recorded or summarized in any writing or recording, of those persons other than the defendant whom the defendant intends to call as witnesses at trial or a pre-trial hearing.(b) Disclosure of the name, address, birth date, and all statements, written or recorded or summarized in any writing or recording, of a person whom the defendant intends to call as a witness for the sole purpose of impeaching a prosecution witness is not required until after the prosecution witness has testified at trial.(c) If in the exercise of reasonable diligence the reciprocally discoverable information under paragraph (f) or (o) of subdivision one of this section is unavailable for disclosure within the time period specified in subdivision two of section 245.10 of this article, such time period shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article; but the disclosure shall be made as soon as practicable and subject to the continuing duty to disclose in section 245.60 of this article.5. Stay of automatic discovery; remedies and sanctions. Section 245.10 and subdivisions one, two, three and four of this section shall have the force and effect of a court order, and failure to provide discovery pursuant to such section or subdivision may result in application of any remedies or sanctions permitted for non-compliance with a court order under section 245.80 of this article. However, if in the judgment of either party good cause exists for declining to make any of the disclosures set forth above, such party may move for a protective order pursuant to section 245.70 of this article and production of the item shall be stayed pending a ruling by the court. The opposing party shall be notified in writing that information has not been disclosed under a particular section. When some parts of material or information are discoverable but in the judgment of a party good cause exists for declining to disclose other parts, the discoverable parts shall be disclosed and the disclosing party shall give notice in writing that non-discoverable parts have been withheld.6. Redactions permitted. Either party may redact social security numbers and tax numbers from disclosures under this article.7. Presumption of openness. There shall be a presumption in favor of disclosure when interpreting sections 245.10 and 245.25, and subdivision one of section 245.20, of this article. (a) All written or recorded statements, and the substance of all oral statements, made by the defendant or a co-defendant to a public servant engaged in law enforcement activity or to a person then acting under his or her direction or in cooperation with him or her. (b) All transcripts of the testimony of a person who has testified before a grand jury, including but not limited to the defendant or a co-defendant. If in the exercise of reasonable diligence, and due to the limited availability of transcription resources, a transcript is unavailable for disclosure within the time period specified in subdivision one of section 245.10 of this article, such time period may be stayed by up to an additional thirty calendar days without need for a motion pursuant to subdivision two of section 245.70 of this article; except that such disclosure shall be made as soon as practicable and not later than thirty calendar days before the first scheduled trial date, unless an order is obtained pursuant to section 245.70 of this article. When the court is required to review grand jury transcripts, the prosecution shall disclose such transcripts to the court expeditiously upon receipt by the prosecutor, notwithstanding the otherwise-applicable time periods for disclosure in this article. (c) The names and adequate contact information for all persons other than law enforcement personnel whom the prosecutor knows to have evidence or information relevant to any offense charged or to any potential defense thereto, including a designation by the prosecutor as to which of those persons may be called as witnesses. Nothing in this paragraph shall require the disclosure of physical addresses; provided, however, upon a motion and good cause shown the court may direct the disclosure of a physical address. Information under this subdivision relating to the identity of a 911 caller, the victim or witness of an offense defined under article one hundred thirty or section 230.34 or 230.34-a of the penal law, any other victim or witness of a crime where the defendant has substantiated affiliation with a criminal enterprise as defined in subdivision three of section 460.10 of the penal law, or a confidential informant may be withheld, and redacted from discovery materials, without need for a motion pursuant to section 245.70 of this article; but the prosecution shall notify the defendant in writing that such information has not been disclosed, unless the court rules otherwise for good cause shown. (d) The name and work affiliation of all law enforcement personnel whom the prosecutor knows to have evidence or information relevant to any offense charged or to any potential defense thereto, including a designation by the prosecutor as to which of those persons may be called as witnesses. Information under this subdivision relating to undercover personnel may be withheld, and redacted from discovery materials, without need for a motion pursuant to section 245.70 of this article; but the prosecution shall notify the defendant in writing that such information has not been disclosed, unless the court rules otherwise for good cause shown. (e) All statements, written or recorded or summarized in any writing or recording, made by persons who have evidence or information relevant to any offense charged or to any potential defense thereto, including all police reports, notes of police and other investigators, and law enforcement agency reports. This provision also includes statements, written or recorded or summarized in any writing or recording, by persons to be called as witnesses at pre-trial hearings. (f) Expert opinion evidence, including the name, business address, current curriculum vitae, a list of publications, and a list of proficiency tests and results administered or taken within the past ten years of each expert witness whom the prosecutor intends to call as a witness at trial or a pre-trial hearing, and all reports prepared by the expert that pertain to the case, or if no report is prepared, a written statement of the facts and opinions to which the expert is expected to testify and a summary of the grounds for each opinion. This paragraph does not alter or in any way affect the procedures, obligations or rights set forth in section 250.10 of this title. If in the exercise of reasonable diligence this information is unavailable for disclosure within the time period specified in subdivision one of section 245.10 of this article, that period shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article; except that the prosecution shall notify the defendant in writing that such information has not been disclosed, and such disclosure shall be made as soon as practicable and not later than sixty calendar days before the first scheduled trial date, unless an order is obtained pursuant to section 245.70 of this article. When the prosecution's expert witness is being called in response to disclosure of an expert witness by the defendant, the court shall alter a scheduled trial date, if necessary, to allow the prosecution

thirty calendar days to make the disclosure and the defendant thirty calendar days to prepare and respond to the new materials. (g) All tapes or other electronic recordings, including all electronic recordings of 911 telephone calls made or received in connection with the alleged criminal incident, and a designation by the prosecutor as to which of the recordings under this paragraph the prosecution intends to introduce at trial or a pre-trial hearing. If the discoverable materials under this paragraph exceed ten hours in total length, the prosecution may disclose only the recordings that it intends to introduce at trial or a pre-trial hearing, along with a list of the source and approximate quantity of other recordings and their general subject matter if known, and the defendant shall have the right upon request to obtain recordings not previously disclosed. The prosecution shall disclose the requested materials as soon as practicable and not less than fifteen calendar days after the defendant's request, unless an order is obtained pursuant to section 245.70 of this article. The prosecution may withhold the names and identifying information of any person who contacted 911 without the need for a protective order pursuant to section 245.70 of this article, provided, however, the defendant may move the court for disclosure. If the prosecution intends to call such person as a witness at a trial or hearing, the prosecution must disclose the name and contact information of such witness no later than fifteen days before such trial or hearing, or as soon as practicable. (h) All photographs and drawings made or completed by a public servant engaged in law enforcement activity, or which were made by a person whom the prosecutor intends to call as a witness at trial or a pre-trial hearing, or which relate to the subject matter of the case. (i) All photographs, photocopies and reproductions made by or at the direction of law enforcement personnel of any property prior to its release pursuant to section 450.10 of the penal law. (j) All reports, documents, records, data, calculations or writings, including but not limited to preliminary tests and screening results and bench notes and analyses performed or stored electronically, concerning physical or mental examinations, or scientific tests or experiments or comparisons, relating to the criminal action or proceeding which were made by or at the request or direction of a public servant engaged in law enforcement activity, or which were made by a person whom the prosecutor intends to call as a witness at trial or a pre-trial hearing, or which the prosecution intends to introduce at trial or a pre-trial hearing. Information under this paragraph also includes, but is not limited to, laboratory information management system records relating to such materials, any preliminary or final findings of non-conformance with accreditation, industry or governmental standards or laboratory protocols, and any conflicting analyses or results by laboratory personnel regardless of the laboratory's final analysis or results. If the prosecution submitted one or more items for testing to, or received results from, a forensic science laboratory or similar entity not under the prosecution's direction or control, the court on motion of a party shall issue subpoenas or orders to such laboratory or entity to cause materials under this paragraph to be made available for disclosure. The prosecution shall not be required to provide information related to the results of physical or mental examinations, or scientific tests or experiments or comparisons, unless and until such examinations, tests, experiments, or comparisons have been completed. (k) All evidence and information, including that which is known to police or other law enforcement agencies acting on the government's behalf in the case, that tends to: (i) negate the defendant's guilt as to a charged offense; (ii) reduce the degree of or mitigate the defendant's culpability as to a charged offense; (iii) support a potential defense to a charged offense; (iv) impeach the credibility of a testifying prosecution witness; (v) undermine evidence of the defendant's identity as a perpetrator of a charged offense; (vi) provide a basis for a motion to suppress evidence; or (vii) mitigate punishment. Information under this subdivision shall be disclosed whether or not such information is recorded in tangible form and irrespective of whether the prosecutor credits the information. The prosecutor shall disclose the information expeditiously upon its receipt and shall not delay disclosure if it is obtained earlier than the time period for disclosure in subdivision one of section 245.10 of this article. (l) A summary of all promises, rewards and inducements made to, or in favor of, persons who may be called as witnesses, as well as requests for consideration by persons who may be called as witnesses and copies of all documents relevant to a promise, reward or inducement. (m) A list of all tangible objects obtained from, or allegedly possessed by, the defendant or a co-defendant. The list shall include a designation by the prosecutor as to which objects were physically or constructively possessed by the defendant and were recovered during a search or seizure by a public servant or an agent thereof, and which tangible objects were recovered by a public servant or an agent thereof after allegedly being abandoned by the defendant. If the prosecution intends to prove the defendant's possession of any tangible objects by means of a statutory presumption of possession, it shall designate such intention as to each such object. If reasonably practicable, the prosecution shall also designate the location from which each tangible object was recovered. There is also a right to inspect, copy, photograph and test the listed tangible objects. (n) Whether a search warrant has been executed and all documents relating thereto, including but not limited to the warrant, the warrant application, supporting affidavits, a police inventory of all property seized under the warrant, and a transcript of all testimony or other oral communications offered in support of the warrant application. (o) All tangible property that relates to the subject matter of the case, along with a designation of which items the prosecution intends to introduce in its case-in-chief at trial or a pre-trial hearing. If in the exercise of reasonable diligence the prosecutor has not formed an intention within the time period specified in subdivision one of section 245.10 of this article that an item under this subdivision will be introduced at trial or a pre-trial hearing, the prosecution shall notify the defendant in writing, and the time period in which to designate items as exhibits shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article; but the disclosure shall be made as soon as practicable and subject to the continuing duty to disclose in section 245.60 of this article. (p) A complete record of judgments of conviction for all defendants and all persons designated as potential prosecution witnesses pursuant to paragraph (c) of this subdivision, other than those witnesses who are experts. (q) When it is known to the prosecution, the existence of any pending criminal action against all persons designated as potential prosecution witnesses pursuant to paragraph (c) of this subdivision. (r) The approximate date, time and place of the offense or offenses charged and of the defendant's seizure and arrest. (s) In any prosecution alleging a violation of the vehicle and traffic law, where the defendant is charged by indictment, superior court information, prosecutor's information, information, or

simplified information, all records of calibration, certification, inspection, repair or maintenance of machines and instruments utilized to perform any scientific tests and experiments, including but not limited to any test of a person's breath, blood, urine or saliva, for the period of six months prior and six months after such test was conducted, including the records of gas chromatography related to the certification of all reference standards and the certification certificate, if any, held by the operator of the machine or instrument. The time period required by subdivision one of section 245.10 of this article shall not apply to the disclosure of records created six months after a test was conducted, but such disclosure shall be made as soon as practicable and in any event, the earlier of fifteen days following receipt, or fifteen days before the first scheduled trial date. (t) In any prosecution alleging a violation of section 156.05 or 156.10 of the penal law, the time, place and manner such violation occurred. (u) (i) A copy of all electronically created or stored information seized or obtained by or on behalf of law enforcement from: (A) the defendant as described in subparagraph (ii) of this paragraph; or (B) a source other than the defendant which relates to the subject matter of the case. (ii) If the electronically created or stored information originates from a device, account, or other electronically stored source that the prosecution believes the defendant owned, maintained, or had lawful access to and is within the possession, custody or control of the prosecution or persons under the prosecution's direction or control, the prosecution shall provide a complete copy of the electronically created or stored information from the device or account or other source. (iii) If possession of such electronically created or stored information would be a crime under New York state or federal law, the prosecution shall make those portions of the electronically created or stored information that are not criminal to possess available as specified under this paragraph and shall afford counsel for the defendant access to inspect contraband portions at a supervised location that provides regular and reasonable hours for such access, such as a prosecutor's office, police station, or court. (iv) This paragraph shall not be construed to alter or in any way affect the right to be free from unreasonable searches and seizures or such other rights a suspect or defendant may derive from the state constitution or the United States constitution. If in the exercise of reasonable diligence the information under this paragraph is not available for disclosure within the time period required by subdivision one of section 245.10 of this article, that period shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article, except that the prosecution shall notify the defendant in writing that such information has not been disclosed, and such disclosure shall be made as soon as practicable and not later than forty-five calendar days before the first scheduled trial date, unless an order is obtained pursuant to section 245.70 of this article. 2. Duties of the prosecution. The prosecutor shall make a diligent, good faith effort to ascertain the existence of material or information discoverable under subdivision one of this section and to cause such material or information to be made available for discovery where it exists but is not within the prosecutor's possession, custody or control; provided that the prosecutor shall not be required to obtain by subpoena duces tecum material or information which the defendant may thereby obtain. For purposes of subdivision one of this section, all items and information related to the prosecution of a charge in the possession of any New York state or local police or law enforcement agency shall be deemed to be in the possession of the prosecution. The prosecution shall also identify any laboratory having contact with evidence related to the prosecution of a charge. This subdivision shall not require the prosecutor to ascertain the existence of witnesses not known to the police or another law enforcement agency, or the written or recorded statements thereof, under paragraph (c) or (e) of subdivision one of this section. 3. Supplemental discovery for the defendant. The prosecution shall disclose to the defendant a list of all misconduct and criminal acts of the defendant not charged in the indictment, superior court information, prosecutor's information, information, or simplified information, which the prosecution intends to use at trial for purposes of (a) impeaching the credibility of the defendant, or (b) as substantive proof of any material issue in the case. In addition the prosecution shall designate whether it intends to use each listed act for impeachment and/or as substantive proof. 4. Reciprocal discovery for the prosecution. (a) The defendant shall, subject to constitutional limitations, disclose to the prosecution, and permit the prosecution to discover, inspect, copy or photograph, any material and relevant evidence within the defendant's or counsel for the defendant's possession or control that is discoverable under paragraphs (f), (g), (h), (j), (l) and (o) of subdivision one of this section, which the defendant intends to introduce at trial or a pre-trial hearing, and the names, addresses, birth dates, and all statements, written or recorded or summarized in any writing or recording, of those persons other than the defendant whom the defendant intends to call as witnesses at trial or a pre-trial hearing. (b) Disclosure of the name, address, birth date, and all statements, written or recorded or summarized in any writing or recording, of a person whom the defendant intends to call as a witness for the sole purpose of impeaching a prosecution witness is not required until after the prosecution witness has testified at trial. (c) If in the exercise of reasonable diligence the reciprocally discoverable information under paragraph (f) or (o) of subdivision one of this section is unavailable for disclosure within the time period specified in subdivision two of section 245.10 of this article, such time period shall be stayed without need for a motion pursuant to subdivision two of section 245.70 of this article; but the disclosure shall be made as soon as practicable and subject to the continuing duty to disclose in section 245.60 of this article. 5. Stay of automatic discovery; remedies and sanctions. Section 245.10 and subdivisions one, two, three and four of this section shall have the force and effect of a court order, and failure to provide discovery pursuant to such section or subdivision may result in application of any remedies or sanctions permitted for non-compliance with a court order under section 245.80 of this article. However, if in the judgment of either party good cause exists for declining to make any of the disclosures set forth above, such party may move for a protective order pursuant to section 245.70 of this article and production of the item shall be stayed pending a ruling by the court. The opposing party shall be notified in writing that information has not been disclosed under a particular section. When some parts of material or information are discoverable but in the judgment of a party good cause exists for declining to disclose other parts, the discoverable parts shall be disclosed and the disclosing party shall give notice in writing that non-discoverable parts have been withheld. 6. Redactions permitted. Either party may redact social security numbers and tax numbers from disclosures under this article. 7. Presumption of openness. There shall be a presumption in

favor of disclosure when interpreting sections 245.10 and 245.25, and subdivision one of section 245.20, of this article.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 245 - Discovery245.25 - Disclosure Prior to Certain Guilty Pleas.

1. Pre-indictment guilty pleas. Upon a felony complaint, where the prosecution has made a pre-indictment guilty plea offer requiring a plea to a crime, the prosecutor must disclose to the defense, and permit the defense to discover, inspect, copy, photograph and test, all items and information that would be discoverable prior to trial under subdivision one of section 245.20 of this article and are in the possession, custody or control of the prosecution. The prosecution shall disclose the discoverable items and information not less than three calendar days prior to the expiration date of any guilty plea offer by the prosecution or any deadline imposed by the court for acceptance of the guilty plea offer. If the prosecution does not comply with the requirements of this subdivision, then, on a defendant's motion alleging a violation of this subdivision, the court must consider the impact of any violation on the defendant's decision to accept or reject a plea offer. If the court finds that such violation materially affected the defendant's decision, and if the prosecution declines to reinstate the lapsed or withdrawn plea offer, the court - as a presumptive minimum sanction - must preclude the admission at trial of any evidence not disclosed as required under this subdivision. The court may take other appropriate action as necessary to address the non-compliance. The rights under this subdivision do not apply to items or information that are the subject of a protective order under section 245.70 of this article; but if such information tends to be exculpatory, the court shall reconsider the protective order. A defendant may waive his or her rights under this subdivision; but a guilty plea offer may not be conditioned on such waiver. 2. Other guilty pleas. Upon an indictment, superior court information, prosecutor's information, information, simplified information, or misdemeanor complaint, where the prosecution has made a guilty plea offer requiring a plea to a crime, the prosecutor must disclose to the defense, and permit the defense to discover, inspect, copy, photograph and test, all items and information that would be discoverable prior to trial under subdivision one of section 245.20 of this article and are within the possession, custody or control of the prosecution. The prosecution shall disclose the discoverable items and information not less than seven calendar days prior to the expiration date of any guilty plea offer by the prosecution or any deadline imposed by the court for acceptance of the guilty plea offer. If the prosecution does not comply with the requirements of this subdivision, then, on a defendant's motion alleging a violation of this subdivision, the court must consider the impact of any violation on the defendant's decision to accept or reject a plea offer. If the court finds that such violation materially affected the defendant's decision, and if the prosecution declines to reinstate the lapsed or withdrawn plea offer, the court - as a presumptive minimum sanction - must preclude the admission at trial of any evidence not disclosed as required under this subdivision. The court may take other appropriate action as necessary to address the non-compliance. The rights under this subdivision do not apply to items or information that are the subject of a protective order under section 245.70 of this article; but if such information tends to be exculpatory, the court shall reconsider the protective order. A defendant may waive his or her rights under this subdivision; but a guilty plea offer may not be conditioned on such waiver. Notwithstanding the timelines contained in the opening paragraph of paragraph (a) of subdivision one of section 245.10 of this article, the prosecutor's discovery obligation under subdivision one of section 245.20 of this article shall be performed as soon as practicable, but not later than fifteen days before the trial of a simplified information charging a traffic infraction under the vehicle and traffic law, or by an information charging one or more petty offenses as defined by the municipal code of a village, town, city, or county, that do not carry a statutorily authorized sentence of imprisonment, and where the defendant stands charged before the court with no crime or offense, provided however that nothing in this subdivision shall prevent a defendant from filing a motion for disclosure of such items and information under subdivision one of such section 245.20 of this article at an earlier date. 3. Repleader. Nothing in this section shall prevent the waiver of discovery from being a condition of a repleader, where the defendant's original conviction is vacated on agreement between the parties pursuant to section 440.10 of this part.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 245 - Discovery245.30 - Court Orders for Preservation, Access or Discovery.

1. Order to preserve evidence. At any time, a party may move for a court order to any individual, agency or other entity in possession, custody or control of items which relate to the subject matter of the case or are otherwise relevant, requiring that such items be preserved for a specified period of time. The court shall hear and rule upon such motions expeditiously. The court may modify or vacate such an order upon a showing that preservation of particular evidence will create significant hardship to such individual, agency or entity, on condition that the probative value of that evidence is preserved by a specified alternative means. 2. Order to grant access to premises. Without prejudice to its ability to issue a subpoena pursuant to this chapter and after an accusatory instrument has been filed, the defendant may move, upon notice to the prosecution and any impacted individual, agency, or entity, for a court order to access a crime scene or other premises relevant to the subject matter of the case, requiring that counsel for the defendant be granted reasonable access to inspect, photograph, or measure such crime scene or premises, and that the condition of the crime scene or premises remain unchanged in the interim. The court shall consider defendant's expressed need for access to the premises including the risk that defendant will be deprived of evidence or information relevant to the case, the position of any individual or entity with possessory or ownership rights to the premises, the nature of the privacy interest and any perceived or actual hardship of the individual or entity with possessory or ownership rights, and the position of the prosecution with respect to any application for access to the premises. The court may deny access to the premises when the probative value of access to such location has been or will be preserved by specified alternative means. If the court grants access to the premises, the individual or

entity with ownership or possessory rights to the premises may request law enforcement presence at the premises while defense counsel or a representative thereof is present. 3. Discretionary discovery by order of the court. The court in its discretion may, upon a showing by the defendant that the request is reasonable and that the defendant is unable without undue hardship to obtain the substantial equivalent by other means, order the prosecution, or any individual, agency or other entity subject to the jurisdiction of the court, to make available for disclosure to the defendant any material or information which relates to the subject matter of the case and is reasonably likely to be material. A motion under this subdivision must be on notice to any person or entity affected by the order. The court may, on its own, upon request of any person or entity affected by the order, modify or vacate the order if compliance would be unreasonable or will create significant hardship. For good cause shown, the court may permit a party seeking or opposing a discretionary order of discovery under this subdivision, or another affected person or entity, to submit papers or testify on the record ex parte or in camera. For good cause shown, any such papers and a transcript of such testimony may be sealed and shall constitute a part of the record on appeal.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 245 - Discovery245.35 - Court Ordered Procedures to Facilitate Compliance.

To facilitate compliance with this article, and to reduce or streamline litigation of any disputes about discovery, the court in its discretion may issue an order: 1. Requiring that the prosecutor and counsel for the defendant diligently confer to attempt to reach an accommodation as to any dispute concerning discovery prior to seeking a ruling from the court; 2. Requiring a discovery compliance conference at a specified time prior to trial between the prosecutor, counsel for all defendants, and the court or its staff; 3. Requiring the prosecution to file an additional certificate of compliance that states that the prosecutor and/or an appropriate named agent has made reasonable inquiries of all police officers and other persons who have participated in investigating or evaluating the case about the existence of any favorable evidence or information within paragraph (k) of subdivision one of section 245.20 of this article, including such evidence or information that was not reduced to writing or otherwise memorialized or preserved as evidence, and has disclosed any such information to the defendant; and/or 4. Requiring other measures or proceedings designed to carry into effect the goals of this article.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 245 - Discovery245.40 - Non-Testimonial Evidence From the Defendant.

1. Availability. After the filing of an accusatory instrument, and subject to constitutional limitations, the court may, upon motion of the prosecution showing probable cause to believe the defendant has committed the crime, a clear indication that relevant material evidence will be found, and that the method used to secure such evidence is safe and reliable, require a defendant to provide non-testimonial evidence, including to:(a) Appear in a lineup;(b) Speak for identification by a witness or potential witness;(c) Be fingerprinted;(d) Pose for photographs not involving reenactment of an event;(e) Permit the taking of samples of the defendant's blood, hair, and other materials of the defendant's body that involves no unreasonable intrusion thereof;(f) Provide specimens of the defendant's handwriting; and(g) Submit to a reasonable physical or medical inspection of the defendant's body.2. Limitations. This section shall not be construed to alter or in any way affect the issuance of a similar court order, as may be authorized by law, before the filing of an accusatory instrument, consistent with such rights as the defendant may derive from the state constitution or the United States constitution. This section shall not be construed to alter or in any way affect the administration of a chemical test where otherwise authorized. An order pursuant to this section may be denied, limited or conditioned as provided in section 245.70 of this article. (a) Appear in a lineup; (b) Speak for identification by a witness or potential witness; (c) Be fingerprinted; (d) Pose for photographs not involving reenactment of an event; (e) Permit the taking of samples of the defendant's blood, hair, and other materials of the defendant's body that involves no unreasonable intrusion thereof; (f) Provide specimens of the defendant's handwriting; and (g) Submit to a reasonable physical or medical inspection of the defendant's body. 2. Limitations. This section shall not be construed to alter or in any way affect the issuance of a similar court order, as may be authorized by law, before the filing of an accusatory instrument, consistent with such rights as the defendant may derive from the state constitution or the United States constitution. This section shall not be construed to alter or in any way affect the administration of a chemical test where otherwise authorized. An order pursuant to this section may be denied, limited or conditioned as provided in section 245.70 of this article.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 245 - Discovery245.45 - DNA Comparison Order.

Where property in the prosecution's possession, custody, or control consists of a deoxyribonucleic acid ("DNA") profile obtained from probative biological material gathered in connection with the investigation of the crime, or the defendant, or the prosecution of the defendant, and the defendant establishes (a) that such profile complies with federal bureau of investigation or state requirements, whichever are applicable and as such requirements are applied to law enforcement agencies seeking a keyboard search or similar comparison, and (b) that the data meets state DNA index system or national DNA index system criteria as such criteria are applied to law enforcement agencies seeking such a keyboard search or similar comparison, the court may, upon motion of a defendant against whom an indictment, superior court information, prosecutor's information, information, or simplified information is pending, order an entity that has access to the combined DNA index system or its successor system to compare such DNA profile against DNA databanks by keyboard searches, or a similar method that does not involve uploading, upon notice to both parties and the

entity required to perform the search, upon a showing by the defendant that such a comparison is material to the presentation of his or her defense and that the request is reasonable. For purposes of this section, a "keyboard search" shall mean a search of a DNA profile against the databank in which the profile that is searched is not uploaded to or maintained in the databank.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 245 - Discovery245.50 - Certificates of Compliance; Readiness for Trial.

1. By the prosecution. When the prosecution has provided the discovery required by subdivision one of section 245.20 of this article, except for discovery that is lost or destroyed as provided by paragraph (b) of subdivision one of section 245.80 of this article and except for any items or information that are the subject of an order pursuant to section 245.70 of this article, it shall serve upon the defendant and file with the court a certificate of compliance. The certificate of compliance shall state that, after exercising due diligence and making reasonable inquiries to ascertain the existence of material and information subject to discovery, the prosecutor has disclosed and made available all known material and information subject to discovery. It shall also identify the items provided. If additional discovery is subsequently provided prior to trial pursuant to section 245.60 of this article, a supplemental certificate shall be served upon the defendant and filed with the court identifying the additional material and information provided. No adverse consequence to the prosecution or the prosecutor shall result from the filing of a certificate of compliance in good faith and reasonable under the circumstances; but the court may grant a remedy or sanction for a discovery violation as provided in section 245.80 of this article. 1-a. Any supplemental certificate of compliance shall detail the basis for the delayed disclosure so that the court may determine whether the delayed disclosure impacts the propriety of the certificate of compliance. The filing of a supplemental certificate of compliance shall not impact the validity of the original certificate of compliance if filed in good faith and after exercising due diligence pursuant to section 245.20 of this article, or if the additional discovery did not exist at the time of the filing of the original certificate of compliance. 2. By the defendant. When the defendant has provided all discovery required by subdivision four of section 245.20 of this article, except for any items or information that are the subject of an order pursuant to section 245.70 of this article, counsel for the defendant shall serve upon the prosecution and file with the court a certificate of compliance. The certificate shall state that, after exercising due diligence and making reasonable inquiries to ascertain the existence of material and information subject to discovery, counsel for the defendant has disclosed and made available all known material and information subject to discovery. It shall also identify the items provided. If additional discovery is subsequently provided prior to trial pursuant to section 245.60 of this article, a supplemental certificate shall be served upon the prosecution and filed with the court identifying the additional material and information provided. No adverse consequence to the defendant or counsel for the defendant shall result from the filing of a certificate of compliance in good faith; but the court may grant a remedy or sanction for a discovery violation as provided in section 245.80 of this article. 3. Trial readiness. Notwithstanding the provisions of any other law, absent an individualized finding of special circumstances in the instant case by the court before which the charge is pending, the prosecution shall not be deemed ready for trial for purposes of section 30.30 of this chapter until it has filed a proper certificate pursuant to subdivision one of this section. A court may deem the prosecution ready for trial pursuant to section 30.30 of this chapter where information that might be considered discoverable under this article cannot be disclosed because it has been lost, destroyed, or otherwise unavailable as provided by paragraph (b) of subdivision one of section 245.80 of this article, despite diligent and good faith efforts, reasonable under the circumstances. Provided, however, that the court may grant a remedy or sanction for a discovery violation as provided by section 245.80 of this article. 4. (a) Challenges to, or questions related to a certificate of compliance shall be addressed by motion.(b) To the extent that the party is aware of a potential defect or deficiency related to a certificate of compliance or supplemental certificate of compliance, the party entitled to disclosure shall notify or alert the opposing party as soon as practicable.(c) Challenges related to the sufficiency of a certificate of compliance or supplemental certificates of compliance shall be addressed by motion as soon as practicable, provided that nothing in this section shall be construed to waive a party's right to make further challenges, including but not limited to a motion pursuant to section 30.30 of this chapter. (b) To the extent that the party is aware of a potential defect or deficiency related to a certificate of compliance or supplemental certificate of compliance, the party entitled to disclosure shall notify or alert the opposing party as soon as practicable. (c) Challenges related to the sufficiency of a certificate of compliance or supplemental certificates of compliance shall be addressed by motion as soon as practicable, provided that nothing in this section shall be construed to waive a party's right to make further challenges, including but not limited to a motion pursuant to section 30.30 of this chapter.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 245 - Discovery245.55 - Flow of Information.

1. Sufficient communication for compliance. The district attorney and the assistant responsible for the case, or, if the matter is not being prosecuted by the district attorney, the prosecuting agency and its assigned representative, shall endeavor to ensure that a flow of information is maintained between the police and other investigative personnel and his or her office sufficient to place within his or her possession or control all material and information pertinent to the defendant and the offense or offenses charged, including, but not limited to, any evidence or information discoverable under paragraph (k) of subdivision one of section 245.20 of this article. 2. Provision of law enforcement agency files. Absent a court order or a requirement that defense counsel obtain a security clearance mandated by law or authorized government regulation, upon request by the prosecution, each New York state and local law enforcement agency shall make available to the prosecution a complete copy of its complete records and files related to the investigation of the case or the prosecution of the defendant for compliance with this article. 3. 911 telephone call and police radio

transmission electronic recordings, police worn body camera recordings and other police recordings. (a) Whenever an electronic recording of a 911 telephone call or a police radio transmission or video or audio footage from a police body-worn camera or other police recording was made or received in connection with the investigation of an apparent criminal incident, the arresting officer or lead detective shall expeditiously notify the prosecution in writing upon the filing of an accusatory instrument of the existence of all such known recordings. The prosecution shall expeditiously take whatever reasonable steps are necessary to ensure that all known electronic recordings of 911 telephone calls, police radio transmissions and video and audio footage and other police recordings made or available in connection with the case are preserved. Upon the defendant's timely request and designation of a specific electronic recording of a 911 telephone call, the prosecution shall also expeditiously take whatever reasonable steps are necessary to ensure that it is preserved.(b) If the prosecution fails to disclose such an electronic recording to the defendant pursuant to paragraph (e), (g) or (k) of subdivision one of section 245.20 of this article due to a failure to comply with this obligation by police officers or other law enforcement or prosecution personnel, the court upon motion of the defendant shall impose an appropriate remedy or sanction pursuant to section 245.80 of this article. (b) If the prosecution fails to disclose such an electronic recording to the defendant pursuant to paragraph (e), (g) or (k) of subdivision one of section 245.20 of this article due to a failure to comply with this obligation by police officers or other law enforcement or prosecution personnel, the court upon motion of the defendant shall impose an appropriate remedy or sanction pursuant to section 245.80 of this article.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 245 - Discovery245.60 - Continuing Duty to Disclose.

If either the prosecution or the defendant subsequently learns of additional material or information which it would have been under a duty to disclose pursuant to any provisions of this article had it known of it at the time of a previous discovery obligation or discovery order, it shall expeditiously notify the other party and disclose the additional material and information as required for initial discovery under this article. This section also requires expeditious disclosure by the prosecution of material or information that became relevant to the case or discoverable based on reciprocal discovery received from the defendant pursuant to subdivision four of section 245.20 of this article.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 245 - Discovery245.65 - Work Product.

This article does not authorize discovery by a party of those portions of records, reports, correspondence, memoranda, or internal documents of the adverse party which are only the legal research, opinions, theories or conclusions of the adverse party or its attorney or the attorney's agents, or of statements of a defendant, written or recorded or summarized in any writing or recording, made to the attorney for the defendant or the attorney's agents.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 245 - Discovery245.70 - Protective Orders.

1. Any discovery subject to protective order. Upon a showing of good cause by either party, the court may at any time order that discovery or inspection of any kind of material or information under this article be denied, restricted, conditioned or deferred, or make such other order as is appropriate, including, for 911 calls, allowing the disclosure of a transcript of an audio recording in lieu of the recording. The court may impose as a condition on discovery to a defendant that the material or information to be discovered be available only to counsel for the defendant; or, alternatively, that counsel for the defendant, and persons employed by the attorney or appointed by the court to assist in the preparation of a defendant's case, may not disclose physical copies of the discoverable documents to a defendant or to anyone else, provided that the prosecution affords the defendant access to inspect redacted copies of the discoverable documents at a supervised location that provides regular and reasonable hours for such access, such as a prosecutor's office, police station, facility of detention, or court. Should the court impose as a condition that some material or information be available only to counsel for the defendant, the court shall inform the defendant on the record that his or her attorney is not permitted by law to disclose such material or information to the defendant. The court may permit a party seeking or opposing a protective order under this section, or another affected person, to submit papers or testify on the record ex parte or in camera. Any such papers and a transcript of such testimony may be sealed and shall constitute a part of the record on appeal. This section does not alter the allocation of the burden of proof with regard to matters at issue, including privilege. 2. Modification of time periods for discovery. Upon motion of a party in an individual case, the court may alter the time periods for discovery imposed by this article upon a showing of good cause. 3. Prompt hearing. Upon request for a protective order, unless the defendant voluntarily consents to the people's request for a protective order, the court shall conduct an appropriate hearing within three business days to determine whether good cause has been shown and when practicable shall render a decision expeditiously. Any materials submitted and a transcript of the proceeding may be sealed and shall constitute a part of the record on appeal. When the defendant is charged with a violent felony offense as defined in section 70.02 of the penal law, or any class A felony other than those defined in article two hundred twenty of the penal law, the court may, at the prosecutor's request, for good cause shown, conduct such hearing in camera and outside the presence of the defendant, provided however that this shall not affect the rights of the court to receive testimony or papers ex-parte or in camera as provided in subdivision one of this section. 4. Showing of good cause. In determining good cause under this section the court may consider: constitutional rights or limitations; danger to the integrity of physical evidence or the safety of a witness; risk of intimidation, economic reprisal, bribery, harassment or unjustified annoyance or embarrassment to any

person, and the nature, severity and likelihood of that risk; a risk of an adverse effect upon the legitimate needs of law enforcement, including the protection of the confidentiality of informants, and the nature, severity and likelihood of that risk; the nature and circumstances of the factual allegations in the case; whether the defendant has a history of witness intimidation or tampering and the nature of that history; the nature of the stated reasons in support of a protective order; the nature of the witness identifying information that is sought to be addressed by a protective order, including the option of employing adequate alternative contact information; danger to any person stemming from factors such as a defendant's substantiated affiliation with a criminal enterprise as defined in subdivision three of section 460.10 of the penal law; and other similar factors found to outweigh the usefulness of the discovery. 5. Successor counsel or pro se defendant. In cases in which the attorney-client relationship is terminated prior to trial for any reason, any material or information disclosed subject to a condition that it be available only to counsel for the defendant, or limited in dissemination by protective order or otherwise, shall be provided only to successor counsel for the defendant under the same condition or conditions or be returned to the prosecution, unless the court rules otherwise for good cause shown or the prosecutor gives written consent. Any work product derived from such material or information shall not be provided to the defendant, unless the court rules otherwise or the prosecutor gives written consent. If the defendant is acting as his or her own attorney, the court may regulate the time, place and manner of access to any discoverable material or information; and it may as appropriate appoint persons to assist the defendant in the investigation or preparation of the case. Upon motion or application of a defendant acting as his or her own attorney, the court may at any time modify or vacate any condition or restriction relating to access to discoverable material or information, for good cause shown. 6. Expedited review of adverse ruling. (a) A party that has unsuccessfully sought, or unsuccessfully opposed the granting of, a protective order under this section relating to the name, address, contact information or statements of a person may obtain expedited review of that ruling by an individual justice of the intermediate appellate court to which an appeal from a judgment of conviction in the case would be taken.(b) Such review shall be sought within two business days of the adverse or partially adverse ruling, by order to show cause filed with the intermediate appellate court. The order to show cause shall in addition be timely served on the lower court and on the opposing party, and shall be accompanied by a sworn affirmation stating in good faith (i) that the ruling affects substantial interests, and (ii) that diligent efforts to reach an accommodation of the underlying discovery dispute with opposing counsel failed or that no accommodation was feasible; except that service on the opposing party, and a statement regarding efforts to reach an accommodation, are unnecessary where the opposing party was not made aware of the application for a protective order and good cause is shown for omitting service of the order to show cause on the opposing party. The lower court's order subject to review shall be stayed until the appellate justice renders a determination.(c) The assignment of the individual appellate justice, and the mode of and procedure for the review, shall be determined by rules of the individual appellate courts. The appellate justice may consider any relevant and reliable information bearing on the issue, and may dispense with written briefs other than supporting and opposing materials previously submitted to the lower court. The appellate justice may dispense with the issuance of a written opinion in rendering his or her decision, and when practicable shall render decision and order expeditiously. Such review, decision and order shall not affect the right of a defendant, in a subsequent appeal from a judgment of conviction, to claim as error the ruling reviewed.7. Compliance with protective order. Any protective order issued under this article is a mandate of the court for purposes of the offense of criminal contempt in subdivision three of section 215.50 of the penal law. (b) Such review shall be sought within two business days of the adverse or partially adverse ruling, by order to show cause filed with the intermediate appellate court. The order to show cause shall in addition be timely served on the lower court and on the opposing party, and shall be accompanied by a sworn affirmation stating in good faith (i) that the ruling affects substantial interests, and (ii) that diligent efforts to reach an accommodation of the underlying discovery dispute with opposing counsel failed or that no accommodation was feasible; except that service on the opposing party, and a statement regarding efforts to reach an accommodation, are unnecessary where the opposing party was not made aware of the application for a protective order and good cause is shown for omitting service of the order to show cause on the opposing party. The lower court's order subject to review shall be stayed until the appellate justice renders a determination. (c) The assignment of the individual appellate justice, and the mode of and procedure for the review, shall be determined by rules of the individual appellate courts. The appellate justice may consider any relevant and reliable information bearing on the issue, and may dispense with written briefs other than supporting and opposing materials previously submitted to the lower court. The appellate justice may dispense with the issuance of a written opinion in rendering his or her decision, and when practicable shall render decision and order expeditiously. Such review, decision and order shall not affect the right of a defendant, in a subsequent appeal from a judgment of conviction, to claim as error the ruling reviewed. 7. Compliance with protective order. Any protective order issued under this article is a mandate of the court for purposes of the offense of criminal contempt in subdivision three of section 215.50 of the penal law.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 245 - Discovery245.75 - Waiver of Discovery by Defendant.

1. A defendant who does not seek discovery from the prosecution under this article shall so notify the prosecution and the court at the defendant's arraignment on an indictment, superior court information, prosecutor's information, information, or simplified information, or expeditiously thereafter but before receiving discovery from the prosecution pursuant to subdivision one of section 245.20 of this article, and the defendant need not provide discovery to the prosecution pursuant to subdivision four of section 245.20 and section 245.60 of this article. A waiver shall be in writing, signed for the individual case by the counsel for the defendant and filed with the court. The court shall inquire of the defendant on the record to ensure that the defendant understands his or her right to discovery and right to waive discovery. Such a waiver does not alter or in any way affect the procedures, obligations or rights set

forth in sections 250.10, 250.20 and 250.30 of this title, or otherwise established or required by law. The prosecution may not condition a guilty plea offer on the defense's execution of a waiver under this section. Counsel for the defendant may advise his or her client about the defendant's right to discovery and right to waive discovery; such advice shall not constitute a condition of a guilty plea. 2. Nothing in this section shall prevent the waiver of discovery from being a condition of the repleader, where the defendant's original conviction is vacated on agreement between the parties pursuant to section 440.10 of this part.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 245 - Discovery245.80 - Remedies or Sanctions for Non-Compliance.

1. Need for remedy or sanction. (a) When material or information is discoverable under this article but is disclosed belatedly, the court shall impose a remedy or sanction that is appropriate and proportionate to the prejudice suffered by the party entitled to disclosure. Regardless of a showing of prejudice the party entitled to disclosure shall be given reasonable time to prepare and respond to the new material.(b) When material or information is discoverable under this article but cannot be disclosed because it has been lost or destroyed, the court shall impose an appropriate remedy or sanction if the party entitled to disclosure shows that the lost or destroyed material may have contained some information relevant to a contested issue. The appropriate remedy or sanction is that which is proportionate to the potential ways in which the lost or destroyed material reasonably could have been helpful to the party entitled to disclosure.2. Available remedies or sanctions. For failure to comply with any discovery order imposed or issued pursuant to this article, the court may make a further order for discovery, grant a continuance, order that a hearing be reopened, order that a witness be called or recalled, instruct the jury that it may draw an adverse inference regarding the non-compliance, preclude or strike a witness's testimony or a portion of a witness's testimony, admit or exclude evidence, order a mistrial, order the dismissal of all or some of the charges provided that, after considering all other remedies, dismissal is appropriate and proportionate to the prejudice suffered by the party entitled to disclosure, or make such other order as it deems just under the circumstances; except that any sanction against the defendant shall comport with the defendant's constitutional right to present a defense, and precluding a defense witness from testifying shall be permissible only upon a finding that the defendant's failure to comply with the discovery obligation or order was willful and motivated by a desire to obtain a tactical advantage.3. Consequences of non-disclosure of statement of testifying prosecution witness. The failure of the prosecutor or any agent of the prosecutor to disclose any written or recorded statement made by a prosecution witness which relates to the subject matter of the witness's testimony shall not constitute grounds for any court to order a new pre-trial hearing or set aside a conviction, or reverse, modify or vacate a judgment of conviction, in the absence of a showing by the defendant that there is a reasonable possibility that the non-disclosure materially contributed to the result of the trial or other proceeding; provided, however, that nothing in this section shall affect or limit any right the defendant may have to a reopened pre-trial hearing when such statements were disclosed before the close of evidence at trial. (b) When material or information is discoverable under this article but cannot be disclosed because it has been lost or destroyed, the court shall impose an appropriate remedy or sanction if the party entitled to disclosure shows that the lost or destroyed material may have contained some information relevant to a contested issue. The appropriate remedy or sanction is that which is proportionate to the potential ways in which the lost or destroyed material reasonably could have been helpful to the party entitled to disclosure. 2. Available remedies or sanctions. For failure to comply with any discovery order imposed or issued pursuant to this article, the court may make a further order for discovery, grant a continuance, order that a hearing be reopened, order that a witness be called or recalled, instruct the jury that it may draw an adverse inference regarding the non-compliance, preclude or strike a witness's testimony or a portion of a witness's testimony, admit or exclude evidence, order a mistrial, order the dismissal of all or some of the charges provided that, after considering all other remedies, dismissal is appropriate and proportionate to the prejudice suffered by the party entitled to disclosure, or make such other order as it deems just under the circumstances; except that any sanction against the defendant shall comport with the defendant's constitutional right to present a defense, and precluding a defense witness from testifying shall be permissible only upon a finding that the defendant's failure to comply with the discovery obligation or order was willful and motivated by a desire to obtain a tactical advantage. 3. Consequences of non-disclosure of statement of testifying prosecution witness. The failure of the prosecutor or any agent of the prosecutor to disclose any written or recorded statement made by a prosecution witness which relates to the subject matter of the witness's testimony shall not constitute grounds for any court to order a new pre-trial hearing or set aside a conviction, or reverse, modify or vacate a judgment of conviction, in the absence of a showing by the defendant that there is a reasonable possibility that the non-disclosure materially contributed to the result of the trial or other proceeding; provided, however, that nothing in this section shall affect or limit any right the defendant may have to a reopened pre-trial hearing when such statements were disclosed before the close of evidence at trial.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 245 - Discovery245.85 - Admissibility of Discovery.

The fact that a party has indicated during the discovery process an intention to offer specified evidence or to call a specified witness is not admissible in evidence or grounds for adverse comment at a hearing or a trial.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 250 - Pre-Trial Notices of Defenses250.10 - Notice of Intent to Proffer Psychiatric Evidence; Examination of Defendant Upon Application of Prosecutor.

of defendant upon application of prosecutor. 1. As used in this section, the term "psychiatric evidence" means:(a) Evidence of

mental disease or defect to be offered by the defendant in connection with the affirmative defense of lack of criminal responsibility by reason of mental disease or defect.(b) Evidence of mental disease or defect to be offered by the defendant in connection with the affirmative defense of extreme emotional disturbance as defined in paragraph (a) of subdivision one of section 125.25 of the penal law and paragraph (a) of subdivision two of section 125.27 of the penal law.(c) Evidence of mental disease or defect to be offered by the defendant in connection with any other defense not specified in the preceding paragraphs.2. Psychiatric evidence is not admissible upon a trial unless the defendant serves upon the people and files with the court a written notice of his intention to present psychiatric evidence. Such notice must be served and filed before trial and not more than thirty days after entry of the plea of not guilty to the indictment. In the interest of justice and for good cause shown, however, the court may permit such service and filing to be made at any later time prior to the close of the evidence.3. When a defendant, pursuant to subdivision two of this section, serves notice of intent to present psychiatric evidence, the district attorney may apply to the court, upon notice to the defendant, for an order directing that the defendant submit to an examination by a psychiatrist or licensed psychologist as defined in article one hundred fifty-three of the education law designated by the district attorney. If the application is granted, the psychiatrist or psychologist designated to conduct the examination must notify the district attorney and counsel for the defendant of the time and place of the examination. Defendant has a right to have his counsel present at such examination. The district attorney may also be present. The role of each counsel at such examination is that of an observer, and neither counsel shall be permitted to take an active role at the examination.4. After the conclusion of the examination, the psychiatrist or psychologist must promptly prepare a written report of his findings and evaluation. A copy of such report must be made available to the district attorney and to the counsel for the defendant. No transcript or recording of the examination is required, but if one is made, it shall be made available to both parties prior to the trial.5. If the court finds that the defendant has willfully refused to cooperate fully in the examination ordered pursuant to subdivision three of this section it may preclude introduction of testimony by a psychiatrist or psychologist concerning mental disease or defect of the defendant at trial. Where, however, the defendant has other proof of his affirmative defense, and the court has found that the defendant did not submit to or cooperate fully in the examination ordered by the court, this other evidence, if otherwise competent, shall be admissible. In such case, the court must instruct the jury that the defendant did not submit to or cooperate fully in the pre-trial psychiatric examination ordered by the court pursuant to subdivision three of this section and that such failure may be considered in determining the merits of the affirmative defense. (a) Evidence of mental disease or defect to be offered by the defendant in connection with the affirmative defense of lack of criminal responsibility by reason of mental disease or defect. (b) Evidence of mental disease or defect to be offered by the defendant in connection with the affirmative defense of extreme emotional disturbance as defined in paragraph (a) of subdivision one of section 125.25 of the penal law and paragraph (a) of subdivision two of section 125.27 of the penal law. (c) Evidence of mental disease or defect to be offered by the defendant in connection with any other defense not specified in the preceding paragraphs. 2. Psychiatric evidence is not admissible upon a trial unless the defendant serves upon the people and files with the court a written notice of his intention to present psychiatric evidence. Such notice must be served and filed before trial and not more than thirty days after entry of the plea of not guilty to the indictment. In the interest of justice and for good cause shown, however, the court may permit such service and filing to be made at any later time prior to the close of the evidence. 3. When a defendant, pursuant to subdivision two of this section, serves notice of intent to present psychiatric evidence, the district attorney may apply to the court, upon notice to the defendant, for an order directing that the defendant submit to an examination by a psychiatrist or licensed psychologist as defined in article one hundred fifty-three of the education law designated by the district attorney. If the application is granted, the psychiatrist or psychologist designated to conduct the examination must notify the district attorney and counsel for the defendant of the time and place of the examination. Defendant has a right to have his counsel present at such examination. The district attorney may also be present. The role of each counsel at such examination is that of an observer, and neither counsel shall be permitted to take an active role at the examination. 4. After the conclusion of the examination, the psychiatrist or psychologist must promptly prepare a written report of his findings and evaluation. A copy of such report must be made available to the district attorney and to the counsel for the defendant. No transcript or recording of the examination is required, but if one is made, it shall be made available to both parties prior to the trial. 5. If the court finds that the defendant has willfully refused to cooperate fully in the examination ordered pursuant to subdivision three of this section it may preclude introduction of testimony by a psychiatrist or psychologist concerning mental disease or defect of the defendant at trial. Where, however, the defendant has other proof of his affirmative defense, and the court has found that the defendant did not submit to or cooperate fully in the examination ordered by the court, this other evidence, if otherwise competent, shall be admissible. In such case, the court must instruct the jury that the defendant did not submit to or cooperate fully in the pre-trial psychiatric examination ordered by the court pursuant to subdivision three of this section and that such failure may be considered in determining the merits of the affirmative defense.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 250 - Pre-Trial Notices of Defenses250.20 - Notice of Alibi.

1. At any time, not more than twenty days after arraignment, the people may serve upon the defendant or his counsel, and file a copy thereof with the court, a demand that if the defendant intends to offer a trial defense that at the time of the commission of the crime charged he was at some place or places other than the scene of the crime, and to call witnesses in support of such defense, he must, within eight days of service of such demand, serve upon the people, and file a copy thereof with the court, a "notice of alibi," reciting (a) the place or places where the defendant claims to have been at the time in question, and (b) the names, the residential addresses, the places of employment and the addresses thereof of every such alibi witness upon whom he intends to rely. For good

cause shown, the court may extend the period for service of the notice. 2. Within a reasonable time after receipt of the defendant's witness list but not later than ten days before trial, the people must serve upon the defendant or his counsel, and file a copy thereof with the court, a list of the witnesses the people propose to offer in rebuttal to discredit the defendant's alibi at the trial together with the residential addresses, the places of employment and the addresses thereof of any such rebuttal witnesses. A witness who will testify that the defendant was at the scene of the crime is not such an alibi rebuttal witness. For good cause shown, the court may extend the period for service of the list of witnesses by the people. 3. If at the trial the defendant calls such an alibi witness without having served the demanded notice of alibi, or if having served such a notice he calls a witness not specified therein, the court may exclude any testimony of such witness relating to the alibi defense. The court may in its discretion receive such testimony, but before doing so, it must, upon application of the people, grant an adjournment not in excess of three days. 4. Similarly, if the people fail to serve and file a list of any rebuttal witnesses, the provisions of subdivision three, above, shall reciprocally apply. 5. Both the defendant and the people shall be under a continuing duty to promptly disclose the names and addresses of additional witnesses which come to the attention of either party subsequent to filing their witness lists as provided in this section.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 250 - Pre-Trial Notices of Defenses250.30 - Notice of Defenses in Offenses Involving Computers.

1. In any prosecution in which the defendant seeks to invoke any of the defenses specified in section 156.50 of the penal law, the defendant must within forty-five days after arraignment and not less than twenty days before the commencement of the trial serve upon the people and file with the court a written notice of his intention to present such defense. For good cause shown, the court may extend the period for service of the notice. 2. The notice served must specify the subdivision or subdivisions upon which the defendant relies and must also state the reasonable grounds that led the defendant to believe that he had the authorization required by the statute or the right required by the statute to engage in such conduct. 3. If at the trial the defendant seeks to invoke any of the defenses specified in section 156.50 of the penal law without having served the notice as required, or seeks to invoke a subdivision or a ground not specified in the notice, the court may exclude any testimony or evidence in regard to the defense, or any subdivision or ground, not noticed. The court may in its discretion, for good cause shown, receive such testimony or evidence, but before doing so, it may, upon application of the people, grant an adjournment.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 250 - Pre-Trial Notices of Defenses250.40 - Notice of Intent to Seek Death Penalty.

1. A sentence of death may not be imposed upon a defendant convicted of murder in the first degree unless, pursuant to subdivision two of this section, the people file with the court and serve upon the defendant a notice of intent to seek the death penalty. 2. In any prosecution in which the people seek a sentence of death, the people shall, within one hundred twenty days of the defendant's arraignment upon an indictment charging the defendant with murder in the first degree, serve upon the defendant and file with the court in which the indictment is pending a written notice of intention to seek the death penalty. For good cause shown the court may extend the period for service and filing of the notice. 3. Notwithstanding any other provisions of law, where the people file a notice of intent to seek the death penalty pursuant to this section the defendant shall be entitled to an additional sixty days for the purpose of filing new motions or supplementing pending motions. 4. A notice of intent to seek the death penalty may be withdrawn at any time by a written notice of withdrawal filed with the court and served upon the defendant. Once withdrawn the notice of intent to seek the death penalty may not be refiled.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 255 - Pre-Trial Motions255.10 - Definitions.

1. "Pre-trial motion" as used in this article means any motion by a defendant which seeks an order of the court:(a) dismissing or reducing an indictment pursuant to article 210 or removing an action to the family court pursuant to article 722; or(b) dismissing an information, prosecutor's information, simplified information or misdemeanor complaint pursuant to article 170; or(c) granting discovery pursuant to article 245; or(d) granting a bill of particulars pursuant to sections 100.45 or 200.90; or(e) removing the action pursuant to sections 170.15, 230.20 or 230.30; or(f) suppressing the use at trial of any evidence pursuant to article 710; or(g) granting separate trials pursuant to article 100 or 200. (a) dismissing or reducing an indictment pursuant to article 210 or removing an action to the family court pursuant to article 722; or (b) dismissing an information, prosecutor's information, simplified information or misdemeanor complaint pursuant to article 170; or (c) granting discovery pursuant to article 245; or (d) granting a bill of particulars pursuant to sections 100.45 or 200.90; or (e) removing the action pursuant to sections 170.15, 230.20 or 230.30; or (f) suppressing the use at trial of any evidence pursuant to article 710; or (g) granting separate trials pursuant to article 100 or 200.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 255 - Pre-Trial Motions255.20 - Pre-Trial Motions; Procedure.

1. Except as otherwise expressly provided by law, whether the defendant is represented by counsel or elects to proceed pro se, all pre-trial motions shall be served or filed within forty-five days after arraignment and before commencement of trial, or within such additional time as the court may fix upon application of the defendant made prior to entry of judgment. In an action in which either

(a) material or information has been disclosed pursuant to paragraph (m) or (n) of subdivision one of section 245.20 of this title, (b) an eavesdropping warrant and application have been furnished pursuant to section 700.70 of this chapter, or (c) a notice of intention to introduce evidence has been served pursuant to section 710.30 of this chapter, such period shall be extended until forty-five days after the last date of such service. If the defendant is not represented by counsel and has requested an adjournment to obtain counsel or to have counsel assigned, such forty-five day period shall commence on the date counsel initially appears on defendant's behalf. 2. All pre-trial motions, with supporting affidavits, affirmations, exhibits and memoranda of law, whenever practicable, shall be included within the same set of motion papers, and shall be made returnable on the same date, unless the defendant shows that it would be prejudicial to the defense were a single judge to consider all the pre-trial motions. Where one motion seeks to provide the basis for making another motion, it shall be deemed impracticable to include both motions in the same set of motion papers pursuant to this subdivision. 3. Notwithstanding the provisions of subdivisions one and two hereof, the court must entertain and decide on its merits, at anytime before the end of the trial, any appropriate pre-trial motion based upon grounds of which the defendant could not, with due diligence, have been previously aware, or which, for other good cause, could not reasonably have been raised within the period specified in subdivision one of this section or included within the single set of motion papers as required by subdivision two. Any other pre-trial motion made after the forty-five day period may be summarily denied, but the court, in the interest of justice, and for good cause shown, may, in its discretion, at any time before sentence, entertain and dispose of the motion on the merits. 4. Any pre-trial motion, whether made before or after expiration of the period specified in subdivision one of this section, may be referred by the court to a judicial hearing officer who shall entertain it in the same manner as a court. In the discharge of this responsibility, the judicial hearing officer shall have the same powers as a judge of the court making the assignment, except that the judicial hearing officer shall not determine the motion but shall file a report with the court setting forth findings of fact and conclusions of law. The rules of evidence shall be applicable at any hearing conducted hereunder by a judicial hearing officer. A transcript of any testimony taken, together with the exhibits or copies thereof, shall be filed with the report. The court shall determine the motion on the motion papers, affidavits and other documents submitted by the parties thereto, the record of the hearing before the judicial hearing officer, and the judicial hearing officer's report.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 260 - Jury Trial--Generally260.10 - Jury Trial; Requirement Thereof.

Except as otherwise provided in section 320.10, every trial of an indictment must be a jury trial.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 260 - Jury Trial--Generally260.20 - Jury Trial; Defendant's Presence at Trial.

A defendant must be personally present during the trial of an indictment; provided, however, that a defendant who conducts himself in so disorderly and disruptive a manner that his trial cannot be carried on with him in the courtroom may be removed from the courtroom if, after he has been warned by the court that he will be removed if he continues such conduct, he continues to engage in such conduct.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 260 - Jury Trial--Generally260.30 - Jury Trial; in What Order to Proceed.

The order of a jury trial, in general, is as follows: 1. The jury must be selected and sworn. 2. The court must deliver preliminary instructions to the jury. 3. The people must deliver an opening address to the jury. 4. The defendant may deliver an opening address to the jury. 5. The people must offer evidence in support of the indictment. 6. The defendant may offer evidence in his defense. 7. The people may offer evidence in rebuttal of the defense evidence, and the defendant may then offer evidence in rebuttal of the people's rebuttal evidence. The court may in its discretion permit the parties to offer further rebuttal or surrebuttal evidence in this pattern. In the interest of justice, the court may permit either party to offer evidence upon rebuttal which is not technically of a rebuttal nature but more properly a part of the offering party's original case. 8. At the conclusion of the evidence, the defendant may deliver a summation to the jury. 9. The people may then deliver a summation to the jury. 10. The court must then deliver a charge to the jury. 11. The jury must then retire to deliberate and, if possible, render a verdict.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 270 - Jury Trial--Formation and Conduct of Jury270.05 - Trial Jury; Formation in General.

1. A trial jury consists of twelve jurors, but "alternate jurors" may be selected and sworn pursuant to section 270.30. 2. The panel from which the jury is drawn is formed and selected as prescribed in the judiciary law. The first twelve members of the panel returned for the term who appear as their names are drawn and called, and who are not excluded as prescribed by this article, must be sworn and thereupon constitute the trial jury.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 270 - Jury Trial--Formation and Conduct of Jury270.10 - Trial Jury; Challenge to the Panel.

1. A challenge to the panel is an objection made to the entire panel of prospective trial jurors returned for the term and may be taken to such panel or to any additional panel that may be ordered by the court. Such a challenge may be made only by the defendant and only on the ground that there has been such a departure from the requirements of the judiciary law in the drawing or return of the panel as to result in substantial prejudice to the defendant. 2. A challenge to the panel must be made before the selection of the jury commences, and, if it is not, such challenge is deemed to have been waived. Such challenge must be made in writing setting forth the facts constituting the ground of challenge. If such facts are denied by the people, witnesses may be called and examined by either party. All issues of fact and law arising on the challenge must be tried and determined by the court. If a challenge to the panel is allowed, the court must discharge that panel and order another panel of prospective trial jurors returned for the term.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 270 - Jury Trial--Formation and Conduct of Jury270.15 - Trial Jury; Examination of Prospective Jurors; Challenges Generally.

generally. 1. (a) If no challenge to the panel is made as prescribed by section 270.10 of this article, or if such challenge is made and disallowed, the court shall direct that the names of not less than twelve members of the panel be drawn and called as prescribed by the judiciary law, except as otherwise required by this section. Such persons shall take their places in the jury box and shall be immediately sworn to answer truthfully questions asked them relative to their qualifications to serve as jurors in the action. In its discretion, the court may require prospective jurors to complete a questionnaire concerning their ability to serve as fair and impartial jurors, including but not limited to place of birth, current address, education, occupation, prior jury service, knowledge of, relationship to, or contact with the court, any party, witness or attorney in the action and any other fact relevant to his or her service on the jury. An official form for such questionnaire shall be developed by the chief administrator of the courts in consultation with the administrative board of the courts. A copy of questionnaires completed by the members of the panel shall be given to the court and each attorney prior to examination of prospective jurors.(b) The court shall initiate the examination of prospective jurors by identifying the parties and their respective counsel and briefly outlining the nature of case to all the prospective jurors. The court shall then put to the members of the panel who have been sworn pursuant to this subdivision and to any prospective jurors subsequently sworn, questions affecting their qualifications to serve as jurors in the action.(c) The court shall permit both parties, commencing with the people, to examine the prospective jurors, individually or collectively, regarding their qualifications to serve as jurors. Each party shall be afforded a fair opportunity to question the prospective jurors as to any unexplored matter affecting their qualifications, but the court shall not permit questioning that is repetitious or irrelevant, or questions as to a juror's knowledge of rules of law. If necessary to prevent improper questioning as to any matter, the court shall personally examine the prospective jurors as to that matter. The scope of such examination shall be within the discretion of the court. After the parties have concluded their examinations of the prospective jurors, the court may ask such further questions as it deems proper regarding the qualifications of such prospective jurors.1-a. The court may for good cause shown, upon motion of either party or any affected person or upon its own initiative, issue a protective order for a stated period regulating disclosure of the names and the business or residential address of any prospective or sworn juror to any person or persons, other than to counsel for either party. In determining whether good cause exists, the court may consider:(a) whether the defendant or persons acting on behalf of the defendant have bribed, tampered with, or caused or attempted to cause physical injury to or harassed a juror or prospective juror in another criminal action or proceeding or in the instant criminal action or proceeding;(b) the seriousness of the charges against the defendant, including whether the defendant is charged with participating in a large-scale criminal enterprise; and(c) the extent of pretrial publicity concerning the criminal action or proceeding.1-b. If the court determines that a protective order should be issued and that all jurors or prospective jurors shall be identified by some means other than their names and business or residential addresses, the court shall instruct the jury that the fact that the jury was selected on an anonymous basis is not a factor from which any inference unfavorable to the defendant may be drawn.2. Upon the completion of such examination by both parties, each, commencing with the people, may challenge a prospective juror for cause, as prescribed by section 270.20. If such challenge is allowed, the prospective juror must be excluded from service. After both parties have had an opportunity to challenge for cause, the court must permit them to peremptorily challenge any remaining prospective juror, as prescribed by section 270.25, and such juror must be excluded from service. The people must exercise their peremptory challenges first and may not, after the defendant has exercised his peremptory challenges, make such a challenge to any remaining prospective juror who is then in the jury box. If either party so requests, challenges for cause must be made and determined, and peremptory challenges must be made, within the courtroom but outside of the hearing of the prospective jurors in such manner as not to disclose which party made the challenge. The prospective jurors who are not excluded from service must retain their place in the jury box and must be immediately sworn as trial jurors. They must be sworn to try the action in a just and impartial manner, to the best of their judgment, and to render a verdict according to the law and the evidence.3. The court may thereupon direct that the persons excluded be replaced in the jury box by an equal number from the panel or, in its discretion, direct that all sworn jurors be removed from the jury box and that the jury box be occupied by such additional number of persons from the panel as the court shall direct. In the court's discretion, sworn jurors who are removed from the jury box as provided herein may be seated elsewhere in the courtroom separate and apart from the unsworn members of the panel or may be removed to the jury room or be allowed to leave the courthouse. The process of jury selection as prescribed herein shall continue until twelve persons are selected and sworn as trial jurors. The juror whose name was first drawn and called must be designated by the court as the foreperson, and no special oath need be administered to him or her. If before twelve jurors are sworn, a juror already sworn becomes unable to serve by reason of illness or other incapacity, the court must discharge him or her and the selection of the trial jury must be

completed in the manner prescribed in this section.4. A challenge for cause of a prospective juror which is not made before he is sworn as a trial juror shall be deemed to have been waived, except that such a challenge based upon a ground not known to the challenging party at that time may be made at any time before a witness is sworn at the trial. If such challenge is allowed by the court, the juror shall be discharged and the selection of the trial jury shall be completed in the manner prescribed in this section, except that if alternate jurors have been sworn, the alternate juror whose name was first drawn and called shall take the place of the juror so discharged. (b) The court shall initiate the examination of prospective jurors by identifying the parties and their respective counsel and briefly outlining the nature of case to all the prospective jurors. The court shall then put to the members of the panel who have been sworn pursuant to this subdivision and to any prospective jurors subsequently sworn, questions affecting their qualifications to serve as jurors in the action. (c) The court shall permit both parties, commencing with the people, to examine the prospective jurors, individually or collectively, regarding their qualifications to serve as jurors. Each party shall be afforded a fair opportunity to question the prospective jurors as to any unexplored matter affecting their qualifications, but the court shall not permit questioning that is repetitious or irrelevant, or questions as to a juror's knowledge of rules of law. If necessary to prevent improper questioning as to any matter, the court shall personally examine the prospective jurors as to that matter. The scope of such examination shall be within the discretion of the court. After the parties have concluded their examinations of the prospective jurors, the court may ask such further questions as it deems proper regarding the qualifications of such prospective jurors. 1-a. The court may for good cause shown, upon motion of either party or any affected person or upon its own initiative, issue a protective order for a stated period regulating disclosure of the names and the business or residential address of any prospective or sworn juror to any person or persons, other than to counsel for either party. In determining whether good cause exists, the court may consider: (a) whether the defendant or persons acting on behalf of the defendant have bribed, tampered with, or caused or attempted to cause physical injury to or harassed a juror or prospective juror in another criminal action or proceeding or in the instant criminal action or proceeding; (b) the seriousness of the charges against the defendant, including whether the defendant is charged with participating in a large-scale criminal enterprise; and (c) the extent of pretrial publicity concerning the criminal action or proceeding. 1-b. If the court determines that a protective order should be issued and that all jurors or prospective jurors shall be identified by some means other than their names and business or residential addresses, the court shall instruct the jury that the fact that the jury was selected on an anonymous basis is not a factor from which any inference unfavorable to the defendant may be drawn. 2. Upon the completion of such examination by both parties, each, commencing with the people, may challenge a prospective juror for cause, as prescribed by section 270.20. If such challenge is allowed, the prospective juror must be excluded from service. After both parties have had an opportunity to challenge for cause, the court must permit them to peremptorily challenge any remaining prospective juror, as prescribed by section 270.25, and such juror must be excluded from service. The people must exercise their peremptory challenges first and may not, after the defendant has exercised his peremptory challenges, make such a challenge to any remaining prospective juror who is then in the jury box. If either party so requests, challenges for cause must be made and determined, and peremptory challenges must be made, within the courtroom but outside of the hearing of the prospective jurors in such manner as not to disclose which party made the challenge. The prospective jurors who are not excluded from service must retain their place in the jury box and must be immediately sworn as trial jurors. They must be sworn to try the action in a just and impartial manner, to the best of their judgment, and to render a verdict according to the law and the evidence. 3. The court may thereupon direct that the persons excluded be replaced in the jury box by an equal number from the panel or, in its discretion, direct that all sworn jurors be removed from the jury box and that the jury box be occupied by such additional number of persons from the panel as the court shall direct. In the court's discretion, sworn jurors who are removed from the jury box as provided herein may be seated elsewhere in the courtroom separate and apart from the unsworn members of the panel or may be removed to the jury room or be allowed to leave the courthouse. The process of jury selection as prescribed herein shall continue until twelve persons are selected and sworn as trial jurors. The juror whose name was first drawn and called must be designated by the court as the foreperson, and no special oath need be administered to him or her. If before twelve jurors are sworn, a juror already sworn becomes unable to serve by reason of illness or other incapacity, the court must discharge him or her and the selection of the trial jury must be completed in the manner prescribed in this section. 4. A challenge for cause of a prospective juror which is not made before he is sworn as a trial juror shall be deemed to have been waived, except that such a challenge based upon a ground not known to the challenging party at that time may be made at any time before a witness is sworn at the trial. If such challenge is allowed by the court, the juror shall be discharged and the selection of the trial jury shall be completed in the manner prescribed in this section, except that if alternate jurors have been sworn, the alternate juror whose name was first drawn and called shall take the place of the juror so discharged.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 270 - Jury Trial--Formation and Conduct of Jury270.16 - Capital Cases; Individual Questioning for Racial Bias.

1. In any case in which the crime charged may be punishable by death, the court shall, upon motion of either party, permit the parties, commencing with the people, to examine the prospective jurors individually and outside the presence of the other prospective jurors regarding their qualifications to serve as jurors. Each party shall be afforded a fair opportunity to question a prospective juror as to any unexplored matter affecting his or her qualifications, including without limitation the possibility of racial bias on the part of the prospective juror, but the court shall not permit questioning that is repetitious or irrelevant, or questions as to a prospective juror's knowledge of rules of law. If necessary to prevent improper questioning as to any matter, the court shall personally examine the prospective jurors as to that matter. The scope of such examination shall be within the discretion of the

court. After the parties have concluded their examinations of a prospective juror, the court may ask such further questions as it deems proper regarding the qualifications of the prospective juror. 2. The proceedings provided for in this section shall be conducted on the record; provided, however, that upon motion of either party, and for good cause shown, the court may direct that all or a portion of the record of such proceedings be sealed.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 270 - Jury Trial--Formation and Conduct of Jury270.20 - Trial Jury; Challenge for Cause of an Individual Juror.

1. A challenge for cause is an objection to a prospective juror and may be made only on the ground that:(a) He does not have the qualifications required by the judiciary law; or(b) He has a state of mind that is likely to preclude him from rendering an impartial verdict based upon the evidence adduced at the trial; or(c) He is related within the sixth degree by consanguinity or affinity to the defendant, or to the person allegedly injured by the crime charged, or to a prospective witness at the trial, or to counsel for the people or for the defendant; or that he is or was a party adverse to any such person in a civil action; or that he has complained against or been accused by any such person in a criminal action; or that he bears some other relationship to any such person of such nature that it is likely to preclude him from rendering an impartial verdict; or(d) He was a witness at the preliminary examination or before the grand jury or is to be a witness at the trial; or(e) He served on the grand jury which found the indictment in issue or served on a trial jury in a prior civil or criminal action involving the same incident charged in such indictment; or(f) The crime charged may be punishable by death and the prospective juror entertains such conscientious opinions either against or in favor of such punishment as to preclude such juror from rendering an impartial verdict or from properly exercising the discretion conferred upon such juror by law in the determination of a sentence pursuant to section 400.27.2. All issues of fact or law arising on the challenge must be tried and determined by the court. If the challenge is allowed, the court must exclude the person challenged from service. An erroneous ruling by the court allowing a challenge for cause by the people does not constitute reversible error unless the people have exhausted their peremptory challenges at the time or exhaust them before the selection of the jury is complete. An erroneous ruling by the court denying a challenge for cause by the defendant does not constitute reversible error unless the defendant has exhausted his peremptory challenges at the time or, if he has not, he peremptorily challenges such prospective juror and his peremptory challenges are exhausted before the selection of the jury is complete. (a) He does not have the qualifications required by the judiciary law; or (b) He has a state of mind that is likely to preclude him from rendering an impartial verdict based upon the evidence adduced at the trial; or (c) He is related within the sixth degree by consanguinity or affinity to the defendant, or to the person allegedly injured by the crime charged, or to a prospective witness at the trial, or to counsel for the people or for the defendant; or that he is or was a party adverse to any such person in a civil action; or that he has complained against or been accused by any such person in a criminal action; or that he bears some other relationship to any such person of such nature that it is likely to preclude him from rendering an impartial verdict; or (d) He was a witness at the preliminary examination or before the grand jury or is to be a witness at the trial; or (e) He served on the grand jury which found the indictment in issue or served on a trial jury in a prior civil or criminal action involving the same incident charged in such indictment; or (f) The crime charged may be punishable by death and the prospective juror entertains such conscientious opinions either against or in favor of such punishment as to preclude such juror from rendering an impartial verdict or from properly exercising the discretion conferred upon such juror by law in the determination of a sentence pursuant to section 400.27. 2. All issues of fact or law arising on the challenge must be tried and determined by the court. If the challenge is allowed, the court must exclude the person challenged from service. An erroneous ruling by the court allowing a challenge for cause by the people does not constitute reversible error unless the people have exhausted their peremptory challenges at the time or exhaust them before the selection of the jury is complete. An erroneous ruling by the court denying a challenge for cause by the defendant does not constitute reversible error unless the defendant has exhausted his peremptory challenges at the time or, if he has not, he peremptorily challenges such prospective juror and his peremptory challenges are exhausted before the selection of the jury is complete.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 270 - Jury Trial--Formation and Conduct of Jury270.25 - Trial Jury; Peremptory Challenge of an Individual Juror.

1. A peremptory challenge is an objection to a prospective juror for which no reason need be assigned. Upon any peremptory challenge, the court must exclude the person challenged from service. 2. Each party must be allowed the following number of peremptory challenges:(a) Twenty for the regular jurors if the highest crime charged is a class A felony, and two for each alternate juror to be selected.(b) Fifteen for the regular jurors if the highest crime charged is a class B or class C felony, and two for each alternate juror to be selected.(c) Ten for the regular jurors in all other cases, and two for each alternate juror to be selected.3. When two or more defendants are tried jointly, the number of peremptory challenges prescribed in subdivision two is not multiplied by the number of defendants, but such defendants are to be treated as a single party. In any such case, a peremptory challenge by one or more defendants must be allowed if a majority of the defendants join in such challenge. Otherwise, it must be disallowed. (a) Twenty for the regular jurors if the highest crime charged is a class A felony, and two for each alternate juror to be selected. (b) Fifteen for the regular jurors if the highest crime charged is a class B or class C felony, and two for each alternate juror to be selected. (c) Ten for the regular jurors in all other cases, and two for each alternate juror to be selected. 3. When two or more defendants are tried jointly, the number of peremptory challenges prescribed in subdivision two is not multiplied by the number of

defendants, but such defendants are to be treated as a single party. In any such case, a peremptory challenge by one or more defendants must be allowed if a majority of the defendants join in such challenge. Otherwise, it must be disallowed.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 270 - Jury Trial--Formation and Conduct of Jury270.30 - Trial Jury; Alternate Jurors.

1. Immediately after the last trial juror is sworn, the court may in its discretion direct the selection of one or more, but not more than six additional jurors to be known as "alternate jurors", except that, in a prosecution under section 125.27 of the penal law, the court may, in its discretion, direct the selection of as many alternate jurors as the court determines to be appropriate. Alternate jurors must be drawn in the same manner, must have the same qualifications, must be subject to the same examination and challenges for cause and must take the same oath as the regular jurors. After the jury has retired to deliberate, the court must either (1) with the consent of the defendant and the people, discharge the alternate jurors or (2) direct the alternate jurors not to discuss the case and must further direct that they be kept separate and apart from the regular jurors. 2. In any prosecution in which the people seek a sentence of death, the court shall not discharge the alternate jurors when the jury retires to deliberate upon its verdict and the alternate jurors, in the discretion of the court, may be continuously kept together under the supervision of an appropriate public servant or servants until such time as the jury returns its verdict. If the jury returns a verdict of guilty to a charge for which the death penalty may be imposed, the alternate jurors shall not be discharged and shall remain available for service during any separate sentencing proceeding which may be conducted pursuant to section 400.27.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 270 - Jury Trial--Formation and Conduct of Jury270.35 - Trial Jury; Discharge of Juror; Replacement by Alternate Juror.

1. If at any time after the trial jury has been sworn and before the rendition of its verdict, a juror is unable to continue serving by reason of illness or other incapacity, or for any other reason is unavailable for continued service, or the court finds, from facts unknown at the time of the selection of the jury, that a juror is grossly unqualified to serve in the case or has engaged in misconduct of a substantial nature, but not warranting the declaration of a mistrial, the court must discharge such juror. If an alternate juror or jurors are available for service, the court must order that the discharged juror be replaced by the alternate juror whose name was first drawn and called, provided, however, that if the trial jury has begun its deliberations, the defendant must consent to such replacement. Such consent must be in writing and must be signed by the defendant in person in open court in the presence of the court. If the discharged juror was the foreperson, the court shall designate as the new foreperson the juror whose name was second drawn and called. If no alternate juror is available, the court must declare a mistrial pursuant to subdivision three of section 280.10. 2. (a) In determining pursuant to this section whether a juror is unable to continue serving by reason of illness or other incapacity, or is for any other reason unavailable for continued service, the court shall make a reasonably thorough inquiry concerning such illness, incapacity or unavailability, and shall attempt to ascertain when such juror will be appearing in court. If such juror fails to appear, or if the court determines that there is no reasonable likelihood such juror will be appearing, in court within two hours of the time set by the court for the trial to resume, the court may presume such juror is unavailable for continued service and may discharge such juror. Nothing contained in this paragraph shall affect the court's discretion, under this or any other provision of law, to discharge a juror who repeatedly fails to appear in court in a timely fashion.(b) The court shall afford the parties an opportunity to be heard before discharging a juror. If the court discharges a juror pursuant to this subdivision, it shall place on the record the facts and reasons for its determination that such juror is ill, incapacitated or unavailable for continued service.(c) Nothing contained in this subdivision shall affect the requirements of subdivision one of this section pertaining to the discharge of a juror where the trial jury has begun its deliberations. (b) The court shall afford the parties an opportunity to be heard before discharging a juror. If the court discharges a juror pursuant to this subdivision, it shall place on the record the facts and reasons for its determination that such juror is ill, incapacitated or unavailable for continued service. (c) Nothing contained in this subdivision shall affect the requirements of subdivision one of this section pertaining to the discharge of a juror where the trial jury has begun its deliberations.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 270 - Jury Trial--Formation and Conduct of Jury270.40 - Trial Jury; Preliminary Instructions by Court.

After the jury has been sworn and before the people's opening address, the court must instruct the jury generally concerning its basic functions, duties and conduct. Such instructions must include, among other matters, admonitions that the jurors may not converse among themselves or with anyone else upon any subject connected with the trial; that they may not read or listen to any accounts or discussions of the case reported by newspapers or other news media; that they may not visit or view the premises or place where the offense or offenses charged were allegedly committed or any other premises or place involved in the case; that prior to discharge, they may not request, accept, agree to accept, or discuss with any person receiving or accepting, any payment or benefit in consideration for supplying any information concerning the trial; and that they must promptly report to the court any incident within their knowledge involving an attempt by any person improperly to influence any member of the jury.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 270 - Jury Trial--Formation and Conduct of Jury270.45 - Trial Jury; When Separation Permitted.

During the period extending from the time the jurors are sworn to the time they retire to deliberate upon their verdict, the court may in its discretion either permit them to separate during recesses and adjournments or direct that they be continuously kept together during such periods under the supervision of an appropriate public servant or servants. In the latter case, such public servant or servants may not speak to or communicate with any juror concerning any subject connected with the trial nor permit any other person to do so, and must return the jury to the court room at the next designated trial session.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 270 - Jury Trial--Formation and Conduct of Jury270.50 - Trial Jury; Viewing of Premises.

1. When the court is of the opinion that a viewing or observation by the jury of the premises or place where an offense on trial was allegedly committed, or of any other premises or place involved in the case, will be helpful to the jury in determining any material factual issue, it may in its discretion, at any time before the commencement of the summations, order that the jury be conducted to such premises or place for such purpose in accordance with the provisions of this section. 2. In such case, the jury must be kept together throughout under the supervision of an appropriate public servant or servants appointed by the court, and the court itself must be present throughout. The prosecutor, the defendant and counsel for the defendant may as a matter of right be present throughout, but such right may be waived. 3. The purpose of such an inspection is solely to permit visual observation by the jury of the premises or place in question, and neither the court, the parties, counsel nor the jurors may engage in discussion or argumentation concerning the significance or implications of anything under observation or concerning any issue in the case.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 270 - Jury Trial--Formation and Conduct of Jury270.55 - Sentencing Jury in Capital Cases.

During the period extending from when a jury returns a verdict of guilty upon a count of an indictment charging murder in the first degree as defined by section 125.27 of the penal law until a jury retires to deliberate on the sentence pursuant to section 400.27, the court may in its discretion either permit the jurors to separate during recesses and adjournments or direct that they be continuously kept together during such periods under the supervision of an appropriate public servant or servants. In the latter case, such public servant or servants may not speak to or communicate with any juror concerning any subject connected with the sentencing proceeding nor permit any other person to do so, and must return the jury to the court room at the next designated session. Unless otherwise provided for in section 400.27, the provisions of sections 270.35, 270.40 and 270.50 shall govern the sentencing proceeding provided for in section 400.27.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 280 - Jury Trial---Motion for a Mistrial280.10 - Motion for Mistrial.

At any time during the trial, the court must declare a mistrial and order a new trial of the indictment under the following circumstances: 1. Upon motion of the defendant, when there occurs during the trial an error or legal defect in the proceedings, or conduct inside or outside the courtroom, which is prejudicial to the defendant and deprives him of a fair trial. When such an error, defect or conduct occurs during a joint trial of two or more defendants and a mistrial motion is made by one or more but not by all, the court must declare a mistrial only as to the defendant or defendants making or joining in the motion, and the trial of the other defendant or defendants must proceed; 2. Upon motion of the people, when there occurs during the trial, either inside or outside the courtroom, gross misconduct by the defendant or some person acting on his behalf, or by a juror, resulting in substantial and irreparable prejudice to the people's case. When such misconduct occurs during a joint trial of two or more defendants, and when the court is satisfied that it did not result in substantial prejudice to the people's case as against a particular defendant and that such defendant was in no way responsible for the misconduct, it may not declare a mistrial with respect to such defendant but must proceed with the trial as to him; 3. Upon motion of either party or upon the court's own motion, when it is physically impossible to proceed with the trial in conformity with law.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 280 - Jury Trial---Motion for a Mistrial280.20 - Motion for Mistrial; Status of Indictment Upon New Trial.

Upon a new trial resulting from an order declaring a mistrial, the indictment is deemed to contain all the counts which it contained at the time the previous trial was commenced, regardless of whether any count was thereafter dismissed by the court prior to the mistrial order.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 290 - Jury Trial--Trial Order of Dismissal290.10 - Trial Order of Dismissal.

1. At the conclusion of the people's case or at the conclusion of all the evidence, the court may, except as provided in subdivision two, upon motion of the defendant, (a) issue a "trial order of dismissal," dismissing any count of an indictment upon the ground that the trial evidence is not legally sufficient to establish the offense charged therein or any lesser included offense, or (b) reserve decision on the motion until after the verdict has been rendered and accepted by the court. Where the court has reserved decision and the jury thereafter renders a verdict of guilty, the court shall proceed to determine the motion upon such evidence as it would have been authorized to consider upon the motion had the court not reserved decision. If the court determines that such motion should have been granted upon the ground specified in paragraph (a) herein, it shall enter an order both setting aside the verdict and dismissing any count of the indictment upon such ground. If the jury is discharged before rendition of a verdict the court shall proceed to determine the motion as set forth in this paragraph. 2. Despite the lack of legally sufficient trial evidence in support of a count of an indictment as described in subdivision one, issuance of a trial order of dismissal is not authorized and constitutes error when the trial evidence would have been legally sufficient had the court not erroneously excluded admissible evidence offered by the people. 3. When the court excludes trial evidence offered by the people under such circumstances that the substance or content thereof does not appear in the record, the people may, in anticipation of a possible subsequent trial order of dismissal emanating from the allegedly improper exclusion and erroneously issued in violation of subdivision two, and in anticipation of a possible appeal therefrom pursuant to subdivision two of section 450.20, place upon the record, out of the presence of the jury, an "offer of proof" summarizing the substance or content of such excluded evidence. Upon the subsequent issuance of a trial order of dismissal and an appeal therefrom, such offer of proof constitutes a part of the record on appeal and has the effect and significance prescribed in subdivision two of section 450.40. In the absence of such an order and an appeal therefrom, such offer of proof is not deemed a part of the record and does not constitute such for purposes of an ensuing appeal by the defendant from a judgment of conviction. 4. Upon issuing a trial order of dismissal which dismisses the entire indictment, the court must immediately discharge the defendant from custody if he is in custody of the sheriff, or, if he is at liberty on bail, it must exonerate the bail.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 300 - Jury Trial--Court's Charge and Instructions to Jury300.10 - Court's Charge; in General.

1. At the conclusion of the summations, the court must deliver a charge to the jury. 2. In its charge, the court must state the fundamental legal principles applicable to criminal cases in general. Such principles include, but are not limited to, the presumption of the defendant's innocence, the requirement that guilt be proved beyond a reasonable doubt and that the jury may not, in determining the issue of guilt or innocence, consider or speculate concerning matters relating to sentence or punishment. Upon request of a defendant who did not testify in his own behalf, but not otherwise, the court must state that the fact that he did not testify is not a factor from which any inference unfavorable to the defendant may be drawn. The court must also state the material legal principles applicable to the particular case, and, so far as practicable, explain the application of the law to the facts, but it need not marshal or refer to the evidence to any greater extent than is necessary for such explanation. 3. Where a defendant has raised the affirmative defense of lack of criminal responsibility by reason of mental disease or defect, as defined in section 40.15 of the penal law, the court must, without elaboration, instruct the jury as follows: "A jury during its deliberations must never consider or speculate concerning matters relating to the consequences of its verdict. However, because of the lack of common knowledge regarding the consequences of a verdict of not responsible by reason of mental disease or defect, I charge you that if this verdict is rendered by you there will be hearings as to the defendant's present mental condition and, where appropriate, involuntary commitment proceedings." 4. The court must specifically designate and submit, in accordance with the provisions of sections 300.30 and 300.40, those counts and offenses contained and charged in the indictment which the jury are to consider. Such determination must be made, and the parties informed thereof, prior to the summations. In its charge, the court must define each offense so submitted and, except as otherwise expressly provided, it must instruct the jury to render a verdict separately and specifically upon each count submitted to it, and with respect to each defendant if there be more than one, and must require that the verdict upon each such count be one of the following:(a) "Guilty" of the offense submitted, if there be but one; or(b) Where appropriate, "guilty" of a specified one of two or more offenses submitted under the same count in the alternative pursuant to section 300.40; or(c) "Not guilty"; or(d) Where appropriate, "not responsible by reason of mental disease or defect."5. Both before and after the court's charge, the parties may submit requests to charge, either orally or in writing, and the court must rule promptly upon each request. A failure to rule upon a request is deemed a denial thereof.6. In a prosecution involving a charge of enterprise corruption, as defined in article four hundred sixty of the penal law, the court must specifically designate and separately submit for jury consideration those criminal acts which are contained and charged in the indictment and which are supported by legally sufficient trial evidence. Every criminal act which is not so supported shall be dismissed and stricken from the indictment. If legally sufficient trial evidence exists to support a lesser included offense which is also a criminal act within the meaning of subdivision one of section 460.10 of the penal law, such lesser offense shall be substituted. Such determination must be made and the parties informed thereof, prior to the summations. In its charge, the court must define each criminal act so submitted and, as when it may or must do so pursuant to sections 300.40 and 300.50 of this article, any lesser included offense that is also a criminal act within the meaning of subdivision one of section 460.10

of the penal law. It must instruct the jury to render a verdict separately and specifically upon each criminal act (and where necessary, any submitted lesser included offense) submitted to it with respect to each defendant. It must further explain to the jury that they may not consider a charge of enterprise corruption against any defendant until they have separately and unanimously agreed that the defendant has committed each of at least three criminal acts alleged as part of the pattern of criminal activity, including any submitted lesser included offenses. (a) "Guilty" of the offense submitted, if there be but one; or (b) Where appropriate, "guilty" of a specified one of two or more offenses submitted under the same count in the alternative pursuant to section 300.40; or (c) "Not guilty"; or (d) Where appropriate, "not responsible by reason of mental disease or defect." 5. Both before and after the court's charge, the parties may submit requests to charge, either orally or in writing, and the court must rule promptly upon each request. A failure to rule upon a request is deemed a denial thereof. 6. In a prosecution involving a charge of enterprise corruption, as defined in article four hundred sixty of the penal law, the court must specifically designate and separately submit for jury consideration those criminal acts which are contained and charged in the indictment and which are supported by legally sufficient trial evidence. Every criminal act which is not so supported shall be dismissed and stricken from the indictment. If legally sufficient trial evidence exists to support a lesser included offense which is also a criminal act within the meaning of subdivision one of section 460.10 of the penal law, such lesser offense shall be substituted. Such determination must be made and the parties informed thereof, prior to the summations. In its charge, the court must define each criminal act so submitted and, as when it may or must do so pursuant to sections 300.40 and 300.50 of this article, any lesser included offense that is also a criminal act within the meaning of subdivision one of section 460.10 of the penal law. It must instruct the jury to render a verdict separately and specifically upon each criminal act (and where necessary, any submitted lesser included offense) submitted to it with respect to each defendant. It must further explain to the jury that they may not consider a charge of enterprise corruption against any defendant until they have separately and unanimously agreed that the defendant has committed each of at least three criminal acts alleged as part of the pattern of criminal activity, including any submitted lesser included offenses.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 300 - Jury Trial--Court's Charge and Instructions to Jury300.30 - Court's Charge; Submission of Indictment to Jury; Definitions of Terms.

of terms. The following definitions are applicable to this article: 1. "Submission of a count" of an indictment means submission of the offense charged therein, or of a lesser included offense, or submission in the alternative of both the offense charged and a lesser included offense or offenses. When the court "submits a count," it must, at the least, submit the offense charged therein if such is supported by legally sufficient trial evidence, or if it is not, the greatest lesser included offense which is supported by legally sufficient trial evidence. 2. "Consecutive counts" means two or more counts of an indictment upon which consecutive sentences may be imposed in case of conviction thereon. 3. "Concurrent counts" means two or more counts of an indictment upon which concurrent sentences only may be imposed in case of conviction thereon. 4. "Inclusory concurrent counts." Concurrent counts are "inclusory" when the offense charged in one is greater than any of those charged in the others and when the latter are all lesser offenses included within the greater. All other kinds of concurrent counts are "non-inclusory." 5. "Inconsistent counts." Two counts are "inconsistent" when guilt of the offense charged in one necessarily negates guilt of the offense charged in the other.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 300 - Jury Trial--Court's Charge and Instructions to Jury300.40 - Court's Charge; Submission of Indictment to Jury; Counts to Be Submitted.

be submitted. The court may submit to the jury only those counts of an indictment remaining therein at the time of its charge which are supported by legally sufficient trial evidence, and every count not so supported should be dismissed by a trial order of dismissal. The court's determination as to which of the sufficient counts are to be submitted must be in accordance with the following rules: 1. If the indictment contains but one count, the court must submit such count. 2. If a multiple count indictment contains consecutive counts only, the court must submit every count thereof. 3. If a multiple count indictment contains concurrent counts of murder in the first degree, the court must submit every such count. In any other case, if a multiple count indictment contains concurrent counts only, the court must submit at least one such count, and may submit more than one as follows:(a) With respect to non-inclusory concurrent counts, the court may in its discretion submit one or more or all thereof;(b) With respect to inclusory concurrent counts, the court must submit the greatest or inclusive count and may or must, under circumstances prescribed in section 300.50, also submit, but in the alternative only, one or more of the lesser included counts. A verdict of guilty upon the greatest count submitted is deemed a dismissal of every lesser count submitted, but not an acquittal thereon. A verdict of guilty upon a lesser count is deemed an acquittal upon every greater count submitted.4. If a multiple count indictment contains two or more groups of counts, with the counts within each group being concurrent as to each other but consecutive as to those of the other group or groups, the court must submit at least one count of each group, in the manner prescribed in subdivision three. If an indictment contains one or more of such groups of concurrent counts, and also one or more other counts each of which is consecutive as to every other count of the indictment, the court must submit each individual consecutive count and at least one count of each group of concurrent counts.5. If an indictment contains two inconsistent counts, the court must submit at least one thereof. If a verdict of guilty upon either would be supported by legally sufficient trial evidence, the court may submit both counts in the alternative and authorize the jury to convict upon one or the other depending upon its findings of fact. In such case, the court must direct the jury that if it renders a verdict of guilty upon one such count it must render a verdict of not guilty upon the other. If the court is satisfied that a conviction upon one

such count, though supported by legally sufficient trial evidence, would be against the weight of the evidence while a conviction upon the other would not, it may in its discretion submit the latter count only.6. Notwithstanding any other provision of this section, the court is not required to submit any particular count to the jury when:(a) The people consent that it not be submitted; except that nothing contained in this paragraph limits the right accorded a defendant by section 300.50 to the submission, in certain situations, of counts charging lesser included offenses; or(b) The number of counts or the complexity of the indictment requires selectivity of counts by the court in order to avoid placing an unduly heavy burden upon the jury in its consideration of the case. In such case, the court may submit to the jury a portion of the counts which are representative of the people's case.7. Every count not submitted to the jury is deemed to have been dismissed by the court. Where the court, over objection of the people, refuses to submit a count which is consecutive as to every count actually submitted, such count is deemed to have been dismissed by a trial order of dismissal even though no such order was expressly made by the court. (a) With respect to non-inclusory concurrent counts, the court may in its discretion submit one or more or all thereof; (b) With respect to inclusory concurrent counts, the court must submit the greatest or inclusive count and may or must, under circumstances prescribed in section 300.50, also submit, but in the alternative only, one or more of the lesser included counts. A verdict of guilty upon the greatest count submitted is deemed a dismissal of every lesser count submitted, but not an acquittal thereon. A verdict of guilty upon a lesser count is deemed an acquittal upon every greater count submitted. 4. If a multiple count indictment contains two or more groups of counts, with the counts within each group being concurrent as to each other but consecutive as to those of the other group or groups, the court must submit at least one count of each group, in the manner prescribed in subdivision three. If an indictment contains one or more of such groups of concurrent counts, and also one or more other counts each of which is consecutive as to every other count of the indictment, the court must submit each individual consecutive count and at least one count of each group of concurrent counts. 5. If an indictment contains two inconsistent counts, the court must submit at least one thereof. If a verdict of guilty upon either would be supported by legally sufficient trial evidence, the court may submit both counts in the alternative and authorize the jury to convict upon one or the other depending upon its findings of fact. In such case, the court must direct the jury that if it renders a verdict of guilty upon one such count it must render a verdict of not guilty upon the other. If the court is satisfied that a conviction upon one such count, though supported by legally sufficient trial evidence, would be against the weight of the evidence while a conviction upon the other would not, it may in its discretion submit the latter count only. 6. Notwithstanding any other provision of this section, the court is not required to submit any particular count to the jury when: (a) The people consent that it not be submitted; except that nothing contained in this paragraph limits the right accorded a defendant by section 300.50 to the submission, in certain situations, of counts charging lesser included offenses; or (b) The number of counts or the complexity of the indictment requires selectivity of counts by the court in order to avoid placing an unduly heavy burden upon the jury in its consideration of the case. In such case, the court may submit to the jury a portion of the counts which are representative of the people's case. 7. Every count not submitted to the jury is deemed to have been dismissed by the court. Where the court, over objection of the people, refuses to submit a count which is consecutive as to every count actually submitted, such count is deemed to have been dismissed by a trial order of dismissal even though no such order was expressly made by the court.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 300 - Jury Trial--Court's Charge and Instructions to Jury300.50 - Court's Charge; Submission of Lesser Included Offenses.

1. In submitting a count of an indictment to the jury, the court in its discretion may, in addition to submitting the greatest offense which it is required to submit, submit in the alternative any lesser included offense if there is a reasonable view of the evidence which would support a finding that the defendant committed such lesser offense but did not commit the greater. If there is no reasonable view of the evidence which would support such a finding, the court may not submit such lesser offense. Any error respecting such submission, however, is waived by the defendant unless he objects thereto before the jury retires to deliberate. 2. If the court is authorized by subdivision one to submit a lesser included offense and is requested by either party to do so, it must do so. In the absence of such a request, the court's failure to submit such offense does not constitute error. 3. The principles prescribed in subdivisions one and two apply equally where the lesser included offense is specifically charged in another count of the indictment. 4. Whenever the court submits two or more offenses in the alternative pursuant to this section, it must instruct the jury that it may render a verdict of guilty with respect to any one of such offenses, depending upon its findings of fact, but that it may not render a verdict of guilty with respect to more than one. A verdict of guilty of any such offense is not deemed an acquittal of any lesser offense submitted, but is deemed an acquittal of every greater offense submitted. 5. Where the indictment charges a crime committed by the defendant while he was under the age of sixteen but a lesser included offense would be one for which the defendant is not criminally responsible by reason of infancy, such lessor included offense may nevertheless be submitted to the jury in the same manner as an offense for which the defendant would be criminally responsible notwithstanding the fact that a verdict of guilty would not result in a criminal conviction. 6. For purposes of this section, the offenses of rape in the third degree as defined in the former subdivision three or subdivisions seven, eight and nine of section 130.25 of the penal law and a crime formerly defined in subdivision three of section 130.40 of the penal law, are not lesser included offenses of rape in the first degree, a crime formerly defined in section 130.50 of the penal law, or any other offense. Notwithstanding the foregoing, any such offense may be submitted as a lesser included offense of the applicable first degree offense when (i) there is a reasonable view of the evidence which would support a finding that the defendant committed such lesser offense but did not commit the greater offense, and (ii) both parties consent to its submission.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 310 - Jury Trial--Deliberation and Verdict of Jury310.10 - Jury Deliberation; Requirement Of; Where Conducted.

1. Following the court's charge, except as otherwise provided by subdivision two of this section, the jury must retire to deliberate upon its verdict in a place outside the courtroom. It must be provided with suitable accommodations therefor and must, except as otherwise provided in subdivision two of this section, be continuously kept together under the supervision of a court officer or court officers. In the event such court officer or court officers are not available, the jury shall be under the supervision of an appropriate public servant or public servants. Except when so authorized by the court or when performing administerial duties with respect to the jurors, such court officers or public servants, as the case may be, may not speak to or communicate with them or permit any other person to do so. 2. At any time after the jury has been charged or commenced its deliberations, and after notice to the parties and affording such parties an opportunity to be heard on the record outside of the presence of the jury, the court may declare the deliberations to be in recess and may thereupon direct the jury to suspend its deliberations and to separate for a reasonable period of time to be specified by the court, not lasting beyond close of business on the second day following such recess or, for good cause shown, beyond close of business on the third day following recess of jury deliberations unless the defendant consents to a longer period of suspension and separation. For the purposes of this section, where a day referred to in this subdivision falls on a Saturday, Sunday or holiday, such day shall mean the next day thereafter during which the courthouse is open for the conduct of trials. Before each recess, the court must admonish the jury as provided in section 270.40 of this title and direct it not to resume its deliberations until all twelve jurors have reassembled in the designated place at the termination of the declared recess.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 310 - Jury Trial--Deliberation and Verdict of Jury310.20 - Jury Deliberation; Use of Exhibits and Other Material.

Upon retiring to deliberate, the jurors may take with them: 1. Any exhibits received in evidence at the trial which the court, after according the parties an opportunity to be heard upon the matter, in its discretion permits them to take; 2. A written list prepared by the court containing the offenses submitted to the jury by the court in its charge and the possible verdicts thereon. Whenever the court submits two or more counts charging offenses set forth in the same article of the law, the court may set forth the dates, names of complainants or specific statutory language, without defining the terms, by which the counts may be distinguished; provided, however, that the court shall instruct the jury in its charge that the sole purpose of the notations is to distinguish between the counts; and 3. A written list prepared by the court containing the names of every witness whose testimony has been presented during the trial, if the jury requests such a list and the court, in its discretion, determines that such a list will assist the jury.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 310 - Jury Trial--Deliberation and Verdict of Jury310.30 - Jury Deliberation; Request for Information.

At any time during its deliberation, the jury may request the court for further instruction or information with respect to the law, with respect to the content or substance of any trial evidence, or with respect to any other matter pertinent to the jury's consideration of the case. Upon such a request, the court must direct that the jury be returned to the courtroom and, after notice to both the people and counsel for the defendant, and in the presence of the defendant, must give such requested information or instruction as the court deems proper. With the consent of the parties and upon the request of the jury for further instruction with respect to a statute, the court may also give to the jury copies of the text of any statute which, in its discretion, the court deems proper.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 310 - Jury Trial--Deliberation and Verdict of Jury310.40 - Verdict; Rendition Thereof.

1. The verdict must be rendered and announced by the foreperson of the jury in the courtroom in the presence of the court, a prosecutor, the defendant's counsel and the defendant; provided, however, that where the foreperson refuses or is unable to render and announce the verdict, the court may designate another member of the jury to do so. 2. Before rendering and announcing the verdict, the foreperson of the jury, or such other member of the jury as may be designated by the court pursuant to subdivision one, must be asked whether the jury has agreed upon a verdict and must answer in the affirmative.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 310 - Jury Trial--Deliberation and Verdict of Jury310.50 - Verdict; Form; Reconsideration of Defective Verdict.

1. The form of the verdict must be in accordance with the court's instructions, as prescribed in article three hundred. 2. If the jury renders a verdict which in form is not in accordance with the court's instructions or which is otherwise legally defective, the court must explain the defect or error and must direct the jury to reconsider such verdict, to resume its deliberation for such purpose, and

to render a proper verdict. If the jury persists in rendering a defective or improper verdict, the court may in its discretion either order that the verdict in its entirety as to any defendant be recorded as an acquittal, or discharge the jury and authorize the people to retry the indictment or a specified count or counts thereof as to such defendant; provided that if it is clear that the jury intended to find a defendant not guilty upon any particular count, the court must order that the verdict be recorded as an acquittal of such defendant upon such count. 3. If the court accepts a verdict which is defective or incomplete by reason of the jury's failure to render a verdict upon every count upon which it was instructed to do so, such verdict is deemed to constitute an acquittal upon every such count improperly ignored in the verdict. 4. In a prosecution involving a charge of enterprise corruption in violation of article four hundred sixty of the penal law, the jury must separately and specifically render a special verdict with regard to each criminal act and any lesser included offense submitted for its consideration as a part of a pattern of criminal activity in addition to its verdict on the charge of enterprise corruption. In the absence of a unanimous special verdict of guilty with regard to each of at least three criminal acts and/or lesser included offenses submitted for its consideration and legally sufficient to constitute a person's participation in a pattern of criminal activity within the meaning of subdivision four of section 460.10 of the penal law, the court must order that the verdict on the count charging enterprise corruption be recorded as an acquittal.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 310 - Jury Trial--Deliberation and Verdict of Jury310.60 - Discharge of Jury Before Rendition of Verdict and Effect Thereof.

thereof. 1. A deliberating jury may be discharged by the court without having rendered a verdict only when:(a) The jury has deliberated for an extensive period of time without agreeing upon a verdict with respect to any of the charges submitted and the court is satisfied that any such agreement is unlikely within a reasonable time; or(b) The court, the defendant and the people all consent to such discharge; or(c) A mistrial is declared pursuant to section 280.10.2. When the jury is so discharged, the defendant or defendants may be retried upon the indictment. Upon such retrial, the indictment is deemed to contain all counts which it contained, except those which were dismissed or were deemed to have resulted in an acquittal pursuant to subdivision one of section 290.10. (a) The jury has deliberated for an extensive period of time without agreeing upon a verdict with respect to any of the charges submitted and the court is satisfied that any such agreement is unlikely within a reasonable time; or (b) The court, the defendant and the people all consent to such discharge; or (c) A mistrial is declared pursuant to section 280.10. 2. When the jury is so discharged, the defendant or defendants may be retried upon the indictment. Upon such retrial, the indictment is deemed to contain all counts which it contained, except those which were dismissed or were deemed to have resulted in an acquittal pursuant to subdivision one of section 290.10.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 310 - Jury Trial--Deliberation and Verdict of Jury310.70 - Rendition of Partial Verdict and Effect Thereof.

1. If a deliberating jury declares that it has reached a verdict with respect to one or more but not all of the offenses submitted to it, or with respect to one or more but not all of the defendants, the court must proceed as follows:(a) If the possibility of ultimate agreement with respect to the other submitted offenses or defendants is so small and the circumstances are such that if they were the only matters under consideration the court would be authorized to discharge the jury pursuant to paragraph (a) of subdivision one of section 310.60, the court must terminate the deliberation and order the jury to render a partial verdict with respect to those offenses and defendants upon which or with respect to whom it has reached a verdict;(b) If the court is satisfied that there is a reasonable possibility of ultimate agreement upon any of the unresolved offenses with respect to any defendant, it may either:(i) Order the jury to render its verdict with respect to those offenses and defendants upon which or with respect to whom it has reached agreement and resume its deliberation upon the remainder; or(ii) Refuse to accept a partial verdict at the time and order the jury to resume its deliberation upon the entire case.2. Following the rendition of a partial verdict pursuant to subdivision one, a defendant may be retried for any submitted offense upon which the jury was unable to agree unless:(a) A verdict of conviction thereon would have been inconsistent with a verdict, of either conviction or acquittal, actually rendered with respect to some other offense, or(b) The submitted offense which was the subject of the disagreement, and some other submitted offense of higher or equal grade which was the subject of a verdict of conviction, were so related that consecutive sentences thereon could not have been imposed upon a defendant convicted of both such offenses.3. As used in this section, a "submitted offense" means any offense submitted by the court to the jury, whether it be one which was expressly charged in a count of the indictment or a lesser included offense thereof submitted pursuant to section 300.50. (a) If the possibility of ultimate agreement with respect to the other submitted offenses or defendants is so small and the circumstances are such that if they were the only matters under consideration the court would be authorized to discharge the jury pursuant to paragraph (a) of subdivision one of section 310.60, the court must terminate the deliberation and order the jury to render a partial verdict with respect to those offenses and defendants upon which or with respect to whom it has reached a verdict; (b) If the court is satisfied that there is a reasonable possibility of ultimate agreement upon any of the unresolved offenses with respect to any defendant, it may either: (i) Order the jury to render its verdict with respect to those offenses and defendants upon which or with respect to whom it has reached agreement and resume its deliberation upon the remainder; or (ii) Refuse to accept a partial verdict at the time and order the jury to resume its deliberation upon the entire case. 2. Following the rendition of a partial verdict pursuant to subdivision one, a defendant may be retried for any submitted offense upon which the jury was unable to agree unless: (a) A verdict of conviction thereon would have been inconsistent with a verdict, of either conviction or

acquittal, actually rendered with respect to some other offense, or (b) The submitted offense which was the subject of the disagreement, and some other submitted offense of higher or equal grade which was the subject of a verdict of conviction, were so related that consecutive sentences thereon could not have been imposed upon a defendant convicted of both such offenses. 3. As used in this section, a "submitted offense" means any offense submitted by the court to the jury, whether it be one which was expressly charged in a count of the indictment or a lesser included offense thereof submitted pursuant to section 300.50.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 310 - Jury Trial--Deliberation and Verdict of Jury310.80 - Recording and Checking of Verdict and Polling of Jury.

After a verdict has been rendered, it must be recorded on the minutes and read to the jury, and the jurors must be collectively asked whether such is their verdict. Even though no juror makes any declaration in the negative, the jury must, if either party makes such an application, be polled and each juror separately asked whether the verdict announced by the foreman is in all respects his verdict. If upon either the collective or the separate inquiry any juror answers in the negative, the court must refuse to accept the verdict and must direct the jury to resume its deliberation. If no disagreement is expressed, the jury must be discharged from the case, except as otherwise provided in section 400.27.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 310 - Jury Trial--Deliberation and Verdict of Jury310.85 - Verdict of Guilty Where Defendant Not Criminally Responsible.

1. Where a verdict of guilty is rendered with respect to a crime, but the defendant is not criminally responsible for such crime by reason of infancy, the court shall proceed as provided in this section. 2. If a verdict of guilty also is rendered with respect to a crime for which the defendant is criminally responsible, or if the defendant is awaiting sentence upon another criminal conviction or is under a sentence of imprisonment on another criminal conviction, the verdict rendered with respect to a crime for which he is not criminally responsible must be set aside and shall be deemed a nullity. 3. In any case where the verdict is not set aside pursuant to subdivision two of this section, the court must order that the verdict be deemed vacated and replaced by a juvenile delinquency fact determination. Upon so ordering, the court must direct that the action be removed to the family court in accordance with the provisions of article seven hundred twenty-five of this chapter.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 320 - Waiver of Jury Trial and Conduct of Non-Jury Trial320.10 - Non-Jury Trial; When Authorized.

1. Except where the indictment charges the crime of murder in the first degree, the defendant, subject to the provisions of subdivision two, may at any time before trial waive a jury trial and consent to a trial without a jury in the superior court in which the indictment is pending. 2. Such waiver must be in writing and must be signed by the defendant in person in open court in the presence of the court, and with the approval of the court. The court must approve the execution and submission of such waiver unless it determines that it is tendered as a stratagem to procure an otherwise impermissible procedural advantage or that the defendant is not fully aware of the consequences of the choice he is making. If the court disapproves the waiver, it must state upon the record its reasons for such disapproval.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 320 - Waiver of Jury Trial and Conduct of Non-Jury Trial320.20 - Non-Jury Trial; Nature and Conduct Thereof.

1. A non-jury trial of an indictment must be conducted by one judge of the superior court in which the indictment is pending. 2. The court, in addition to determining all questions of law, is the exclusive trier of all issues of fact and must render a verdict. 3. The order of the trial must be as follows:(a) The court must permit the parties to deliver opening addresses in the order provided for a trial by jury pursuant to section 260.30.(b) The order in which evidence must or may be offered by the respective parties is the same as that applicable to a jury trial of an indictment as prescribed in subdivisions five, six and seven of section 260.30.(c) The court must permit the parties to deliver summations in the order provided for a trial by jury pursuant to section 260.30.(d) The court must then consider the case and render a verdict.4. The provisions governing motion practice and general procedure with respect to a jury trial are, wherever appropriate, applicable to a non-jury trial.5. Before considering a multiple count indictment for the purpose of rendering a verdict thereon, and before the summations if there be any, the court must designate and state upon the record the counts upon which it will render a verdict and the particular defendant or defendants, if there be more than one, with respect to whom it will render a verdict upon any particular count. In determining what counts, offenses and defendants must be considered by it and covered by its verdict, and the form of the verdict in general, the court must be governed, so far as appropriate and practicable, by the provisions of article three hundred governing the court's submission of counts and offenses to a jury upon a jury trial. (a) The court must permit the parties to deliver opening addresses in the order provided for a trial by jury pursuant to section 260.30. (b) The order in which evidence must or may be offered by the respective parties is the same as that applicable to a jury trial of an indictment as prescribed in subdivisions five, six and seven of section 260.30. (c) The court must permit the parties to deliver

summations in the order provided for a trial by jury pursuant to section 260.30. (d) The court must then consider the case and render a verdict. 4. The provisions governing motion practice and general procedure with respect to a jury trial are, wherever appropriate, applicable to a non-jury trial. 5. Before considering a multiple count indictment for the purpose of rendering a verdict thereon, and before the summations if there be any, the court must designate and state upon the record the counts upon which it will render a verdict and the particular defendant or defendants, if there be more than one, with respect to whom it will render a verdict upon any particular count. In determining what counts, offenses and defendants must be considered by it and covered by its verdict, and the form of the verdict in general, the court must be governed, so far as appropriate and practicable, by the provisions of article three hundred governing the court's submission of counts and offenses to a jury upon a jury trial.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 330 - Proceedings From Verdict to Sentence330.10 - Disposition of Defendant After Verdict of Acquittal.

1. Upon a verdict of complete acquittal, the court must immediately discharge the defendant if he is in the custody of the sheriff, or, if he is at liberty on bail, it must exonerate the bail. 2. Upon a verdict of not responsible by reason of mental disease or defect, the provisions of section 330.20 of this chapter shall govern all subsequent proceedings against the defendant.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 330 - Proceedings From Verdict to Sentence330.20 - Procedure Following Verdict or Plea of Not Responsible by Reason of Mental Disease or Defect.

reason of mental disease or defect. 1. Definition of terms. As used in this section, the following terms shall have the following meanings:(a) "Commissioner" means the state commissioner of mental health or the state commissioner of the office for people with developmental disabilities.(b) "Secure facility" means a facility within the state office of mental health or the state office for people with developmental disabilities which is staffed with personnel adequately trained in security methods and is so equipped as to minimize the risk or danger of escapes, and which has been so specifically designated by the commissioner.(c) "Dangerous mental disorder" means: (i) that a defendant currently suffers from a "mental illness" as that term is defined in subdivision twenty of section 1.03 of the mental hygiene law, and (ii) that because of such condition he currently constitutes a physical danger to himself or others.(d) "Mentally ill" means that a defendant currently suffers from a mental illness for which care and treatment as a patient, in the in-patient services of a psychiatric center under the jurisdiction of the state office of mental health, is essential to such defendant's welfare and that his or her judgment is so impaired that he is unable to understand the need for such care and treatment; and, where a defendant has a developmental disability, the term "mentally ill" shall also mean, for purposes of this section, that the defendant is in need of care and treatment as a resident in the in-patient services of a developmental center or other residential facility for individuals with developmental disabilities under the jurisdiction of the state office for people with developmental disabilities.(e) "Examination order" means an order directed to the commissioner requiring that a defendant submit to a psychiatric examination to determine whether the defendant has a dangerous mental disorder, or if he does not have dangerous mental disorder, whether he is mentally ill.(f) "Commitment order" or "recommitment order" means an order committing a defendant to the custody of the commissioner for confinement in a secure facility for care and treatment for six months from the date of the order.(g) "First retention order" means an order which is effective at the expiration of the period prescribed in a commitment order for a recommitment order, authorizing continued custody of a defendant by the commissioner for a period not to exceed one year.(h) "Second retention order" means an order which is effective at the expiration of the period prescribed in a first retention order, authorizing continued custody of a defendant by the commissioner for a period not to exceed two years.(i) "Subsequent retention order" means an order which is effective at the expiration of the period prescribed in a second retention order or a prior subsequent retention order authorizing continued custody of a defendant by the commissioner for a period not to exceed two years.(j) "Retention order" means a first retention order, a second retention order or a subsequent retention order.(k) "Furlough order" means an order directing the commissioner to allow a defendant in confinement pursuant to a commitment order, recommitment order or retention order to temporarily leave the facility for a period not exceeding fourteen days, either with or without the constant supervision of one or more employees of the facility.(l) "Transfer order" means an order directing the commissioner to transfer a defendant from a secure facility to a non-secure facility under the jurisdiction of the commissioner or to any non-secure facility designated by the commissioner.(m) "Release order" means an order directing the commissioner to terminate a defendant's in-patient status without terminating the commissioner's responsibility for the defendant.(n) "Discharge order" means an order terminating an order of conditions or unconditionally discharging a defendant from supervision under the provisions of this section.(o) "Order of conditions" means an order directing a defendant to comply with this prescribed treatment plan, or any other condition which the court determines to be reasonably necessary or appropriate, and, in addition, where a defendant is in custody of the commissioner, not to leave the facility without authorization. In addition to such conditions, when determined to be reasonably necessary or appropriate, an order of conditions may be accompanied by a special order of conditions set forth in a separate document requiring that the defendant: (i) stay away from the home, school, business or place of employment of the victim or victims, or of any witness designated by the court, of such offense; or (ii) refrain from harassing, intimidating, threatening or otherwise interfering with the victim or victims of the offense and such members of the family or household of such victim or victims as shall be specifically named by the court in such special order. An order of conditions or special order of conditions shall be valid for five years from the date of its issuance, except that, for good cause shown, the court may extend the period for an additional five years.(p) "District

attorney" means the office which prosecuted the criminal action resulting in the verdict or plea of not responsible by reason of mental disease or defect.(q) "Qualified psychiatrist" means a physician who (i) is a diplomate of the American board of psychiatry and neurology or is eligible to be certified by that board; or (ii) is certified by the American osteopathic board of neurology and psychiatry or is eligible to be certified by that board.(r) "Licensed psychologist" means a person who is registered as a psychologist under article one hundred fifty-three of the education law.(s) "Psychiatric examiner" means a qualified psychiatrist or a licensed psychologist who has been designated by the commissioner to examine a defendant pursuant to this section, and such designee need not be an employee of the department of mental hygiene.2. Examination order; psychiatric examiners. Upon entry of a verdict of not responsible by reason of mental disease or defect, or upon the acceptance of a plea of not responsible by reason of mental disease or defect, the court must immediately issue an examination order. Upon receipt of such order, the commissioner must designate two qualified psychiatric examiners to conduct the examination to examine the defendant. In conducting their examination, the psychiatric examiners may employ any method which is accepted by the medical profession for the examination of persons alleged to be suffering from a dangerous mental disorder or to be mentally ill or having a developmental disability. The court may authorize a psychiatrist or psychologist retained by a defendant to be present at such examination. The clerk of the court must promptly forward a copy of the examination order to the mental hygiene legal service and such service may thereafter participate in all subsequent proceedings under this section.In all subsequent proceedings under this section, prior to the issuance of a special order of conditions, the court shall consider whether any order of protection had been issued prior to a verdict of not responsible by reason of mental disease or defect in the case, or prior to the acceptance of a plea of not responsible by reason of mental disease or defect in the case.2-a. Firearm, rifle or shotgun surrender order. Upon entry of a verdict of not responsible by reason of mental disease or defect, or upon the acceptance of a plea of not responsible by reason of mental disease or defect, or upon a finding that the defendant is an incapacitated person pursuant to article seven hundred thirty of this chapter, the court shall revoke the defendant's firearm license, if any, inquire of the defendant as to the existence and location of any firearm, rifle or shotgun owned or possessed by such defendant and direct the surrender of such firearm, rifle or shotgun pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law.3. Examination order; place of examination. Upon issuing an examination order, the court must, except as otherwise provided in this subdivision, direct that the defendant be committed to a secure facility designated by the commissioner as the place for such psychiatric examination. The sheriff must hold the defendant in custody pending such designation by the commissioner, and when notified of the designation, the sheriff must promptly deliver the defendant to such secure facility. When the defendant is not in custody at the time of such verdict or plea, because he was previously released on bail or on his own recognizance, the court, in its discretion, may direct that such examination be conducted on an out-patient basis, and at such time and place as the commissioner shall designate. If, however, the commissioner informs the court that confinement of the defendant is necessary for an effective examination, the court must direct that the defendant be confined in a facility designated by the commissioner until the examination is completed.4. Examination order, duration. Confinement in a secure facility pursuant to an examination order shall be for a period not exceeding thirty days, except that, upon application of the commissioner, the court may authorize confinement for an additional period not exceeding thirty days when a longer period is necessary to complete the examination. If the initial hearing required by subdivision six of this section has not commenced prior to the termination of such examination period, the commissioner shall retain custody of the defendant in such secure facility until custody is transferred to the sheriff in the manner prescribed in subdivision six of this section. During the period of such confinement, the physician in charge of the facility may administer or cause to be administered to the defendant such emergency psychiatric, medical or other therapeutic treatment as in his judgment should be administered. If the court has directed that the examination be conducted on an out-patient basis, the examination shall be completed within thirty days after the defendant has first reported to the place designated by the commissioner, except that, upon application of the commissioner, the court may extend such period for a reasonable time if a longer period is necessary to complete the examination.5. Examination order; reports. After he has completed his examination of the defendant, each psychiatric examiner must promptly prepare a report of his findings and evaluation concerning the defendant's mental condition, and submit such report to the commissioner. If the psychiatric examiners differ in their opinion as to whether the defendant is mentally ill or is suffering from a dangerous mental disorder, the commissioner must designate another psychiatric examiner to examine the defendant. Upon receipt of the examination reports, the commissioner must submit them to the court that issued the examination order. If the court is not satisfied with the findings of these psychiatric examiners, the court may designate one or more additional psychiatric examiners pursuant to subdivision fifteen of this section. The court must furnish a copy of the reports to the district attorney, counsel for the defendant and the mental hygiene legal service.6. Initial hearing; commitment order. After the examination reports are submitted, the court must, within ten days of the receipt of such reports, conduct an initial hearing to determine the defendant's present mental condition. If the defendant is in the custody of the commissioner pursuant to an examination order, the court must direct the sheriff to obtain custody of the defendant from the commissioner and to confine the defendant pending further order of the court, except that the court may direct the sheriff to confine the defendant in an institution located near the place where the court sits if that institution has been designated by the commissioner as suitable for the temporary and secure detention of mentally disabled persons. At such initial hearing, the district attorney must establish to the satisfaction of the court that the defendant has a dangerous mental disorder or is mentally ill. If the court finds that the defendant has a dangerous mental disorder, it must issue a commitment order. If the court finds that the defendant does not have a dangerous mental disorder but is mentally ill, the provisions of subdivision seven of this section shall apply.7. Initial hearing civil commitment and order of conditions. If, at the conclusion of the initial hearing conducted pursuant to subdivision six of this section, the court finds that the defendant is mentally ill but does not have a dangerous mental disorder, the provisions of articles nine or

fifteen of the mental hygiene law shall apply at that stage of the proceedings and at all subsequent proceedings. Having found that the defendant is mentally ill, the court must issue an order of conditions and an order committing the defendant to the custody of the commissioner. The latter order shall be deemed an order made pursuant to the mental hygiene law and not pursuant to this section, and further retention, conditional release or discharge of such defendant shall be in accordance with the provisions of the mental hygiene law. If, at the conclusion of the initial hearing, the court finds that the defendant does not have a dangerous mental disorder and is not mentally ill, the court must discharge the defendant either unconditionally or subject to an order of conditions.7-a. Whenever the court issues a special order of conditions pursuant to this section, the commissioner shall make reasonable efforts to notify the victim or victims or the designated witness or witnesses that a special order of conditions containing such provisions has been issued, unless such victim or witness has requested that such notice should not be provided.8. First retention order. When a defendant is in the custody of the commissioner pursuant to a commitment order, the commissioner must, at least thirty days prior to the expiration of the period prescribed in the order, apply to the court that issued the order, or to a superior court in the county where the secure facility is located, for a first retention order or a release order. The commissioner must give written notice of the application to the district attorney, the defendant, counsel for the defendant, and the mental hygiene legal service. Upon receipt of such application, the court may, on its own motion, conduct a hearing to determine whether the defendant has a dangerous mental disorder, and it must conduct such hearing if a demand therefor is made by the district attorney, the defendant, counsel for the defendant, or the mental hygiene legal service within ten days from the date that notice of the application was given to them. If such a hearing is held on an application for retention, the commissioner must establish to the satisfaction of the court that the defendant has a dangerous mental disorder or is mentally ill. The district attorney shall be entitled to appear and present evidence at such hearing. If such a hearing is held on an application for release, the district attorney must establish to the satisfaction of the court that the defendant has a dangerous mental disorder or is mentally ill. If the court finds that the defendant has a dangerous mental disorder it must issue a first retention order. If the court finds that the defendant is mentally ill but does not have a dangerous mental disorder, it must issue a first retention order and, pursuant to subdivision eleven of this section, a transfer order and an order of conditions. If the court finds that the defendant does not have a dangerous mental disorder and is not mentally ill, it must issue a release order and an order of conditions pursuant to subdivision twelve of this section.9. Second and subsequent retention orders. When a defendant is in the custody of the commissioner pursuant to a first retention order, the commissioner must, at least thirty days prior to the expiration of the period prescribed in the order, apply to the court that issued the order, or to a superior court in the county where the facility is located, for a second retention order or a release order. The commissioner must give written notice of the application to the district attorney, the defendant, counsel for the defendant, and the mental hygiene legal service. Upon receipt of such application, the court may, on its own motion, conduct a hearing to determine whether the defendant has a dangerous mental disorder, and it must conduct such hearing if a demand therefor is made by the district attorney, the defendant, counsel for the defendant, or the mental hygiene legal service within ten days from the date that notice of the application was given to them. If such a hearing is held on an application for retention, the commissioner must establish to the satisfaction of the court that the defendant has a dangerous mental disorder or is mentally ill. The district attorney shall be entitled to appear and present evidence at such hearing. If such a hearing is held on an application for release, the district attorney must establish to the satisfaction of the court that the defendant has a dangerous mental disorder or is mentally ill. If the court finds that the defendant has a dangerous mental disorder it must issue a second retention order. If the court finds that the defendant is mentally ill but does not have a dangerous mental disorder, it must issue a second retention order and, pursuant to subdivision eleven of this section, a transfer order and an order of conditions. If the court finds that the defendant does not have a dangerous mental disorder and is not mentally ill, it must issue a release order and an order of conditions pursuant to subdivision twelve of this section. When a defendant is in the custody of the commissioner prior to the expiration of the period prescribed in a second retention order, the procedures set forth in this subdivision for the issuance of a second retention order shall govern the application for and the issuance of any subsequent retention order.10. Furlough order. The commissioner may apply for a furlough order, pursuant to this subdivision, when a defendant is in his custody pursuant to a commitment order, recommitment order, or retention order and the commissioner is of the view that, consistent with the public safety and welfare of the community and the defendant, the clinical condition of the defendant warrants a granting of the privileges authorized by a furlough order. The application for a furlough order may be made to the court that issued the commitment order, or to a superior court in the county where the secure facility is located. The commissioner must give ten days written notice to the district attorney, the defendant, counsel for the defendant, and the mental hygiene legal service. Upon receipt of such application, the court may, on its own motion, conduct a hearing to determine whether the application should be granted, and must conduct such hearing if a demand therefor is made by the district attorney. If the court finds that the issuance of a furlough order is consistent with the public safety and welfare of the community and the defendant, and that the clinical condition of the defendant warrants a granting of the privileges authorized by a furlough order, the court must grant the application and issue a furlough order containing any terms and conditions that the court deems necessary or appropriate. If the defendant fails to return to the secure facility at the time specified in the furlough order, then, for purposes of subdivision nineteen of this section, he shall be deemed to have escaped.11. Transfer order and order of conditions. The commissioner may apply for a transfer order, pursuant to this subdivision, when a defendant is in his custody pursuant to a retention order or a recommitment order, and the commissioner is of the view that the defendant does not have a dangerous mental disorder or that, consistent with the public safety and welfare of the community and the defendant, the clinical condition of the defendant warrants his transfer from a secure facility to a non-secure facility under the jurisdiction of the commissioner or to any non-secure facility designated by the commissioner. The application for a transfer order may be made to the court that issued the order under which the defendant is then in custody, or to a superior court in

the county where the secure facility is located. The commissioner must give ten days written notice to the district attorney, the defendant, counsel for the defendant, and the mental hygiene legal service. Upon receipt of such application, the court may, on its own motion, conduct a hearing to determine whether the application should be granted, and must conduct such hearing if the demand therefor is made by the district attorney. At such hearing, the district attorney must establish to the satisfaction of the court that the defendant has a dangerous mental disorder or that the issuance of a transfer order is inconsistent with the public safety and welfare of the community. The court must grant the application and issue a transfer order if the court finds that the defendant does not have a dangerous mental disorder, or if the court finds that the issuance of a transfer order is consistent with the public safety and welfare of the community and the defendant and that the clinical condition of the defendant, warrants his transfer from a secure facility to a non-secure facility. A court must also issue a transfer order when, in connection with an application for a first retention order pursuant to subdivision eight of this section or a second or subsequent retention order pursuant to subdivision nine of this section, it finds that a defendant is mentally ill but does not have a dangerous mental disorder. Whenever a court issues a transfer order it must also issue an order of conditions.12. Release order and order of conditions. The commissioner may apply for a release order, pursuant to this subdivision, when a defendant is in his custody pursuant to a retention order or recommitment order, and the commissioner is of the view that the defendant no longer has a dangerous mental disorder and is no longer mentally ill. The application for a release order may be made to the court that issued the order under which the defendant is then in custody, or to a superior court in the county where the facility is located. The application must contain a description of the defendant's current mental condition, the past course of treatment, a history of the defendant's conduct subsequent to his commitment, a written service plan for continued treatment which shall include the information specified in subdivision (g) of section 29.15 of the mental hygiene law, and a detailed statement of the extent to which supervision of the defendant after release is proposed. The commissioner must give ten days written notice to the district attorney, the defendant, counsel for the defendant, and the mental hygiene legal service. Upon receipt of such application, the court must promptly conduct a hearing to determine the defendant's present mental condition. At such hearing, the district attorney must establish to the satisfaction of the court that the defendant has a dangerous mental disorder or is mentally ill. If the court finds that the defendant has a dangerous mental disorder, it must deny the application for a release order. If the court finds that the defendant does not have a dangerous mental disorder but is mentally ill, it must issue a transfer order pursuant to subdivision eleven of this section if the defendant is then confined in a secure facility. If the court finds that the defendant does not have a dangerous mental disorder and is not mentally ill, it must grant the application and issue a release order. A court must also issue a release order when, in connection with an application for a first retention order pursuant to subdivision eight of this section or a second or subsequent retention order pursuant to subdivision nine of this section, it finds that the defendant does not have a dangerous mental disorder and is not mentally ill. Whenever a court issues a release order it must also issue an order of conditions. If the court has previously issued a transfer order and an order of conditions, it must issue a new order of conditions upon issuing a release order. The order of conditions issued in conjunction with a release order shall incorporate a written service plan prepared by a psychiatrist familiar with the defendant's case history and approved by the court, and shall contain any conditions that the court determines to be reasonably necessary or appropriate. It shall be the responsibility of the commissioner to determine that such defendant is receiving the services specified in the written service plan and is complying with any conditions specified in such plan and the order of conditions.13. Discharge order. The commissioner may apply for a discharge order, pursuant to this subdivision, when a defendant has been continuously on an out-patient status for three years or more pursuant to a release order, and the commissioner is of the view that the defendant no longer has a dangerous mental disorder and is no longer mentally ill and that the issuance of a discharge order is consistent with the public safety and welfare of the community and the defendant. The application for a discharge order may be made to the court that issued the release order, or to a superior court in the county where the defendant is then residing. The commissioner must give ten days written notice to the district attorney, the defendant, counsel for the defendant, and the mental hygiene legal service. Upon receipt of such application, the court may, on its own motion, conduct a hearing to determine whether the application should be granted, and must conduct such hearing if a demand therefor is made by the district attorney. The court must grant the application and issue a discharge order if the court finds that the defendant has been continuously on an out-patient status for three years or more, that he does not have a dangerous mental disorder and is not mentally ill, and that the issuance of the discharge order is consistent with the public safety and welfare of the community and the defendant.14. Recommitment order. At any time during the period covered by an order of conditions an application may be made by the commissioner or the district attorney to the court that issued such order, or to a superior court in the county where the defendant is then residing, for a recommitment order when the applicant is of the view that the defendant has a dangerous mental disorder. The applicant must give written notice of the application to the defendant, counsel for the defendant, and the mental hygiene legal service, and if the applicant is the commissioner he must give such notice to the district attorney or if the applicant is the district attorney he must give such notice to the commissioner. Upon receipt of such application the court must order the defendant to appear before it for a hearing to determine if the defendant has a dangerous mental disorder. Such order may be in the form of a written notice, specifying the time and place of appearance, served personally upon the defendant, or mailed to his last known address, as the court may direct. If the defendant fails to appear in court as directed, the court may issue a warrant to an appropriate peace officer directing him to take the defendant into custody and bring him before the court. In such circumstance, the court may direct that the defendant be confined in an appropriate institution located near the place where the court sits. The court must conduct a hearing to determine whether the defendant has a dangerous mental disorder. At such hearing, the applicant, whether he be the commissioner or the district attorney must establish to the satisfaction of the court that the defendant has a dangerous mental disorder. If the applicant is the commissioner, the district attorney shall be entitled to appear and present evidence at such hearing; if

the applicant is the district attorney, the commissioner shall be entitled to appear and present evidence at such hearing. If the court finds that the defendant has a dangerous mental disorder, it must issue a recommitment order. When a defendant is in the custody of the commissioner pursuant to a recommitment order, the procedures set forth in subdivisions eight and nine of this section for the issuance of retention orders shall govern the application for and the issuance of a first retention order, a second retention order, and subsequent retention orders.15. Designation of psychiatric examiners. If, at any hearing conducted under this section to determine the defendant's present mental condition, the court is not satisfied with the findings of the psychiatric examiners, the court may direct the commissioner to designate one or more additional psychiatric examiners to conduct an examination of the defendant and submit a report of their findings. In addition, the court may on its own motion, or upon request of a party, may designate one or more psychiatric examiners to examine the defendant and submit a report of their findings. The district attorney may apply to the court for an order directing that the defendant submit to an examination by a psychiatric examiner designated by the district attorney, and such psychiatric examiner may testify at the hearing.16. Rehearing and review. Any defendant who is in the custody of the commissioner pursuant to a commitment order, a retention order, or a recommitment order, if dissatisfied with such order, may, within thirty days after the making of such order, obtain a rehearing and review of the proceedings and of such order in accordance with the provisions of section 9.35 or 15.35 of the mental hygiene law.17. Rights of defendants. Subject to the limitations and provisions of this section, a defendant committed to the custody of the commissioner pursuant to this section shall have the rights granted to patients under the mental hygiene law.18. Notwithstanding any other provision of law, no person confined by reason of a commitment order, recommitment order or retention order to a secure facility may be discharged or released unless the commissioner shall deliver written notice, at least four days excluding Saturdays, Sundays and holidays, in advance of such discharge or release to all of the following:(a) the district attorney.(b) the police department having jurisdiction of the area to which the defendant is to be discharged or released.(c) any other person the court may designate.The notices required by this subdivision shall be given by the facility staff physician who was treating the defendant or, if unavailable, by the defendant's treatment team leader, but if neither is immediately available, notice must be given by some other member of the clinical staff of the facility. Such notice must be given by any means reasonably calculated to give prompt actual notice.19. Escape from custody; notice requirements. If a defendant is in the custody of the commissioner pursuant to an order issued under this section, and such defendant escapes from custody, immediate notice of such escape shall be given by the department facility staff to: (a) the district attorney, (b) the superintendent of state police, (c) the sheriff of the county where the escape occurred, (d) the police department having jurisdiction of the area where the escape occurred, (e) any person the facility staff believes to be in danger, and (f) any law enforcement agency and any person the facility staff believes would be able to apprise such endangered person that the defendant has escaped from the facility. Such notice shall be given as soon as the facility staff know that the defendant has escaped from the facility and shall include such information as will adequately identify the defendant and the person or persons believed to be in danger and the nature of the danger. The notices required by this subdivision shall be given by the facility staff physician who was treating the defendant or, if unavailable, by the defendant's treatment team leader, but if neither is immediately available, notice must be given by some other member of the clinical staff of the facility. Such notice must be given by any means reasonably calculated to give prompt actual notice. The defendant may be apprehended, restrained, transported to, and returned to the facility from which he escaped by any peace officer, and it shall be the duty of the officer to assist any representative of the commissioner to take the defendant into custody upon the request of such representative.20. Required affidavit. No application may be made by the commissioner under this section without an accompanying affidavit from at least one psychiatric examiner supportive of relief requested in the application, which affidavit shall be served on all parties entitled to receive the notice of application. Such affidavit shall set forth the defendant's clinical diagnosis, a detailed analysis of his or her mental condition which caused the psychiatric examiner to formulate an opinion, and the opinion of the psychiatric examiner with respect to the defendant. Any application submitted without the required affidavit shall be dismissed by the court.21. Appeals. (a) A party to proceedings conducted in accordance with the provisions of this section may take an appeal to an intermediate appellate court by permission of the intermediate appellate court as follows:(i) the commissioner may appeal from any release order, retention order, transfer order, discharge order, order of conditions, or recommitment order, for which he has not applied;(ii) a defendant, or the mental hygiene legal service on his or her behalf, may appeal from any commitment order, retention order, recommitment order, or, if the defendant has obtained a rehearing and review of any such order pursuant to subdivision sixteen of this section, from an order, not otherwise appealable as of right, issued in accordance with the provisions of section 9.35 or 15.35 of the mental hygiene law authorizing continued retention under the original order, provided, however, that a defendant who takes an appeal from a commitment order, retention order, or recommitment order may not subsequently obtain a rehearing and review of such order pursuant to subdivision sixteen of this section;(iii) the district attorney may appeal from any release order, transfer order, discharge order, order of conditions, furlough order, or order denying an application for a recommitment order which he opposed.(b) An aggrieved party may appeal from a final order of the intermediate appellate court to the court of appeals by permission of the intermediate appellate court granted before application to the court of appeals, or by permission of the court of appeals upon refusal by the intermediate appellate court or upon direct application.(c) An appeal taken under this subdivision shall be deemed civil in nature, and shall be governed by the laws and rules applicable to civil appeals; provided, however, that a stay of the order appealed from must be obtained in accordance with the provisions of paragraph (d) hereof.(d) The court from or to which an appeal is taken may stay all proceedings to enforce the order appealed from pending an appeal or determination on a motion for permission to appeal, or may grant a limited stay, except that only the court to which an appeal is taken may vacate, limit, or modify a stay previously granted. If the order appealed from is affirmed or modified, the stay shall continue for five days after service upon the appellant of the order of

affirmance or modification with notice of its entry in the court to which the appeal was taken. If a motion is made for permission to appeal from such an order, before the expiration of the five days, the stay, or any other stay granted pending determination of the motion for permission to appeal, shall:(i) if the motion is granted, continue until five days after the appeal is determined; or(ii) if the motion is denied, continue until five days after the movant is served with the order of denial with notice of its entry.22. Any special order of conditions issued pursuant to subparagraph (i) or (ii) of paragraph (o) of subdivision one of this section shall bear in a conspicuous manner the term "special order of conditions" and a copy shall be filed by the clerk of the court with the sheriff's office in the county in which anyone intended to be protected by such special order resides, or, if anyone intended to be protected by such special order resides within a city, with the police department of such city. The absence of language specifying that the order is a "special order of conditions" shall not affect the validity of such order. A copy of such special order of conditions may from time to time be filed by the clerk of the court with any other police department or sheriff's office having jurisdiction of the residence, work place, or school of anyone intended to be protected by such special order. A copy of such special order may also be filed by anyone intended to be protected by such provisions at the appropriate police department or sheriff's office having jurisdiction. Any subsequent amendment or revocation of such special order may be filed in the same manner as provided in this subdivision. Such special order of conditions shall plainly state the date that the order expires. (a) "Commissioner" means the state commissioner of mental health or the state commissioner of the office for people with developmental disabilities. (b) "Secure facility" means a facility within the state office of mental health or the state office for people with developmental disabilities which is staffed with personnel adequately trained in security methods and is so equipped as to minimize the risk or danger of escapes, and which has been so specifically designated by the commissioner. (c) "Dangerous mental disorder" means: (i) that a defendant currently suffers from a "mental illness" as that term is defined in subdivision twenty of section 1.03 of the mental hygiene law, and (ii) that because of such condition he currently constitutes a physical danger to himself or others. (d) "Mentally ill" means that a defendant currently suffers from a mental illness for which care and treatment as a patient, in the in-patient services of a psychiatric center under the jurisdiction of the state office of mental health, is essential to such defendant's welfare and that his or her judgment is so impaired that he is unable to understand the need for such care and treatment; and, where a defendant has a developmental disability, the term "mentally ill" shall also mean, for purposes of this section, that the defendant is in need of care and treatment as a resident in the in-patient services of a developmental center or other residential facility for individuals with developmental disabilities under the jurisdiction of the state office for people with developmental disabilities. (e) "Examination order" means an order directed to the commissioner requiring that a defendant submit to a psychiatric examination to determine whether the defendant has a dangerous mental disorder, or if he does not have dangerous mental disorder, whether he is mentally ill. (f) "Commitment order" or "recommitment order" means an order committing a defendant to the custody of the commissioner for confinement in a secure facility for care and treatment for six months from the date of the order. (g) "First retention order" means an order which is effective at the expiration of the period prescribed in a commitment order for a recommitment order, authorizing continued custody of a defendant by the commissioner for a period not to exceed one year. (h) "Second retention order" means an order which is effective at the expiration of the period prescribed in a first retention order, authorizing continued custody of a defendant by the commissioner for a period not to exceed two years. (i) "Subsequent retention order" means an order which is effective at the expiration of the period prescribed in a second retention order or a prior subsequent retention order authorizing continued custody of a defendant by the commissioner for a period not to exceed two years. (j) "Retention order" means a first retention order, a second retention order or a subsequent retention order. (k) "Furlough order" means an order directing the commissioner to allow a defendant in confinement pursuant to a commitment order, recommitment order or retention order to temporarily leave the facility for a period not exceeding fourteen days, either with or without the constant supervision of one or more employees of the facility. (l) "Transfer order" means an order directing the commissioner to transfer a defendant from a secure facility to a non-secure facility under the jurisdiction of the commissioner or to any non-secure facility designated by the commissioner. (m) "Release order" means an order directing the commissioner to terminate a defendant's in-patient status without terminating the commissioner's responsibility for the defendant. (n) "Discharge order" means an order terminating an order of conditions or unconditionally discharging a defendant from supervision under the provisions of this section. (o) "Order of conditions" means an order directing a defendant to comply with this prescribed treatment plan, or any other condition which the court determines to be reasonably necessary or appropriate, and, in addition, where a defendant is in custody of the commissioner, not to leave the facility without authorization. In addition to such conditions, when determined to be reasonably necessary or appropriate, an order of conditions may be accompanied by a special order of conditions set forth in a separate document requiring that the defendant: (i) stay away from the home, school, business or place of employment of the victim or victims, or of any witness designated by the court, of such offense; or (ii) refrain from harassing, intimidating, threatening or otherwise interfering with the victim or victims of the offense and such members of the family or household of such victim or victims as shall be specifically named by the court in such special order. An order of conditions or special order of conditions shall be valid for five years from the date of its issuance, except that, for good cause shown, the court may extend the period for an additional five years. (p) "District attorney" means the office which prosecuted the criminal action resulting in the verdict or plea of not responsible by reason of mental disease or defect. (q) "Qualified psychiatrist" means a physician who (i) is a diplomate of the American board of psychiatry and neurology or is eligible to be certified by that board; or (ii) is certified by the American osteopathic board of neurology and psychiatry or is eligible to be certified by that board. (r) "Licensed psychologist" means a person who is registered as a psychologist under article one hundred fifty-three of the education law. (s) "Psychiatric examiner" means a qualified psychiatrist or a licensed psychologist who has been designated by the commissioner to examine a defendant pursuant to this section, and such designee need not be an employee of the department of mental hygiene. 2.

Examination order; psychiatric examiners. Upon entry of a verdict of not responsible by reason of mental disease or defect, or upon the acceptance of a plea of not responsible by reason of mental disease or defect, the court must immediately issue an examination order. Upon receipt of such order, the commissioner must designate two qualified psychiatric examiners to conduct the examination to examine the defendant. In conducting their examination, the psychiatric examiners may employ any method which is accepted by the medical profession for the examination of persons alleged to be suffering from a dangerous mental disorder or to be mentally ill or having a developmental disability. The court may authorize a psychiatrist or psychologist retained by a defendant to be present at such examination. The clerk of the court must promptly forward a copy of the examination order to the mental hygiene legal service and such service may thereafter participate in all subsequent proceedings under this section. In all subsequent proceedings under this section, prior to the issuance of a special order of conditions, the court shall consider whether any order of protection had been issued prior to a verdict of not responsible by reason of mental disease or defect in the case, or prior to the acceptance of a plea of not responsible by reason of mental disease or defect in the case. 2-a. Firearm, rifle or shotgun surrender order. Upon entry of a verdict of not responsible by reason of mental disease or defect, or upon the acceptance of a plea of not responsible by reason of mental disease or defect, or upon a finding that the defendant is an incapacitated person pursuant to article seven hundred thirty of this chapter, the court shall revoke the defendant's firearm license, if any, inquire of the defendant as to the existence and location of any firearm, rifle or shotgun owned or possessed by such defendant and direct the surrender of such firearm, rifle or shotgun pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law. 3. Examination order; place of examination. Upon issuing an examination order, the court must, except as otherwise provided in this subdivision, direct that the defendant be committed to a secure facility designated by the commissioner as the place for such psychiatric examination. The sheriff must hold the defendant in custody pending such designation by the commissioner, and when notified of the designation, the sheriff must promptly deliver the defendant to such secure facility. When the defendant is not in custody at the time of such verdict or plea, because he was previously released on bail or on his own recognizance, the court, in its discretion, may direct that such examination be conducted on an out-patient basis, and at such time and place as the commissioner shall designate. If, however, the commissioner informs the court that confinement of the defendant is necessary for an effective examination, the court must direct that the defendant be confined in a facility designated by the commissioner until the examination is completed. 4. Examination order, duration. Confinement in a secure facility pursuant to an examination order shall be for a period not exceeding thirty days, except that, upon application of the commissioner, the court may authorize confinement for an additional period not exceeding thirty days when a longer period is necessary to complete the examination. If the initial hearing required by subdivision six of this section has not commenced prior to the termination of such examination period, the commissioner shall retain custody of the defendant in such secure facility until custody is transferred to the sheriff in the manner prescribed in subdivision six of this section. During the period of such confinement, the physician in charge of the facility may administer or cause to be administered to the defendant such emergency psychiatric, medical or other therapeutic treatment as in his judgment should be administered. If the court has directed that the examination be conducted on an out-patient basis, the examination shall be completed within thirty days after the defendant has first reported to the place designated by the commissioner, except that, upon application of the commissioner, the court may extend such period for a reasonable time if a longer period is necessary to complete the examination. 5. Examination order; reports. After he has completed his examination of the defendant, each psychiatric examiner must promptly prepare a report of his findings and evaluation concerning the defendant's mental condition, and submit such report to the commissioner. If the psychiatric examiners differ in their opinion as to whether the defendant is mentally ill or is suffering from a dangerous mental disorder, the commissioner must designate another psychiatric examiner to examine the defendant. Upon receipt of the examination reports, the commissioner must submit them to the court that issued the examination order. If the court is not satisfied with the findings of these psychiatric examiners, the court may designate one or more additional psychiatric examiners pursuant to subdivision fifteen of this section. The court must furnish a copy of the reports to the district attorney, counsel for the defendant and the mental hygiene legal service. 6. Initial hearing; commitment order. After the examination reports are submitted, the court must, within ten days of the receipt of such reports, conduct an initial hearing to determine the defendant's present mental condition. If the defendant is in the custody of the commissioner pursuant to an examination order, the court must direct the sheriff to obtain custody of the defendant from the commissioner and to confine the defendant pending further order of the court, except that the court may direct the sheriff to confine the defendant in an institution located near the place where the court sits if that institution has been designated by the commissioner as suitable for the temporary and secure detention of mentally disabled persons. At such initial hearing, the district attorney must establish to the satisfaction of the court that the defendant has a dangerous mental disorder or is mentally ill. If the court finds that the defendant has a dangerous mental disorder, it must issue a commitment order. If the court finds that the defendant does not have a dangerous mental disorder but is mentally ill, the provisions of subdivision seven of this section shall apply. 7. Initial hearing civil commitment and order of conditions. If, at the conclusion of the initial hearing conducted pursuant to subdivision six of this section, the court finds that the defendant is mentally ill but does not have a dangerous mental disorder, the provisions of articles nine or fifteen of the mental hygiene law shall apply at that stage of the proceedings and at all subsequent proceedings. Having found that the defendant is mentally ill, the court must issue an order of conditions and an order committing the defendant to the custody of the commissioner. The latter order shall be deemed an order made pursuant to the mental hygiene law and not pursuant to this section, and further retention, conditional release or discharge of such defendant shall be in accordance with the provisions of the mental hygiene law. If, at the conclusion of the initial hearing, the court finds that the defendant does not have a dangerous mental disorder and is not mentally ill, the court must discharge the defendant either unconditionally or subject to an order of conditions. 7-a. Whenever the court issues a special order of conditions pursuant to this

section, the commissioner shall make reasonable efforts to notify the victim or victims or the designated witness or witnesses that a special order of conditions containing such provisions has been issued, unless such victim or witness has requested that such notice should not be provided. 8. First retention order. When a defendant is in the custody of the commissioner pursuant to a commitment order, the commissioner must, at least thirty days prior to the expiration of the period prescribed in the order, apply to the court that issued the order, or to a superior court in the county where the secure facility is located, for a first retention order or a release order. The commissioner must give written notice of the application to the district attorney, the defendant, counsel for the defendant, and the mental hygiene legal service. Upon receipt of such application, the court may, on its own motion, conduct a hearing to determine whether the defendant has a dangerous mental disorder, and it must conduct such hearing if a demand therefor is made by the district attorney, the defendant, counsel for the defendant, or the mental hygiene legal service within ten days from the date that notice of the application was given to them. If such a hearing is held on an application for retention, the commissioner must establish to the satisfaction of the court that the defendant has a dangerous mental disorder or is mentally ill. The district attorney shall be entitled to appear and present evidence at such hearing. If such a hearing is held on an application for release, the district attorney must establish to the satisfaction of the court that the defendant has a dangerous mental disorder or is mentally ill. If the court finds that the defendant has a dangerous mental disorder it must issue a first retention order. If the court finds that the defendant is mentally ill but does not have a dangerous mental disorder, it must issue a first retention order and, pursuant to subdivision eleven of this section, a transfer order and an order of conditions. If the court finds that the defendant does not have a dangerous mental disorder and is not mentally ill, it must issue a release order and an order of conditions pursuant to subdivision twelve of this section. 9. Second and subsequent retention orders. When a defendant is in the custody of the commissioner pursuant to a first retention order, the commissioner must, at least thirty days prior to the expiration of the period prescribed in the order, apply to the court that issued the order, or to a superior court in the county where the facility is located, for a second retention order or a release order. The commissioner must give written notice of the application to the district attorney, the defendant, counsel for the defendant, and the mental hygiene legal service. Upon receipt of such application, the court may, on its own motion, conduct a hearing to determine whether the defendant has a dangerous mental disorder, and it must conduct such hearing if a demand therefor is made by the district attorney, the defendant, counsel for the defendant, or the mental hygiene legal service within ten days from the date that notice of the application was given to them. If such a hearing is held on an application for retention, the commissioner must establish to the satisfaction of the court that the defendant has a dangerous mental disorder or is mentally ill. The district attorney shall be entitled to appear and present evidence at such hearing. If such a hearing is held on an application for release, the district attorney must establish to the satisfaction of the court that the defendant has a dangerous mental disorder or is mentally ill. If the court finds that the defendant has a dangerous mental disorder it must issue a second retention order. If the court finds that the defendant is mentally ill but does not have a dangerous mental disorder, it must issue a second retention order and, pursuant to subdivision eleven of this section, a transfer order and an order of conditions. If the court finds that the defendant does not have a dangerous mental disorder and is not mentally ill, it must issue a release order and an order of conditions pursuant to subdivision twelve of this section. When a defendant is in the custody of the commissioner prior to the expiration of the period prescribed in a second retention order, the procedures set forth in this subdivision for the issuance of a second retention order shall govern the application for and the issuance of any subsequent retention order. 10. Furlough order. The commissioner may apply for a furlough order, pursuant to this subdivision, when a defendant is in his custody pursuant to a commitment order, recommitment order, or retention order and the commissioner is of the view that, consistent with the public safety and welfare of the community and the defendant, the clinical condition of the defendant warrants a granting of the privileges authorized by a furlough order. The application for a furlough order may be made to the court that issued the commitment order, or to a superior court in the county where the secure facility is located. The commissioner must give ten days written notice to the district attorney, the defendant, counsel for the defendant, and the mental hygiene legal service. Upon receipt of such application, the court may, on its own motion, conduct a hearing to determine whether the application should be granted, and must conduct such hearing if a demand therefor is made by the district attorney. If the court finds that the issuance of a furlough order is consistent with the public safety and welfare of the community and the defendant, and that the clinical condition of the defendant warrants a granting of the privileges authorized by a furlough order, the court must grant the application and issue a furlough order containing any terms and conditions that the court deems necessary or appropriate. If the defendant fails to return to the secure facility at the time specified in the furlough order, then, for purposes of subdivision nineteen of this section, he shall be deemed to have escaped. 11. Transfer order and order of conditions. The commissioner may apply for a transfer order, pursuant to this subdivision, when a defendant is in his custody pursuant to a retention order or a recommitment order, and the commissioner is of the view that the defendant does not have a dangerous mental disorder or that, consistent with the public safety and welfare of the community and the defendant, the clinical condition of the defendant warrants his transfer from a secure facility to a non-secure facility under the jurisdiction of the commissioner or to any non-secure facility designated by the commissioner. The application for a transfer order may be made to the court that issued the order under which the defendant is then in custody, or to a superior court in the county where the secure facility is located. The commissioner must give ten days written notice to the district attorney, the defendant, counsel for the defendant, and the mental hygiene legal service. Upon receipt of such application, the court may, on its own motion, conduct a hearing to determine whether the application should be granted, and must conduct such hearing if the demand therefor is made by the district attorney. At such hearing, the district attorney must establish to the satisfaction of the court that the defendant has a dangerous mental disorder or that the issuance of a transfer order is inconsistent with the public safety and welfare of the community. The court must grant the application and issue a transfer order if the court finds that the defendant does not have a dangerous mental disorder, or if the court finds that the issuance of a transfer order is consistent

with the public safety and welfare of the community and the defendant and that the clinical condition of the defendant, warrants his transfer from a secure facility to a non-secure facility. A court must also issue a transfer order when, in connection with an application for a first retention order pursuant to subdivision eight of this section or a second or subsequent retention order pursuant to subdivision nine of this section, it finds that a defendant is mentally ill but does not have a dangerous mental disorder. Whenever a court issues a transfer order it must also issue an order of conditions. 12. Release order and order of conditions. The commissioner may apply for a release order, pursuant to this subdivision, when a defendant is in his custody pursuant to a retention order or recommitment order, and the commissioner is of the view that the defendant no longer has a dangerous mental disorder and is no longer mentally ill. The application for a release order may be made to the court that issued the order under which the defendant is then in custody, or to a superior court in the county where the facility is located. The application must contain a description of the defendant's current mental condition, the past course of treatment, a history of the defendant's conduct subsequent to his commitment, a written service plan for continued treatment which shall include the information specified in subdivision (g) of section 29.15 of the mental hygiene law, and a detailed statement of the extent to which supervision of the defendant after release is proposed. The commissioner must give ten days written notice to the district attorney, the defendant, counsel for the defendant, and the mental hygiene legal service. Upon receipt of such application, the court must promptly conduct a hearing to determine the defendant's present mental condition. At such hearing, the district attorney must establish to the satisfaction of the court that the defendant has a dangerous mental disorder or is mentally ill. If the court finds that the defendant has a dangerous mental disorder, it must deny the application for a release order. If the court finds that the defendant does not have a dangerous mental disorder but is mentally ill, it must issue a transfer order pursuant to subdivision eleven of this section if the defendant is then confined in a secure facility. If the court finds that the defendant does not have a dangerous mental disorder and is not mentally ill, it must grant the application and issue a release order. A court must also issue a release order when, in connection with an application for a first retention order pursuant to subdivision eight of this section or a second or subsequent retention order pursuant to subdivision nine of this section, it finds that the defendant does not have a dangerous mental disorder and is not mentally ill. Whenever a court issues a release order it must also issue an order of conditions. If the court has previously issued a transfer order and an order of conditions, it must issue a new order of conditions upon issuing a release order. The order of conditions issued in conjunction with a release order shall incorporate a written service plan prepared by a psychiatrist familiar with the defendant's case history and approved by the court, and shall contain any conditions that the court determines to be reasonably necessary or appropriate. It shall be the responsibility of the commissioner to determine that such defendant is receiving the services specified in the written service plan and is complying with any conditions specified in such plan and the order of conditions. 13. Discharge order. The commissioner may apply for a discharge order, pursuant to this subdivision, when a defendant has been continuously on an out-patient status for three years or more pursuant to a release order, and the commissioner is of the view that the defendant no longer has a dangerous mental disorder and is no longer mentally ill and that the issuance of a discharge order is consistent with the public safety and welfare of the community and the defendant. The application for a discharge order may be made to the court that issued the release order, or to a superior court in the county where the defendant is then residing. The commissioner must give ten days written notice to the district attorney, the defendant, counsel for the defendant, and the mental hygiene legal service. Upon receipt of such application, the court may, on its own motion, conduct a hearing to determine whether the application should be granted, and must conduct such hearing if a demand therefor is made by the district attorney. The court must grant the application and issue a discharge order if the court finds that the defendant has been continuously on an out-patient status for three years or more, that he does not have a dangerous mental disorder and is not mentally ill, and that the issuance of the discharge order is consistent with the public safety and welfare of the community and the defendant. 14. Recommitment order. At any time during the period covered by an order of conditions an application may be made by the commissioner or the district attorney to the court that issued such order, or to a superior court in the county where the defendant is then residing, for a recommitment order when the applicant is of the view that the defendant has a dangerous mental disorder. The applicant must give written notice of the application to the defendant, counsel for the defendant, and the mental hygiene legal service, and if the applicant is the commissioner he must give such notice to the district attorney or if the applicant is the district attorney he must give such notice to the commissioner. Upon receipt of such application the court must order the defendant to appear before it for a hearing to determine if the defendant has a dangerous mental disorder. Such order may be in the form of a written notice, specifying the time and place of appearance, served personally upon the defendant, or mailed to his last known address, as the court may direct. If the defendant fails to appear in court as directed, the court may issue a warrant to an appropriate peace officer directing him to take the defendant into custody and bring him before the court. In such circumstance, the court may direct that the defendant be confined in an appropriate institution located near the place where the court sits. The court must conduct a hearing to determine whether the defendant has a dangerous mental disorder. At such hearing, the applicant, whether he be the commissioner or the district attorney must establish to the satisfaction of the court that the defendant has a dangerous mental disorder. If the applicant is the commissioner, the district attorney shall be entitled to appear and present evidence at such hearing; if the applicant is the district attorney, the commissioner shall be entitled to appear and present evidence at such hearing. If the court finds that the defendant has a dangerous mental disorder, it must issue a recommitment order. When a defendant is in the custody of the commissioner pursuant to a recommitment order, the procedures set forth in subdivisions eight and nine of this section for the issuance of retention orders shall govern the application for and the issuance of a first retention order, a second retention order, and subsequent retention orders. 15. Designation of psychiatric examiners. If, at any hearing conducted under this section to determine the defendant's present mental condition, the court is not satisfied with the findings of the psychiatric examiners, the court may direct the commissioner to designate one or more additional psychiatric examiners to conduct an

examination of the defendant and submit a report of their findings. In addition, the court may on its own motion, or upon request of a party, may designate one or more psychiatric examiners to examine the defendant and submit a report of their findings. The district attorney may apply to the court for an order directing that the defendant submit to an examination by a psychiatric examiner designated by the district attorney, and such psychiatric examiner may testify at the hearing. 16. Rehearing and review. Any defendant who is in the custody of the commissioner pursuant to a commitment order, a retention order, or a recommitment order, if dissatisfied with such order, may, within thirty days after the making of such order, obtain a rehearing and review of the proceedings and of such order in accordance with the provisions of section 9.35 or 15.35 of the mental hygiene law. 17. Rights of defendants. Subject to the limitations and provisions of this section, a defendant committed to the custody of the commissioner pursuant to this section shall have the rights granted to patients under the mental hygiene law. 18. Notwithstanding any other provision of law, no person confined by reason of a commitment order, recommitment order or retention order to a secure facility may be discharged or released unless the commissioner shall deliver written notice, at least four days excluding Saturdays, Sundays and holidays, in advance of such discharge or release to all of the following: (a) the district attorney. (b) the police department having jurisdiction of the area to which the defendant is to be discharged or released. (c) any other person the court may designate. The notices required by this subdivision shall be given by the facility staff physician who was treating the defendant or, if unavailable, by the defendant's treatment team leader, but if neither is immediately available, notice must be given by some other member of the clinical staff of the facility. Such notice must be given by any means reasonably calculated to give prompt actual notice. 19. Escape from custody; notice requirements. If a defendant is in the custody of the commissioner pursuant to an order issued under this section, and such defendant escapes from custody, immediate notice of such escape shall be given by the department facility staff to: (a) the district attorney, (b) the superintendent of state police, (c) the sheriff of the county where the escape occurred, (d) the police department having jurisdiction of the area where the escape occurred, (e) any person the facility staff believes to be in danger, and (f) any law enforcement agency and any person the facility staff believes would be able to apprise such endangered person that the defendant has escaped from the facility. Such notice shall be given as soon as the facility staff know that the defendant has escaped from the facility and shall include such information as will adequately identify the defendant and the person or persons believed to be in danger and the nature of the danger. The notices required by this subdivision shall be given by the facility staff physician who was treating the defendant or, if unavailable, by the defendant's treatment team leader, but if neither is immediately available, notice must be given by some other member of the clinical staff of the facility. Such notice must be given by any means reasonably calculated to give prompt actual notice. The defendant may be apprehended, restrained, transported to, and returned to the facility from which he escaped by any peace officer, and it shall be the duty of the officer to assist any representative of the commissioner to take the defendant into custody upon the request of such representative. 20. Required affidavit. No application may be made by the commissioner under this section without an accompanying affidavit from at least one psychiatric examiner supportive of relief requested in the application, which affidavit shall be served on all parties entitled to receive the notice of application. Such affidavit shall set forth the defendant's clinical diagnosis, a detailed analysis of his or her mental condition which caused the psychiatric examiner to formulate an opinion, and the opinion of the psychiatric examiner with respect to the defendant. Any application submitted without the required affidavit shall be dismissed by the court. 21. Appeals. (a) A party to proceedings conducted in accordance with the provisions of this section may take an appeal to an intermediate appellate court by permission of the intermediate appellate court as follows: (i) the commissioner may appeal from any release order, retention order, transfer order, discharge order, order of conditions, or recommitment order, for which he has not applied; (ii) a defendant, or the mental hygiene legal service on his or her behalf, may appeal from any commitment order, retention order, recommitment order, or, if the defendant has obtained a rehearing and review of any such order pursuant to subdivision sixteen of this section, from an order, not otherwise appealable as of right, issued in accordance with the provisions of section 9.35 or 15.35 of the mental hygiene law authorizing continued retention under the original order, provided, however, that a defendant who takes an appeal from a commitment order, retention order, or recommitment order may not subsequently obtain a rehearing and review of such order pursuant to subdivision sixteen of this section; (iii) the district attorney may appeal from any release order, transfer order, discharge order, order of conditions, furlough order, or order denying an application for a recommitment order which he opposed. (b) An aggrieved party may appeal from a final order of the intermediate appellate court to the court of appeals by permission of the intermediate appellate court granted before application to the court of appeals, or by permission of the court of appeals upon refusal by the intermediate appellate court or upon direct application. (c) An appeal taken under this subdivision shall be deemed civil in nature, and shall be governed by the laws and rules applicable to civil appeals; provided, however, that a stay of the order appealed from must be obtained in accordance with the provisions of paragraph (d) hereof. (d) The court from or to which an appeal is taken may stay all proceedings to enforce the order appealed from pending an appeal or determination on a motion for permission to appeal, or may grant a limited stay, except that only the court to which an appeal is taken may vacate, limit, or modify a stay previously granted. If the order appealed from is affirmed or modified, the stay shall continue for five days after service upon the appellant of the order of affirmance or modification with notice of its entry in the court to which the appeal was taken. If a motion is made for permission to appeal from such an order, before the expiration of the five days, the stay, or any other stay granted pending determination of the motion for permission to appeal, shall: (i) if the motion is granted, continue until five days after the appeal is determined; or (ii) if the motion is denied, continue until five days after the movant is served with the order of denial with notice of its entry. 22. Any special order of conditions issued pursuant to subparagraph (i) or (ii) of paragraph (o) of subdivision one of this section shall bear in a conspicuous manner the term "special order of conditions" and a copy shall be filed by the clerk of the court with the sheriff's office in the county in which anyone intended to be protected by such special order resides, or, if anyone intended to be protected by

such special order resides within a city, with the police department of such city. The absence of language specifying that the order is a "special order of conditions" shall not affect the validity of such order. A copy of such special order of conditions may from time to time be filed by the clerk of the court with any other police department or sheriff's office having jurisdiction of the residence, work place, or school of anyone intended to be protected by such special order. A copy of such special order may also be filed by anyone intended to be protected by such provisions at the appropriate police department or sheriff's office having jurisdiction. Any subsequent amendment or revocation of such special order may be filed in the same manner as provided in this subdivision. Such special order of conditions shall plainly state the date that the order expires.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 330 - Proceedings From Verdict to Sentence330.25 - Removal After Verdict.

1. Where a defendant is a juvenile offender or an adolescent offender who does not stand convicted of murder in the second degree, upon motion and with the consent of the district attorney, the action may be removed to the family court in the interests of justice pursuant to article seven hundred twenty-five of this chapter notwithstanding the verdict. 2. If the district attorney consents to the motion for removal pursuant to this section, he shall file a subscribed memorandum with the court setting forth (1) a recommendation that the interests of justice would best be served by removal of the action to the family court; and (2) if the conviction is of an offense set forth in paragraph (b) of subdivision one of section 722.22 of this chapter, specific factors, one or more of which reasonably support the recommendation, showing, (i) mitigating circumstances that bear directly upon the manner in which the crime was committed, or (ii) where the defendant was not the sole participant in the crime, that the defendant's participation was relatively minor although not so minor as to constitute a defense to prosecution, or (iii) where the juvenile offender has no previous adjudications of having committed a designated felony act, as defined in subdivision eight of section 301.2 of the family court act, regardless of the age of the offender at the time of commission of the act, that the criminal act was not part of a pattern of criminal behavior and, in view of the history of the offender, is not likely to be repeated. 3. If the court is of the opinion, based upon the specific factors set forth in the district attorney's memorandum, that the interests of justice would best be served by removal of the action to the family court, the verdict shall be set aside and a plea of guilty of a crime or act for which the defendant is not criminally responsible may be entered pursuant to subdivision three or four of section 220.10 of this chapter. Upon accepting any such plea, the court must specify upon the record the portion or portions of the district attorney's statement the court is relying upon as the basis of its opinion and that it believes the interests of justice would best be served by removal of the proceeding to the family court. Such plea shall then be deemed to be a juvenile delinquency fact determination and the court upon entry thereof must direct that the action be removed to the family court in accordance with the provisions of article seven hundred twenty-five of this chapter.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 330 - Proceedings From Verdict to Sentence330.30 - Motion to Set Aside Verdict; Grounds For.

At any time after rendition of a verdict of guilty and before sentence, the court may, upon motion of the defendant, set aside or modify the verdict or any part thereof upon the following grounds: 1. Any ground appearing in the record which, if raised upon an appeal from a prospective judgment of conviction, would require a reversal or modification of the judgment as a matter of law by an appellate court. 2. That during the trial there occurred, out of the presence of the court, improper conduct by a juror, or improper conduct by another person in relation to a juror, which may have affected a substantial right of the defendant and which was not known to the defendant prior to the rendition of the verdict; or 3. That new evidence has been discovered since the trial which could not have been produced by the defendant at the trial even with due diligence on his part and which is of such character as to create a probability that had such evidence been received at the trial the verdict would have been more favorable to the defendant.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 330 - Proceedings From Verdict to Sentence330.40 - Motion to Set Aside Verdict; Procedure.

1. A motion to set aside a verdict based upon a ground specified in subdivision one of section 330.30 need not be in writing, but the people must be given reasonable notice thereof and an opportunity to appear in opposition thereto. 2. A motion to set aside a verdict based upon a ground specified in subdivisions two and three of section 330.30 must be made and determined as follows:(a) The motion must be in writing and upon reasonable notice to the people. The moving papers must contain sworn allegations, whether by the defendant or by another person or persons, of the occurrence or existence of all facts essential to support the motion. Such sworn allegations may be based upon personal knowledge of the affiant or upon information and belief, provided that in the latter event the affiant must state the sources of such information and the grounds of such belief;(b) The people may file with the court, and in such case must serve a copy thereof upon the defendant or his counsel, an answer denying or admitting any or all of the allegations of the moving papers;(c) After all papers of both parties have been filed, the court must consider the same and, if the motion is determinable pursuant to paragraphs (d) or (e), must or may, as therein provided, determine the motion without holding a hearing to resolve questions of fact;(d) The court must grant the motion if:(i) The moving papers allege a ground constituting legal basis for the motion; and(ii) Such papers contain sworn allegations of all facts essential to support such ground; and(iii) All the essential facts are conceded by the people to be true.(e) The court may deny the motion if:(i) The moving papers do not allege any ground constituting

legal basis for the motion; or(ii) The moving papers do not contain sworn allegations of all facts essential to support the motion.(f) If the court does not determine the motion pursuant to paragraphs (d) or (e), it must conduct a hearing and make findings of fact essential to the determination thereof;(g) Upon such a hearing, the defendant has the burden of proving by a preponderance of the evidence every fact essential to support the motion. (a) The motion must be in writing and upon reasonable notice to the people. The moving papers must contain sworn allegations, whether by the defendant or by another person or persons, of the occurrence or existence of all facts essential to support the motion. Such sworn allegations may be based upon personal knowledge of the affiant or upon information and belief, provided that in the latter event the affiant must state the sources of such information and the grounds of such belief; (b) The people may file with the court, and in such case must serve a copy thereof upon the defendant or his counsel, an answer denying or admitting any or all of the allegations of the moving papers; (c) After all papers of both parties have been filed, the court must consider the same and, if the motion is determinable pursuant to paragraphs (d) or (e), must or may, as therein provided, determine the motion without holding a hearing to resolve questions of fact; (d) The court must grant the motion if: (i) The moving papers allege a ground constituting legal basis for the motion; and (ii) Such papers contain sworn allegations of all facts essential to support such ground; and (iii) All the essential facts are conceded by the people to be true. (e) The court may deny the motion if: (i) The moving papers do not allege any ground constituting legal basis for the motion; or (ii) The moving papers do not contain sworn allegations of all facts essential to support the motion. (f) If the court does not determine the motion pursuant to paragraphs (d) or (e), it must conduct a hearing and make findings of fact essential to the determination thereof; (g) Upon such a hearing, the defendant has the burden of proving by a preponderance of the evidence every fact essential to support the motion.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle J - Prosecution of Indictments in Superior Courts--Plea to SentenceArticle 330 - Proceedings From Verdict to Sentence330.50 - Motion to Set Aside Verdict; Order Granting Motion.

1. Upon setting aside or modifying a verdict or a part thereof upon a ground specified in subdivision one of section 330.30, the court must take the same action as the appropriate appellate court would be required to take upon reversing or modifying a judgment upon the particular ground in issue. 2. Upon setting aside a verdict upon a ground specified in subdivision two of section 330.30, the court must order a new trial. 3. Upon setting aside a verdict upon a ground specified in subdivision three of section 330.30, the court must, except as otherwise provided in this subdivision, order a new trial. If a verdict is set aside upon the ground that had the newly discovered evidence in question been received at the trial the verdict probably would have been more favorable to the defendant in that the conviction probably would have been for a lesser offense than the one contained in the verdict, the court may either (a) set aside such verdict or (b) with the consent of the people modify such verdict by reducing it to one of conviction of such lesser offense. 4. Upon a new trial resulting from an order setting aside a verdict, the indictment is deemed to contain all the counts and to charge all the offenses which it contained and charged at the time the previous trial was commenced, regardless of whether any count was dismissed by the court in the course of such trial, except those upon or of which the defendant was acquitted or is deemed to have been acquitted.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 340 - Pre-Trail Proceedings340.10 - Definition of Terms.

The following definitions are applicable to this title: 1. "Information," in addition to its meaning as defined in subdivision one of section 100.10, includes (a) a simplified information and (b) a prosecutor's information and (c) a misdemeanor complaint upon which the defendant, by a waiver executed pursuant to subdivision three of section 170.65, has consented to be prosecuted. 2. "Single judge trial" means a trial in a local criminal court conducted by one judge sitting without a jury. 3. "Jury trial" means a trial in a local criminal court conducted by one judge sitting with a jury.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 340 - Pre-Trail Proceedings340.20 - The Plea.

1. Except as provided in subdivisions two and three, the provisions of article two hundred twenty, governing the kinds of pleas to indictments which may be entered and related matters, are, to the extent that they can be so applied, applicable to pleas to informations, and changes of pleas thereto, in local criminal courts. 2. A plea to an information, other than one against a corporation, must be entered in the following manner:(a) Subject to the provisions of paragraph (b), a plea to an information must be entered orally by the defendant in person unless the court permits entry thereof by counsel upon the filing by him of a written and subscribed statement by the defendant declaring that he waives his right to plead to the information in person and authorizing his attorney to enter a plea on his behalf as set forth in the authorization.(b) If the only offense or offenses charged are traffic infractions, the procedure provided in sections eighteen hundred five, eighteen hundred six and eighteen hundred seven of the vehicle and traffic law, relating to pleas in such cases, is, when appropriate, applicable and controlling.3. A plea to an information against a corporation must be entered by counsel.4. When a sentence is agreed upon by the prosecutor and a defendant as a predicate to entry of a plea of guilty, the court or the prosecutor must orally on the record, or in writing filed with the court, state the sentence agreed upon as a condition of such plea. (a) Subject to the provisions of paragraph (b), a plea to an information must be entered orally by the defendant in person unless the court permits entry thereof by counsel upon the filing by him of a written and subscribed statement by the defendant declaring that he waives his right to plead to the information in person and authorizing his attorney to enter a plea on his behalf as set forth in the authorization. (b) If the only offense or offenses charged are traffic infractions, the procedure

provided in sections eighteen hundred five, eighteen hundred six and eighteen hundred seven of the vehicle and traffic law, relating to pleas in such cases, is, when appropriate, applicable and controlling. 3. A plea to an information against a corporation must be entered by counsel. 4. When a sentence is agreed upon by the prosecutor and a defendant as a predicate to entry of a plea of guilty, the court or the prosecutor must orally on the record, or in writing filed with the court, state the sentence agreed upon as a condition of such plea.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 340 - Pre-Trail Proceedings340.30 - Pre-Trial Discovery and Notices of Defenses.

The provisions of article two hundred forty-five of this part, concerning pre-trial discovery by a defendant under indictment in a superior court, and article two hundred fifty of this part, concerning pre-trial notice to the people by a defendant under indictment in a superior court who intends to advance a trial defense of mental disease or defect or of alibi, apply to a prosecution of an information in a local criminal court.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 340 - Pre-Trail Proceedings340.40 - Modes of Trial.

1. Except as otherwise provided in this section, a trial of an information in a local criminal court must be a single judge trial. 2. In any local criminal court a defendant who has entered a plea of not guilty to an information which charges a misdemeanor must be accorded a jury trial, conducted pursuant to article three hundred sixty. The defendant may at any time before trial waive a jury trial in the manner prescribed in subdivision two of section 320.10 of this chapter, and consent to a single judge trial. 3. A defendant entitled to a jury trial pursuant to subdivision two of this section, shall be so entitled even though the information also charges an offense for which he is otherwise not entitled to a jury trial. In such case, the defendant is not entitled both to a jury trial and a separate single judge trial and the court may not order separate trials. 4. Notwithstanding any other provision of law, in any local criminal court the trial of a person who is an eligible youth within the meaning of the youthful offender procedure set forth in article seven hundred twenty of this chapter and who has not prior to commencement of the trial been convicted of a crime or adjudicated a youthful offender must be a single judge trial.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 340 - Pre-Trail Proceedings340.50 - Defendant's Presence at Trial.

1. Except as provided in subdivision two or three, a defendant must be personally present during the trial. 2. On motion of a defendant represented by counsel, the court may, in the absence of an objection by the people, issue an order dispensing with the requirement that the defendant be personally present at trial. Such an order may be made only upon the filing of a written and subscribed statement by the defendant declaring that he waives his right to be personally present at the trial and authorizing his attorney to conduct his defense. 3. A defendant who conducts himself in so disorderly and disruptive a manner that his trial cannot be carried on with him in the courtroom may be removed from the courtroom if, after he has been warned by the court that he will be removed if he continues such conduct, he continues to engage in such conduct.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 350 - Non-Jury Trials350.10 - Conduct of Single Judge Trial.

1. A single judge trial of an information in a local criminal court must be conducted pursuant to this section. 2. The court, in addition to determining all questions of law, is the exclusive trier of all issues of fact and must render a verdict. 3. The order of the trial must be as follows:(a) The court may in its discretion permit the parties to deliver opening addresses. If the court grants such permission to one party, it must grant it to the other also. If both parties deliver opening addresses, the people's address must be delivered first.(b) The order in which evidence must or may be offered by the respective parties is the same as that applicable to a jury trial of an indictment as prescribed in subdivisions five, six and seven of section 260.30.(c) The court may in its discretion permit the parties to deliver summations. If the court grants such permission to one party, it must grant permission to the other also. If both parties deliver summations, the defendant's summation must be delivered first.(d) The court must then consider the case and render a verdict.4. The provisions governing motion practice and general procedure with respect to a jury trial of an indictment are, wherever appropriate, applicable to a non-jury trial of an information.5. If the information contains more than one count, the court must render a verdict upon each count not previously dismissed or must otherwise state upon the record its disposition of each such count. A verdict which does not so dispose of each count constitutes a verdict of not guilty with respect to each undisposed of count.6. In rendering a verdict of guilty upon a count charging a misdemeanor, the court may find the defendant guilty of such misdemeanor if it is established by legally sufficient trial evidence, or guilty of any lesser included offense which is established by legally sufficient trial evidence. (a) The court may in its discretion permit the parties to deliver opening addresses. If the court grants such permission to one party, it must grant it to the other also. If both parties deliver opening addresses, the people's address must be delivered first. (b) The order in which evidence must or may be offered by the respective parties is the same as that applicable to a jury trial of an indictment as prescribed in subdivisions five, six and seven of section 260.30. (c) The court may in its discretion permit the parties to deliver summations. If the court grants such permission to one party, it must grant permission to the other also. If both parties

deliver summations, the defendant's summation must be delivered first. (d) The court must then consider the case and render a verdict. 4. The provisions governing motion practice and general procedure with respect to a jury trial of an indictment are, wherever appropriate, applicable to a non-jury trial of an information. 5. If the information contains more than one count, the court must render a verdict upon each count not previously dismissed or must otherwise state upon the record its disposition of each such count. A verdict which does not so dispose of each count constitutes a verdict of not guilty with respect to each undisposed of count. 6. In rendering a verdict of guilty upon a count charging a misdemeanor, the court may find the defendant guilty of such misdemeanor if it is established by legally sufficient trial evidence, or guilty of any lesser included offense which is established by legally sufficient trial evidence.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 350 - Non-Jury Trials350.20 - Trial by Judicial Hearing Officer.

1. Notwithstanding any provision of section 350.10 of this article, in any case where a single judge trial of an information in a local criminal court is authorized or required, the court may, upon agreement of the parties, assign a judicial hearing officer to conduct the trial. Where such assignment is made, the judicial hearing officer shall entertain the case in the same manner as a court and shall:(a) determine all questions of law;(b) act as the exclusive trier of all issues of fact; and(c) render a verdict.2. In the discharge of this responsibility, the judicial hearing officer shall have the same powers as a judge of the court in which the proceeding is pending. The rules of evidence shall be applicable at a trial conducted by a judicial hearing officer.3. Any action taken by a judicial hearing officer in the conduct of a trial shall be deemed the action of the court in which the proceeding is pending.4. This section shall not apply where the single judge trial is of an information at least one count of which charges a class A misdemeanor.5. Notwithstanding the provisions of subdivision one of this section, for all proceedings before the district court of Nassau county the administrative judge of Nassau county may, and for all proceedings before the district court of Suffolk county, the administrative judge of Suffolk county may, without the consent of the parties, assign matters involving traffic and parking infractions except those described in paragraphs (a), (b), (c), (d), (e) and (f) of subdivision two of section three hundred seventy-one of the general municipal law to a judicial hearing officer in accordance with the provisions of section sixteen hundred ninety of the vehicle and traffic law and for all proceedings before the Buffalo city court the administrative judge of the eighth judicial district may, without the consent of the parties, assign matters involving traffic infractions except those described in paragraphs (a), (b), (c), (d), (e), (f) and (g) of subdivision two-a of section three hundred seventy-one of the general municipal law to a judicial hearing officer in accordance with the provisions of section sixteen hundred ninety of the vehicle and traffic law and for all proceedings before the Rochester city court the administrative judge of the seventh judicial district may, without the consent of the parties, assign matters involving traffic infractions except those described in paragraphs (a), (b), (c), (d), (e), (f) and (g) of subdivision two-b of section three hundred seventy-one of the general municipal law to a judicial hearing officer in accordance with the provisions of section sixteen hundred ninety of the vehicle and traffic law. (a) determine all questions of law; (b) act as the exclusive trier of all issues of fact; and (c) render a verdict. 2. In the discharge of this responsibility, the judicial hearing officer shall have the same powers as a judge of the court in which the proceeding is pending. The rules of evidence shall be applicable at a trial conducted by a judicial hearing officer. 3. Any action taken by a judicial hearing officer in the conduct of a trial shall be deemed the action of the court in which the proceeding is pending. 4. This section shall not apply where the single judge trial is of an information at least one count of which charges a class A misdemeanor. 5. Notwithstanding the provisions of subdivision one of this section, for all proceedings before the district court of Nassau county the administrative judge of Nassau county may, and for all proceedings before the district court of Suffolk county, the administrative judge of Suffolk county may, without the consent of the parties, assign matters involving traffic and parking infractions except those described in paragraphs (a), (b), (c), (d), (e) and (f) of subdivision two of section three hundred seventy-one of the general municipal law to a judicial hearing officer in accordance with the provisions of section sixteen hundred ninety of the vehicle and traffic law and for all proceedings before the Buffalo city court the administrative judge of the eighth judicial district may, without the consent of the parties, assign matters involving traffic infractions except those described in paragraphs (a), (b), (c), (d), (e), (f) and (g) of subdivision two-a of section three hundred seventy-one of the general municipal law to a judicial hearing officer in accordance with the provisions of section sixteen hundred ninety of the vehicle and traffic law and for all proceedings before the Rochester city court the administrative judge of the seventh judicial district may, without the consent of the parties, assign matters involving traffic infractions except those described in paragraphs (a), (b), (c), (d), (e), (f) and (g) of subdivision two-b of section three hundred seventy-one of the general municipal law to a judicial hearing officer in accordance with the provisions of section sixteen hundred ninety of the vehicle and traffic law.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 360 - Jury Trial360.05 - Jury Trial; Order of Trial.

The provisions of section 260.30, governing the order of proceedings of a jury trial of an indictment in a superior court, are applicable to a jury trial of an information in a local criminal court.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 360 - Jury Trial360.10 - Trial Jury; Formation in General.

1. A trial jury consists of six jurors, but "alternate jurors" may be selected and sworn pursuant to section 360.35. 2. The panel from which the jury is drawn is formed and selected as prescribed in the uniform district court act, uniform city court act, and uniform

justice court act. In the New York city criminal court the panel from which the jury is drawn is formed and selected in the same manner as is prescribed for the formation and selection of a panel in the supreme court in counties within cities having a population of one million or more.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 360 - Jury Trial360.15 - Trial Jury; Challenge to the Panel.

1. A challenge to the panel is an objection made to the entire panel of prospective trial jurors returned for the trial of the action and may be taken to such panel or to any additional panel that may be ordered by the court. Such a challenge may be made only by the defendant and only on the ground that there has been such a departure from the requirements of the appropriate law in the drawing or return of the panel as to result in substantial prejudice to the defendant. 2. A challenge to the panel must be made before the selection of the jury commences, and, if it is not, such challenge is deemed to have been waived. Such challenge must be made in writing setting forth the facts constituting the ground of challenge. If such facts are denied by the people, witnesses may be called and examined by either party. All issues of fact and questions of law arising on the challenge must be tried and determined by the court. If a challenge to the panel is allowed, the court must discharge that panel and order the return of another panel of prospective trial jurors.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 360 - Jury Trial360.20 - Trial Jury; Examination of Prospective Jurors; Challenges Generally.

generally. If no challenge to the panel is made as prescribed by section 360.15, or if such challenge is made and disallowed, the court must direct that the names of not less than six members of the panel be drawn and called. Such persons must take their places in the jury box and must be immediately sworn to answer truthfully questions asked them relative to their qualifications to serve as jurors in the action. The procedural rules prescribed in section 270.15 with respect to the examination of the prospective jurors and to challenges are also applicable to the selection of a trial jury in a local criminal court.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 360 - Jury Trial360.25 - Trial Jury; Challenge for Cause of an Individual Juror.

1. A challenge for cause is an objection to a prospective member of the jury and may be made only on the ground that:(a) He does not have the qualifications required by the judiciary law; or(b) He has a state of mind that is likely to preclude him from rendering an impartial verdict based upon the evidence adduced at the trial; or(c) He is related within the sixth degree by consanguinity or affinity to the defendant, or to the person allegedly injured by the crime charged, or to a prospective witness at the trial, or to counsel for the people or for the defendant; or that he is or was a party adverse to any such person in a civil action; or that he has complained against or been accused by any such person in a criminal action; or that he bears some other relationship to any such person of such nature that it is likely to preclude him from rendering an impartial verdict; or(d) He is to be a witness at the trial; or where a prosecutor's information was filed at the direction of a grand jury, he was a witness before the grand jury or at the preliminary hearing; or(e) He or she served on a trial jury in a prior civil or criminal action involving the same incident charged; or where a prosecutor's information was filed at the direction of a grand jury, he or she served on the grand jury which directed such filing.2. All issues of fact or questions of law arising on the challenge must be tried and determined by the court. The provisions of subdivision two of section 270.20 with respect to challenges are also applicable to the selection of a trial jury in a local criminal court. (a) He does not have the qualifications required by the judiciary law; or (b) He has a state of mind that is likely to preclude him from rendering an impartial verdict based upon the evidence adduced at the trial; or (c) He is related within the sixth degree by consanguinity or affinity to the defendant, or to the person allegedly injured by the crime charged, or to a prospective witness at the trial, or to counsel for the people or for the defendant; or that he is or was a party adverse to any such person in a civil action; or that he has complained against or been accused by any such person in a criminal action; or that he bears some other relationship to any such person of such nature that it is likely to preclude him from rendering an impartial verdict; or (d) He is to be a witness at the trial; or where a prosecutor's information was filed at the direction of a grand jury, he was a witness before the grand jury or at the preliminary hearing; or (e) He or she served on a trial jury in a prior civil or criminal action involving the same incident charged; or where a prosecutor's information was filed at the direction of a grand jury, he or she served on the grand jury which directed such filing. 2. All issues of fact or questions of law arising on the challenge must be tried and determined by the court. The provisions of subdivision two of section 270.20 with respect to challenges are also applicable to the selection of a trial jury in a local criminal court.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 360 - Jury Trial360.30 - Trial Jury; Peremptory Challenge of an Individaul Juror.

1. A peremptory challenge is an objection to a prospective juror for which no reason need be assigned. Upon any peremptory challenge, the court must exclude the person challenged from service. 2. Each party must be allowed three peremptory challenges.

When two or more defendants are tried jointly, such challenges are not multiplied by the number of defendants, but such defendants are to be treated as a single party. In any such case, a peremptory challenge by one or more defendants must be allowed if a majority of the defendants join in such challenge. Otherwise, it must be disallowed.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 360 - Jury Trial360.35 - Trial Jury; Alternate Juror.

1. Immediately after the last trial juror is sworn, the court may in its discretion direct the selection of either one or two additional jurors to be known as "alternate jurors." The alternate jurors must be drawn in the same manner, must have the same qualifications, must be subject to the same examination and challenges for cause and must take the same oath as the regular jurors. Whether or not a party has used its peremptory challenge in the selection of the trial jury, one peremptory challenge is authorized in the selection of the alternate jurors. 2. The provisions of section 270.35 with respect to alternate jurors are also applicable to a trial jury in a local criminal court.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 360 - Jury Trial360.40 - Trial Jury; Conduct of Jury Trial in General.

A jury trial of an information must be conducted generally in the same manner as a jury trial of an indictment, and the rules governing preliminary instructions by the court, supervision of the jury, motion practice and other procedural matters involved in the conduct of a jury trial of an indictment are, where appropriate, applicable to the conduct of a jury trial of an information.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 360 - Jury Trial360.45 - Court's Charge and Instructions; in General.

The general principles, prescribed in section 300.10, governing the court's charge to the jury and requests to charge upon a trial of an indictment, are applicable to a jury trial of an information in a local criminal court.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 360 - Jury Trial360.50 - Court's Submission of Information to Jury; Counts and Offenses to Be Submitted.

to be submitted. 1. The term definitions contained in section 300.30 are applicable to this section, except that the word "information" is to be substituted for the word "indictment" wherever the latter appears in said section 300.30. 2. The court may submit to the jury only those counts of an information remaining therein at the time of its charge which are supported by legally sufficient trial evidence, and every count not so supported should be dismissed by a trial order of dismissal. If the trial evidence is not legally sufficient to establish a misdemeanor charged in a particular count which the court would otherwise be required to submit pursuant to this section, but is legally sufficient to establish a lesser included offense, the court may submit such lesser included offense and, upon the people's request, must do so. In submitting a count charging a misdemeanor established by legally sufficient trial evidence, the court in its discretion may, in addition to submitting such misdemeanor, submit in the alternative any lesser included offense if there is a reasonable view of the evidence which would support a finding that the defendant committed such lesser offense but did not commit the misdemeanor charged. 3. If the information contains but one count, the court must submit such count. 4. If a multiple count information contains consecutive counts only, the court must submit every count thereof. 5. In any case where the information may be more complex by reason of concurrent counts or inconsistent counts or other factors indicated in subdivisions three, four and five of section 300.40, relating to multiple count indictments, the court, in its submission of such information to the jury, should, so far as practicable, be guided by the provisions of the said subdivisions of said section 300.40. 6. Notwithstanding any other provision of this section, the court is not required to submit to the jury any particular count of a multiple count information if the people consent that it not be submitted. 7. Every count not submitted to the jury is deemed to have been dismissed by the court. Where the court, over objection of the people, refuses to submit a count which is consecutive as to every count actually submitted, such count is deemed to have been dismissed by a trial order of dismissal even though no such order was expressly made by the court.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 360 - Jury Trial360.55 - Deliberation and Verdict of Jury.

The provisions of article three hundred ten, governing the deliberation and verdict of a jury upon a jury trial of an indictment in a superior court, are applicable to a jury trial of an information in a local criminal court.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 370 - Proceedings From Verdict to Sentence370.10 - Proceedings From Verdict to Sentence.

The provisions of article three hundred thirty, governing the proceedings from verdict to sentence in an action prosecuted by indictment in a superior court, are applicable to a prosecution by information in a local criminal court; provided, however, where a judicial hearing officer has conducted the trial pursuant to section 350.20 of this chapter, all references to a court therein shall be

deemed references to such judicial hearing officer.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 370 - Proceedings From Verdict to Sentence370.15 - Procedure for Determining Whether Certain Misdemeanor Crimes Are Serious Offenses Under the Penal Law.

are serious offenses under the penal law. 1. When a defendant has been charged with assault in the third degree, menacing in the third degree, menacing in the second degree, criminal obstruction of breathing or blood circulation, unlawful imprisonment in the second degree, coercion in the third degree, criminal tampering in the third degree, criminal contempt in the second degree, harassment in the first degree, aggravated harassment in the second degree, criminal trespass in the third degree, criminal trespass in the second degree, arson in the fifth degree, or attempt to commit any of the above-listed offenses, the people shall, at arraignment or no later than forty-five days after arraignment, serve on the defendant and file with the court a notice alleging that the defendant and the person alleged to be the victim of such crime were members of the same family or household as defined in subdivision one of section 530.11 of this chapter. 2. Such notice shall include the name of the person alleged to be the victim of such crime and shall specify the nature of the alleged relationship as set forth in subdivision one of section 530.11 of this chapter. Upon conviction of such offense, the court shall advise the defendant that he or she is entitled to a hearing solely on the allegation contained in the notice and, if necessary, an adjournment of the sentencing proceeding in order to prepare for such hearing, and that if such allegation is sustained, that determination and conviction will be reported to the division of criminal justice services. If such allegation is sustained, the court shall report the determination and conviction to the division of criminal justice services within three business days. 3. After having been advised by the court as provided in subdivision two of this section, the defendant may stipulate or admit, orally on the record or in writing, that he or she is related or situated to the victim of such crime in the manner described in subdivision one of this section. In such case, such relationship shall be deemed established. If the defendant denies that he or she is related or situated to the victim of the crime as alleged in the notice served by the people, or stands mute with respect to such allegation, then the people shall bear the burden to prove beyond a reasonable doubt that the defendant is related or situated to the victim in the manner alleged in the notice. The court may consider reliable hearsay evidence submitted by either party provided that it is relevant to the determination of the allegation. Facts previously proven at trial or elicited at the time of entry of a plea of guilty shall be deemed established beyond a reasonable doubt and shall not be relitigated. At the conclusion of the hearing, or upon such a stipulation or admission, as applicable, the court shall make a specific written determination with respect to such allegation.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle K - Prosecution of Informations in Local Criminal Courts-Plea to SentenceArticle 370 - Proceedings From Verdict to Sentence370.25 - Procedure for the Surrender of Firearms, Rifles and Shotguns Upon Judgment of Conviction for a Felony or a Serious Offense.

upon judgment of conviction for a felony or a serious offense. 1. Upon judgment of conviction for a felony or a serious offense, the court shall inquire of the defendant as to the existence of all firearms, rifles and shotguns he or she owns or possesses. The court shall order the immediate surrender, pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 of the penal law and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed by the defendant. 2. The court ordering the surrender of any firearms, rifles or shotguns as provided in this section shall immediately notify the duly constituted police authorities of the locality of such action and the division of state police at its office in the city of Albany. The court shall direct the authority receiving such surrendered firearms, rifles and shotguns to immediately notify the court of such surrender. 3. The disposition of any firearms, rifles or shotguns surrendered pursuant to this section shall be in accordance with the provisions of subdivision six of section 400.05 of the penal law. 4. The provisions of this section shall not be deemed to limit, restrict or otherwise impair the authority of the court to order and direct the surrender of any or all firearms, rifles and shotguns owned or possessed by a defendant pursuant to any other provision of law.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 380 - Sentencing in General380.10 - Applicability.

1. In general. The procedure prescribed by this title applies to sentencing for every offense, whether defined within or outside of the penal law; provided, however, where a judicial hearing officer has conducted the trial pursuant to section 350.20 of this chapter, all references to a court herein shall be deemed references to such judicial hearing officer. 2. Exception. Whenever a different or inconsistent procedure is provided by any other law in relation to sentencing for a non-criminal offense defined therein, such different or inconsistent procedure applies thereto.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 380 - Sentencing in General380.20 - Sentence Required.

The court must pronounce sentence in every case where a conviction is entered. If an accusatory instrument contains multiple counts and a conviction is entered on more than one count the court must pronounce sentence on each count.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 380 - Sentencing in General380.30 - Time for Pronouncing Sentence.

1. In general. Sentence must be pronounced without unreasonable delay. 2. Court to fix time. Upon entering a conviction the court must:(a) Fix a date for pronouncing sentence; or(b) Fix a date for one of the pre-sentence proceedings specified in article four hundred; or(c) Pronounce sentence on the date the conviction is entered in accordance with the provisions of subdivision three.* 2. Court to fix time. Upon entering a conviction the court must:(a) Fix a date for pronouncing sentence; or(b) Fix a date for one of the pre-sentence proceedings specified in article four hundred; or(c) Issue an order deferring sentencing in accordance with the provisions of subdivision three of this section; or(d) Pronounce sentence on the date the conviction is entered in accordance with the provisions of subdivision three. * NB Expired March 31, 19943. Sentence on date of conviction. The court may sentence the defendant at the time the conviction is entered if:(a) A pre-sentence report or a fingerprint report is not required; or(b) Where any such report is required, the report has been received.Provided, however, that the court may not pronounce sentence at such time without inquiring as to whether an adjournment is desired by the defendant. Where an adjournment is requested, the defendant must state the purpose thereof and the court may, in its discretion, allow a reasonable time.* 3. Deferral of sentencing. The court may defer sentencing of any offender convicted of a class C, D, or E felony offense under articles two hundred twenty and two hundred twenty-one of the penal law or any class D or E felony offense under articles one hundred fifteen, one hundred forty, one hundred forty-five, one hundred fifty-five, one hundred sixty-five, one hundred seventy and one hundred ninety of the penal law, to a specified date no later than twelve months from the entering of a conviction if:(a) The defendant stands convicted of his or her first felony offense; and(b) Pursuant to a plea agreement or the recommendation contained in the pre-sentence report the judge is inclined to impose an indeterminate term of imprisonment; and(c) The court believes that prompt institutional confinement is not necessary to preserve the safety and security of society, that the individual may benefit from the rehabilitative opportunities presented by the deferral of sentencing, that absent such a rehabilitative opportunity there is a likelihood that the court would impose an indeterminate sentence of imprisonment, and that upon satisfactory completion of the period of deferral the court would be more likely to impose a sentence other than an indeterminate sentence of imprisonment under article seventy of the penal law.In conjunction with a deferral of sentencing the court may require that the defendant observe specified conditions of conduct and participate in such rehabilitative programs as the court deems appropriate. Upon application of the people made at any time during the period of sentence deferral, or where the court believes that the defendant may have violated the terms or conditions of the deferral order, and the court determines that such a violation occurred, the court may terminate the deferral order and set a date for sentencing.Nothing contained in this subdivision shall limit the sentencing options which were available to the court prior to the issuance of an order pursuant to paragraph (c) of subdivision two of this section. * NB Expired March 31, 19944. Time for pre-sentence proceedings. The court may conduct one or more of the pre-sentence proceedings specified in article four hundred at any time before sentence is pronounced. Notice of any such proceeding issued after the date for pronouncing sentence has been fixed automatically adjourns the date for pronouncing sentence. In such case the court must fix a date for pronouncing sentence at the conclusion of such proceeding. (a) Fix a date for pronouncing sentence; or (b) Fix a date for one of the pre-sentence proceedings specified in article four hundred; or (c) Pronounce sentence on the date the conviction is entered in accordance with the provisions of subdivision three. * 2. Court to fix time. Upon entering a conviction the court must: (a) Fix a date for pronouncing sentence; or (b) Fix a date for one of the pre-sentence proceedings specified in article four hundred; or (c) Issue an order deferring sentencing in accordance with the provisions of subdivision three of this section; or (d) Pronounce sentence on the date the conviction is entered in accordance with the provisions of subdivision three. * NB Expired March 31, 1994 3. Sentence on date of conviction. The court may sentence the defendant at the time the conviction is entered if: (a) A pre-sentence report or a fingerprint report is not required; or (b) Where any such report is required, the report has been received. Provided, however, that the court may not pronounce sentence at such time without inquiring as to whether an adjournment is desired by the defendant. Where an adjournment is requested, the defendant must state the purpose thereof and the court may, in its discretion, allow a reasonable time. * 3. Deferral of sentencing. The court may defer sentencing of any offender convicted of a class C, D, or E felony offense under articles two hundred twenty and two hundred twenty-one of the penal law or any class D or E felony offense under articles one hundred fifteen, one hundred forty, one hundred forty-five, one hundred fifty-five, one hundred sixty-five, one hundred seventy and one hundred ninety of the penal law, to a specified date no later than twelve months from the entering of a conviction if: (a) The defendant stands convicted of his or her first felony offense; and (b) Pursuant to a plea agreement or the recommendation contained in the pre-sentence report the judge is inclined to impose an indeterminate term of imprisonment; and (c) The court believes that prompt institutional confinement is not necessary to preserve the safety and security of society, that the individual may benefit from the rehabilitative opportunities presented by the deferral of sentencing, that absent such a rehabilitative opportunity there is a likelihood that the court would impose an indeterminate sentence of imprisonment, and that upon satisfactory completion of the period of deferral the court would be more likely to impose a sentence other than an indeterminate sentence of imprisonment under article seventy of the penal law. In conjunction with a deferral of sentencing the court may require that the defendant observe specified conditions of conduct and participate in such rehabilitative programs as the court deems appropriate. Upon application of the people made at any time during the period of sentence deferral, or where the court believes that the defendant may have violated the terms or conditions of the deferral order, and the court determines that such a violation occurred, the court may terminate the deferral order and set a date for sentencing. Nothing contained in this subdivision shall limit the sentencing options which were available to the court prior to the issuance of an order pursuant to paragraph (c) of subdivision two of this section. * NB Expired March 31, 1994 4. Time for pre-sentence proceedings. The court may conduct one or more of the pre-sentence proceedings specified in article four hundred at any time before sentence is pronounced. Notice of any such proceeding issued after the date for pronouncing sentence has been fixed automatically adjourns the date for pronouncing sentence. In such case the court must fix a date for pronouncing sentence at

the conclusion of such proceeding.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 380 - Sentencing in General380.40 - Defendant's Presence at Sentencing.

1. In general. The defendant must be personally present at the time sentence is pronounced. 2. Exception. Where sentence is to be pronounced for a misdemeanor or for a petty offense, the court may, on motion of the defendant, dispense with the requirement that the defendant be personally present. Any such motion must be accompanied by a waiver, signed and acknowledged by the defendant, reciting the maximum sentence that may be imposed for the offense and stating that the defendant waives the right to be personally present at the time sentence is pronounced. 3. Corporations. Sentence may be pronounced against a corporation in the absence of counsel if counsel fails to appear on the date of sentence after reasonable notice thereof.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 380 - Sentencing in General380.50 - Statements at Time of Sentence.

1. At the time of pronouncing sentence, the court must accord the prosecutor an opportunity to make a statement with respect to any matter relevant to the question of sentence. The court must then accord counsel for the defendant an opportunity to speak on behalf of the defendant. The defendant also has the right to make a statement personally in his or her own behalf, and before pronouncing sentence the court must ask the defendant whether he or she wishes to make such a statement. 2. (a) For purposes of this section "victim" shall mean:(1) the victim as indicated in the accusatory instrument; or(2) if such victim is unable or unwilling to express himself or herself before the court or a person so mentally or physically disabled as to make it impracticable to appear in court in person or the victim is deceased, a member of the family of such victim, or the legal guardian or representative of the legal guardian of the victim where such guardian or representative has personal knowledge of and a relationship with the victim, unless the court finds that it would be inappropriate for such person to make a statement on behalf of the victim.(b) If the defendant is being sentenced for a felony the court, if requested at least ten days prior to the sentencing date, shall accord the victim the right to make a statement with regard to any matter relevant to the question of sentence. The court shall notify the defendant no less than seven days prior to sentencing of the victim's intent to make a statement at sentencing. If the defendant does not receive timely notice pursuant to this subdivision, the defendant may request a reasonable adjournment.(c) Any statement by the victim must precede any statement by counsel to the defendant or the defendant made pursuant to subdivision one of this section. The defendant shall have the right to rebut any statement made by the victim.(d) Where the people and the defendant have agreed to a disposition which includes a sentence acceptable to the court, and the court intends to impose such sentence, any rebuttal by the defendant shall be limited to an oral presentation made at the time of sentencing.(e) Where (1) the defendant has been found guilty after trial or there is no agreement between the people and the defendant as to a proposed sentence or the court, after the statement by the victim, chooses not to impose the proposed sentence agreed to by the parties; (2) the statement by the victim includes allegations about the crime that were not fully explored during the proceedings or that materially vary from or contradict the evidence at trial; and (3) the court determines that the allegations are relevant to the issue of sentencing, then the court shall afford the defendant the following rights:(A) a reasonable adjournment of the sentencing to allow the defendant to present information to rebut the allegations by the victim; and(B) allow the defendant to present written questions to the court that the defendant desires the court to put to the victim. The court may, in its discretion, decline to put any or all of the questions to the victim. Where the court declines to put any or all of the questions to the victim it shall state its reasons therefor on the record.(f) If the victim does not appear to make a statement at the time of sentencing, the right to make a statement is waived. The failure of the victim to make a statement shall not be cause for delaying the proceedings against the defendant nor shall it affect the validity of a conviction, judgment or order.3. The court may, either before or after receiving such statements, summarize the factors it considers relevant for the purpose of sentence and afford an opportunity to the defendant or his or her counsel to comment thereon.4. Regardless of whether the victim requests to make a statement with regard to the defendant's sentence, where the defendant is committed to the custody of the department of corrections and community supervision upon a sentence of imprisonment for conviction of a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law, or a sex offense as defined in subdivision (p) of section 10.03 of the mental hygiene law, within sixty days of the imposition of sentence the prosecutor shall provide the victim with a form, prepared and distributed by the commissioner of the department of corrections and community supervision, on which the victim may indicate a demand to be informed of the escape, absconding, discharge, parole, conditional release, release to post-release supervision, transfer to the custody of the office of mental health pursuant to article ten of the mental hygiene law, or release from confinement under article ten of the mental hygiene law of the person so imprisoned. If the victim submits a completed form to the prosecutor, it shall be the duty of the prosecutor to mail promptly such form to the department of corrections and community supervision.5. Following the receipt of such form from the prosecutor, it shall be the duty of the department of corrections and community supervision or, where the person is committed to the custody of the office of mental health, at the time such person is discharged, paroled, conditionally released, released to post-release supervision, or released from confinement under article ten of the mental hygiene law, to notify the victim of such occurrence by certified mail or with the prior consent of the victim either by regular mail or by electronic transmission using the contact information provided by the victim. In the event such person escapes or absconds from a facility under the jurisdiction of the department of corrections and community supervision, it shall be the duty of such department to notify immediately the victim of such occurrence using the contact information provided by the victim in the most reasonable and expedient possible manner. In the event such escapee or absconder is subsequently taken into custody by

the department of corrections and community supervision, it shall be the duty of such department to notify the victim of such occurrence by certified or regular mail or by electronic transmission using the contact information provided by the victim within forty-eight hours of regaining such custody. In the case of a person who escapes or absconds from confinement under article ten of the mental hygiene law, the office of mental health shall notify the victim or victims in accordance with the procedures set forth in subdivision (g) of section 10.10 of the mental hygiene law. In no case shall the state be held liable for failure to provide any notice required by this subdivision.6. Regardless of whether the victim requests to make a statement with regard to the defendant's sentence, where the defendant is sentenced for a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law or any of the following provisions of such law sections 130.25, 130.30, former section 130.40, former section 130.45, sections 255.25, 255.26, 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06, 230.11, 230.12, 230.13, subdivision two of section 230.30 or 230.32, the prosecutor shall, within sixty days of the imposition of sentence, provide the victim with a form, prepared and distributed by the commissioner of the division of criminal justice services, in consultation with the director of the office of victim services, on which the victim may indicate a demand to be informed of any petition to change the name of such defendant. Such forms shall be maintained by such prosecutor. Upon receipt of a notice of a petition to change the name of any such defendant, pursuant to subdivision two of section sixty-two of the civil rights law, the prosecutor shall promptly notify the victim at the most current address or telephone number provided by such victim in the most reasonable and expedient possible manner of the time and place such petition will be presented to the court. (1) the victim as indicated in the accusatory instrument; or (2) if such victim is unable or unwilling to express himself or herself before the court or a person so mentally or physically disabled as to make it impracticable to appear in court in person or the victim is deceased, a member of the family of such victim, or the legal guardian or representative of the legal guardian of the victim where such guardian or representative has personal knowledge of and a relationship with the victim, unless the court finds that it would be inappropriate for such person to make a statement on behalf of the victim. (b) If the defendant is being sentenced for a felony the court, if requested at least ten days prior to the sentencing date, shall accord the victim the right to make a statement with regard to any matter relevant to the question of sentence. The court shall notify the defendant no less than seven days prior to sentencing of the victim's intent to make a statement at sentencing. If the defendant does not receive timely notice pursuant to this subdivision, the defendant may request a reasonable adjournment. (c) Any statement by the victim must precede any statement by counsel to the defendant or the defendant made pursuant to subdivision one of this section. The defendant shall have the right to rebut any statement made by the victim. (d) Where the people and the defendant have agreed to a disposition which includes a sentence acceptable to the court, and the court intends to impose such sentence, any rebuttal by the defendant shall be limited to an oral presentation made at the time of sentencing. (e) Where (1) the defendant has been found guilty after trial or there is no agreement between the people and the defendant as to a proposed sentence or the court, after the statement by the victim, chooses not to impose the proposed sentence agreed to by the parties; (2) the statement by the victim includes allegations about the crime that were not fully explored during the proceedings or that materially vary from or contradict the evidence at trial; and (3) the court determines that the allegations are relevant to the issue of sentencing, then the court shall afford the defendant the following rights: (A) a reasonable adjournment of the sentencing to allow the defendant to present information to rebut the allegations by the victim; and (B) allow the defendant to present written questions to the court that the defendant desires the court to put to the victim. The court may, in its discretion, decline to put any or all of the questions to the victim. Where the court declines to put any or all of the questions to the victim it shall state its reasons therefor on the record. (f) If the victim does not appear to make a statement at the time of sentencing, the right to make a statement is waived. The failure of the victim to make a statement shall not be cause for delaying the proceedings against the defendant nor shall it affect the validity of a conviction, judgment or order. 3. The court may, either before or after receiving such statements, summarize the factors it considers relevant for the purpose of sentence and afford an opportunity to the defendant or his or her counsel to comment thereon. 4. Regardless of whether the victim requests to make a statement with regard to the defendant's sentence, where the defendant is committed to the custody of the department of corrections and community supervision upon a sentence of imprisonment for conviction of a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law, or a sex offense as defined in subdivision (p) of section 10.03 of the mental hygiene law, within sixty days of the imposition of sentence the prosecutor shall provide the victim with a form, prepared and distributed by the commissioner of the department of corrections and community supervision, on which the victim may indicate a demand to be informed of the escape, absconding, discharge, parole, conditional release, release to post-release supervision, transfer to the custody of the office of mental health pursuant to article ten of the mental hygiene law, or release from confinement under article ten of the mental hygiene law of the person so imprisoned. If the victim submits a completed form to the prosecutor, it shall be the duty of the prosecutor to mail promptly such form to the department of corrections and community supervision. 5. Following the receipt of such form from the prosecutor, it shall be the duty of the department of corrections and community supervision or, where the person is committed to the custody of the office of mental health, at the time such person is discharged, paroled, conditionally released, released to post-release supervision, or released from confinement under article ten of the mental hygiene law, to notify the victim of such occurrence by certified mail or with the prior consent of the victim either by regular mail or by electronic transmission using the contact information provided by the victim. In the event such person escapes or absconds from a facility under the jurisdiction of the department of corrections and community supervision, it shall be the duty of such department to notify immediately the victim of such occurrence using the contact information provided by the victim in the most reasonable and expedient possible manner. In the event such escapee or absconder is subsequently taken into custody by the department of corrections and community supervision, it shall be the duty of such department to notify the victim of such

occurrence by certified or regular mail or by electronic transmission using the contact information provided by the victim within forty-eight hours of regaining such custody. In the case of a person who escapes or absconds from confinement under article ten of the mental hygiene law, the office of mental health shall notify the victim or victims in accordance with the procedures set forth in subdivision (g) of section 10.10 of the mental hygiene law. In no case shall the state be held liable for failure to provide any notice required by this subdivision. 6. Regardless of whether the victim requests to make a statement with regard to the defendant's sentence, where the defendant is sentenced for a violent felony offense as defined in section 70.02 of the penal law or a felony defined in article one hundred twenty-five of such law or any of the following provisions of such law sections 130.25, 130.30, former section 130.40, former section 130.45, sections 255.25, 255.26, 255.27, article two hundred sixty-three, 135.10, 135.25, 230.05, 230.06, 230.11, 230.12, 230.13, subdivision two of section 230.30 or 230.32, the prosecutor shall, within sixty days of the imposition of sentence, provide the victim with a form, prepared and distributed by the commissioner of the division of criminal justice services, in consultation with the director of the office of victim services, on which the victim may indicate a demand to be informed of any petition to change the name of such defendant. Such forms shall be maintained by such prosecutor. Upon receipt of a notice of a petition to change the name of any such defendant, pursuant to subdivision two of section sixty-two of the civil rights law, the prosecutor shall promptly notify the victim at the most current address or telephone number provided by such victim in the most reasonable and expedient possible manner of the time and place such petition will be presented to the court.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 380 - Sentencing in General380.55 - Application for Waiver of Costs, Fees, and Expenses on Appeal.

1. Where counsel has been assigned to represent a defendant in a criminal action on the ground that the defendant is financially unable to retain counsel, the court may in its discretion at the time of sentencing entertain an application to grant the defendant waiver of costs, fees, and expenses on appeal. As part of an application for such relief, assigned counsel must represent that the defendant continues to be eligible for assignment of counsel and that granting the application will expedite the appeal. If the court grants the application, it shall file a written order and shall provide a copy of the order to the appropriate appellate court. The denial of an application shall not preclude the defendant from making a de novo application for waiver of costs, fees, and expenses to the appropriate appellate court. 2. Where counsel has been assigned to represent a defendant in a criminal action on the ground that the defendant is financially unable to retain counsel, the appellate court shall presume the defendant eligible for assignment of counsel on appeal without further proof of eligibility, and, thereby, issue an order assigning such counsel, if counsel provides a sworn representation that the defendant continues to be eligible for assignment of counsel.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 380 - Sentencing in General380.60 - Authority for the Execution of Sentence.

Except where a sentence of death is pronounced, a sentence and commitment or certificate of conviction showing the sentence pronounced by the court, or a certified copy thereof, constitutes the authority for execution of the sentence and serves as the order of commitment, and no other warrant, order of commitment or authority is necessary to justify or to require execution of the sentence.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 380 - Sentencing in General380.65 - Sentence and Commitment and Order of Protection to Accompany Defendant Sentenced to Imprisonment.

defendant sentenced to imprisonment. A sentence and commitment or certificate of conviction, specifying the section, and to the extent applicable, the subdivision, paragraph and subparagraph of the penal law or other statute under which the defendant was convicted, or a certified copy thereof, and a copy of any order of protection or temporary order of protection issued against the defendant at the time of sentencing, must be delivered to the person in charge of the correctional facility or office of children and family services facility to which the defendant is committed at the time the defendant is delivered thereto. A sentence and commitment or certificate of conviction is not defective by reason of a failure to comply with the provisions of this section.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 380 - Sentencing in General380.70 - Minutes of Sentence.

In any case where a person receives an indeterminate or determinate sentence of imprisonment, a certified copy of the stenographic minutes of the sentencing proceeding must be delivered by the court to the person in charge of the institution to which the defendant has been delivered within thirty days from the date such sentence was imposed. * NB Effective until September 1, 2025 * § 380.70 Minutes of sentence. In any case where a person receives an indeterminate sentence of imprisonment or a reformatory or alternative local reformatory sentence of imprisonment, a certified copy of the stenographic minutes of the sentencing proceeding must be delivered by the court to the person in charge of the institution to which the defendant has been delivered within thirty days from the date such sentence was imposed. * NB Effective September 1, 2025

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 380 - Sentencing in General380.80 - Reporting Sentence to Social Services.

Whenever a person receives a sentence of imprisonment, the court that has sentenced such person shall deliver the certificate of

conviction and provide notification of the sentence imposed to the commissioner of social services who, in turn, shall deliver the certificate of conviction and provide notification of the sentence imposed to the appropriate local commissioner of social services.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 380 - Sentencing in General380.85 - Reporting Sentences to Office of Professional Medical Conduct; Licensed Physician, Physician Assistant, or Specialist Assistant.

licensed physician, physician assistant, or specialist assistant. Whenever a person who is a licensed physician, physician assistant, or specialist assistant or a physician who is practicing under a limited permit or as a medical resident is sentenced for a crime, the court that has sentenced such person shall deliver a copy of the certificate of conviction and provide notification of the conviction and sentence to the office of professional medical conduct.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 380 - Sentencing in General380.90 - Reporting Sentences to Schools.

1. "Designated educational official" shall mean (a) an employee or representative of a school district who is designated by the school district or (b) an employee or representative of a charter school or private elementary or secondary school who is designated by such school to receive records pursuant to this section and to coordinate the student's participation in programs which may exist in the school district or community, including: non-violent conflict resolution programs, peer mediation programs and youth courts, extended day programs and other school violence prevention and intervention programs. 2. Whenever a person under the age of nineteen who is enrolled as a student in a public or private elementary or secondary school is sentenced for a crime, the court that has sentenced such person shall provide notification of the conviction and sentence to the designated educational official of the school in which such person is enrolled as a student. Such notification shall be used by the designated educational official only for purposes related to the execution of the student's educational plan, where applicable, successful school adjustment and reentry into the community. Such notification shall be kept separate and apart from such student's school records and shall be accessible only by the designated educational official. Such notification shall not be part of such student's permanent school record and shall not be appended to or included in any documentation regarding such student and shall be destroyed at such time as such student is no longer enrolled in the school district. At no time shall such notification be used for any purpose other than those specified in this subdivision.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 380 - Sentencing in General380.95*2 - Reporting Convictions of Certain School Employees.

Upon conviction of a school administrator or supervisor, as defined in subparagraph three of paragraph b of subdivision seven-b of section three hundred five of the education law, of an offense defined in subparagraph two of paragraph b of subdivision seven-b of section three hundred five of the education law, the district attorney or other prosecuting authority who obtained such conviction shall provide notice of such conviction to the commissioner of education identifying the offense of which the school administrator or supervisor has been convicted, the name and address of such offender and other identifying information prescribed by the commissioner of education, including the offender's date of birth and social security number, to the extent consistent with federal and state laws governing personal privacy and confidentiality of information. Such district attorney or other prosecuting authority shall include in such notice the name and business address of the offender's counsel of record in the criminal proceeding. * NB There are 2 § 380.95's

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 380 - Sentencing in General380.95 - Reporting Convictions of Certain School Employees.

Upon conviction of a teacher, as defined in subparagraph three of paragraph b of subdivision seven-a of section three hundred five of the education law, of a sex offense or sex offenses defined in subparagraph two of paragraph b of subdivision seven-a of section three hundred five of the education law, the district attorney or other prosecuting authority who obtained such conviction shall provide notice of such conviction to the commissioner of education identifying the sex offense or sex offenses of which the teacher has been convicted, the name and address of such offender and other identifying information prescribed by the commissioner of education, including the offender's date of birth and social security number, to the extent consistent with federal and state laws governing personal privacy and confidentiality of information. Such district attorney or other prosecuting authority shall include in such notice the name and business address of the offender's counsel of record in the criminal proceeding. * NB There are 2 § 380.95's

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 380 - Sentencing in General380.96 - Obligation of Sentencing Court Pursuant to Article Four Hundred of the Penal Law.

of the penal law. Upon judgment of conviction of any offense which would require the seizure of firearms, shotguns or rifles from an individual so convicted, and the revocation of any license or registration issued pursuant to article four hundred of the penal law, the judge pronouncing sentence shall demand surrender of any such license or registration and all firearms, shotguns and rifles. The failure to so demand surrender shall not effect the validity of any revocation pursuant to article four hundred of the penal law.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 380 - Sentencing in General380.97 - Notification to Division of Criminal Justice Services of Certain Misdemeanor Convictions.

certain misdemeanor convictions. Upon judgment of conviction of assault in the third degree, menacing in the third degree, menacing in the second degree, criminal obstruction of breathing or blood circulation, unlawful imprisonment in the second degree, coercion in the third degree, criminal tampering in the third degree, criminal contempt in the second degree, harassment in the first degree, or aggravated harassment in the second degree, criminal trespass in the third degree, criminal trespass in the second degree, arson in the fifth degree, or attempt to commit any of the above-listed offenses, when the defendant and victim have been determined, pursuant to section 370.15 of this part, to be members of the same family or household as defined in subdivision one of section 530.11 of this chapter, the clerk of the court shall include notification and a copy of the written determination in a report of such conviction to the division of criminal justice services to enable the division to report such determination to the Federal Bureau of Investigation and assist the bureau in identifying persons prohibited from purchasing and possessing a firearm or other weapon due to conviction of an offense specified in paragraph c of subdivision seventeen of section 265.00 of the penal law.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 390 - Pre-Sentence Reports390.10 - Requirement of Fingerprint Report.

In any case where the defendant is convicted of an offense specified in subdivision one of section 160.10, the court may not pronounce sentence until it has received a fingerprint report from the division of criminal justice services or a police department report with respect to the defendant's prior arrest record. For such purpose, the court may use the original fingerprint report obtained after the arrest or arraignment of the defendant, or it may direct that a new report be prepared and transmitted to it.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 390 - Pre-Sentence Reports390.15 - Requirement of HIV Related Testing in Certain Cases.

1. (a) In any case where the defendant is convicted of a felony offense enumerated in any section of article one hundred thirty of the penal law, or any subdivision of section 130.20 of such law, where an act of "vaginal sexual contact", "oral sexual contact" or "anal sexual contact," as those terms are defined in section 130.00 of the penal law, is required as an essential element for the commission thereof, the court must, upon a request of the victim, order that the defendant submit to human immunodeficiency (HIV) related testing. The testing is to be conducted by a state, county, or local public health officer designated by the order. Test results, which shall not be disclosed to the court, shall be communicated to the defendant and the victim named in the order in accordance with the provisions of section twenty-seven hundred eighty-five-a of the public health law, but such results and disclosure need not be completed prior to the imposition of sentence.(b) For the purposes of this section, the terms "defendant", "conviction" and "sentence" mean and include, respectively, an "eligible youth," a "youthful offender finding" and a "youthful offender sentence" as those terms are defined in section 720.10 of this chapter. The term "victim" means the person with whom the defendant engaged in an act of "vaginal sexual contact", "oral sexual contact" or "anal sexual contact", as those terms are defined in section 130.00 of the penal law, where such conduct with such victim was the basis for the defendant's conviction of an offense specified in paragraph (a) of this subdivision.2. Any request made by the victim pursuant to this section must be in writing, filed with the court and provided by the court to the defendant or his or her counsel. The request must be filed with the court prior to or within ten days after entry of the defendant's conviction; provided that, for good cause shown, the court may permit such request to be filed at any time before sentence is imposed.3. Any requests, related papers and orders made or filed pursuant to this section, together with any papers or proceedings related thereto, shall be sealed by the court and not made available for any purpose, except as may be necessary for the conduct of judicial proceedings directly related to the provisions of this section. All proceedings on such requests shall be held in camera.4. The application for an order to compel a convicted person to undergo an HIV related test may be made by the victim but, if the victim is an infant or incompetent person, the application may also be made by a representative as defined in section twelve hundred one of the civil practice law and rules. The application must state that (a) the applicant was the victim of the offense enumerated in paragraph (a) of subdivision one of this section of which the defendant stands convicted; and (b) the applicant has been offered counseling by a public health officer and been advised of (i) the limitations on the information to be obtained through an HIV test on the proposed subject; (ii) current scientific assessments of the risk of transmission of HIV from the exposure he or she may have experienced, and (iii) the need for the applicant to undergo HIV related testing to definitively determine his or her HIV status.5. The court shall conduct a hearing only if necessary to determine if the applicant is the victim of the offense of which the defendant was convicted. The court ordered test must be performed within fifteen days of the date on which the court ordered the test, provided, however, that whenever the defendant is not tested within the period prescribed by the court, the court must again order that the defendant undergo an HIV related test.6. (a) Test results shall be disclosed subject to the following limitations, which shall be specified in any order issued pursuant to this section:(i) disclosure of confidential HIV related information shall be limited to that information which is necessary to fulfill the purpose for which the order is granted;(ii) disclosure of confidential HIV related information shall be limited to the person making the application; redisclosure shall be permitted only to the victim, the victim's immediate family, guardian, physicians, attorneys, medical or mental health providers and to his or her past and future contacts to whom there was or is a reasonable risk of HIV transmission and shall not be permitted to any other person or the court.(b) Unless inconsistent with this section, the court's order shall direct compliance with and conform to the provisions of article twenty-seven-F

of the public health law. Such order shall include measures to protect against disclosure to others of the identity and HIV status of the applicant and of the person tested and may include such other measures as the court deems necessary to protect confidential information.7. Any failure to comply with the provisions of this section or section twenty-seven hundred eighty-five-a of the public health law shall not impair or affect the validity of any sentence imposed by the court.8. No information obtained as a result of a consent, hearing or court order for testing issued pursuant to this section nor any information derived therefrom may be used as evidence in any criminal or civil proceeding against the defendant which relates to events that were the basis for the defendant's conviction, provided however that nothing herein shall prevent prosecution of a witness testifying in any court hearing held pursuant to this section for perjury pursuant to article two hundred ten of the penal law. (b) For the purposes of this section, the terms "defendant", "conviction" and "sentence" mean and include, respectively, an "eligible youth," a "youthful offender finding" and a "youthful offender sentence" as those terms are defined in section 720.10 of this chapter. The term "victim" means the person with whom the defendant engaged in an act of "vaginal sexual contact", "oral sexual contact" or "anal sexual contact", as those terms are defined in section 130.00 of the penal law, where such conduct with such victim was the basis for the defendant's conviction of an offense specified in paragraph (a) of this subdivision. 2. Any request made by the victim pursuant to this section must be in writing, filed with the court and provided by the court to the defendant or his or her counsel. The request must be filed with the court prior to or within ten days after entry of the defendant's conviction; provided that, for good cause shown, the court may permit such request to be filed at any time before sentence is imposed. 3. Any requests, related papers and orders made or filed pursuant to this section, together with any papers or proceedings related thereto, shall be sealed by the court and not made available for any purpose, except as may be necessary for the conduct of judicial proceedings directly related to the provisions of this section. All proceedings on such requests shall be held in camera. 4. The application for an order to compel a convicted person to undergo an HIV related test may be made by the victim but, if the victim is an infant or incompetent person, the application may also be made by a representative as defined in section twelve hundred one of the civil practice law and rules. The application must state that (a) the applicant was the victim of the offense enumerated in paragraph (a) of subdivision one of this section of which the defendant stands convicted; and (b) the applicant has been offered counseling by a public health officer and been advised of (i) the limitations on the information to be obtained through an HIV test on the proposed subject; (ii) current scientific assessments of the risk of transmission of HIV from the exposure he or she may have experienced, and (iii) the need for the applicant to undergo HIV related testing to definitively determine his or her HIV status. 5. The court shall conduct a hearing only if necessary to determine if the applicant is the victim of the offense of which the defendant was convicted. The court ordered test must be performed within fifteen days of the date on which the court ordered the test, provided, however, that whenever the defendant is not tested within the period prescribed by the court, the court must again order that the defendant undergo an HIV related test. 6. (a) Test results shall be disclosed subject to the following limitations, which shall be specified in any order issued pursuant to this section: (i) disclosure of confidential HIV related information shall be limited to that information which is necessary to fulfill the purpose for which the order is granted; (ii) disclosure of confidential HIV related information shall be limited to the person making the application; redisclosure shall be permitted only to the victim, the victim's immediate family, guardian, physicians, attorneys, medical or mental health providers and to his or her past and future contacts to whom there was or is a reasonable risk of HIV transmission and shall not be permitted to any other person or the court. (b) Unless inconsistent with this section, the court's order shall direct compliance with and conform to the provisions of article twenty-seven-F of the public health law. Such order shall include measures to protect against disclosure to others of the identity and HIV status of the applicant and of the person tested and may include such other measures as the court deems necessary to protect confidential information. 7. Any failure to comply with the provisions of this section or section twenty-seven hundred eighty-five-a of the public health law shall not impair or affect the validity of any sentence imposed by the court. 8. No information obtained as a result of a consent, hearing or court order for testing issued pursuant to this section nor any information derived therefrom may be used as evidence in any criminal or civil proceeding against the defendant which relates to events that were the basis for the defendant's conviction, provided however that nothing herein shall prevent prosecution of a witness testifying in any court hearing held pursuant to this section for perjury pursuant to article two hundred ten of the penal law.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 390 - Pre-Sentence Reports390.20 - Requirement of Pre-Sentence Report.

1. Requirement for felonies. In any case where a person is convicted of a felony, the court must order a pre-sentence investigation of the defendant and it may not pronounce sentence until it has received a written report of such investigation. 2. Requirement for misdemeanors. Where a person is convicted of a misdemeanor a pre-sentence report is not required, but the court may not pronounce any of the following sentences unless it has ordered a pre-sentence investigation of the defendant and has received a written report thereof:(a) A sentence of probation except where the provisions of subparagraph (ii) of paragraph (a) of subdivision four of this section apply;(b) A sentence of imprisonment for a term in excess of one hundred eighty days;(c) Consecutive sentences of imprisonment with terms aggregating more than ninety days.3. Permissible in any case. For purposes of sentence, the court may, in its discretion, order a pre-sentence investigation and report in any case, irrespective of whether such investigation and report is required by subdivision one or two.4. Waiver. (a) Notwithstanding the provisions of subdivision one or two of this section, a pre-sentence investigation of the defendant and a written report thereon may be waived by the mutual consent of the parties and with consent of the judge, stated on the record or in writing, whenever:(i) A sentence of imprisonment has been agreed upon by the parties and will be satisfied by the time served, or(ii) A sentence of probation or conditional discharge has been agreed upon by the parties and will be imposed, or(iii) A report has been prepared in the preceding twelve months, or(iv) A sentence of probation is

revoked.* Provided, however, a pre-sentence investigation of the defendant and a written report thereon shall not be waived if an indeterminate or determinate sentence of imprisonment is to be imposed.* NB Effective until September 1, 2025* Provided, however, a pre-sentence investigation of the defendant and a written report thereon shall not be waived if an indeterminate sentence of imprisonment is to be imposed.* NB Effective September 1, 2025(b) Whenever a pre-sentence investigation and report has been waived pursuant to subparagraph (i), (ii) or (iii) of paragraph (a) of this subdivision and the court determines that such information would be relevant to the court disposition, a victim impact statement shall be provided in accordance with this section.5. Negotiated sentence of imprisonment. In any city having a population of one million or more and notwithstanding the provisions of subdivision one or two of this section, a pre-sentence investigation and written report thereon shall not be required where a negotiated sentence of imprisonment for a term of three hundred sixty-five days or less has been mutually agreed upon by the parties with consent of the judge, as a result of a conviction or revocation of a sentence of probation. (a) A sentence of probation except where the provisions of subparagraph (ii) of paragraph (a) of subdivision four of this section apply; (b) A sentence of imprisonment for a term in excess of one hundred eighty days; (c) Consecutive sentences of imprisonment with terms aggregating more than ninety days. 3. Permissible in any case. For purposes of sentence, the court may, in its discretion, order a pre-sentence investigation and report in any case, irrespective of whether such investigation and report is required by subdivision one or two. 4. Waiver. (a) Notwithstanding the provisions of subdivision one or two of this section, a pre-sentence investigation of the defendant and a written report thereon may be waived by the mutual consent of the parties and with consent of the judge, stated on the record or in writing, whenever: (i) A sentence of imprisonment has been agreed upon by the parties and will be satisfied by the time served, or (ii) A sentence of probation or conditional discharge has been agreed upon by the parties and will be imposed, or (iii) A report has been prepared in the preceding twelve months, or (iv) A sentence of probation is revoked. * Provided, however, a pre-sentence investigation of the defendant and a written report thereon shall not be waived if an indeterminate or determinate sentence of imprisonment is to be imposed. * NB Effective until September 1, 2025 * Provided, however, a pre-sentence investigation of the defendant and a written report thereon shall not be waived if an indeterminate sentence of imprisonment is to be imposed. * NB Effective September 1, 2025 (b) Whenever a pre-sentence investigation and report has been waived pursuant to subparagraph (i), (ii) or (iii) of paragraph (a) of this subdivision and the court determines that such information would be relevant to the court disposition, a victim impact statement shall be provided in accordance with this section. 5. Negotiated sentence of imprisonment. In any city having a population of one million or more and notwithstanding the provisions of subdivision one or two of this section, a pre-sentence investigation and written report thereon shall not be required where a negotiated sentence of imprisonment for a term of three hundred sixty-five days or less has been mutually agreed upon by the parties with consent of the judge, as a result of a conviction or revocation of a sentence of probation.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 390 - Pre-Sentence Reports390.30 - Scope of Pre-Sentence Investigation and Report.

1. The investigation. The pre-sentence investigation consists of the gathering of information with respect to the circumstances attending the commission of the offense, the defendant's history of delinquency or criminality, and the defendant's social history, employment history, family situation, economic status, education, and personal habits. Such investigation may also include any other matter which the agency conducting the investigation deems relevant to the question of sentence, and must include any matter the court directs to be included. 2. Physical and mental examinations. Whenever information is available with respect to the defendant's physical and mental condition, the pre-sentence investigation must include the gathering of such information. In the case of a felony or a class A misdemeanor, or in any case where a person under the age of twenty-one is convicted of a crime, the court may order that the defendant undergo a thorough physical or mental examination in a designated facility and may further order that the defendant remain in such facility for such purpose for a period not exceeding thirty days. 3. The report and victim impact statement. (a) The report of the pre-sentence investigation must contain an analysis of as much of the information gathered in the investigation as the agency that conducted the investigation deems relevant to the question of sentence. The report must also include any other imformation that the court directs to be included and the material required by paragraph (b) of this subdivision which shall be considered part of the report.(b) The report shall also contain a victim impact statement, unless it appears that such information would be of no relevance to the recommendation or court disposition, which shall include an analysis of the victim's version of the offense, the extent of injury or economic loss and the actual out-of-pocket loss to the victim and the views of the victim relating to disposition including the amount of restitution and reparation sought by the victim after the victim has been informed of the right to seek restitution and reparation, subject to the availability of such information. In the case of a homicide or where the victim is unable to assist in the preparation of the victim impact statement, the information may be acquired from the victim's family. The victim impact statement shall be made available to the victim by the prosecutor pursuant to subdivision two of section 390.50 of this article. Nothing contained in this section shall be interpreted to require that a victim supply information for the preparation of this report.4. Abbreviated investigation and short form report. In lieu of the procedure set forth in subdivisions one, two and three of this section, where the conviction is of a misdemeanor the scope of the pre-sentence investigation may be abbreviated and a short form report may be made. The use of abbreviated investigations and short form reports, the matters to be covered therein and the form of the reports shall be in accordance with the general rules regulating methods and procedures in the administration of probation as adopted from time to time by the commissioner of the division of criminal justice services pursuant to the provisions of article twelve of the executive law. No such rule, however, shall be construed so as to relieve the agency conducting the investigation of the duty of investigating and reporting upon:(a) the extent of the injury or economic loss and the actual out-of-pocket loss to the victim

including the amount of restitution and reparation sought by the victim, after the victim has been informed of the right to seek restitution and reparation, or(b) any matter relevant to the question of sentence that the court directs to be included in particular cases.5. Information to be forwarded to the state office of probation and correctional alternatives. Investigating agencies under this article shall be responsible for the collection, and transmission to the state office of probation and correctional alternatives, of data on the number of victim impact statements prepared. Such information shall be transmitted annually to the office of victim services and included in the office's biennial report pursuant to subdivision twenty-one of section six hundred twenty-three of the executive law.6. Interim probation supervision. (a) In any case where the court determines that a defendant is eligible for a sentence of probation, the court, after consultation with the prosecutor and upon the consent of the defendant, may adjourn the sentencing to a specified date and order that the defendant be placed on interim probation supervision. In no event may the sentencing be adjourned for a period exceeding one year from the date the conviction is entered, except that upon good cause shown, the court may, upon the defendant's consent, extend the period for an additional one year where the defendant has agreed to and is still participating in a treatment program in connection with a court designated a treatment court by the chief administrator of the courts. When ordering that the defendant be placed on interim probation supervision, the court shall impose all of the conditions relating to supervision specified in subdivision three of section 65.10 of the penal law and the court may impose any or all of the conditions relating to conduct and rehabilitation specified in subdivisions two, four, five and five-a of section 65.10 of such law. The defendant must receive a written copy of any such conditions at the time he or she is placed on interim probation supervision. The defendant's record of compliance with such conditions, as well as any other relevant information, shall be included in the presentence report, or updated presentence report, prepared pursuant to this section, and the court must consider such record and information when pronouncing sentence. If a defendant satisfactorily completes a term of interim probation supervision, he or she shall receive credit for the time served under the period of interim probation supervision toward any probation sentence that is subsequently imposed in that case.(b) In its discretion, the supervising probation department may utilize the provisions of sections 410.20, 410.30, 410.40, 410.50, 410.60 and 410.92 of this title, where applicable. (b) The report shall also contain a victim impact statement, unless it appears that such information would be of no relevance to the recommendation or court disposition, which shall include an analysis of the victim's version of the offense, the extent of injury or economic loss and the actual out-of-pocket loss to the victim and the views of the victim relating to disposition including the amount of restitution and reparation sought by the victim after the victim has been informed of the right to seek restitution and reparation, subject to the availability of such information. In the case of a homicide or where the victim is unable to assist in the preparation of the victim impact statement, the information may be acquired from the victim's family. The victim impact statement shall be made available to the victim by the prosecutor pursuant to subdivision two of section 390.50 of this article. Nothing contained in this section shall be interpreted to require that a victim supply information for the preparation of this report. 4. Abbreviated investigation and short form report. In lieu of the procedure set forth in subdivisions one, two and three of this section, where the conviction is of a misdemeanor the scope of the pre-sentence investigation may be abbreviated and a short form report may be made. The use of abbreviated investigations and short form reports, the matters to be covered therein and the form of the reports shall be in accordance with the general rules regulating methods and procedures in the administration of probation as adopted from time to time by the commissioner of the division of criminal justice services pursuant to the provisions of article twelve of the executive law. No such rule, however, shall be construed so as to relieve the agency conducting the investigation of the duty of investigating and reporting upon: (a) the extent of the injury or economic loss and the actual out-of-pocket loss to the victim including the amount of restitution and reparation sought by the victim, after the victim has been informed of the right to seek restitution and reparation, or (b) any matter relevant to the question of sentence that the court directs to be included in particular cases. 5. Information to be forwarded to the state office of probation and correctional alternatives. Investigating agencies under this article shall be responsible for the collection, and transmission to the state office of probation and correctional alternatives, of data on the number of victim impact statements prepared. Such information shall be transmitted annually to the office of victim services and included in the office's biennial report pursuant to subdivision twenty-one of section six hundred twenty-three of the executive law. 6. Interim probation supervision. (a) In any case where the court determines that a defendant is eligible for a sentence of probation, the court, after consultation with the prosecutor and upon the consent of the defendant, may adjourn the sentencing to a specified date and order that the defendant be placed on interim probation supervision. In no event may the sentencing be adjourned for a period exceeding one year from the date the conviction is entered, except that upon good cause shown, the court may, upon the defendant's consent, extend the period for an additional one year where the defendant has agreed to and is still participating in a treatment program in connection with a court designated a treatment court by the chief administrator of the courts. When ordering that the defendant be placed on interim probation supervision, the court shall impose all of the conditions relating to supervision specified in subdivision three of section 65.10 of the penal law and the court may impose any or all of the conditions relating to conduct and rehabilitation specified in subdivisions two, four, five and five-a of section 65.10 of such law. The defendant must receive a written copy of any such conditions at the time he or she is placed on interim probation supervision. The defendant's record of compliance with such conditions, as well as any other relevant information, shall be included in the presentence report, or updated presentence report, prepared pursuant to this section, and the court must consider such record and information when pronouncing sentence. If a defendant satisfactorily completes a term of interim probation supervision, he or she shall receive credit for the time served under the period of interim probation supervision toward any probation sentence that is subsequently imposed in that case. (b) In its discretion, the supervising probation department may utilize the provisions of sections 410.20, 410.30, 410.40, 410.50, 410.60 and 410.92 of this title, where applicable.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 390 - Pre-Sentence Reports390.40 - Defendant's or Prosecutor's Pre-Sentence Memorandum.

1. Either the defendant or prosecutor may, at any time prior to the pronouncement of sentence, file with the court a written memorandum setting forth any information he may deem pertinent to the question of sentence. Such memorandum may include information with respect to any of the matters described in section 390.30. The defendant may annex written statements by others in support of facts alleged in the memorandum. 2. The memorandum of the prosecutor shall be served on the defendant's attorney at least ten days prior to the date fixed for sentence. 3. The act of seeking health care for someone who is experiencing a drug or alcohol overdose or other life threatening medical emergency shall be considered by the court when presented as a mitigating factor in any criminal prosecution for a controlled substance, marihuana, drug paraphernalia, or alcohol related offense.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 390 - Pre-Sentence Reports390.50 - Confidentiality of Pre-Sentence Reports and Memoranda.

1. In general. Any pre-sentence report or memorandum submitted to the court pursuant to this article and any medical, psychiatric or social agency report or other information gathered for the court by a probation department, or submitted directly to the court, in connection with the question of sentence is confidential and may not be made available to any person or public or private agency except where specifically required or permitted by statute or upon specific authorization of the court. For purposes of this section, any report, memorandum or other information forwarded to a probation department within this state from a probation agency outside this state is governed by the same rules of confidentiality. Any person, public or private agency receiving such material must retain it under the same conditions of confidentiality as apply to the probation department that made it available. 2. Pre-sentence report; disclosure, victim access to impact statements; general principles. (a) Not less than one court day prior to sentencing, unless such time requirement is waived by the parties, the pre-sentence report or memorandum shall be made available by the court for examination and for copying by the defendant's attorney, the defendant himself, if he has no attorney, and the prosecutor. In its discretion, the court may except from disclosure a part or parts of the report or memoranda which are not relevant to a proper sentence, or a diagnostic opinion which might seriously disrupt a program of rehabilitation, or sources of information which have been obtained on a promise of confidentiality, or any other portion thereof, disclosure of which would not be in the interest of justice. In all cases where a part or parts of the report or memoranda are not disclosed, the court shall state for the record that a part or parts of the report or memoranda have been excepted and the reasons for its action. The action of the court excepting information from disclosure shall be subject to appellate review. The pre-sentence report shall be made available by the court for examination and copying in connection with any appeal in the case, including an appeal under this subdivision. Upon written request, the court shall make a copy of the presentence report, other than a part or parts of the report redacted by the court pursuant to this paragraph, available to the defendant for use before the parole board for release consideration or an appeal of a parole board determination or an application for resentencing pursuant to section 440.46 or 440.47 of this chapter. In his or her written request to the court the defendant shall affirm that he or she anticipates an appearance before the parole board or intends to file an administrative appeal of a parole board determination or meets the eligibility criteria for and intends to file a motion for resentencing pursuant to 440.46 of this chapter or has received notification from the court which received his or her request to apply for resentencing pursuant to section 440.47 of this chapter confirming that he or she is eligible to submit an application for resentencing pursuant to section 440.47 of this chapter. The court shall respond to the defendant's written request within twenty days from receipt of the defendant's written request.(b) The victim impact statement prepared pursuant to subdivision three of section 390.30 of this article shall be made available by the prosecutor prior to sentencing to the victim or victim's family in accordance with his responsibilities under subdivision one of section 60.27 of the penal law and sections six hundred forty-one and six hundred forty-two of the executive law. The district attorney shall also give at least twenty-one days notice to the victim or victim's family of the date of sentencing and of the rights of the victim pursuant to subdivision two of section 380.50 of this chapter, including the victim or victim's family's obligation to inform the court of its intention, at least ten days prior to the sentencing date, to make a statement at sentencing. If the victim has not received timely notice pursuant to this paragraph, the court may proceed with sentencing if it determines that the victim and the defendant have received reasonable notice or may adjourn sentencing for no more than seven days in order to afford such reasonable notice. Failure to give notice shall not affect the validity of any sentence imposed.3. Public agencies within this state. A probation department must make available a copy of its pre-sentence report and any medical, psychiatric or social agency report submitted to it in connection with its pre-sentence investigation or its supervision of a defendant, to any court, or to the probation department of any court, within this state that subsequently has jurisdiction over such defendant for the purpose of pronouncing or reviewing sentence and to any state agency to which the defendant is subsequently committed or certified or under whose care and custody or jurisdiction the defendant subsequently is placed upon the official request of such court or agency therefor. In any such case, the court or agency receiving such material must retain it under the same conditions of confidentiality as apply to the probation department that made it available, except that an agency with jurisdiction as that term is defined in subdivision (a) of section 10.03 of the mental hygiene law shall make such material available to the commissioner of mental health, attorney general, case review panel, or psychiatric examiners described in article ten of the mental hygiene law when such persons or entities request such material in the exercise of their statutory functions, powers, and duties under article ten of the mental hygiene law.4. Public agencies outside this state. Upon official request of any probation, parole or public institutional agency

outside this state, a probation department may make any information in its files available to such agency. Any such release of information shall be conditioned upon the agreement of the receiving agency to retain it under the same conditions of confidentiality as apply to the probation department that made it available.5. Division of criminal justice services. Nothing contained in this section may be construed to prevent the voluntary submission by a probation department of data in its files to the division of criminal justice services.6. Professional licensing agencies. Probation departments shall provide a copy of presentence reports prepared in the case of individuals who are known to be licensed pursuant to title eight of the education law to the state department of health if the licensee is a physician, a specialist's assistant or a physician's assistant, and to the state education department with respect to all other such licensees. Such reports shall be accumulated and forwarded every three months, shall be in writing, may be submitted in a hard copy or electronically, and shall contain the following information:(a) the name of the licensee and the profession in which licensure is held,(b) the date of the conviction and the nature thereof,(c) the index or other identifying file number.In any such case, the state department receiving such material must retain it under the same conditions of confidentiality as apply to the probation department that made it available. (b) The victim impact statement prepared pursuant to subdivision three of section 390.30 of this article shall be made available by the prosecutor prior to sentencing to the victim or victim's family in accordance with his responsibilities under subdivision one of section 60.27 of the penal law and sections six hundred forty-one and six hundred forty-two of the executive law. The district attorney shall also give at least twenty-one days notice to the victim or victim's family of the date of sentencing and of the rights of the victim pursuant to subdivision two of section 380.50 of this chapter, including the victim or victim's family's obligation to inform the court of its intention, at least ten days prior to the sentencing date, to make a statement at sentencing. If the victim has not received timely notice pursuant to this paragraph, the court may proceed with sentencing if it determines that the victim and the defendant have received reasonable notice or may adjourn sentencing for no more than seven days in order to afford such reasonable notice. Failure to give notice shall not affect the validity of any sentence imposed. 3. Public agencies within this state. A probation department must make available a copy of its pre-sentence report and any medical, psychiatric or social agency report submitted to it in connection with its pre-sentence investigation or its supervision of a defendant, to any court, or to the probation department of any court, within this state that subsequently has jurisdiction over such defendant for the purpose of pronouncing or reviewing sentence and to any state agency to which the defendant is subsequently committed or certified or under whose care and custody or jurisdiction the defendant subsequently is placed upon the official request of such court or agency therefor. In any such case, the court or agency receiving such material must retain it under the same conditions of confidentiality as apply to the probation department that made it available, except that an agency with jurisdiction as that term is defined in subdivision (a) of section 10.03 of the mental hygiene law shall make such material available to the commissioner of mental health, attorney general, case review panel, or psychiatric examiners described in article ten of the mental hygiene law when such persons or entities request such material in the exercise of their statutory functions, powers, and duties under article ten of the mental hygiene law. 4. Public agencies outside this state. Upon official request of any probation, parole or public institutional agency outside this state, a probation department may make any information in its files available to such agency. Any such release of information shall be conditioned upon the agreement of the receiving agency to retain it under the same conditions of confidentiality as apply to the probation department that made it available. 5. Division of criminal justice services. Nothing contained in this section may be construed to prevent the voluntary submission by a probation department of data in its files to the division of criminal justice services. 6. Professional licensing agencies. Probation departments shall provide a copy of presentence reports prepared in the case of individuals who are known to be licensed pursuant to title eight of the education law to the state department of health if the licensee is a physician, a specialist's assistant or a physician's assistant, and to the state education department with respect to all other such licensees. Such reports shall be accumulated and forwarded every three months, shall be in writing, may be submitted in a hard copy or electronically, and shall contain the following information: (a) the name of the licensee and the profession in which licensure is held, (b) the date of the conviction and the nature thereof, (c) the index or other identifying file number. In any such case, the state department receiving such material must retain it under the same conditions of confidentiality as apply to the probation department that made it available.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 390 - Pre-Sentence Reports390.60 - Copy of Reports to Accompany Defendant Sentenced to Imprisonment.

imprisonment. 1. Cases where copy of report is required. Whenever a person is sentenced to a term of imprisonment, a copy of any pre-sentence report prepared, a copy of any pre-sentence memorandum filed by the defendant and a copy of any medical, psychiatric or social agency report submitted to the court or to the probation department in connection with the question of sentence must be delivered to the person in charge of the correctional or division for youth facility to which the defendant is committed at the time the defendant is delivered thereto. When a person is committed to any hospital operated by the office of mental health or referred to any program established pursuant to section four hundred one of the correction law, from a correctional facility or division for youth facility, the person in charge of the correctional facility or division for youth facility shall ensure that a copy of any pre-sentence report concerning such person, a copy of any pre-sentence memorandum filed by such person, and a copy of any medical, psychiatric or social agency report submitted to the court or to the probation department in connection with the question of sentence is provided to such hospital or program. 2. Effect of failure to deliver required report. A commitment is not void by reason of failure to comply with the provisions of subdivision one, but the person in charge of the correctional facility to which the defendant has been delivered in execution of the sentence is authorized to refuse to accept custody of such person until the required report is delivered.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 400 - Pre-Sentence Proceedings400.10 - Pre-Sentence Conference.

1. Authorization and purpose. Before pronouncing sentence, the court, in its discretion, may hold one or more pre-sentence conferences in open court or in chambers in order to (a) resolve any discrepancies between the pre-sentence report, or other information the court has received, and the defendant's or prosecutor's pre-sentence memorandum submitted pursuant to section 390.40, or (b) assist the court in its consideration of any matter relevant to the sentence to be pronounced. 2. Attendance. Such conference may be held with the prosecutor and defense counsel in the absence of the defendant, or the court may direct that the defendant attend. The court may also direct that any person who has furnished or who can furnish information to the court concerning sentence attend. Reasonable notice of the conference must be given to the prosecutor and the defense counsel, who must be afforded an opportunity to participate therein. 3. Procedure at conference. The court may advise the persons present at the conference of the factual contents of any report or memorandum it has received and afford any of the participants an opportunity to controvert or to comment upon any fact. The court may also conduct a summary hearing at the conference on any matter relevant to sentence and may take testimony under oath. In the discretion of the court, all or any part of the proceedings at the conference may be recorded by a court stenographer and the transcript made part of the pre-sentence report. 4. Pre-sentence conditions. After conviction and prior to sentencing the court may adjourn sentencing to a subsequent date and order the defendant to comply with any of the conditions contained in paragraphs (a) through (f) and paragraph (l) of subdivision two of section 65.10 of the penal law. In imposing sentence, the court shall take into consideration the defendant's record of compliance with pre-sentence conditions ordered by the court.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 400 - Pre-Sentence Proceedings400.15 - Procedure for Determining Whether Defendant Is a Second Violent Felony Offender.

violent felony offender. 1. Applicability. The provisions of this section govern the procedure that must be followed in any case where it appears that a defendant who stands convicted of a violent felony offense as defined in subdivision one of section 70.02 of the penal law has previously been subjected to a predicate violent felony conviction as defined in paragraph (b) of subdivision one of section 70.04 of the penal law and may be a second violent felony offender. 2. Statement to be filed. When information available to the court or to the people prior to sentencing for a violent felony offense indicates that the defendant may have previously been subjected to a predicate violent felony conviction, a statement must be filed by the prosecutor before sentence is imposed setting forth the date and place of each alleged predicate violent felony conviction. Where the provisions of subparagraph (v) of paragraph (c) of subdivision one of section 70.04 of the penal law apply, such statement also shall set forth the date of commencement and the date of termination as well as the place of imprisonment for each period of incarceration to be used for tolling of the ten year limitation set forth in subparagraph (iv) of paragraph (b) of such subdivision. 3. Preliminary examination. The defendant must be given a copy of such statement and the court must ask him whether he wishes to controvert any allegation made therein. If the defendant wishes to controvert any allegation in the statement, he must specify the particular allegation or allegations he wishes to controvert. Uncontroverted allegations in the statement shall be deemed to have been admitted by the defendant. 4. Cases where further hearing is not required. Where the uncontroverted allegations in the statement are sufficient to support a finding that the defendant has been subjected to a predicate violent felony conviction the court must enter such finding and when imposing sentence must sentence the defendant in accordance with the provisions of section 70.04 of the penal law. 5. Cases where further hearing is required. Where the defendant controverts an allegation in the statement and the uncontroverted allegations in such statement are not sufficient to support a finding that the defendant has been subjected to a predicate violent felony conviction the court must proceed to hold a hearing. 6. Time for hearing. In any case where a copy of the statement was not received by the defendant at least two days prior to the preliminary examination, the court must upon request of the defendant grant an adjournment of at least two days before proceeding with the hearing. 7. Manner of conducting hearing.(a) A hearing pursuant to this section must be before the court without jury. The burden of proof is upon the people and a finding that the defendant has been subjected to a predicate violent felony conviction must be based upon proof beyond a reasonable doubt by evidence admissible under the rules applicable to a trial of the issue of guilt.(b) A previous conviction in this or any other jurisdiction which was obtained in violation of the rights of the defendant under the applicable provisions of the constitution of the United States must not be counted in determining whether the defendant has been subjected to a predicate violent felony conviction. The defendant may, at any time during the course of the hearing hereunder controvert an allegation with respect to such conviction in the statement on the grounds that the conviction was unconstitutionally obtained. Failure to challenge the previous conviction in the manner provided herein constitutes a waiver on the part of the defendant of any allegation of unconstitutionality unless good cause be shown for such failure to make timely challenge.(c) At the conclusion of the hearing the court must make a finding as to whether or not the defendant has been subjected to a predicate violent felony conviction.8. Subsequent use of predicate violent felony conviction finding. Where a finding has been entered pursuant to this section, such finding shall be binding upon that defendant in any future proceeding in which the issue may arise. (a) A hearing pursuant to this section must be before the court without jury. The burden of proof is upon the people and a finding that the defendant has been subjected to a predicate violent felony conviction must be based upon proof beyond a reasonable doubt by evidence admissible under the rules applicable to a trial of the issue of guilt. (b) A previous conviction in this or any other jurisdiction which was obtained in violation of the rights of the defendant under the applicable provisions of the constitution of the

United States must not be counted in determining whether the defendant has been subjected to a predicate violent felony conviction. The defendant may, at any time during the course of the hearing hereunder controvert an allegation with respect to such conviction in the statement on the grounds that the conviction was unconstitutionally obtained. Failure to challenge the previous conviction in the manner provided herein constitutes a waiver on the part of the defendant of any allegation of unconstitutionality unless good cause be shown for such failure to make timely challenge. (c) At the conclusion of the hearing the court must make a finding as to whether or not the defendant has been subjected to a predicate violent felony conviction. 8. Subsequent use of predicate violent felony conviction finding. Where a finding has been entered pursuant to this section, such finding shall be binding upon that defendant in any future proceeding in which the issue may arise.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 400 - Pre-Sentence Proceedings400.16 - Procedure for Determining Whether Defendant Is a Persistent Violent Felony Offender.

violent felony offender. 1. Applicability. The provisions of this section govern the procedure that must be followed in any case where it appears that a defendant who stands convicted of a violent felony offense as defined in subdivision one of section 70.02 of the penal law has previously been subjected to two or more predicate violent felony convictions as defined in paragraph (b) of subdivision one of section 70.04, and may be a persistent violent felony offender as defined in section 70.08 of the penal law. 2. Statement; preliminary examination; hearing; subsequent use of predicate violent felony conviction finding. The requirements set forth in subdivisions two, three, four, five, six, seven and eight of section 400.15 with respect to the statement to be filed, preliminary examination, hearing and subsequent use of a predicate violent felony conviction finding in the case of a second violent felony offender, shall also apply to a determination of whether a defendant has been subjected to two or more violent predicate felony convictions and is a persistent violent felony offender.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 400 - Pre-Sentence Proceedings400.19 - Procedure for Determining Whether Defendant Is a Second Child Sexual Assault Felony Offender.

sexual assault felony offender. 1. Applicability. The provisions of this section govern the procedure that must be followed in any case where it appears that a defendant who stands convicted of a felony offense for a sexual assault upon a child as defined in section 70.07 of the penal law has previously been convicted of a predicate felony for a sexual assault upon a child. 2. Statement to be filed. When information available to the people prior to the trial of a felony offense for a sexual assault against a child indicates that the defendant may have previously been subjected to a predicate felony conviction for a sexual assault against a child, a statement may be filed by the prosecutor at any time before trial commences setting forth the date and place of each alleged predicate felony conviction for a sexual assault against a child and a statement whether the defendant was eighteen years of age or older at the time of the commission of the predicate felony. Where the provisions of subparagraph (v) of paragraph (b) of subdivision one of section 70.06 of the penal law apply, such statement also shall set forth the date of commencement and the date of termination as well as the place of imprisonment for each period of incarceration to be used for tolling of the ten year limitation set forth in subparagraph (iv) of paragraph (b) of such subdivision. 3. Preliminary examination. The defendant must be given a copy of such statement and the court must ask him whether he wishes to controvert any allegation made therein. If the defendant wishes to controvert any allegation in the statement, he must specify the particular allegation or allegations he wishes to controvert. Uncontroverted allegations in the statement shall be deemed to have been admitted by the defendant. 4. Cases where further hearing is not required. Where the uncontroverted allegations in the statement are sufficient to support a finding that the defendant has been subjected to a predicate felony conviction for a sexual assault upon a child and that the defendant was 18 years of age or older at the time of the commission of the predicate felony, the court must enter such finding and when imposing sentence must sentence the defendant in accordance with the provisions of section 70.07 of the penal law. 5. Cases where further hearing is required. Where the defendant controverts an allegation in the statement, the court must proceed to hold a hearing. 6. Manner of conducting hearing. (a) A hearing pursuant to this section must be before the court without jury. The burden of proof is upon the people and a finding that the defendant has been subjected to a predicate felony conviction for a sexual assault against a child as defined in subdivision two of section 70.07 of the penal law and that the defendant was 18 years of age or older at the time of the commission of the predicate felony must be based upon proof beyond a reasonable doubt by evidence admissible under the rules applicable to a trial of the issue of guilt.(b) Regardless of whether the age of the victim is an element of the alleged predicate felony offense, where the defendant controverts an allegation that the victim of an alleged sexual assault upon a child was less than fifteen years old, the people may prove that the child was less than fifteen years old by any evidence admissible under the rules applicable to a trial of the issue of guilt. For purposes of determining whether a child was less than fifteen years old, the people shall not be required to prove that the defendant knew the child was less than fifteen years old at the time of the alleged sexual assault.(c) A previous conviction in this or any other jurisdiction which was obtained in violation of the rights of the defendant under the applicable provisions of the constitution of the United States must not be counted in determining whether the defendant has been subjected to a predicate felony conviction for a sexual assault upon a child. The defendant may, at any time during the course of the hearing hereunder, controvert an allegation with respect to such conviction in the statement on the grounds that the conviction was unconstitutionally obtained. Failure to challenge the previous conviction in the manner provided herein constitutes a waiver on the part of the defendant of any allegation of unconstitutionality unless good cause be shown for such failure to make timely challenge.(d) At the conclusion of the hearing the court must make a finding as to whether or not the defendant has been subjected to a predicate felony conviction for a

sexual assault against a child as defined in subdivision two of section 70.07 of the penal law and whether the defendant was 18 years of age or older at the time of the commission of the predicate felony.7. Subsequent use of predicate felony conviction finding. Where a finding has been entered pursuant to this section, such finding shall be binding in any future proceeding in which the issue may arise. (b) Regardless of whether the age of the victim is an element of the alleged predicate felony offense, where the defendant controverts an allegation that the victim of an alleged sexual assault upon a child was less than fifteen years old, the people may prove that the child was less than fifteen years old by any evidence admissible under the rules applicable to a trial of the issue of guilt. For purposes of determining whether a child was less than fifteen years old, the people shall not be required to prove that the defendant knew the child was less than fifteen years old at the time of the alleged sexual assault. (c) A previous conviction in this or any other jurisdiction which was obtained in violation of the rights of the defendant under the applicable provisions of the constitution of the United States must not be counted in determining whether the defendant has been subjected to a predicate felony conviction for a sexual assault upon a child. The defendant may, at any time during the course of the hearing hereunder, controvert an allegation with respect to such conviction in the statement on the grounds that the conviction was unconstitutionally obtained. Failure to challenge the previous conviction in the manner provided herein constitutes a waiver on the part of the defendant of any allegation of unconstitutionality unless good cause be shown for such failure to make timely challenge. (d) At the conclusion of the hearing the court must make a finding as to whether or not the defendant has been subjected to a predicate felony conviction for a sexual assault against a child as defined in subdivision two of section 70.07 of the penal law and whether the defendant was 18 years of age or older at the time of the commission of the predicate felony. 7. Subsequent use of predicate felony conviction finding. Where a finding has been entered pursuant to this section, such finding shall be binding in any future proceeding in which the issue may arise.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 400 - Pre-Sentence Proceedings400.20 - Procedure for Determining Whether Defendant Should Be Sentenced as a Persistent Felony Offender.

sentenced as a persistent felony offender. 1. Applicability. The provisions of this section govern the procedure that must be followed in order to impose the persistent felony offender sentence authorized by subdivision two of section 70.10 of the penal law. Such sentence may not be imposed unless, based upon evidence in the record of a hearing held pursuant to this section, the court (a) has found that the defendant is a persistent felony offender as defined in subdivision one of section 70.10 of the penal law, and (b) is of the opinion that the history and character of the defendant and the nature and circumstances of his criminal conduct are such that extended incarceration and lifetime supervision of the defendant are warranted to best serve the public interest. 2. Authorization for hearing. When information available to the court prior to sentencing indicates that the defendant is a persistent felony offender, and when, in the opinion of the court, the available information shows that a persistent felony offender sentence may be warranted, the court may order a hearing to determine (a) whether the defendant is in fact a persistent felony offender, and (b) if so, whether a persistent felony offender sentence should be imposed. 3. Order directing a hearing. An order directing a hearing to determine whether the defendant should be sentenced as a persistent felony offender must be filed with the clerk of the court and must specify a date for the hearing not less than twenty days from the date the order is filed. The court must annex to and file with the order a statement setting forth the following:(a) The dates and places of the previous convictions which render the defendant a persistent felony offender as defined in subdivision one of section 70.10 of the penal law; and(b) The factors in the defendant's background and prior criminal conduct which the court deems relevant for the purpose of sentencing the defendant as a persistent felony offender.4. Notice of hearing. Upon receipt of the order and statement of the court, the clerk of the court must send a notice of hearing to the defendant, his counsel and the district attorney. Such notice must specify the time and place of the hearing and the fact that the purpose of the hearing is to determine whether or not the defendant should be sentenced as a persistent felony offender. Each notice required to be sent hereunder must be accompanied by a copy of the statement of the court.5. Burden and standard of proof; evidence. Upon any hearing held pursuant to this section the burden of proof is upon the people. A finding that the defendant is a persistent felony offender, as defined in subdivision one of section 70.10 of the penal law, must be based upon proof beyond a reasonable doubt by evidence admissible under the rules applicable to the trial of the issue of guilt. Matters pertaining to the defendant's history and character and the nature and circumstances of his criminal conduct may be established by any relevant evidence, not legally privileged, regardless of admissibility under the exclusionary rules of evidence, and the standard of proof with respect to such matters shall be a preponderance of the evidence.6. Constitutionality of prior convictions. A previous conviction in this or any other jurisdiction which was obtained in violation of the rights of the defendant under the applicable provisions of the Constitution of the United States may not be counted in determining whether the defendant is a persistent felony offender. The defendant may, at any time during the course of the hearing hereunder controvert an allegation with respect to such conviction in the statement of the court on the grounds that the conviction was unconstitutionally obtained. Failure to challenge the previous conviction in the manner provided herein constitutes a waiver on the part of the defendant of any allegation of unconstitutionality unless good cause be shown for such failure to make timely challenge.7. Preliminary examination. When the defendant appears for the hearing the court must ask him whether he wishes to controvert any allegation made in the statement prepared by the court, and whether he wishes to present evidence on the issue of whether he is a persistent felony offender or on the question of his background and criminal conduct. If the defendant wishes to controvert any allegation in the statement of the court, he must specify the particular allegation or allegations he wishes to controvert. If he wishes to present evidence in his own behalf, he must specify the nature of such evidence. Uncontroverted allegations in the statement of the court are deemed evidence in the record.8. Cases where

further hearing is not required. Where the uncontroverted allegations in the statement of the court are sufficient to support a finding that the defendant is a persistent felony offender and the court is satisfied that (a) the uncontroverted allegations with respect to the defendant's background and the nature of his prior criminal conduct warrant sentencing the defendant as a persistent felony offender, and (b) the defendant either has no relevant evidence to present or the facts which could be established through the evidence offered by the defendant would not affect the court's decision, the court may enter a finding that the defendant is a persistent felony offender and sentence him in accordance with the provisions of subdivision two of section 70.10 of the penal law.9. Cases where further hearing is required. Where the defendant controverts an allegation in the statement of the court and the uncontroverted allegations in such statement are not sufficient to support a finding that the defendant is a persistent felony offender as defined in subdivision one of section 70.10 of the penal law, or where the uncontroverted allegations with respect to the defendant's history and the nature of his prior criminal conduct do not warrant sentencing him as a persistent felony offender, or where the defendant has offered to present evidence to establish facts that would affect the court's decision on the question of whether a persistent felony offender sentence is warranted, the court may fix a date for a further hearing. Such hearing shall be before the court without a jury and either party may introduce evidence with respect to the controverted allegations or any other matter relevant to the issue of whether or not the defendant should be sentenced as a persistent felony offender. At the conclusion of the hearing the court must make a finding as to whether or not the defendant is a persistent felony offender and, upon a finding that he is such, must then make such findings of fact as it deems relevant to the question of whether a persistent felony offender sentence is warranted. If the court both finds that the defendant is a persistent felony offender and is of the opinion that a persistent felony offender sentence is warranted, it may sentence the defendant in accordance with the provisions of subdivision two of section 70.10 of the penal law.10. Termination of hearing. At any time during the pendency of a hearing pursuant to this section, the court may, in its discretion, terminate the hearing without making any finding. In such case, unless the court recommences the proceedings and makes the necessary findings, the defendant may not be sentenced as a persistent felony offender. (a) The dates and places of the previous convictions which render the defendant a persistent felony offender as defined in subdivision one of section 70.10 of the penal law; and (b) The factors in the defendant's background and prior criminal conduct which the court deems relevant for the purpose of sentencing the defendant as a persistent felony offender. 4. Notice of hearing. Upon receipt of the order and statement of the court, the clerk of the court must send a notice of hearing to the defendant, his counsel and the district attorney. Such notice must specify the time and place of the hearing and the fact that the purpose of the hearing is to determine whether or not the defendant should be sentenced as a persistent felony offender. Each notice required to be sent hereunder must be accompanied by a copy of the statement of the court. 5. Burden and standard of proof; evidence. Upon any hearing held pursuant to this section the burden of proof is upon the people. A finding that the defendant is a persistent felony offender, as defined in subdivision one of section 70.10 of the penal law, must be based upon proof beyond a reasonable doubt by evidence admissible under the rules applicable to the trial of the issue of guilt. Matters pertaining to the defendant's history and character and the nature and circumstances of his criminal conduct may be established by any relevant evidence, not legally privileged, regardless of admissibility under the exclusionary rules of evidence, and the standard of proof with respect to such matters shall be a preponderance of the evidence. 6. Constitutionality of prior convictions. A previous conviction in this or any other jurisdiction which was obtained in violation of the rights of the defendant under the applicable provisions of the Constitution of the United States may not be counted in determining whether the defendant is a persistent felony offender. The defendant may, at any time during the course of the hearing hereunder controvert an allegation with respect to such conviction in the statement of the court on the grounds that the conviction was unconstitutionally obtained. Failure to challenge the previous conviction in the manner provided herein constitutes a waiver on the part of the defendant of any allegation of unconstitutionality unless good cause be shown for such failure to make timely challenge. 7. Preliminary examination. When the defendant appears for the hearing the court must ask him whether he wishes to controvert any allegation made in the statement prepared by the court, and whether he wishes to present evidence on the issue of whether he is a persistent felony offender or on the question of his background and criminal conduct. If the defendant wishes to controvert any allegation in the statement of the court, he must specify the particular allegation or allegations he wishes to controvert. If he wishes to present evidence in his own behalf, he must specify the nature of such evidence. Uncontroverted allegations in the statement of the court are deemed evidence in the record. 8. Cases where further hearing is not required. Where the uncontroverted allegations in the statement of the court are sufficient to support a finding that the defendant is a persistent felony offender and the court is satisfied that (a) the uncontroverted allegations with respect to the defendant's background and the nature of his prior criminal conduct warrant sentencing the defendant as a persistent felony offender, and (b) the defendant either has no relevant evidence to present or the facts which could be established through the evidence offered by the defendant would not affect the court's decision, the court may enter a finding that the defendant is a persistent felony offender and sentence him in accordance with the provisions of subdivision two of section 70.10 of the penal law. 9. Cases where further hearing is required. Where the defendant controverts an allegation in the statement of the court and the uncontroverted allegations in such statement are not sufficient to support a finding that the defendant is a persistent felony offender as defined in subdivision one of section 70.10 of the penal law, or where the uncontroverted allegations with respect to the defendant's history and the nature of his prior criminal conduct do not warrant sentencing him as a persistent felony offender, or where the defendant has offered to present evidence to establish facts that would affect the court's decision on the question of whether a persistent felony offender sentence is warranted, the court may fix a date for a further hearing. Such hearing shall be before the court without a jury and either party may introduce evidence with respect to the controverted allegations or any other matter relevant to the issue of whether or not the defendant should be sentenced as a persistent felony offender. At the conclusion of the hearing the court must make a finding as to whether or not the defendant is a persistent felony offender and, upon a finding that

he is such, must then make such findings of fact as it deems relevant to the question of whether a persistent felony offender sentence is warranted. If the court both finds that the defendant is a persistent felony offender and is of the opinion that a persistent felony offender sentence is warranted, it may sentence the defendant in accordance with the provisions of subdivision two of section 70.10 of the penal law. 10. Termination of hearing. At any time during the pendency of a hearing pursuant to this section, the court may, in its discretion, terminate the hearing without making any finding. In such case, unless the court recommences the proceedings and makes the necessary findings, the defendant may not be sentenced as a persistent felony offender.

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offender or a second felony drug offender. 1. Applicability. The provisions of this section govern the procedure that must be followed in any case where it appears that a defendant who stands convicted of a felony has previously been convicted of a predicate felony and may be a second felony offender as defined in section 70.06 of the penal law or a second felony drug offender as defined in either paragraph (b) of subdivision one of section 70.70 of the penal law, or paragraph (b) of subdivision one of section 70.71 of the penal law. 2. Statement to be filed. When information available to the court or to the people prior to sentencing for a felony indicates that the defendant may have previously been subjected to a predicate felony conviction, a statement must be filed by the prosecutor before sentence is imposed setting forth the date and place of each alleged predicate felony conviction and whether the predicate felony conviction was a violent felony as that term is defined in subdivision one of section 70.02 of the penal law, or in any other jurisdiction of an offense which includes all of the essential elements of any such felony for which a sentence to a term of imprisonment in excess of one year or death was authorized and is authorized in this state regardless of whether such sentence was imposed. Where the provisions of subparagraph (v) of paragraph (b) of subdivision one of section 70.06 of the penal law apply, such statement also shall set forth the date of commencement and the date of termination as well as the state or local incarcerating agency for each period of incarceration to be used for tolling of the ten year limitation set forth in subparagraph (iv) of paragraph (b) of such subdivision. 3. Preliminary examination. The defendant must be given a copy of such statement and the court must ask him or her whether he or she wishes to controvert any allegation made therein. If the defendant wishes to controvert any allegation in the statement, he must specify the particular allegation or allegations he wishes to controvert. Uncontroverted allegations in the statement shall be deemed to have been admitted by the defendant. 4. Cases where further hearing is not required. Where the uncontroverted allegations in the statement are sufficient to support a finding that the defendant has been subjected to a predicate felony conviction the court must enter such finding, including a finding that the predicate felony conviction was of a violent felony as that term is defined in subdivision one of section 70.02 of the penal law, or in any other jurisdiction of an offense which includes all of the essential elements of any such felony for which a sentence to a term of imprisonment in excess of one year or death was authorized and is authorized in this state regardless of whether such sentence was imposed, and when imposing sentence must sentence the defendant in accordance with the applicable provisions of section 70.06, 70.70 or 70.71 of the penal law. 5. Cases where further hearing is required. Where the defendant controverts an allegation in the statement and the uncontroverted allegations in such statement are not sufficient to support a finding that the defendant has been subjected to such a predicate felony conviction the court must proceed to hold a hearing. 6. Time for hearing. In any case where a copy of the statement was not received by the defendant at least two days prior to the preliminary examination, the court must upon request of the defendant grant an adjournment of at least two days before proceeding with the hearing. 7. Manner of conducting hearing. (a) A hearing pursuant to this section must be before the court without jury. The burden of proof is upon the people and a finding that the defendant has been subjected to such a predicate felony conviction must be based upon proof beyond a reasonable doubt by evidence admissible under the rules applicable to a trial of the issue of guilt.(b) A previous conviction in this or any other jurisdiction which was obtained in violation of the rights of the defendant under the applicable provisions of the constitution of the United States must not be counted in determining whether the defendant has been subjected to such a predicate felony conviction. The defendant may, at any time during the course of the hearing hereunder controvert an allegation with respect to such conviction in the statement on the grounds that the conviction was unconstitutionally obtained. Failure to challenge the previous conviction in the manner provided herein constitutes a waiver on the part of the defendant of any allegation of unconstitutionality unless good cause be shown for such failure to make timely challenge.(c) At the conclusion of the hearing the court must make a finding as to whether or not the defendant has been subjected to a predicate felony conviction, including a finding as to whether or not the predicate felony conviction was of a violent felony as that term is defined in subdivision one of section 70.02 of the penal law, or in any other jurisdiction of an offense which includes all of the essential elements of any such felony for which a sentence to a term of imprisonment in excess of one year or death was authorized and is authorized in this state regardless of whether such sentence was imposed.8. Subsequent use of predicate felony conviction finding. Where a finding has been entered pursuant to this section, such finding shall be binding upon that defendant in any future proceeding in which the issue may arise. (b) A previous conviction in this or any other jurisdiction which was obtained in violation of the rights of the defendant under the applicable provisions of the constitution of the United States must not be counted in determining whether the defendant has been subjected to such a predicate felony conviction. The defendant may, at any time during the course of the hearing hereunder controvert an allegation with respect to such conviction in the statement on the grounds that the conviction was unconstitutionally obtained. Failure to challenge the previous conviction in the manner provided herein constitutes a waiver on the part of the defendant of any allegation of unconstitutionality unless good cause be shown for such failure to make timely challenge. (c) At the conclusion of the hearing the court must make a finding as to whether or not the

defendant has been subjected to a predicate felony conviction, including a finding as to whether or not the predicate felony conviction was of a violent felony as that term is defined in subdivision one of section 70.02 of the penal law, or in any other jurisdiction of an offense which includes all of the essential elements of any such felony for which a sentence to a term of imprisonment in excess of one year or death was authorized and is authorized in this state regardless of whether such sentence was imposed. 8. Subsequent use of predicate felony conviction finding. Where a finding has been entered pursuant to this section, such finding shall be binding upon that defendant in any future proceeding in which the issue may arise.

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The certificate of the commissioner of correction or of the warden or other chief officer of any prison, or of the superintendent or other chief officer of any penitentiary under the seal of his office containing name of person, a statement of the court in which conviction was had, the date and term of sentence, length of time imprisoned, and date of discharge from prison or penitentiary, shall be prima facie evidence of the imprisonment and discharge of any person under the conviction stated and set forth in such certificate for the purposes of any proceeding under section 400.20.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 400 - Pre-Sentence Proceedings400.27 - Procedure for Determining Sentence Upon Conviction for the Offense of Murder in the First Degree.

offense of murder in the first degree. 1. Upon the conviction of a defendant for the offense of murder in the first degree as defined by section 125.27 of the penal law, the court shall promptly conduct a separate sentencing proceeding to determine whether the defendant shall be sentenced to death or to life imprisonment without parole pursuant to subdivision five of section 70.00 of the penal law. Nothing in this section shall be deemed to preclude the people at any time from determining that the death penalty shall not be sought in a particular case, in which case the separate sentencing proceeding shall not be conducted and the court may sentence such defendant to life imprisonment without parole or to a sentence of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole. 2. The separate sentencing proceeding provided for by this section shall be conducted before the court sitting with the jury that found the defendant guilty. The court may discharge the jury and impanel another jury only in extraordinary circumstances and upon a showing of good cause, which may include, but is not limited to, a finding of prejudice to either party. If a new jury is impaneled, it shall be formed in accordance with the procedures in article two hundred seventy of this chapter. Before proceeding with the jury that found the defendant guilty, the court shall determine whether any juror has a state of mind that is likely to preclude the juror from rendering an impartial decision based upon the evidence adduced during the proceeding. In making such determination the court shall personally examine each juror individually outside the presence of the other jurors. The scope of the examination shall be within the discretion of the court and may include questions supplied by the parties as the court deems proper. The proceedings provided for in this subdivision shall be conducted on the record; provided, however, that upon motion of either party, and for good cause shown, the court may direct that all or a portion of the record of such proceedings be sealed. In the event the court determines that a juror has such a state of mind, the court shall discharge the juror and replace the juror with the alternate juror whose name was first drawn and called. If no alternate juror is available, the court must discharge the jury and impanel another jury in accordance with article two hundred seventy of this chapter. 3. For the purposes of a proceeding under this section each subparagraph of paragraph (a) of subdivision one of section 125.27 of the penal law shall be deemed to define an aggravating factor. Except as provided in subdivision seven of this section, at a sentencing proceeding pursuant to this section the only aggravating factors that the jury may consider are those proven beyond a reasonable doubt at trial, and no other aggravating factors may be considered. Whether a sentencing proceeding is conducted before the jury that found the defendant guilty or before another jury, the aggravating factor or factors proved at trial shall be deemed established beyond a reasonable doubt at the separate sentencing proceeding and shall not be relitigated. Where the jury is to determine sentences for concurrent counts of murder in the first degree, the aggravating factor included in each count shall be deemed to be an aggravating factor for the purpose of the jury's consideration in determining the sentence to be imposed on each such count. 4. The court on its own motion or on motion of either party, in the interest of justice or to avoid prejudice to either party, may delay the commencement of the separate sentencing proceeding. 5. Notwithstanding the provisions of article three hundred ninety of this chapter, where a defendant is found guilty of murder in the first degree, no presentence investigation shall be conducted; provided, however, that where the court is to impose a sentence of imprisonment, a presentence investigation shall be conducted and a presentence report shall be prepared in accordance with the provisions of such article. 6. At the sentencing proceeding the people shall not relitigate the existence of aggravating factors proved at the trial or otherwise present evidence, except, subject to the rules governing admission of evidence in the trial of a criminal action, in rebuttal of the defendant's evidence. However, when the sentencing proceeding is conducted before a newly impaneled jury, the people may present evidence to the extent reasonably necessary to inform the jury of the nature and circumstances of the count or counts of murder in the first degree for which the defendant was convicted in sufficient detail to permit the jury to determine the weight to be accorded the aggravating factor or factors established at trial. Whenever the people present such evidence, the court must instruct the jury in its charge that any facts elicited by the people that are not essential to the verdict of guilty on such count or counts shall not be deemed established beyond a reasonable doubt. Subject to the rules governing the admission of evidence in the trial of a criminal action, the defendant may present any evidence relevant to any mitigating factor set forth in subdivision nine of this section; provided, however, the

defendant shall not be precluded from the admission of reliable hearsay evidence. The burden of establishing any of the mitigating factors set forth in subdivision nine of this section shall be on the defendant, and must be proven by a preponderance of the evidence. The people shall not offer evidence or argument relating to any mitigating factor except in rebuttal of evidence offered by the defendant. 7. (a) The people may present evidence at the sentencing proceeding to prove that in the ten year period prior to the commission of the crime of murder in the first degree for which the defendant was convicted, the defendant has previously been convicted of two or more offenses committed on different occasions; provided, that each such offense shall be either (i) a class A felony offense other than one defined in article two hundred twenty of the penal law, a class B violent felony offense specified in paragraph (a) of subdivision one of section 70.02 of the penal law, or a felony offense under the penal law a necessary element of which involves either the use or attempted use or threatened use of a deadly weapon or the intentional infliction of or the attempted intentional infliction of serious physical injury or death, or (ii) an offense under the laws of another state or of the United States punishable by a term of imprisonment of more than one year a necessary element of which involves either the use or attempted use or threatened use of a deadly weapon or the intentional infliction of or the attempted intentional infliction of serious physical injury or death. For the purpose of this paragraph, the term "deadly weapon" shall have the meaning set forth in subdivision twelve of section 10.00 of the penal law. In calculating the ten year period under this paragraph, any period of time during which the defendant was incarcerated for any reason between the time of commission of any of the prior felony offenses and the time of commission of the crime of murder in the first degree shall be excluded and such ten year period shall be extended by a period or periods equal to the time served under such incarceration. The defendant's conviction of two or more such offenses shall, if proven at the sentencing proceeding, constitute an aggravating factor.(b) In order to be deemed established, an aggravating factor set forth in this subdivision must be proven by the people beyond a reasonable doubt and the jury must unanimously find such factor to have been so proven. The defendant may present evidence relating to an aggravating factor defined in this subdivision and either party may offer evidence in rebuttal. Any evidence presented by either party relating to such factor shall be subject to the rules governing admission of evidence in the trial of a criminal action.(c) Whenever the people intend to offer evidence of an aggravating factor set forth in this subdivision, the people must within a reasonable time prior to trial file with the court and serve upon the defendant a notice of intention to offer such evidence. Whenever the people intend to offer evidence of the aggravating factor set forth in paragraph (a) of this subdivision, the people shall file with the notice of intention to offer such evidence a statement setting forth the date and place of each of the alleged offenses in paragraph (a) of this subdivision. The provisions of section 400.15 of this chapter, except for subdivisions one and two thereof, shall be followed.8. Consistent with the provisions of this section, the people and the defendant shall be given fair opportunity to rebut any evidence received at the separate sentencing proceeding.9. Mitigating factors shall include the following:(a) The defendant has no significant history of prior criminal convictions involving the use of violence against another person;(b) The defendant was mentally retarded at the time of the crime, or the defendant's mental capacity was impaired or his ability to conform his conduct to the requirements of law was impaired but not so impaired in either case as to constitute a defense to prosecution;(c) The defendant was under duress or under the domination of another person, although not such duress or domination as to constitute a defense to prosecution;(d) The defendant was criminally liable for the present offense of murder committed by another, but his participation in the offense was relatively minor although not so minor as to constitute a defense to prosecution;(e) The murder was committed while the defendant was mentally or emotionally disturbed or under the influence of alcohol or any drug, although not to such an extent as to constitute a defense to prosecution; or(f) Any other circumstance concerning the crime, the defendant's state of mind or condition at the time of the crime, or the defendant's character, background or record that would be relevant to mitigation or punishment for the crime.* 10. At the conclusion of all the evidence, the people and the defendant may present argument in summation for or against the sentence sought by the people. The people may deliver the first summation and the defendant may then deliver the last summation. Thereafter, the court shall deliver a charge to the jury on any matters appropriate in the circumstances. In its charge, the court must instruct the jury that with respect to each count of murder in the first degree the jury should consider whether or not a sentence of death should be imposed and whether or not a sentence of life imprisonment without parole should be imposed, and that the jury must be unanimous with respect to either sentence. The court must also instruct the jury that in the event the jury fails to reach unanimous agreement with respect to the sentence, the court will sentence the defendant to a term of imprisonment with a minimum term of between twenty and twenty-five years and a maximum term of life. Following the court's charge, the jury shall retire to consider the sentence to be imposed. Unless inconsistent with the provisions of this section, the provisions of sections 310.10, 310.20 and 310.30 shall govern the deliberations of the jury.* NB The jury deadlock instruction prescribed in sub 10 declared UNCONSTITUTIONAL under Article 1, Section 6 of the state Constitution11. (a) The jury may not direct imposition of a sentence of death unless it unanimously finds beyond a reasonable doubt that the aggravating factor or factors substantially outweigh the mitigating factor or factors established, if any, and unanimously determines that the penalty of death should be imposed. Any member or members of the jury who find a mitigating factor to have been proven by the defendant by a preponderance of the evidence may consider such factor established regardless of the number of jurors who concur that the factor has been established.(b) If the jury directs imposition of either a sentence of death or life imprisonment without parole, it shall specify on the record those mitigating and aggravating factors considered and those mitigating factors established by the defendant, if any.(c) With respect to a count or concurrent counts of murder in the first degree, the court may direct the jury to cease deliberation with respect to the sentence or sentences to be imposed if the jury has deliberated for an extensive period of time without reaching unanimous agreement on the sentence or sentences to be imposed and the court is satisfied that any such agreement is unlikely within a reasonable time. The provisions of this paragraph shall apply with respect to consecutive counts of murder in the first degree. In the event the jury is unable to reach unanimous agreement, the court must

sentence the defendant in accordance with subdivisions one through three of section 70.00 of the penal law with respect to any count or counts of murder in the first degree upon which the jury failed to reach unanimous agreement as to the sentence to be imposed.(d) If the jury unanimously determines that a sentence of death should be imposed, the court must thereupon impose a sentence of death. Thereafter, however, the court may, upon written motion of the defendant, set aside the sentence of death upon any of the grounds set forth in section 330.30. The procedures set forth in sections 330.40 and 330.50, as applied to separate sentencing proceedings under this section, shall govern the motion and the court upon granting the motion shall, except as may otherwise be required by subdivision one of section 330.50, direct a new sentencing proceeding pursuant to this section. Upon granting the motion upon any of the grounds set forth in section 330.30 and setting aside the sentence, the court must afford the people a reasonable period of time, which shall not be less than ten days, to determine whether to take an appeal from the order setting aside the sentence of death. The taking of an appeal by the people stays the effectiveness of that portion of the court's order that directs a new sentencing proceeding.(e) If the jury unanimously determines that a sentence of life imprisonment without parole should be imposed the court must thereupon impose a sentence of life imprisonment without parole.(f) Where a sentence has been unanimously determined by the jury it must be recorded on the minutes and read to the jury, and the jurors must be collectively asked whether such is their sentence. Even though no juror makes any declaration in the negative, the jury must, if either party makes such an application, be polled and each juror separately asked whether the sentence announced by the foreman is in all respects his or her sentence. If, upon either the collective or the separate inquiry, any juror answers in the negative, the court must refuse to accept the sentence and must direct the jury to resume its deliberation. If no disagreement is expressed, the jury must be discharged from the case.12. (a) Upon the conviction of a defendant for the offense of murder in the first degree as defined in section 125.27 of the penal law, the court shall, upon oral or written motion of the defendant based upon a showing that there is reasonable cause to believe that the defendant is mentally retarded, promptly conduct a hearing without a jury to determine whether the defendant is mentally retarded. Upon the consent of both parties, such a hearing, or a portion thereof, may be conducted by the court contemporaneously with the separate sentencing proceeding in the presence of the sentencing jury, which in no event shall be the trier of fact with respect to the hearing. At such hearing the defendant has the burden of proof by a preponderance of the evidence that he or she is mentally retarded. The court shall defer rendering any finding pursuant to this subdivision as to whether the defendant is mentally retarded until a sentence is imposed pursuant to this section.(b) In the event the defendant is sentenced pursuant to this section to life imprisonment without parole or to a term of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole, the court shall not render a finding with respect to whether the defendant is mentally retarded.(c) In the event the defendant is sentenced pursuant to this section to death, the court shall thereupon render a finding with respect to whether the defendant is mentally retarded. If the court finds the defendant is mentally retarded, the court shall set aside the sentence of death and sentence the defendant either to life imprisonment without parole or to a term of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole. If the court finds the defendant is not mentally retarded, then such sentence of death shall not be set aside pursuant to this subdivision.(d) In the event that a defendant is convicted of murder in the first degree pursuant to subparagraph (iii) of paragraph (a) of subdivision one of section 125.27 of the penal law, and the killing occurred while the defendant was confined or under custody in a state correctional facility or local correctional institution, and a sentence of death is imposed, such sentence may not be set aside pursuant to this subdivision upon the ground that the defendant is mentally retarded. Nothing in this paragraph or paragraph (a) of this subdivision shall preclude a defendant from presenting mitigating evidence of mental retardation at the separate sentencing proceeding.(e) The foregoing provisions of this subdivision notwithstanding, at a reasonable time prior to the commencement of trial the defendant may, upon a written motion alleging reasonable cause to believe the defendant is mentally retarded, apply for an order directing that a mental retardation hearing be conducted prior to trial. If, upon review of the defendant's motion and any response thereto, the court finds reasonable cause to believe the defendant is mentally retarded, it shall promptly conduct a hearing without a jury to determine whether the defendant is mentally retarded. In the event the court finds after the hearing that the defendant is not mentally retarded, the court must, prior to commencement of trial, enter an order so stating, but nothing in this paragraph shall preclude a defendant from presenting mitigating evidence of mental retardation at a separate sentencing proceeding. In the event the court finds after the hearing that the defendant, based upon a preponderance of the evidence, is mentally retarded, the court must, prior to commencement of trial, enter an order so stating. Unless the order is reversed on an appeal by the people or unless the provisions of paragraph (d) of this subdivision apply, a separate sentencing proceeding under this section shall not be conducted if the defendant is thereafter convicted of murder in the first degree. In the event a separate sentencing proceeding is not conducted, the court, upon conviction of a defendant for the crime of murder in the first degree, shall sentence the defendant to life imprisonment without parole or to a sentence of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole. Whenever a mental retardation hearing is held and a finding is rendered pursuant to this paragraph, the court may not conduct a hearing pursuant to paragraph (a) of this subdivision. For purposes of this subdivision and paragraph (b) of subdivision nine of this section, "mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which were manifested before the age of eighteen.(f) In the event the court enters an order pursuant to paragraph (e) of this subdivision finding that the defendant is mentally retarded, the people may appeal as of right from the order pursuant to subdivision ten of section 450.20 of this chapter. Upon entering such an order the court must afford the people a reasonable period of time, which shall not be less than ten days, to determine whether to take an appeal from the order finding that the defendant is mentally retarded. The taking of an appeal by the people stays the effectiveness of the court's order and any order fixing a date for trial. Within six months of the effective date of this subdivision, the court of appeals shall adopt rules to ensure that appeals pursuant to

this paragraph are expeditiously perfected, reviewed and determined so that pretrial delays are minimized. Prior to adoption of the rules, the court of appeals shall issue proposed rules and receive written comments thereon from interested parties.13. (a) As used in this subdivision, the term "psychiatric evidence" means evidence of mental disease, defect or condition in connection with either a mitigating factor defined in this section or a mental retardation hearing pursuant to this section to be offered by a psychiatrist, psychologist or other person who has received training, or education, or has experience relating to the identification, diagnosis, treatment or evaluation of mental disease, mental defect or mental condition.(b) When either party intends to offer psychiatric evidence, the party must, within a reasonable time prior to trial, serve upon the other party and file with the court a written notice of intention to present psychiatric evidence. The notice shall include a brief but detailed statement specifying the witness, nature and type of psychiatric evidence sought to be introduced. If either party fails to serve and file written notice, no psychiatric evidence is admissible unless the party failing to file thereafter serves and files such notice and the court affords the other party an adjournment for a reasonable period. If a party fails to give timely notice, the court in its discretion may impose upon offending counsel a reasonable monetary sanction for an intentional failure but may not in any event preclude the psychiatric evidence. In the event a monetary sanction is imposed, the offending counsel shall be personally liable therefor, and shall not receive reimbursement of any kind from any source in order to pay the cost of such monetary sanction. Nothing contained herein shall preclude the court from entering an order directing a party to provide timely notice.(c) When a defendant serves notice pursuant to this subdivision, the district attorney may make application, upon notice to the defendant, for an order directing that the defendant submit to an examination by a psychiatrist, licensed psychologist, or licensed clinical social worker designated by the district attorney, for the purpose of rebutting evidence offered by the defendant with respect to a mental disease, defect, or condition in connection with either a mitigating factor defined in this section, including whether the defendant was acting under duress, was mentally or emotionally disturbed or mentally retarded, or was under the influence of alcohol or any drug. If the application is granted, the district attorney shall schedule a time and place for the examination, which shall be recorded. Counsel for the people and the defendant shall have the right to be present at the examination. A transcript of the examination shall be made available to the defendant and the district attorney promptly after its conclusion. The district attorney shall promptly serve on the defendant a written copy of the findings and evaluation of the examiner. If the court finds that the defendant has wilfully refused to cooperate fully in an examination pursuant to this paragraph, it shall, upon request of the district attorney, instruct the jury that the defendant did not submit to or cooperate fully in such psychiatric examination. When a defendant is subjected to an examination pursuant to an order issued in accordance with this subdivision, any statement made by the defendant for the purpose of the examination shall be inadmissible in evidence against him in any criminal action or proceeding on any issue other than that of whether a mitigating factor has been established or whether the defendant is mentally retarded, but such statement is admissible upon such an issue whether or not it would otherwise be deemed a privileged communication.14. (a) At a reasonable time prior to the sentencing proceeding or a mental retardation hearing:(i) the prosecutor shall, unless previously disclosed and subject to a protective order, make available to the defendant the statements and information specified in subdivision one of section 245.20 of this part and make available for inspection, photographing, copying or testing the property specified in subdivision one of section 245.20; and(ii) the defendant shall, unless previously disclosed and subject to a protective order, make available to the prosecution the statements and information specified in subdivision four of section 245.20 and make available for inspection, photographing, copying or testing, subject to constitutional limitations, the reports, documents and other property specified in section 245.20 of this part.(b) Where a party refuses to make disclosure pursuant to this section, the provisions of section 245.70, 245.75 and/or 245.80 of this part shall apply.(c) If, after complying with the provisions of this section or an order pursuant thereto, a party finds either before or during a sentencing proceeding or mental retardation hearing, additional material subject to discovery or covered by court order, the party shall promptly make disclosure or apply for a protective order.(d) If the court finds that a party has failed to comply with any of the provisions of this section, the court may employ any of the remedies or sanctions specified in subdivision one of section 245.80 of this part.15. The court of appeals shall formulate and adopt rules for the development of forms for use by the jury in recording its findings and determinations of sentence. (b) In order to be deemed established, an aggravating factor set forth in this subdivision must be proven by the people beyond a reasonable doubt and the jury must unanimously find such factor to have been so proven. The defendant may present evidence relating to an aggravating factor defined in this subdivision and either party may offer evidence in rebuttal. Any evidence presented by either party relating to such factor shall be subject to the rules governing admission of evidence in the trial of a criminal action. (c) Whenever the people intend to offer evidence of an aggravating factor set forth in this subdivision, the people must within a reasonable time prior to trial file with the court and serve upon the defendant a notice of intention to offer such evidence. Whenever the people intend to offer evidence of the aggravating factor set forth in paragraph (a) of this subdivision, the people shall file with the notice of intention to offer such evidence a statement setting forth the date and place of each of the alleged offenses in paragraph (a) of this subdivision. The provisions of section 400.15 of this chapter, except for subdivisions one and two thereof, shall be followed. 8. Consistent with the provisions of this section, the people and the defendant shall be given fair opportunity to rebut any evidence received at the separate sentencing proceeding. 9. Mitigating factors shall include the following: (a) The defendant has no significant history of prior criminal convictions involving the use of violence against another person; (b) The defendant was mentally retarded at the time of the crime, or the defendant's mental capacity was impaired or his ability to conform his conduct to the requirements of law was impaired but not so impaired in either case as to constitute a defense to prosecution; (c) The defendant was under duress or under the domination of another person, although not such duress or domination as to constitute a defense to prosecution; (d) The defendant was criminally liable for the present offense of murder committed by another, but his participation in the offense was relatively minor although not so minor as to constitute a defense to prosecution; (e)

The murder was committed while the defendant was mentally or emotionally disturbed or under the influence of alcohol or any drug, although not to such an extent as to constitute a defense to prosecution; or (f) Any other circumstance concerning the crime, the defendant's state of mind or condition at the time of the crime, or the defendant's character, background or record that would be relevant to mitigation or punishment for the crime. * 10. At the conclusion of all the evidence, the people and the defendant may present argument in summation for or against the sentence sought by the people. The people may deliver the first summation and the defendant may then deliver the last summation. Thereafter, the court shall deliver a charge to the jury on any matters appropriate in the circumstances. In its charge, the court must instruct the jury that with respect to each count of murder in the first degree the jury should consider whether or not a sentence of death should be imposed and whether or not a sentence of life imprisonment without parole should be imposed, and that the jury must be unanimous with respect to either sentence. The court must also instruct the jury that in the event the jury fails to reach unanimous agreement with respect to the sentence, the court will sentence the defendant to a term of imprisonment with a minimum term of between twenty and twenty-five years and a maximum term of life. Following the court's charge, the jury shall retire to consider the sentence to be imposed. Unless inconsistent with the provisions of this section, the provisions of sections 310.10, 310.20 and 310.30 shall govern the deliberations of the jury. * NB The jury deadlock instruction prescribed in sub 10 declared UNCONSTITUTIONAL under Article 1, Section 6 of the state Constitution 11. (a) The jury may not direct imposition of a sentence of death unless it unanimously finds beyond a reasonable doubt that the aggravating factor or factors substantially outweigh the mitigating factor or factors established, if any, and unanimously determines that the penalty of death should be imposed. Any member or members of the jury who find a mitigating factor to have been proven by the defendant by a preponderance of the evidence may consider such factor established regardless of the number of jurors who concur that the factor has been established. (b) If the jury directs imposition of either a sentence of death or life imprisonment without parole, it shall specify on the record those mitigating and aggravating factors considered and those mitigating factors established by the defendant, if any. (c) With respect to a count or concurrent counts of murder in the first degree, the court may direct the jury to cease deliberation with respect to the sentence or sentences to be imposed if the jury has deliberated for an extensive period of time without reaching unanimous agreement on the sentence or sentences to be imposed and the court is satisfied that any such agreement is unlikely within a reasonable time. The provisions of this paragraph shall apply with respect to consecutive counts of murder in the first degree. In the event the jury is unable to reach unanimous agreement, the court must sentence the defendant in accordance with subdivisions one through three of section 70.00 of the penal law with respect to any count or counts of murder in the first degree upon which the jury failed to reach unanimous agreement as to the sentence to be imposed. (d) If the jury unanimously determines that a sentence of death should be imposed, the court must thereupon impose a sentence of death. Thereafter, however, the court may, upon written motion of the defendant, set aside the sentence of death upon any of the grounds set forth in section 330.30. The procedures set forth in sections 330.40 and 330.50, as applied to separate sentencing proceedings under this section, shall govern the motion and the court upon granting the motion shall, except as may otherwise be required by subdivision one of section 330.50, direct a new sentencing proceeding pursuant to this section. Upon granting the motion upon any of the grounds set forth in section 330.30 and setting aside the sentence, the court must afford the people a reasonable period of time, which shall not be less than ten days, to determine whether to take an appeal from the order setting aside the sentence of death. The taking of an appeal by the people stays the effectiveness of that portion of the court's order that directs a new sentencing proceeding. (e) If the jury unanimously determines that a sentence of life imprisonment without parole should be imposed the court must thereupon impose a sentence of life imprisonment without parole. (f) Where a sentence has been unanimously determined by the jury it must be recorded on the minutes and read to the jury, and the jurors must be collectively asked whether such is their sentence. Even though no juror makes any declaration in the negative, the jury must, if either party makes such an application, be polled and each juror separately asked whether the sentence announced by the foreman is in all respects his or her sentence. If, upon either the collective or the separate inquiry, any juror answers in the negative, the court must refuse to accept the sentence and must direct the jury to resume its deliberation. If no disagreement is expressed, the jury must be discharged from the case. 12. (a) Upon the conviction of a defendant for the offense of murder in the first degree as defined in section 125.27 of the penal law, the court shall, upon oral or written motion of the defendant based upon a showing that there is reasonable cause to believe that the defendant is mentally retarded, promptly conduct a hearing without a jury to determine whether the defendant is mentally retarded. Upon the consent of both parties, such a hearing, or a portion thereof, may be conducted by the court contemporaneously with the separate sentencing proceeding in the presence of the sentencing jury, which in no event shall be the trier of fact with respect to the hearing. At such hearing the defendant has the burden of proof by a preponderance of the evidence that he or she is mentally retarded. The court shall defer rendering any finding pursuant to this subdivision as to whether the defendant is mentally retarded until a sentence is imposed pursuant to this section. (b) In the event the defendant is sentenced pursuant to this section to life imprisonment without parole or to a term of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole, the court shall not render a finding with respect to whether the defendant is mentally retarded. (c) In the event the defendant is sentenced pursuant to this section to death, the court shall thereupon render a finding with respect to whether the defendant is mentally retarded. If the court finds the defendant is mentally retarded, the court shall set aside the sentence of death and sentence the defendant either to life imprisonment without parole or to a term of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole. If the court finds the defendant is not mentally retarded, then such sentence of death shall not be set aside pursuant to this subdivision. (d) In the event that a defendant is convicted of murder in the first degree pursuant to subparagraph (iii) of paragraph (a) of subdivision one of section 125.27 of the penal law, and the killing occurred while the defendant was confined or under custody in a state correctional facility or local correctional institution, and a

sentence of death is imposed, such sentence may not be set aside pursuant to this subdivision upon the ground that the defendant is mentally retarded. Nothing in this paragraph or paragraph (a) of this subdivision shall preclude a defendant from presenting mitigating evidence of mental retardation at the separate sentencing proceeding. (e) The foregoing provisions of this subdivision notwithstanding, at a reasonable time prior to the commencement of trial the defendant may, upon a written motion alleging reasonable cause to believe the defendant is mentally retarded, apply for an order directing that a mental retardation hearing be conducted prior to trial. If, upon review of the defendant's motion and any response thereto, the court finds reasonable cause to believe the defendant is mentally retarded, it shall promptly conduct a hearing without a jury to determine whether the defendant is mentally retarded. In the event the court finds after the hearing that the defendant is not mentally retarded, the court must, prior to commencement of trial, enter an order so stating, but nothing in this paragraph shall preclude a defendant from presenting mitigating evidence of mental retardation at a separate sentencing proceeding. In the event the court finds after the hearing that the defendant, based upon a preponderance of the evidence, is mentally retarded, the court must, prior to commencement of trial, enter an order so stating. Unless the order is reversed on an appeal by the people or unless the provisions of paragraph (d) of this subdivision apply, a separate sentencing proceeding under this section shall not be conducted if the defendant is thereafter convicted of murder in the first degree. In the event a separate sentencing proceeding is not conducted, the court, upon conviction of a defendant for the crime of murder in the first degree, shall sentence the defendant to life imprisonment without parole or to a sentence of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole. Whenever a mental retardation hearing is held and a finding is rendered pursuant to this paragraph, the court may not conduct a hearing pursuant to paragraph (a) of this subdivision. For purposes of this subdivision and paragraph (b) of subdivision nine of this section, "mental retardation" means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which were manifested before the age of eighteen. (f) In the event the court enters an order pursuant to paragraph (e) of this subdivision finding that the defendant is mentally retarded, the people may appeal as of right from the order pursuant to subdivision ten of section 450.20 of this chapter. Upon entering such an order the court must afford the people a reasonable period of time, which shall not be less than ten days, to determine whether to take an appeal from the order finding that the defendant is mentally retarded. The taking of an appeal by the people stays the effectiveness of the court's order and any order fixing a date for trial. Within six months of the effective date of this subdivision, the court of appeals shall adopt rules to ensure that appeals pursuant to this paragraph are expeditiously perfected, reviewed and determined so that pretrial delays are minimized. Prior to adoption of the rules, the court of appeals shall issue proposed rules and receive written comments thereon from interested parties. 13. (a) As used in this subdivision, the term "psychiatric evidence" means evidence of mental disease, defect or condition in connection with either a mitigating factor defined in this section or a mental retardation hearing pursuant to this section to be offered by a psychiatrist, psychologist or other person who has received training, or education, or has experience relating to the identification, diagnosis, treatment or evaluation of mental disease, mental defect or mental condition. (b) When either party intends to offer psychiatric evidence, the party must, within a reasonable time prior to trial, serve upon the other party and file with the court a written notice of intention to present psychiatric evidence. The notice shall include a brief but detailed statement specifying the witness, nature and type of psychiatric evidence sought to be introduced. If either party fails to serve and file written notice, no psychiatric evidence is admissible unless the party failing to file thereafter serves and files such notice and the court affords the other party an adjournment for a reasonable period. If a party fails to give timely notice, the court in its discretion may impose upon offending counsel a reasonable monetary sanction for an intentional failure but may not in any event preclude the psychiatric evidence. In the event a monetary sanction is imposed, the offending counsel shall be personally liable therefor, and shall not receive reimbursement of any kind from any source in order to pay the cost of such monetary sanction. Nothing contained herein shall preclude the court from entering an order directing a party to provide timely notice. (c) When a defendant serves notice pursuant to this subdivision, the district attorney may make application, upon notice to the defendant, for an order directing that the defendant submit to an examination by a psychiatrist, licensed psychologist, or licensed clinical social worker designated by the district attorney, for the purpose of rebutting evidence offered by the defendant with respect to a mental disease, defect, or condition in connection with either a mitigating factor defined in this section, including whether the defendant was acting under duress, was mentally or emotionally disturbed or mentally retarded, or was under the influence of alcohol or any drug. If the application is granted, the district attorney shall schedule a time and place for the examination, which shall be recorded. Counsel for the people and the defendant shall have the right to be present at the examination. A transcript of the examination shall be made available to the defendant and the district attorney promptly after its conclusion. The district attorney shall promptly serve on the defendant a written copy of the findings and evaluation of the examiner. If the court finds that the defendant has wilfully refused to cooperate fully in an examination pursuant to this paragraph, it shall, upon request of the district attorney, instruct the jury that the defendant did not submit to or cooperate fully in such psychiatric examination. When a defendant is subjected to an examination pursuant to an order issued in accordance with this subdivision, any statement made by the defendant for the purpose of the examination shall be inadmissible in evidence against him in any criminal action or proceeding on any issue other than that of whether a mitigating factor has been established or whether the defendant is mentally retarded, but such statement is admissible upon such an issue whether or not it would otherwise be deemed a privileged communication. 14. (a) At a reasonable time prior to the sentencing proceeding or a mental retardation hearing: (i) the prosecutor shall, unless previously disclosed and subject to a protective order, make available to the defendant the statements and information specified in subdivision one of section 245.20 of this part and make available for inspection, photographing, copying or testing the property specified in subdivision one of section 245.20; and (ii) the defendant shall, unless previously disclosed and subject to a protective order, make available to the prosecution the statements and information

specified in subdivision four of section 245.20 and make available for inspection, photographing, copying or testing, subject to constitutional limitations, the reports, documents and other property specified in section 245.20 of this part. (b) Where a party refuses to make disclosure pursuant to this section, the provisions of section 245.70, 245.75 and/or 245.80 of this part shall apply. (c) If, after complying with the provisions of this section or an order pursuant thereto, a party finds either before or during a sentencing proceeding or mental retardation hearing, additional material subject to discovery or covered by court order, the party shall promptly make disclosure or apply for a protective order. (d) If the court finds that a party has failed to comply with any of the provisions of this section, the court may employ any of the remedies or sanctions specified in subdivision one of section 245.80 of this part. 15. The court of appeals shall formulate and adopt rules for the development of forms for use by the jury in recording its findings and determinations of sentence.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 400 - Pre-Sentence Proceedings400.30 - Procedure for Determining the Amount of a Fine Based Upon the Defendant's Gain From the Offense.

defendant's gain from the offense. 1. Order directing a hearing. In any case where the court is of the opinion that the sentence should consist of or include a fine and that, pursuant to article eighty of the penal law, the amount of the fine should be based upon the defendant's gain from the commission of the offense, the court may order a hearing to determine the amount of such gain. The order must be filed with the clerk of the court and must specify a date for the hearing not less than ten days after the filing of the order. 2. Notice of hearing. Upon receipt of the order, the clerk of the court must send a notice of the hearing to the defendant, his counsel and the district attorney. Such notice must specify the time and place of the hearing and the fact that the purpose thereof is to determine the amount of the defendant's gain from the commission of the offense so that an appropriate fine can be imposed. 3. Hearing. When the defendant appears for the hearing the court must ask him whether he wishes to make any statement with respect to the amount of his gain from the commission of the offense. If the defendant does make a statement, the court may accept such statement and base its finding thereon. Where the defendant does not make a statement, or where the court does not accept the defendant's statement, it may proceed with the hearing. 4. Burden and standard of proof; evidence. At any hearing held pursuant to this section the burden of proof rests upon the people. A finding as to the amount of the defendant's gain from the commission of the offense must be based upon a preponderance of the evidence. Any relevant evidence, not legally privileged, may be received regardless of its admissibility under the exclusionary rules of evidence. 5. Termination of hearing. At any time during the pendency of a hearing pursuant to this section the court may, in its discretion, terminate the hearing without making any finding.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 400 - Pre-Sentence Proceedings400.40 - Procedure for Determining Prior Convictions for the Purpose of Sentence in Certain Cases.

sentence in certain cases. 1. Applicability. Where a conviction is entered for an unclassified misdemeanor or for a traffic infraction and the authorized sentence depends upon whether the defendant has a previous judgment of conviction for an offense, or where a conviction is entered for a violation defined outside the penal law and the amount of the fine authorized by the law defining such violation depends upon whether the defendant has a previous judgment of conviction for an offense, such issue is determined as provided in this section. 2. Statement to be filed. If it appears that the defendant has a previous judgment of conviction and if the court is required, or in its discretion desires, to impose a sentence that would not be authorized in the absence of such previous judgment, a statement must be filed after conviction and before sentence setting forth the date and place of the previous judgment or judgments and the court must conduct a hearing to determine whether the defendant is the same person mentioned in the record of such judgment or judgments. In any case where an increased sentence is mandatory, the statement may be filed by the court or by the prosecutor. In any case where an increased sentence is discretionary, the statement may be filed only by the court. 3. Preliminary examination. The defendant must be given a copy of such statement and the court must ask him whether he admits or denies such prior judgment or judgments. If the defendant denies the same or remains mute, the court may proceed with the hearing and, where the increased sentence is mandatory, it must impose such. 4. Time for hearing. In any case where a copy of the statement was not received by the defendant at least two days prior to the preliminary examination, the court must upon request of the defendant grant an adjournment of at least two days before proceeding with the hearing. 5. Manner of conducting hearing. A hearing pursuant to this section must be before the court without a jury. The burden of proof is upon the people and a finding that the defendant has been convicted of any offense alleged in the statement must be based upon proof beyond a reasonable doubt by evidence admissible under the rules applicable to trial of the issue of guilt.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 410 - Sentences of Probation, Conditional Discharge and Parole Supervision410.10 - Specification of Conditions of the Sentence.

1. When the court pronounces a sentence of probation or of conditional discharge it must specify as part of the sentence the conditions to be complied with. Where the sentence is one of probation, the defendant must be given a written copy of the conditions at the time sentence is imposed. In any case where the defendant is given a written copy of the conditions, a copy thereof must be filed with and become part of the record of the case, and it is not necessary to specify the conditions orally. 2. Commission of an additional offense, other than a traffic infraction, after imposition of a sentence of probation or of conditional discharge, and prior to expiration or termination of the period of the sentence, constitutes a ground for revocation of such sentence irrespective of

whether such fact is specified as a condition of the sentence. 3. When the court pronounces a sentence of probation or conditional discharge for a specified crime defined in paragraph (e) of subdivision one of section six hundred thirty-two-a of the executive law, in addition to specifying the conditions of the sentence, the court shall provide written notice to such defendant concerning any requirement to report to the office of victim services funds of a convicted person as defined in section six hundred thirty-two-a of the executive law, the procedures for such reporting and any potential penalty for a failure to comply. 4. When the court pronounces a sentence of probation or conditional discharge, the court shall provide that the performance of bona fide work for an employer, including travel time to and from bona fide work, regardless if such work or related travel time is performed during curfew times set by conditions of probation, parole, presumptive release, conditional release, release to post-release supervision or any other type of supervised release, shall not be considered a violation of such sentence of probation or conditional discharge. For purposes of this section, bona fide work is work performed as an employee for an employer, as defined in section two of the labor law.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 410 - Sentences of Probation, Conditional Discharge and Parole Supervision410.20 - Modification or Enlargement of Conditions.

1. The court may modify or enlarge the conditions of a sentence of probation or of conditional discharge at any time prior to the expiration or termination of the period of the sentence. Such action may not, however, be taken unless the defendant is personally present, except that the defendant need not be present if the modification consists solely of the elimination or relaxation of one or more conditions. Whenever the defendant has not been present, the court shall notify the defendant in writing within twenty days of such modification specifying the nature of the elimination or relaxation of such condition or conditions and the effective date thereof. In any such case the modification or enlargement may be specified in the same manner as the conditions originally imposed and becomes part of the sentence. 2. The procedure set forth in this section applies to the imposition of an additional period of conditional discharge as authorized by subdivision three of section 65.05 of the penal law.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 410 - Sentences of Probation, Conditional Discharge and Parole Supervision410.30 - Declaration of Delinquency.

If at any time during the period of a sentence of probation or of conditional discharge the court has reasonable cause to believe that the defendant has violated a condition of the sentence, it may declare the defendant delinquent and file a written declaration of delinquency. When the court receives a request for a declaration of delinquency by a probation officer, it shall make a decision on such request within seventy-two hours of its receipt of the request. Upon filing a written declaration of delinquency, the court must promptly take reasonable and appropriate action to cause the defendant to appear before it for the purpose of enabling the court to make a final determination with respect to the alleged delinquency in accordance with section 410.70 of this article.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 410 - Sentences of Probation, Conditional Discharge and Parole Supervision410.40 - Notice to Appear, Warrant.

1. Notice to appear. The court may at any time order that a person who is under a sentence of probation or of conditional discharge appear before it. Such order may be in the form of a written notice, specifying the time and place of appearance, mailed to or served personally upon the defendant as the court may direct. In the absence of a warrant issued pursuant to subdivision two of this section, where a probation officer has submitted a violation petition and report, the court shall promptly consider such petition and, where the court issues a notice to appear, the court shall direct that the defendant appear within ten business days of the court's order. When the order is in the form of such a notice, failure to appear as ordered without reasonable cause therefor constitutes a violation of the conditions of the sentence irrespective of whether such requirement is specified as a condition thereof. 2. Warrant. (a) Where the probation officer has requested that a probation warrant be issued, the court shall, within seventy-two hours of its receipt of the request, issue or deny the warrant or take any other lawful action including issuance of a notice to appear pursuant to subdivision one of this section. If at any time during the period of a sentence of probation or of conditional discharge the court has reasonable grounds to believe that the defendant has violated a condition of the sentence, the court may issue a warrant to a police officer or to an appropriate peace officer directing him or her to take the defendant into custody and bring the defendant before the court without unnecessary delay; provided, however, if the court in which the warrant is returnable is a superior court, and such court is not available, and the warrant is addressed to a police officer or appropriate probation officer certified as a peace officer, such executing officer may unless otherwise specified under paragraph (b) of this subdivision, bring the defendant to the local correctional facility of the county in which such court sits, to be detained there until not later than the commencement of the next session of such court occurring on the next business day; or if the court in which the warrant is returnable is a local criminal court, and such court is not available, and the warrant is addressed to a police officer or appropriate probation officer certified as a peace officer, such executing officer must without unnecessary delay bring the defendant before an alternate local criminal court, as provided in subdivision five of section 120.90 of this chapter. A court which issues such a warrant may attach thereto a summary of the basis for the warrant. In any case where a defendant arrested upon the warrant is brought before a local criminal court other than the court in which the warrant is returnable, such local criminal court shall consider such summary before issuing a securing order with respect to the defendant.(b) If the court in which the warrant is returnable is a superior court, and such court is not available, and the warrant is addressed to a police officer or appropriate probation officer certified as a peace officer, such executing officer shall, where a defendant is sixteen years of age or younger who allegedly commits an offense or a violation of his or her probation or conditional discharge imposed for an offense on or after October first, two thousand eighteen, or where a defendant is seventeen years of age or

younger who allegedly commits an offense or a violation of his or her probation or conditional discharge imposed for an offense on or after October first, two thousand nineteen, bring the defendant without unnecessary delay before the youth part, provided, however that if the youth part is not in session, the defendant shall be brought before the most accessible magistrate designated by the appellate division. (b) If the court in which the warrant is returnable is a superior court, and such court is not available, and the warrant is addressed to a police officer or appropriate probation officer certified as a peace officer, such executing officer shall, where a defendant is sixteen years of age or younger who allegedly commits an offense or a violation of his or her probation or conditional discharge imposed for an offense on or after October first, two thousand eighteen, or where a defendant is seventeen years of age or younger who allegedly commits an offense or a violation of his or her probation or conditional discharge imposed for an offense on or after October first, two thousand nineteen, bring the defendant without unnecessary delay before the youth part, provided, however that if the youth part is not in session, the defendant shall be brought before the most accessible magistrate designated by the appellate division.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 410 - Sentences of Probation, Conditional Discharge and Parole Supervision410.50 - Custody and Supervision of Probationers.

1. Custody. A person who is under a sentence of probation is in the legal custody of the court that imposed it pending expiration or termination of the period of the sentence. 2. Supervision. The probation department serving the court that imposed a sentence of probation has the duty of supervising the defendant during the period of such legal custody. 3. Search order. If at any time during the period of probation the court has reasonable cause to believe that the defendant has violated a condition of the sentence, it may issue a search order. Such order must be directed to a probation officer and may authorize such officer to search the person of the defendant and/or any premises in which he resides or any real or personal property which he owns or which is in his possession. 4. Taking custody without warrant. When a probation officer has reasonable cause to believe that a person under his supervision pursuant to a sentence of probation has violated a condition of the sentence, such officer may, without a warrant, take the probationer into custody and search his person. 5. Assistance by police officer. In executing a search order, or in taking a person into custody, pursuant to this section, a probation officer may be assisted by a police officer.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 410 - Sentences of Probation, Conditional Discharge and Parole Supervision410.60 - Appearance Before Court.

A person who has been taken into custody pursuant to section 410.40 or section 410.50 of this article for violation of a condition of a sentence of probation or a sentence of conditional discharge must forthwith be brought before the court that imposed the sentence. Where a violation of probation petition and report has been filed and the person has not been taken into custody nor has a warrant been issued, an initial court appearance shall occur within ten business days of the court's issuance of a notice to appear. If the court has reasonable cause to believe that such person has violated a condition of the sentence, it may commit such person to the custody of the sheriff, fix bail, release such person under non-monetary conditions or release such person on such person's own recognizance for future appearance at a hearing to be held in accordance with section 410.70 of this article. If the court does not have reasonable cause to believe that such person has violated a condition of the sentence, it must direct that such person be released.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 410 - Sentences of Probation, Conditional Discharge and Parole Supervision410.70 - Hearing on Violation.

1. In general. The court may not revoke a sentence of probation or a sentence of conditional discharge, or extend a period of probation, unless (a) the court has found that the defendant has violated a condition of the sentence and (b) the defendant has had an opportunity to be heard pursuant to this section. The defendant is entitled to a hearing in accordance with this section promptly after the court has filed a declaration of delinquency or has committed him or has fixed bail pursuant to this article. 2. Statement; preliminary examination. The court must file or cause to be filed with the clerk of the court a statement setting forth the condition or conditions of the sentence violated and a reasonable description of the time, place and manner in which the violation occurred. The defendant must appear before the court within ten business days of the court's issuance of the notice to appear and the court must advise him of the contents of the statement and furnish him with a copy thereof. At the time of such appearance the court must ask the defendant whether he wishes to make any statement with respect to the violation. If the defendant makes a statement, the court may accept it and base its decision thereon. If the court does not accept it, or if the defendant does not make a statement, the court must proceed with the hearing. Provided, however, that upon request, the court must grant a reasonable adjournment to the defendant to enable him to prepare for the hearing. 3. Manner of conducting hearing. The hearing must be a summary one by the court without a jury and the court may receive any relevant evidence not legally privileged. The defendant may cross-examine witnesses and may present evidence on his own behalf. A finding that the defendant has violated a condition of his sentence must be based upon a preponderance of the evidence. 4. Counsel. The defendant is entitled to counsel at all stages of any proceeding under this section and the court must advise him of such right at the outset of the proceeding. 5. Revocation; modification; continuation. At the conclusion of the hearing the court may revoke, continue or modify the sentence of probation or conditional discharge. Where the court revokes the sentence, it must impose sentence as specified in subdivisions three and four of section 60.01 of the penal law. Where the court continues or modifies the sentence, it must vacate the declaration of delinquency and direct that the defendant be released. If the alleged violation is sustained and the court continues or modifies the sentence, it may extend the sentence up to the period of interruption specified in subdivision two of section 65.15 of the penal law, but any time spent in custody in any

correctional institution pursuant to section 410.60 of this article shall be credited against the term of the sentence. Provided further, where the alleged violation is sustained and the court continues or modifies the sentence, the court may also extend the remaining period of probation up to the maximum term authorized by section 65.00 of the penal law. Provided, however, a defendant shall receive credit for the time during which he or she was supervised under the original probation sentence prior to any declaration of delinquency and for any time spent in custody pursuant to this article for an alleged violation of probation.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 410 - Sentences of Probation, Conditional Discharge and Parole Supervision410.80 - Transfer of Supervision of Probationers.

1. Authority to transfer supervision. Where a probationer at the time of sentencing or an interim probationer at the time of the imposition of the period of interim probation supervision resides in another jurisdiction within the state, the sentencing court shall transfer supervision to the appropriate probation department in such other jurisdiction. Where, after a probation sentence or interim probation supervision is pronounced, a probationer or interim probationer desires to reside in another jurisdiction within the state that is not served by the sentencing court, such court, in its discretion, may approve a change in residency and, upon approval, shall transfer supervision to the appropriate probation department serving the county of the probationer's proposed new residence. Any transfer under this subdivision must be in accordance with rules adopted by the commissioner of the division of criminal justice services. 2. Transfer of powers. (a) Upon completion of transfer of probation as authorized pursuant to subdivision one, the probation department in the receiving jurisdiction shall assume all powers and duties of the probation department in the jurisdiction of the sentencing court. Upon completion of transfer, the appropriate court within the jurisdiction of the receiving probation department shall assume all powers and duties of the sentencing court and shall have sole jurisdiction in the case including jurisdiction over matters specified in article twenty-three of the correction law. Further, the sentencing court shall immediately forward its entire case record to the receiving court.(i) In transfers involving a defendant sentenced to probation upon conviction of a felony, the receiving court served by the probation department to which supervision is transferred shall be the superior court within the jurisdiction of the probation department.(ii) In transfers involving a defendant sentenced to probation upon conviction of a misdemeanor, the receiving court served by the probation department to which supervision is transferred shall be the appropriate criminal court within the jurisdiction of the probation department. The sending probation department shall consult with the probation department to which supervision will be transferred to determine the appropriate criminal court to receive the case.(b) Where a transfer is authorized for a defendant on interim probation supervision pursuant to subdivision one of this section, the sentencing court shall retain jurisdiction during the period of interim probation. The probation department in the receiving jurisdiction shall assume all powers and duties of the original probation department in the jurisdiction of the sentencing court.3. Interstate compact. Nothing contained in this section affects or limits the provisions of section two hundred fifty-nine-mm of the executive law relating to out-of-state probation supervision.4. Federal transfer of custody and supervision. Notwithstanding the provisions of any other law, the court served by the probation department may consent to the transfer of custody and supervision of a probationer to the United States Department of Justice pursuant to the Witness Security Act of nineteen hundred eighty-four. (i) In transfers involving a defendant sentenced to probation upon conviction of a felony, the receiving court served by the probation department to which supervision is transferred shall be the superior court within the jurisdiction of the probation department. (ii) In transfers involving a defendant sentenced to probation upon conviction of a misdemeanor, the receiving court served by the probation department to which supervision is transferred shall be the appropriate criminal court within the jurisdiction of the probation department. The sending probation department shall consult with the probation department to which supervision will be transferred to determine the appropriate criminal court to receive the case. (b) Where a transfer is authorized for a defendant on interim probation supervision pursuant to subdivision one of this section, the sentencing court shall retain jurisdiction during the period of interim probation. The probation department in the receiving jurisdiction shall assume all powers and duties of the original probation department in the jurisdiction of the sentencing court. 3. Interstate compact. Nothing contained in this section affects or limits the provisions of section two hundred fifty-nine-mm of the executive law relating to out-of-state probation supervision. 4. Federal transfer of custody and supervision. Notwithstanding the provisions of any other law, the court served by the probation department may consent to the transfer of custody and supervision of a probationer to the United States Department of Justice pursuant to the Witness Security Act of nineteen hundred eighty-four.

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Notwithstanding any other provisions of this article, all proceedings relating to a juvenile offender or adolescent offender shall be heard in the youth part of the superior court having jurisdiction and any intrastate transfers under this article shall be between courts designated as a youth part pursuant to article seven hundred twenty-two of this chapter.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 410 - Sentences of Probation, Conditional Discharge and Parole Supervision410.90 - Termination of Sentence.

1. The court may at any time terminate either a period of probation, other than a period of lifetime probation, for conviction to a crime or a period of conditional discharge for an offense. 2. The court may terminate a period of probation for a person who is subject to lifetime probation and who has been on unrevoked probation for at least five consecutive years. 3. (a) The court shall grant a request for termination of a sentence of probation under this section when, having regard to the conduct and condition of the

probationer, the court is of the opinion that:(i) the probationer is no longer in need of such guidance, training or other assistance which would otherwise be administered through probation supervision;(ii) the probationer has diligently complied with the terms and conditions of the sentence of probation; and(iii) the termination of the sentence of probation is not adverse to the protection of the public.No such termination shall be granted unless the court is satisfied that the probationer, who is otherwise financially able to comply with an order of restitution or reparation, has made a good faith effort to comply therewith.(b) The court shall grant a request for termination of a sentence of conditional discharge under this section when, having regard to the conduct and condition of the defendant, the court is of the opinion that:(i) the defendant has diligently complied with the terms and conditions of the sentence of conditional discharge; and(ii) termination of the sentence of conditional discharge is not adverse to protection of the public. (i) the probationer is no longer in need of such guidance, training or other assistance which would otherwise be administered through probation supervision; (ii) the probationer has diligently complied with the terms and conditions of the sentence of probation; and (iii) the termination of the sentence of probation is not adverse to the protection of the public. No such termination shall be granted unless the court is satisfied that the probationer, who is otherwise financially able to comply with an order of restitution or reparation, has made a good faith effort to comply therewith. (b) The court shall grant a request for termination of a sentence of conditional discharge under this section when, having regard to the conduct and condition of the defendant, the court is of the opinion that: (i) the defendant has diligently complied with the terms and conditions of the sentence of conditional discharge; and (ii) termination of the sentence of conditional discharge is not adverse to protection of the public.

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When the court imposes a fine, mandatory surcharge or fee upon an individual who stands convicted of any offense, such individual may pay such fine, mandatory surcharge or fee by credit card or similar device. In such event, notwithstanding any other provision of law, he or she also may be required to pay a reasonable administrative fee. The amount of such administrative fee and the time and manner of its payment shall be in accordance with the system established by the chief administrator of the courts pursuant to paragraph (j) of subdivision two of section two hundred twelve of the judiciary law.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 420 - Fines, Restitution and Reparation420.10 - Collection of Fines, Restitution or Reparation.

1. Alternative methods of payment. When the court imposes a fine upon an individual, it shall designate the official other than the district attorney to whom payment is to be remitted. When the court imposes restitution or reparation and requires that the defendant pay a designated surcharge thereon pursuant to the provisions of subdivision eight of section 60.27 of the penal law, it shall designate the official or organization other than the district attorney, selected pursuant to subdivision eight of this section, to whom payment is to be remitted. (a) The court may direct:(i) That the defendant pay the entire amount at the time sentence is pronounced;(ii) That the defendant pay the entire amount at some later date; or(iii) That the defendant pay a specified portion at designated periodic intervals.(b) When the court imposes both (i) a fine and (ii) restitution or reparation and such designated surcharge upon an individual and imposes a schedule of payments, the court shall also direct that payment of restitution or reparation and such designated surcharge take priority over the payment of the fine.(c) Where the defendant is sentenced to a period of probation as well as a fine, restitution or reparation and such designated surcharge, the court may direct that payment of the fine, restitution or reparation and such designated surcharge be a condition of the sentence.(d) When a court requires that restitution or reparation and such designated surcharge be made it must direct that notice be given to a person or persons to whom it is to be paid of the conditions under which it is to be remitted; the name and address of the public official or organization to whom it is to be remitted for payment and the amount thereof; and the availability of civil proceedings for collection under subdivision six of this section. An official or organization designated to receive payment under this subdivision must report to the court any failure to comply with the order and shall cooperate with the district attorney pursuant to his responsibilities under subdivision six of this section.(e) Where cash bail has been posted by the defendant as the principal and is not forfeited or assigned, the court at its discretion may order that bail be applied toward payment of any order of restitution or reparation or fine. If the court so orders, the bail proceeds shall be applied to payment first of the restitution or reparation and then of the fine.2. Death of victim. In the event that the individual to whom restitution or reparation is to be made dies prior to completion of said restitution or reparation, the remaining payments shall be made to the estate of the deceased.3. Imprisonment for failure to pay. Where the court imposes a fine, restitution or reparation, the sentence may provide that if the defendant fails to pay the fine, restitution or reparation in accordance with the direction of the court, the defendant must be imprisoned until the fine, restitution or reparation is satisfied. Such provision may be added at the time sentence is pronounced or at any later date while the fine, restitution or reparation or any part thereof remains unpaid; provided, however, that if the provision is added at a time subsequent to the pronouncement of sentence the defendant must be personally present when it is added. In any case where the defendant fails to pay a fine, restitution or reparation as directed the court may issue a warrant directing a peace officer, acting pursuant to his special duties, or a police officer, to take him into custody and bring him before the court; provided, however, if the court in which the warrant is returnable is a city, town or village court, and such court is not available, and the warrant is addressed to a police officer, such executing police officer must without unnecessary delay bring the defendant before an alternate local criminal court, as provided in subdivision five of section 120.90 of this chapter; or if the court in which the warrant is returnable is a superior court, and such court is not available, and the warrant is addressed to a police officer, such executing police officer may bring the defendant to the local correctional facility of the county in which such

court sits, to be detained there until not later than the commencement of the next session of such court occurring on the next business day. Such warrant may also be delegated in the same manner as a warrant pursuant to section 530.70 of this chapter. Where a sentence provides that the defendant be imprisoned for failure to pay a fine, the court shall advise the defendant that if he is unable to pay such fine, he has a right, at any time, to apply to the court to be resentenced as provided in subdivision five of this section.4. Period of imprisonment. When the court directs that the defendant be imprisoned until the fine, restitution or reparation be satisfied, it must specify a maximum period of imprisonment subject to the following limits:(a) Where the fine, restitution or reparation is imposed for a felony, the period may not exceed one year;(b) Where the fine, restitution or reparation is imposed for a misdemeanor, the period may not exceed one-third of the maximum authorized term of imprisonment;(c) Where the fine, restitution or reparation is imposed for a petty offense, the period may not exceed fifteen days; and(d) Where a sentence of imprisonment as well as a fine, restitution or reparation is imposed, the aggregate of the period and the term of the sentence may not exceed the maximum authorized term of imprisonment.(e) Jail time and good behavior time shall be credited against the full period of imprisonment, if served, as provided in section 70.30 of the penal law for definite sentences.5. Application for resentence. In any case where the defendant is unable to pay a fine, restitution or reparation imposed by the court, he may at any time apply to the court for resentence. In such case, if the court is satisfied that the defendant is unable to pay the fine, restitution or reparation it must:(a) Adjust the terms of payment; or(b) Lower the amount of the fine, restitution or reparation; or(c) Where the sentence consists of probation or imprisonment and a fine, restitution or reparation, revoke the portion of the sentence imposing the fine, restitution or reparation; or(d) Revoke the entire sentence imposed and resentence the defendant. Upon such resentence the court may impose any sentence it originally could have imposed, except that the amount of any fine, restitution or reparation imposed may not be in excess of the amount the defendant is able to pay.In any case where the defendant applies for resentencing with respect to any condition of the sentence relating to restitution or reparation the court must order that notice of such application and a reasonable opportunity to be heard be given to the person or persons given notice pursuant to subdivision one of this section. If the court grants the defendant's application by changing the original order for restitution or reparation in any manner, the court must place the reasons therefor on the record.For the purposes of this subdivision, the court shall not determine that the defendant is unable to pay the fine, restitution or reparation ordered solely because of such defendant's incarceration but shall consider all the defendant's sources of income including, but not limited to, moneys in the possession of an incarcerated individual at the time of his or her admission into such facility, funds earned by him or her in a work release program as defined in subdivision four of section one hundred fifty of the correction law, funds earned by him or her as provided for in section one hundred eighty-seven of the correction law and any other funds received by him or her or on his or her behalf and deposited with the superintendent or the municipal official of the facility where the person is confined.6. Civil proceeding for collection. (a) A fine, restitution or reparation imposed or directed by the court shall be imposed or directed by a written order of the court containing the amount thereof required to be paid by the defendant. The court's order also shall direct the district attorney to file a certified copy of such order with the county clerk of the county in which the court is situate except where the court which issues such order is the supreme court in which case the order itself shall be filed by the clerk of the court acting in his or her capacity as the county clerk of the county in which the court is situate. Such order shall be entered by the county clerk in the same manner as a judgment in a civil action in accordance with subdivision (a) of rule five thousand sixteen of the civil practice law and rules. Even if the defendant was imprisoned for failure to pay such fine, restitution or reparation, or has served the period of imprisonment imposed, such order after entry thereof pursuant to this subdivision may be collected in the same manner as a judgment in a civil action by the victim, as defined in paragraph (b) of subdivision four of section 60.27 of the penal law, to whom restitution or reparation was ordered to be paid, the estate of such person or the district attorney. The entered order shall be deemed to constitute a judgment-roll as defined in section five thousand seventeen of the civil practice law and rules and immediately after entry of the order, the county clerk shall docket the entered order as a money judgment pursuant to section five thousand eighteen of such law and rules. Wherever appropriate, the district attorney shall file a transcript of the docket of the judgment with the clerk of any other county of the state. Such a restitution or reparation order, when docketed shall be a first lien upon all real property in which the defendant thereafter acquires an interest, having preference over all other liens, security interests, and encumbrances whatsoever, except:(i) a lien or interest running to the benefit of the government of the United States or the state of New York, or any political subdivision or public benefit corporation thereof; or(ii) a purchase money interest in any property.(b) The district attorney may, in his or her discretion, and must, upon order of the court, institute proceedings to collect such fine, restitution or reparation.7. Undisbursed restitution payments. Where a court requires that restitution or reparation be made by a defendant, the official or organization to whom payments are to be remitted pursuant to subdivision one of this section may place such payments in an interest-bearing account. The interest accrued and any undisbursed payments shall be designated for the payment of restitution orders that have remained unsatisfied for the longest period of time. For the purposes of this subdivision, the term "undisbursed restitution payments" shall mean those payments which have been remitted by a defendant but not disbursed to the intended beneficiary and such payment has gone unclaimed for a period of one year and the location of the intended beneficiary cannot be ascertained by such official or organization after using reasonable efforts.8. Designation of restitution agency. (a) The chief elected official in each county, and in the city of New York the mayor, shall designate an official or organization other than the district attorney to be responsible for the collection and administration of restitution and reparation payments under provisions of the penal law and this chapter. This official or organization shall be eligible for the designated surcharge provided for by subdivision eight of section 60.27 of the penal law.(b) The restitution agency, as designated by paragraph (a) of this subdivision, shall be responsible for the collection of data on a monthly basis regarding the numbers of restitution and reparation orders issued, the numbers of satisfied restitution and reparation orders and information concerning the types of crimes for which such orders were

required. A probation department designated as the restitution agency shall then forward such information to the office of probation and correctional alternatives within the first ten days following the end of each month. In all other cases the restitution agency shall report to the division of criminal justice services directly. The division of criminal justice services shall compile and review all such information and make recommendations to promote the use of restitution and encourage its enforcement. (i) That the defendant pay the entire amount at the time sentence is pronounced; (ii) That the defendant pay the entire amount at some later date; or (iii) That the defendant pay a specified portion at designated periodic intervals. (b) When the court imposes both (i) a fine and (ii) restitution or reparation and such designated surcharge upon an individual and imposes a schedule of payments, the court shall also direct that payment of restitution or reparation and such designated surcharge take priority over the payment of the fine. (c) Where the defendant is sentenced to a period of probation as well as a fine, restitution or reparation and such designated surcharge, the court may direct that payment of the fine, restitution or reparation and such designated surcharge be a condition of the sentence. (d) When a court requires that restitution or reparation and such designated surcharge be made it must direct that notice be given to a person or persons to whom it is to be paid of the conditions under which it is to be remitted; the name and address of the public official or organization to whom it is to be remitted for payment and the amount thereof; and the availability of civil proceedings for collection under subdivision six of this section. An official or organization designated to receive payment under this subdivision must report to the court any failure to comply with the order and shall cooperate with the district attorney pursuant to his responsibilities under subdivision six of this section. (e) Where cash bail has been posted by the defendant as the principal and is not forfeited or assigned, the court at its discretion may order that bail be applied toward payment of any order of restitution or reparation or fine. If the court so orders, the bail proceeds shall be applied to payment first of the restitution or reparation and then of the fine. 2. Death of victim. In the event that the individual to whom restitution or reparation is to be made dies prior to completion of said restitution or reparation, the remaining payments shall be made to the estate of the deceased. 3. Imprisonment for failure to pay. Where the court imposes a fine, restitution or reparation, the sentence may provide that if the defendant fails to pay the fine, restitution or reparation in accordance with the direction of the court, the defendant must be imprisoned until the fine, restitution or reparation is satisfied. Such provision may be added at the time sentence is pronounced or at any later date while the fine, restitution or reparation or any part thereof remains unpaid; provided, however, that if the provision is added at a time subsequent to the pronouncement of sentence the defendant must be personally present when it is added. In any case where the defendant fails to pay a fine, restitution or reparation as directed the court may issue a warrant directing a peace officer, acting pursuant to his special duties, or a police officer, to take him into custody and bring him before the court; provided, however, if the court in which the warrant is returnable is a city, town or village court, and such court is not available, and the warrant is addressed to a police officer, such executing police officer must without unnecessary delay bring the defendant before an alternate local criminal court, as provided in subdivision five of section 120.90 of this chapter; or if the court in which the warrant is returnable is a superior court, and such court is not available, and the warrant is addressed to a police officer, such executing police officer may bring the defendant to the local correctional facility of the county in which such court sits, to be detained there until not later than the commencement of the next session of such court occurring on the next business day. Such warrant may also be delegated in the same manner as a warrant pursuant to section 530.70 of this chapter. Where a sentence provides that the defendant be imprisoned for failure to pay a fine, the court shall advise the defendant that if he is unable to pay such fine, he has a right, at any time, to apply to the court to be resentenced as provided in subdivision five of this section. 4. Period of imprisonment. When the court directs that the defendant be imprisoned until the fine, restitution or reparation be satisfied, it must specify a maximum period of imprisonment subject to the following limits: (a) Where the fine, restitution or reparation is imposed for a felony, the period may not exceed one year; (b) Where the fine, restitution or reparation is imposed for a misdemeanor, the period may not exceed one-third of the maximum authorized term of imprisonment; (c) Where the fine, restitution or reparation is imposed for a petty offense, the period may not exceed fifteen days; and (d) Where a sentence of imprisonment as well as a fine, restitution or reparation is imposed, the aggregate of the period and the term of the sentence may not exceed the maximum authorized term of imprisonment. (e) Jail time and good behavior time shall be credited against the full period of imprisonment, if served, as provided in section 70.30 of the penal law for definite sentences. 5. Application for resentence. In any case where the defendant is unable to pay a fine, restitution or reparation imposed by the court, he may at any time apply to the court for resentence. In such case, if the court is satisfied that the defendant is unable to pay the fine, restitution or reparation it must: (a) Adjust the terms of payment; or (b) Lower the amount of the fine, restitution or reparation; or (c) Where the sentence consists of probation or imprisonment and a fine, restitution or reparation, revoke the portion of the sentence imposing the fine, restitution or reparation; or (d) Revoke the entire sentence imposed and resentence the defendant. Upon such resentence the court may impose any sentence it originally could have imposed, except that the amount of any fine, restitution or reparation imposed may not be in excess of the amount the defendant is able to pay. In any case where the defendant applies for resentencing with respect to any condition of the sentence relating to restitution or reparation the court must order that notice of such application and a reasonable opportunity to be heard be given to the person or persons given notice pursuant to subdivision one of this section. If the court grants the defendant's application by changing the original order for restitution or reparation in any manner, the court must place the reasons therefor on the record. For the purposes of this subdivision, the court shall not determine that the defendant is unable to pay the fine, restitution or reparation ordered solely because of such defendant's incarceration but shall consider all the defendant's sources of income including, but not limited to, moneys in the possession of an incarcerated individual at the time of his or her admission into such facility, funds earned by him or her in a work release program as defined in subdivision four of section one hundred fifty of the correction law, funds earned by him or her as provided for in section one hundred eighty-seven of the correction law and any other funds received by him or her or on his or her behalf and deposited with the superintendent or the

municipal official of the facility where the person is confined. 6. Civil proceeding for collection. (a) A fine, restitution or reparation imposed or directed by the court shall be imposed or directed by a written order of the court containing the amount thereof required to be paid by the defendant. The court's order also shall direct the district attorney to file a certified copy of such order with the county clerk of the county in which the court is situate except where the court which issues such order is the supreme court in which case the order itself shall be filed by the clerk of the court acting in his or her capacity as the county clerk of the county in which the court is situate. Such order shall be entered by the county clerk in the same manner as a judgment in a civil action in accordance with subdivision (a) of rule five thousand sixteen of the civil practice law and rules. Even if the defendant was imprisoned for failure to pay such fine, restitution or reparation, or has served the period of imprisonment imposed, such order after entry thereof pursuant to this subdivision may be collected in the same manner as a judgment in a civil action by the victim, as defined in paragraph (b) of subdivision four of section 60.27 of the penal law, to whom restitution or reparation was ordered to be paid, the estate of such person or the district attorney. The entered order shall be deemed to constitute a judgment-roll as defined in section five thousand seventeen of the civil practice law and rules and immediately after entry of the order, the county clerk shall docket the entered order as a money judgment pursuant to section five thousand eighteen of such law and rules. Wherever appropriate, the district attorney shall file a transcript of the docket of the judgment with the clerk of any other county of the state. Such a restitution or reparation order, when docketed shall be a first lien upon all real property in which the defendant thereafter acquires an interest, having preference over all other liens, security interests, and encumbrances whatsoever, except: (i) a lien or interest running to the benefit of the government of the United States or the state of New York, or any political subdivision or public benefit corporation thereof; or (ii) a purchase money interest in any property. (b) The district attorney may, in his or her discretion, and must, upon order of the court, institute proceedings to collect such fine, restitution or reparation. 7. Undisbursed restitution payments. Where a court requires that restitution or reparation be made by a defendant, the official or organization to whom payments are to be remitted pursuant to subdivision one of this section may place such payments in an interest-bearing account. The interest accrued and any undisbursed payments shall be designated for the payment of restitution orders that have remained unsatisfied for the longest period of time. For the purposes of this subdivision, the term "undisbursed restitution payments" shall mean those payments which have been remitted by a defendant but not disbursed to the intended beneficiary and such payment has gone unclaimed for a period of one year and the location of the intended beneficiary cannot be ascertained by such official or organization after using reasonable efforts. 8. Designation of restitution agency. (a) The chief elected official in each county, and in the city of New York the mayor, shall designate an official or organization other than the district attorney to be responsible for the collection and administration of restitution and reparation payments under provisions of the penal law and this chapter. This official or organization shall be eligible for the designated surcharge provided for by subdivision eight of section 60.27 of the penal law. (b) The restitution agency, as designated by paragraph (a) of this subdivision, shall be responsible for the collection of data on a monthly basis regarding the numbers of restitution and reparation orders issued, the numbers of satisfied restitution and reparation orders and information concerning the types of crimes for which such orders were required. A probation department designated as the restitution agency shall then forward such information to the office of probation and correctional alternatives within the first ten days following the end of each month. In all other cases the restitution agency shall report to the division of criminal justice services directly. The division of criminal justice services shall compile and review all such information and make recommendations to promote the use of restitution and encourage its enforcement.

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corporations. Where a corporation is sentenced to pay a fine, restitution or reparation, the fine, restitution or reparation must be paid at the time sentence is imposed. If the fine, restitution or reparation is not so paid, it may be collected in the same manner as a judgment in a civil action, and if execution issued upon such judgment be returned unsatisfied an action may be brought in the name of the people of the state of New York to procure a judgment sequestering the property of the corporation, as provided by the business corporation law. It is the duty of the attorney general in all criminal proceedings prosecuted by him, and, in all other proceedings, the county attorney for counties outside the city of New York, and, in the city of New York the corporation counsel of the city of New York, to institute proceedings to collect such fine, restitution or reparation.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 420 - Fines, Restitution and Reparation420.30 - Remission of Fines, Restitution or Reparation.

1. Applicability. The procedure specified in this section governs remission of fines, restitution or reparation in all cases not covered by subdivision four of section 420.10. 2. Procedure. (a) Any superior court which has imposed a fine, restitution or reparation for any offense may, in its discretion, on five days notice to the district attorney of the county in which such fine, restitution or reparation was imposed and to each person otherwise required to be given notice of restitution or reparation pursuant to subdivision one of section 420.10, remit such fine, restitution or reparation or any portion thereof. In case of a fine, restitution or reparation imposed by a local criminal court for any offense, a superior court holding a term in the county in which the fine, restitution or reparation was imposed may, upon like notice, remit such fine, restitution or reparation or any portion thereof.(b) The court shall give each person given notice a reasonable opportunity to be heard on the question of remitting an order of restitution or reparation. If the court remits such restitution or reparation, or any part thereof, the reasons therefor shall be placed upon the record.3. Restrictions. Except as provided for in subdivision two-a of section 420.35 of this article, in no event shall a mandatory surcharge,

sex offender registration fee, DNA databank fee or crime victim assistance fee be remitted. (b) The court shall give each person given notice a reasonable opportunity to be heard on the question of remitting an order of restitution or reparation. If the court remits such restitution or reparation, or any part thereof, the reasons therefor shall be placed upon the record. 3. Restrictions. Except as provided for in subdivision two-a of section 420.35 of this article, in no event shall a mandatory surcharge, sex offender registration fee, DNA databank fee or crime victim assistance fee be remitted.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 420 - Fines, Restitution and Reparation420.35 - Mandatory Surcharge and Crime Victim Assistance Fee; Applicability to Sentences Mandating Payment of Fines.

applicability to sentences mandating payment of fines. 1. The provisions of section 420.10 of this article governing the collection of fines and the provisions of section 420.40 of this article governing deferral of mandatory surcharges, sex offender registration fees, DNA databank fees and financial hardship hearings and the provisions of section 430.20 of this chapter governing the commitment of a defendant for failure to pay a fine shall be applicable to a mandatory surcharge, sex offender registration fee, DNA databank fee and a crime victim assistance fee imposed pursuant to subdivision one of section 60.35 of the penal law, subdivision twenty-a of section three hundred eighty-five of the vehicle and traffic law, subdivision nineteen-a of section four hundred one of the vehicle and traffic law, or a mandatory surcharge imposed pursuant to section eighteen hundred nine of the vehicle and traffic law or section 27.12 of the parks, recreation and historic preservation law. When the court directs that the defendant be imprisoned until the mandatory surcharge, sex offender registration fee or DNA databank fee is satisfied, it must specify a maximum period of imprisonment not to exceed fifteen days; provided, however, a court may not direct that a defendant be imprisoned until the mandatory surcharge, sex offender registration fee, or DNA databank fee is satisfied or otherwise for failure to pay the mandatory surcharge, sex offender registration fee or DNA databank fee unless the court makes a contemporaneous finding on the record, after according defendant notice and an opportunity to be heard, that the payment of the mandatory surcharge, sex offender registration fee or DNA databank fee upon defendant will not work an unreasonable hardship upon him or her or his or her immediate family. 2. Except as provided in this subdivision or subdivision two-a of this section, under no circumstances shall the mandatory surcharge, sex offender registration fee, DNA databank fee or the crime victim assistance fee be waived. A court shall waive any mandatory surcharge, DNA databank fee and crime victim assistance fee when: (i) the defendant is convicted of prostitution under section 230.00 of the penal law; (ii) the defendant is convicted of a violation in the event such conviction is in lieu of a plea to or conviction for prostitution under section 230.00 of the penal law; (iii) the court finds that a defendant is a victim of sex trafficking under section 230.34 of the penal law or a victim of trafficking in persons under the trafficking victims protection act (United States Code, Title 22, Chapter 78); or (iv) the court finds that the defendant is a victim of sex trafficking of a child under section 230.34-a of the penal law. 2-a. A court may waive any mandatory surcharge, additional surcharge, town or village surcharge, the crime victim assistance fee, DNA databank fee, sex offender registration fee and/or supplemental sex offender victim fee when the court finds that the defendant was under the age of twenty-one at the time the offense was committed and:(a) the imposition of such surcharge or fee would work an unreasonable hardship on the defendant, his or her immediate family, or any other person who is dependent on such defendant for financial support; or(b) after considering the goal of promoting successful and productive reentry and reintegration as set forth in subdivision six of section 1.05 of the penal law, the imposition of such surcharge or fee would adversely impact the defendant's reintegration into society; or(c) the interests of justice.3. It shall be the duty of a court of record or administrative tribunal to report to the division of criminal justice services on the disposition and collection of mandatory surcharges, sex offender registration fees or DNA databank fees and crime victim assistance fees. Such report shall include, for all cases, whether the surcharge, sex offender registration fee, DNA databank fee or crime victim assistance fee levied pursuant to subdivision one of section 60.35 of the penal law or section eighteen hundred nine of the vehicle and traffic law has been imposed pursuant to law, collected, or is to be collected by probation or corrections or other officials. The form, manner and frequency of such reports shall be determined by the commissioner of the division of criminal justice services after consultation with the chief administrator of the courts and the commissioner of the department of motor vehicles. (a) the imposition of such surcharge or fee would work an unreasonable hardship on the defendant, his or her immediate family, or any other person who is dependent on such defendant for financial support; or (b) after considering the goal of promoting successful and productive reentry and reintegration as set forth in subdivision six of section 1.05 of the penal law, the imposition of such surcharge or fee would adversely impact the defendant's reintegration into society; or (c) the interests of justice. 3. It shall be the duty of a court of record or administrative tribunal to report to the division of criminal justice services on the disposition and collection of mandatory surcharges, sex offender registration fees or DNA databank fees and crime victim assistance fees. Such report shall include, for all cases, whether the surcharge, sex offender registration fee, DNA databank fee or crime victim assistance fee levied pursuant to subdivision one of section 60.35 of the penal law or section eighteen hundred nine of the vehicle and traffic law has been imposed pursuant to law, collected, or is to be collected by probation or corrections or other officials. The form, manner and frequency of such reports shall be determined by the commissioner of the division of criminal justice services after consultation with the chief administrator of the courts and the commissioner of the department of motor vehicles.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 420 - Fines, Restitution and Reparation420.40 - Deferral of a Mandatory Surcharge; Financial Hardship Hearings.

1. Applicability. The procedure specified in this section governs the deferral of the obligation to pay all or part of a mandatory

surcharge, sex offender registration fee or DNA databank fee imposed pursuant to subdivision one of section 60.35 of the penal law and financial hardship hearings relating to mandatory surcharges. 2. On an appearance date set forth in a summons issued pursuant to subdivision three of section 60.35 of the penal law, section eighteen hundred nine of the vehicle and traffic law or section 27.12 of the parks, recreation and historic preservation law, a person upon whom a mandatory surcharge, sex offender registration fee or DNA databank fee was levied shall have an opportunity to present on the record credible and verifiable information establishing that the mandatory surcharge, sex offender registration fee or DNA databank fee should be deferred, in whole or in part, because, due to the indigence of such person the payment of said surcharge, sex offender registration fee or DNA databank fee would work an unreasonable hardship on the person or his or her immediate family. 3. In assessing such information the superior court shall be mindful of the mandatory nature of the surcharge, sex offender registration fee and DNA databank fee, and the important criminal justice and victim services sustained by such fees. 4. Where a court determines that it will defer part or all of a mandatory surcharge, sex offender registration fee or DNA databank fee imposed pursuant to subdivision one of section 60.35 of the penal law, a statement of such finding and of the facts upon which it is based shall be made part of the record. 5. A court which defers a person's obligation to pay a mandatory surcharge, sex offender registration fee or DNA databank fee imposed pursuant to subdivision one of section 60.35 of the penal law shall do so in a written order. Such order shall not excuse the person from the obligation to pay the surcharge, sex offender registration fee or DNA databank fee. Rather, the court's order shall direct the filing of a certified copy of the order with the county clerk of the county in which the court is situate except where the court which issues such order is the supreme court in which case the order itself shall be filed by the clerk of the court acting in his or her capacity as the county clerk of the county in which the court is situate. Such order shall be entered by the county clerk in the same manner as a judgment in a civil action in accordance with subdivision (a) of rule five thousand sixteen of the civil practice law and rules. The order shall direct that any unpaid balance of the mandatory surcharge, sex offender registration fee or DNA databank fee may be collected in the same manner as a civil judgment. The entered order shall be deemed to constitute a judgment-roll as defined in section five thousand seventeen of the civil practice law and rules and immediately after entry of the order, the county clerk shall docket the entered order as a money judgment pursuant to section five thousand eighteen of such law and rules.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 420 - Fines, Restitution and Reparation420.45 - Post-Trial Motion Relating to Certain Instruments Affecting Residential Real Property.

residential real property. 1. When a defendant has been convicted after a trial or pled guilty to any crime that affects the title to, encumbrance of, or the possession of, real property and where there is an instrument that is material to such encumbrance, transfer or purchase of said real property, the district attorney, the attorney general, or any law enforcement agency may file a motion in the supreme court in the county where the property that is the subject of the instrument is located or the prosecution occurred on behalf of the victim to void said instrument. Such motion must be in writing and state the county or borough, if in the city of New York, and block, lot, street address of such property, and a description of such property, and include a copy of the judgment of conviction. Notice must be given to all persons who have an interest in the property. 2. Within ten days after filing a motion pursuant to subdivision one of this section, the agency filing the motion shall record a copy of the notice of motion in the office of the clerk of the county in which the property is situated. The notice shall be indexed by the clerk in the manner prescribed by subdivision (c) of rule sixty-five hundred eleven of the civil practice law and rules for a notice of pendency of action and shall have the same effect as such notice. 3. The supreme court must conduct a hearing and make findings of fact essential to the determination whether to declare the instrument described in subdivision one of this section void ab initio. There will be a rebuttable presumption that where a party is convicted after a trial or a guilty plea to any crime that affects the title to, encumbrance of, or the possession of, real property and where there is an instrument that encumbers or is material to the transfer or sale of real property, that such instrument is void ab initio. 4. Upon the defendant's conviction of or guilty plea as described in subdivision one of this section, and after conducting a hearing pursuant to subdivision three of this section, a court shall make a determination and if appropriate shall order that the instrument described in subdivision one of this section be declared void ab initio or grant other appropriate relief to the victim. The order of the court shall describe the nature of the false statement or false information contained in such instrument. A copy of such instrument shall be attached to the order of the court. 5. If the order relates to an instrument that has been filed with, registered, or recorded in a public office, a certified copy of such order shall be recorded in the office of the recording officer of the county in which such property is situated. 6. For purposes of this section, "all persons who have an interest in the property affected by such instrument" shall mean all parties who have recorded an instrument affecting the real property that is the subject of the instrument described in subdivision one of this section, any last record owner and anyone in residence during the pendency of the prosecution and any party with a lien against the property that is unsatisfied, or any other party that may claim to have liens or an interest in the property, and any current residents of the property, as of the date of the filing of the criminal information or indictment. 7. Nothing in this section shall be deemed to inhibit or prevent (a) relief otherwise provided by law, or (b) a party's right to appeal such order.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 430 - Sentences of Imprisonment430.10 - Sentence of Imprisonment Not to Be Changed After Commencement.

Except as otherwise specifically authorized by law, when the court has imposed a sentence of imprisonment and such sentence is in accordance with law, such sentence may not be changed, suspended or interrupted once the term or period of the sentence has commenced.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 430 - Sentences of Imprisonment430.20 - Commitment of Defendant.

1. In general. When a sentence of imprisonment is pronounced, or when th sentence consists of a fine and the court has directed that the defendant be imprisoned until it is satisfied, the defendant must forthwith be committed to the custody of the appropriate public servant and detained until the sentence is complied with. * 2. Indeterminate and determinate sentences. In the case of an indeterminate or determinate sentence of imprisonment, commitment must be to the custody of the state department of corrections and community supervision as provided in subdivision one of section 70.20 of the penal law. The order of commitment must direct that the defendant be delivered to an institution designated by the commissioner of corrections and community supervision in accordance with the provisions of the correction law. * NB Effective until September 1, 2025 * 2. Indeterminate sentences. In the case of an indeterminate sentence of imprisonment, commitment must be to the custody of the state department of corrections and community supervision as provided in subdivision one of section 70.20 of the penal law. The order of commitment must direct that the defendant be delivered to an institution designated by the commissioner of corrections and community supervision in accordance with the provisions of the correction law. * NB Effective September 1, 2025 3. Definite and intermittent sentences. In the case of a definite or intermittent sentence of imprisonment, commitment must be as follows:(a) In counties contained within New York City or in any county that has a county department of correction, commitment must be to the custody of the department of correction of such city or county;(b) In any other case, commitment must be to the county jail, workhouse or penitentiary, or to a penitentiary outside the county and the order of commitment must specify the institution to which the defendant is to be delivered.* 4. Certain resentences. When a sentence of imprisonment that has been imposed on a defendant is vacated and a new sentence is imposed on such defendant for the same offense, or for an offense based upon the same act, if the term of the new definite or determinate sentence or the maximum term of the new indeterminate sentence so imposed is less than or equal to that of the vacated sentence:(a) where the time served by the defendant on the vacated sentence is equal to or greater than the term or maximum term of the new sentence, the new sentence shall be deemed to be served in its entirety and the defendant shall not be committed to a correctional facility pursuant to said sentence; and(b) where the defendant was under the supervision of a local conditional release commission or the department of corrections and community supervision at the time the sentence was vacated, then the commitment shall direct that said conditional release or parole be recommenced, and the defendant shall not be committed to a correctional facility pursuant to said sentence, except as a result of revocation of parole or of conditional release; and(c) where the defendant was not under the supervision of the department of corrections and community supervision at the time the indeterminate or determinate sentence was vacated, but would immediately be eligible for conditional release from the new indeterminate or determinate sentence, the court shall ascertain from the department of corrections and community supervision whether the defendant has earned a sufficient amount of good time under the vacated sentence so as to require the conditional release of the defendant under the new sentence; in the event the defendant has earned a sufficient amount of good time, the court shall stay execution of sentence until the defendant surrenders at a correctional facility pursuant to the direction of the department of corrections and community supervision, which shall occur no later than sixty days after imposition of sentence; upon said stay of execution, the court clerk shall immediately mail to the commissioner of corrections and community supervision a certified copy of the commitment reflecting said stay of execution and the name, mailing address and telephone number of the defendant's legal representative; in the event the defendant fails to surrender as directed by the department of corrections and community supervision, the department shall notify the court which shall thereafter remand the defendant to custody pursuant to section 430.30 of this article; and(d) upon the resentence of a defendant as described in this subdivision, the court clerk shall immediately mail a certified copy of the commitment to the commissioner of corrections and community supervision if the vacated sentence or the new sentence is an indeterminate or determinate sentence and no mailing is required by paragraph (c) of this subdivision; additionally, the court clerk shall immediately mail a certified copy of the new commitment to the head of the appropriate local correctional facility if the vacated sentence or the new sentence is a definite sentence.* NB Effective until September 1, 2025* 4. Certain resentences. When a sentence of imprisonment that has been imposed on a defendant is vacated and a new sentence is imposed on such defendant for the same offense, or for an offense based upon the same act, if the term of the new definite sentence or the maximum term of the new indeterminate sentence so imposed is less than or equal to that of the vacated sentence:(a) where the time served by the defendant on the vacated sentence is equal to or greater than the term or maximum term of the new sentence, the new sentence shall be deemed to be served in its entirety and the defendant shall not be committed to a correctional facility pursuant to said sentence; and(b) where the defendant was under the supervision of a local conditional release commission or the department of corrections and community supervision at the time the sentence was vacated, then the commitment shall direct that said conditional release or parole be recommenced, and the defendant shall not be committed to a correctional facility pursuant to said sentence, except as a result of revocation of parole or of conditional release; and(c) where the defendant was not under the supervision of the department of corrections and community supervision at the time the indeterminate sentence was vacated, but would immediately be eligible for conditional release from the new indeterminate sentence, the court shall ascertain from the department of corrections and community supervision whether the defendant has earned a sufficient amount of good time under the vacated sentence so as to require the conditional release of the defendant under the new sentence; in the event the defendant has earned a sufficient amount of good time, the court shall stay execution of sentence until the defendant surrenders at a correctional facility pursuant to the direction of the department of corrections and community supervision, which shall occur no later than sixty days after imposition of sentence; upon said stay of execution, the court clerk shall immediately

mail to the commissioner of corrections and community supervision a certified copy of the commitment reflecting said stay of execution and the name, mailing address and telephone number of the defendant's legal representative; in the event the defendant fails to surrender as directed by the department of corrections and community supervision, the department shall notify the court which shall thereafter remand the defendant to custody pursuant to section 430.30 of this article; and(d) upon the resentence of a defendant as described in this subdivision, the court clerk shall immediately mail a certified copy of the commitment to the commissioner of corrections and community supervision if the vacated sentence or the new sentence is an indeterminate sentence and no mailing is required by paragraph (c) of this subdivision; additionally, the court clerk shall immediately mail a certified copy of the new commitment to the head of the appropriate local correctional facility if the vacated sentence or the new sentence is a definite sentence.* NB Effective September 1, 20255. Commitment for failure to pay fine. Where the sentence consists of a fine and the court has directed that the defendant be imprisoned until it is satisfied, commitment must be as follows:(a) If the sentence also includes a term of imprisonment, commitment must be to the same institution as is designated for service of the term of imprisonment, and the period of commitment commences (i) when the term of imprisonment is satisfied, or (ii) with the approval of the state board of parole, when the defendant becomes eligible for parole, or (iii) when the defendant becomes eligible for conditional release, whichever occurs first; provided, however, that the court may direct that the period of imprisonment for the fine run concurrently with the term of imprisonment; and(b) In any other case, commitment must be to the agency or institution that would be designated in the case of a definite sentence. (a) In counties contained within New York City or in any county that has a county department of correction, commitment must be to the custody of the department of correction of such city or county; (b) In any other case, commitment must be to the county jail, workhouse or penitentiary, or to a penitentiary outside the county and the order of commitment must specify the institution to which the defendant is to be delivered. * 4. Certain resentences. When a sentence of imprisonment that has been imposed on a defendant is vacated and a new sentence is imposed on such defendant for the same offense, or for an offense based upon the same act, if the term of the new definite or determinate sentence or the maximum term of the new indeterminate sentence so imposed is less than or equal to that of the vacated sentence: (a) where the time served by the defendant on the vacated sentence is equal to or greater than the term or maximum term of the new sentence, the new sentence shall be deemed to be served in its entirety and the defendant shall not be committed to a correctional facility pursuant to said sentence; and (b) where the defendant was under the supervision of a local conditional release commission or the department of corrections and community supervision at the time the sentence was vacated, then the commitment shall direct that said conditional release or parole be recommenced, and the defendant shall not be committed to a correctional facility pursuant to said sentence, except as a result of revocation of parole or of conditional release; and (c) where the defendant was not under the supervision of the department of corrections and community supervision at the time the indeterminate or determinate sentence was vacated, but would immediately be eligible for conditional release from the new indeterminate or determinate sentence, the court shall ascertain from the department of corrections and community supervision whether the defendant has earned a sufficient amount of good time under the vacated sentence so as to require the conditional release of the defendant under the new sentence; in the event the defendant has earned a sufficient amount of good time, the court shall stay execution of sentence until the defendant surrenders at a correctional facility pursuant to the direction of the department of corrections and community supervision, which shall occur no later than sixty days after imposition of sentence; upon said stay of execution, the court clerk shall immediately mail to the commissioner of corrections and community supervision a certified copy of the commitment reflecting said stay of execution and the name, mailing address and telephone number of the defendant's legal representative; in the event the defendant fails to surrender as directed by the department of corrections and community supervision, the department shall notify the court which shall thereafter remand the defendant to custody pursuant to section 430.30 of this article; and (d) upon the resentence of a defendant as described in this subdivision, the court clerk shall immediately mail a certified copy of the commitment to the commissioner of corrections and community supervision if the vacated sentence or the new sentence is an indeterminate or determinate sentence and no mailing is required by paragraph (c) of this subdivision; additionally, the court clerk shall immediately mail a certified copy of the new commitment to the head of the appropriate local correctional facility if the vacated sentence or the new sentence is a definite sentence. * NB Effective until September 1, 2025 * 4. Certain resentences. When a sentence of imprisonment that has been imposed on a defendant is vacated and a new sentence is imposed on such defendant for the same offense, or for an offense based upon the same act, if the term of the new definite sentence or the maximum term of the new indeterminate sentence so imposed is less than or equal to that of the vacated sentence: (a) where the time served by the defendant on the vacated sentence is equal to or greater than the term or maximum term of the new sentence, the new sentence shall be deemed to be served in its entirety and the defendant shall not be committed to a correctional facility pursuant to said sentence; and (b) where the defendant was under the supervision of a local conditional release commission or the department of corrections and community supervision at the time the sentence was vacated, then the commitment shall direct that said conditional release or parole be recommenced, and the defendant shall not be committed to a correctional facility pursuant to said sentence, except as a result of revocation of parole or of conditional release; and (c) where the defendant was not under the supervision of the department of corrections and community supervision at the time the indeterminate sentence was vacated, but would immediately be eligible for conditional release from the new indeterminate sentence, the court shall ascertain from the department of corrections and community supervision whether the defendant has earned a sufficient amount of good time under the vacated sentence so as to require the conditional release of the defendant under the new sentence; in the event the defendant has earned a sufficient amount of good time, the court shall stay execution of sentence until the defendant surrenders at a correctional facility pursuant to the direction of the department of corrections and community supervision, which shall occur no later than sixty days after imposition of sentence; upon said stay of execution, the court clerk shall immediately

mail to the commissioner of corrections and community supervision a certified copy of the commitment reflecting said stay of execution and the name, mailing address and telephone number of the defendant's legal representative; in the event the defendant fails to surrender as directed by the department of corrections and community supervision, the department shall notify the court which shall thereafter remand the defendant to custody pursuant to section 430.30 of this article; and (d) upon the resentence of a defendant as described in this subdivision, the court clerk shall immediately mail a certified copy of the commitment to the commissioner of corrections and community supervision if the vacated sentence or the new sentence is an indeterminate sentence and no mailing is required by paragraph (c) of this subdivision; additionally, the court clerk shall immediately mail a certified copy of the new commitment to the head of the appropriate local correctional facility if the vacated sentence or the new sentence is a definite sentence. * NB Effective September 1, 2025 5. Commitment for failure to pay fine. Where the sentence consists of a fine and the court has directed that the defendant be imprisoned until it is satisfied, commitment must be as follows: (a) If the sentence also includes a term of imprisonment, commitment must be to the same institution as is designated for service of the term of imprisonment, and the period of commitment commences (i) when the term of imprisonment is satisfied, or (ii) with the approval of the state board of parole, when the defendant becomes eligible for parole, or (iii) when the defendant becomes eligible for conditional release, whichever occurs first; provided, however, that the court may direct that the period of imprisonment for the fine run concurrently with the term of imprisonment; and (b) In any other case, commitment must be to the agency or institution that would be designated in the case of a definite sentence.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle L - SentenceArticle 430 - Sentences of Imprisonment430.30 - Duty to Deliver Defendant.

In counties contained within New York City and in counties that have a commissioner of correction who is responsible for detention of defendants in criminal actions, it is the duty of the commissioner of correction of such city or county to deliver the defendant forthwith to the proper institution in accordance with the commitment. In all other counties it is the duty of the sheriff to deliver the defendant forthwith to the proper institution in accordance with the commitment.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 440 - Post-Judgment Motions440.10 - Motion to Vacate Judgment.

1. At any time after the entry of a judgment, the court in which it was entered may, upon motion of the defendant, vacate such judgment upon the ground that:(a) The court did not have jurisdiction of the action or of the person of the defendant; or(b) The judgment was procured by duress, misrepresentation or fraud on the part of the court or a prosecutor or a person acting for or in behalf of a court or a prosecutor; or(c) Material evidence adduced at a trial resulting in the judgment was false and was, prior to the entry of the judgment, known by the prosecutor or by the court to be false; or(d) Material evidence adduced by the people at a trial resulting in the judgment was procured in violation of the defendant's rights under the constitution of this state or of the United States; or(e) During the proceedings resulting in the judgment, the defendant, by reason of mental disease or defect, was incapable of understanding or participating in such proceedings; or(f) Improper and prejudicial conduct not appearing in the record occurred during a trial resulting in the judgment which conduct, if it had appeared in the record, would have required a reversal of the judgment upon an appeal therefrom; or(g) New evidence has been discovered since the entry of a judgment based upon a verdict of guilty after trial, which could not have been produced by the defendant at the trial even with due diligence on his part and which is of such character as to create a probability that had such evidence been received at the trial the verdict would have been more favorable to the defendant; provided that a motion based upon such ground must be made with due diligence after the discovery of such alleged new evidence; or(g-1) Forensic DNA testing of evidence performed since the entry of a judgment, (1) in the case of a defendant convicted after a guilty plea, the court has determined that the defendant has demonstrated a substantial probability that the defendant was actually innocent of the offense of which he or she was convicted, or (2) in the case of a defendant convicted after a trial, the court has determined that there exists a reasonable probability that the verdict would have been more favorable to the defendant.(h) The judgment was obtained in violation of a right of the defendant under the constitution of this state or of the United States; or(i) The judgment is a conviction where the defendant's participation in the offense was a result of having been a victim of sex trafficking under section 230.34 of the penal law, sex trafficking of a child under section 230.34-a of the penal law, labor trafficking under section 135.35 of the penal law, aggravated labor trafficking under section 135.37 of the penal law, compelling prostitution under section 230.33 of the penal law, or trafficking in persons under the Trafficking Victims Protection Act (United States Code, title 22, chapter 78); provided that(i) official documentation of the defendant's status as a victim of sex trafficking, labor trafficking, aggravated labor trafficking, compelling prostitution, or trafficking in persons at the time of the offense from a federal, state or local government agency shall create a presumption that the defendant's participation in the offense was a result of having been a victim of sex trafficking, labor trafficking, aggravated labor trafficking, compelling prostitution or trafficking in persons, but shall not be required for granting a motion under this paragraph;(ii) a motion under this paragraph, and all pertinent papers and documents, shall be confidential and may not be made available to any person or public or private entity except where specifically authorized by the court; and(iii) when a motion is filed under this paragraph, the court may, upon the consent of the petitioner and all of the state and local prosecutorial agencies that prosecuted each matter, consolidate into one proceeding a motion to vacate judgments imposed by distinct or multiple criminal courts; or(j) The judgment is a conviction for a class A or unclassified misdemeanor entered prior to the effective date of this paragraph and satisfies the ground prescribed in paragraph (h) of this subdivision. There shall be a rebuttable presumption that a conviction by plea to such an offense was not knowing, voluntary and

intelligent, based on ongoing collateral consequences, including potential or actual immigration consequences, and there shall be a rebuttable presumption that a conviction by verdict constitutes cruel and unusual punishment under section five of article one of the state constitution based on such consequences; or(k) The judgment occurred prior to the effective date of the laws of two thousand twenty-one that amended this paragraph and is a conviction for an offense as defined in subparagraphs (i), (ii), (iii) or (iv) of paragraph (k) of subdivision three of section 160.50 of this part, in which case the court shall presume that a conviction by plea for the aforementioned offenses was not knowing, voluntary and intelligent if it has severe or ongoing consequences, including but not limited to potential or actual immigration consequences, and shall presume that a conviction by verdict for the aforementioned offenses constitutes cruel and unusual punishment under section five of article one of the state constitution, based on those consequences. The people may rebut these presumptions.2. Notwithstanding the provisions of subdivision one, the court must deny a motion to vacate a judgment when:(a) The ground or issue raised upon the motion was previously determined on the merits upon an appeal from the judgment, unless since the time of such appellate determination there has been a retroactively effective change in the law controlling such issue; or(b) The judgment is, at the time of the motion, appealable or pending on appeal, and sufficient facts appear on the record with respect to the ground or issue raised upon the motion to permit adequate review thereof upon such an appeal unless the issue raised upon such motion is ineffective assistance of counsel. This paragraph shall not apply to a motion under paragraph (i) of subdivision one of this section; or(c) Although sufficient facts appear on the record of the proceedings underlying the judgment to have permitted, upon appeal from such judgment, adequate review of the ground or issue raised upon the motion, no such appellate review or determination occurred owing to the defendant's unjustifiable failure to take or perfect an appeal during the prescribed period or to his or her unjustifiable failure to raise such ground or issue upon an appeal actually perfected by him or her unless the issue raised upon such motion is ineffective assistance of counsel; or(d) The ground or issue raised relates solely to the validity of the sentence and not to the validity of the conviction.3. Notwithstanding the provisions of subdivision one, the court may deny a motion to vacate a judgment when:(a) Although facts in support of the ground or issue raised upon the motion could with due diligence by the defendant have readily been made to appear on the record in a manner providing adequate basis for review of such ground or issue upon an appeal from the judgment, the defendant unjustifiably failed to adduce such matter prior to sentence and the ground or issue in question was not subsequently determined upon appeal. This paragraph does not apply to a motion based upon deprivation of the right to counsel at the trial or upon failure of the trial court to advise the defendant of such right, or to a motion under paragraph (i) of subdivision one of this section; or(b) The ground or issue raised upon the motion was previously determined on the merits upon a prior motion or proceeding in a court of this state, other than an appeal from the judgment, or upon a motion or proceeding in a federal court; unless since the time of such determination there has been a retroactively effective change in the law controlling such issue; or(c) Upon a previous motion made pursuant to this section, the defendant was in a position adequately to raise the ground or issue underlying the present motion but did not do so.Although the court may deny the motion under any of the circumstances specified in this subdivision, in the interest of justice and for good cause shown it may in its discretion grant the motion if it is otherwise meritorious and vacate the judgment.4. If the court grants the motion, it must, except as provided in subdivision five or six of this section, vacate the judgment, and must dismiss the accusatory instrument, or order a new trial, or take such other action as is appropriate in the circumstances.5. Upon granting the motion upon the ground, as prescribed in paragraph (g) of subdivision one, that newly discovered evidence creates a probability that had such evidence been received at the trial the verdict would have been more favorable to the defendant in that the conviction would have been for a lesser offense than the one contained in the verdict, the court may either:(a) Vacate the judgment and order a new trial; or(b) With the consent of the people, modify the judgment by reducing it to one of conviction for such lesser offense. In such case, the court must re-sentence the defendant accordingly.6. If the court grants a motion under paragraph (i) or paragraph (k) of subdivision one of this section, it must vacate the judgment and dismiss the accusatory instrument, and may take such additional action as is appropriate in the circumstances. In the case of a motion granted under paragraph (i) of subdivision one of this section, the court must vacate the judgment on the merits because the defendant's participation in the offense was a result of having been a victim of trafficking.7. Upon a new trial resulting from an order vacating a judgment pursuant to this section, the indictment is deemed to contain all the counts and to charge all the offenses which it contained and charged at the time the previous trial was commenced, regardless of whether any count was dismissed by the court in the course of such trial, except (a) those upon or of which the defendant was acquitted or deemed to have been acquitted, and (b) those dismissed by the order vacating the judgment, and (c) those previously dismissed by an appellate court upon an appeal from the judgment, or by any court upon a previous post-judgment motion.8. Upon an order which vacates a judgment based upon a plea of guilty to an accusatory instrument or a part thereof, but which does not dismiss the entire accusatory instrument, the criminal action is, in the absence of an express direction to the contrary, restored to its prepleading status and the accusatory instrument is deemed to contain all the counts and to charge all the offenses which it contained and charged at the time of the entry of the plea, except those subsequently dismissed under circumstances specified in paragraphs (b) and (c) of subdivision six. Where the plea of guilty was entered and accepted, pursuant to subdivision three of section 220.30, upon the condition that it constituted a complete disposition not only of the accusatory instrument underlying the judgment vacated but also of one or more other accusatory instruments against the defendant then pending in the same court, the order of vacation completely restores such other accusatory instruments; and such is the case even though such order dismisses the main accusatory instrument underlying the judgment.9. Upon granting of a motion pursuant to paragraph (j) of subdivision one of this section, the court may either:(a) With the consent of the people, vacate the judgment or modify the judgment by reducing it to one of conviction for a lesser offense; or(b) Vacate the judgment and order a new trial wherein the defendant enters a plea to the same offense in order to permit the court to resentence the defendant in accordance with the

amendatory provisions of subdivision one-a of section 70.15 of the penal law. (a) The court did not have jurisdiction of the action or of the person of the defendant; or (b) The judgment was procured by duress, misrepresentation or fraud on the part of the court or a prosecutor or a person acting for or in behalf of a court or a prosecutor; or (c) Material evidence adduced at a trial resulting in the judgment was false and was, prior to the entry of the judgment, known by the prosecutor or by the court to be false; or (d) Material evidence adduced by the people at a trial resulting in the judgment was procured in violation of the defendant's rights under the constitution of this state or of the United States; or (e) During the proceedings resulting in the judgment, the defendant, by reason of mental disease or defect, was incapable of understanding or participating in such proceedings; or (f) Improper and prejudicial conduct not appearing in the record occurred during a trial resulting in the judgment which conduct, if it had appeared in the record, would have required a reversal of the judgment upon an appeal therefrom; or (g) New evidence has been discovered since the entry of a judgment based upon a verdict of guilty after trial, which could not have been produced by the defendant at the trial even with due diligence on his part and which is of such character as to create a probability that had such evidence been received at the trial the verdict would have been more favorable to the defendant; provided that a motion based upon such ground must be made with due diligence after the discovery of such alleged new evidence; or (g-1) Forensic DNA testing of evidence performed since the entry of a judgment, (1) in the case of a defendant convicted after a guilty plea, the court has determined that the defendant has demonstrated a substantial probability that the defendant was actually innocent of the offense of which he or she was convicted, or (2) in the case of a defendant convicted after a trial, the court has determined that there exists a reasonable probability that the verdict would have been more favorable to the defendant. (h) The judgment was obtained in violation of a right of the defendant under the constitution of this state or of the United States; or (i) The judgment is a conviction where the defendant's participation in the offense was a result of having been a victim of sex trafficking under section 230.34 of the penal law, sex trafficking of a child under section 230.34-a of the penal law, labor trafficking under section 135.35 of the penal law, aggravated labor trafficking under section 135.37 of the penal law, compelling prostitution under section 230.33 of the penal law, or trafficking in persons under the Trafficking Victims Protection Act (United States Code, title 22, chapter 78); provided that (i) official documentation of the defendant's status as a victim of sex trafficking, labor trafficking, aggravated labor trafficking, compelling prostitution, or trafficking in persons at the time of the offense from a federal, state or local government agency shall create a presumption that the defendant's participation in the offense was a result of having been a victim of sex trafficking, labor trafficking, aggravated labor trafficking, compelling prostitution or trafficking in persons, but shall not be required for granting a motion under this paragraph; (ii) a motion under this paragraph, and all pertinent papers and documents, shall be confidential and may not be made available to any person or public or private entity except where specifically authorized by the court; and (iii) when a motion is filed under this paragraph, the court may, upon the consent of the petitioner and all of the state and local prosecutorial agencies that prosecuted each matter, consolidate into one proceeding a motion to vacate judgments imposed by distinct or multiple criminal courts; or (j) The judgment is a conviction for a class A or unclassified misdemeanor entered prior to the effective date of this paragraph and satisfies the ground prescribed in paragraph (h) of this subdivision. There shall be a rebuttable presumption that a conviction by plea to such an offense was not knowing, voluntary and intelligent, based on ongoing collateral consequences, including potential or actual immigration consequences, and there shall be a rebuttable presumption that a conviction by verdict constitutes cruel and unusual punishment under section five of article one of the state constitution based on such consequences; or (k) The judgment occurred prior to the effective date of the laws of two thousand twenty-one that amended this paragraph and is a conviction for an offense as defined in subparagraphs (i), (ii), (iii) or (iv) of paragraph (k) of subdivision three of section 160.50 of this part, in which case the court shall presume that a conviction by plea for the aforementioned offenses was not knowing, voluntary and intelligent if it has severe or ongoing consequences, including but not limited to potential or actual immigration consequences, and shall presume that a conviction by verdict for the aforementioned offenses constitutes cruel and unusual punishment under section five of article one of the state constitution, based on those consequences. The people may rebut these presumptions. 2. Notwithstanding the provisions of subdivision one, the court must deny a motion to vacate a judgment when: (a) The ground or issue raised upon the motion was previously determined on the merits upon an appeal from the judgment, unless since the time of such appellate determination there has been a retroactively effective change in the law controlling such issue; or (b) The judgment is, at the time of the motion, appealable or pending on appeal, and sufficient facts appear on the record with respect to the ground or issue raised upon the motion to permit adequate review thereof upon such an appeal unless the issue raised upon such motion is ineffective assistance of counsel. This paragraph shall not apply to a motion under paragraph (i) of subdivision one of this section; or (c) Although sufficient facts appear on the record of the proceedings underlying the judgment to have permitted, upon appeal from such judgment, adequate review of the ground or issue raised upon the motion, no such appellate review or determination occurred owing to the defendant's unjustifiable failure to take or perfect an appeal during the prescribed period or to his or her unjustifiable failure to raise such ground or issue upon an appeal actually perfected by him or her unless the issue raised upon such motion is ineffective assistance of counsel; or (d) The ground or issue raised relates solely to the validity of the sentence and not to the validity of the conviction. 3. Notwithstanding the provisions of subdivision one, the court may deny a motion to vacate a judgment when: (a) Although facts in support of the ground or issue raised upon the motion could with due diligence by the defendant have readily been made to appear on the record in a manner providing adequate basis for review of such ground or issue upon an appeal from the judgment, the defendant unjustifiably failed to adduce such matter prior to sentence and the ground or issue in question was not subsequently determined upon appeal. This paragraph does not apply to a motion based upon deprivation of the right to counsel at the trial or upon failure of the trial court to advise the defendant of such right, or to a motion under paragraph (i) of subdivision one of this section; or (b) The ground or issue raised upon the motion was previously determined on the merits upon a prior motion or

proceeding in a court of this state, other than an appeal from the judgment, or upon a motion or proceeding in a federal court; unless since the time of such determination there has been a retroactively effective change in the law controlling such issue; or (c) Upon a previous motion made pursuant to this section, the defendant was in a position adequately to raise the ground or issue underlying the present motion but did not do so. Although the court may deny the motion under any of the circumstances specified in this subdivision, in the interest of justice and for good cause shown it may in its discretion grant the motion if it is otherwise meritorious and vacate the judgment. 4. If the court grants the motion, it must, except as provided in subdivision five or six of this section, vacate the judgment, and must dismiss the accusatory instrument, or order a new trial, or take such other action as is appropriate in the circumstances. 5. Upon granting the motion upon the ground, as prescribed in paragraph (g) of subdivision one, that newly discovered evidence creates a probability that had such evidence been received at the trial the verdict would have been more favorable to the defendant in that the conviction would have been for a lesser offense than the one contained in the verdict, the court may either: (a) Vacate the judgment and order a new trial; or (b) With the consent of the people, modify the judgment by reducing it to one of conviction for such lesser offense. In such case, the court must re-sentence the defendant accordingly. 6. If the court grants a motion under paragraph (i) or paragraph (k) of subdivision one of this section, it must vacate the judgment and dismiss the accusatory instrument, and may take such additional action as is appropriate in the circumstances. In the case of a motion granted under paragraph (i) of subdivision one of this section, the court must vacate the judgment on the merits because the defendant's participation in the offense was a result of having been a victim of trafficking. 7. Upon a new trial resulting from an order vacating a judgment pursuant to this section, the indictment is deemed to contain all the counts and to charge all the offenses which it contained and charged at the time the previous trial was commenced, regardless of whether any count was dismissed by the court in the course of such trial, except (a) those upon or of which the defendant was acquitted or deemed to have been acquitted, and (b) those dismissed by the order vacating the judgment, and (c) those previously dismissed by an appellate court upon an appeal from the judgment, or by any court upon a previous post-judgment motion. 8. Upon an order which vacates a judgment based upon a plea of guilty to an accusatory instrument or a part thereof, but which does not dismiss the entire accusatory instrument, the criminal action is, in the absence of an express direction to the contrary, restored to its prepleading status and the accusatory instrument is deemed to contain all the counts and to charge all the offenses which it contained and charged at the time of the entry of the plea, except those subsequently dismissed under circumstances specified in paragraphs (b) and (c) of subdivision six. Where the plea of guilty was entered and accepted, pursuant to subdivision three of section 220.30, upon the condition that it constituted a complete disposition not only of the accusatory instrument underlying the judgment vacated but also of one or more other accusatory instruments against the defendant then pending in the same court, the order of vacation completely restores such other accusatory instruments; and such is the case even though such order dismisses the main accusatory instrument underlying the judgment. 9. Upon granting of a motion pursuant to paragraph (j) of subdivision one of this section, the court may either: (a) With the consent of the people, vacate the judgment or modify the judgment by reducing it to one of conviction for a lesser offense; or (b) Vacate the judgment and order a new trial wherein the defendant enters a plea to the same offense in order to permit the court to resentence the defendant in accordance with the amendatory provisions of subdivision one-a of section 70.15 of the penal law.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 440 - Post-Judgment Motions440.20 - Motion to Set Aside Sentence; by Defendant.

1. At any time after the entry of a judgment, the court in which the judgment was entered may, upon motion of the defendant, set aside the sentence upon the ground that it was unauthorized, illegally imposed or otherwise invalid as a matter of law. Where the judgment includes a sentence of death, the court may also set aside the sentence upon any of the grounds set forth in paragraph (b), (c), (f), (g) or (h) of subdivision one of section 440.10 as applied to a separate sentencing proceeding under section 400.27, provided, however, that to the extent the ground or grounds asserted include one or more of the aforesaid paragraphs of subdivision one of section 440.10, the court must also apply subdivisions two and three of section 440.10, other than paragraph (d) of subdivision two of such section, in determining the motion. In the event the court enters an order granting a motion to set aside a sentence of death under this section, the court must either direct a new sentencing proceeding in accordance with section 400.27 or, to the extent that the defendant cannot be resentenced to death consistent with the laws of this state or the constitution of this state or of the United States, resentence the defendant to life imprisonment without parole or to a sentence of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole. Upon granting the motion upon any of the grounds set forth in the aforesaid paragraphs of subdivision one of section 440.10 and setting aside the sentence, the court must afford the people a reasonable period of time, which shall not be less than ten days, to determine whether to take an appeal from the order setting aside the sentence of death. The taking of an appeal by the people stays the effectiveness of that portion of the court's order that directs a new sentencing proceeding. 2. Notwithstanding the provisions of subdivision one, the court must deny such a motion when the ground or issue raised thereupon was previously determined on the merits upon an appeal from the judgment or sentence, unless since the time of such appellate determination there has been a retroactively effective change in the law controlling such issue. 3. Notwithstanding the provisions of subdivision one, the court may deny such a motion when the ground or issue raised thereupon was previously determined on the merits upon a prior motion or proceeding in a court of this state, other than an appeal from the judgment, or upon a prior motion or proceeding in a federal court, unless since the time of such determination there has been a retroactively effective change in the law controlling such issue. Despite such determination, however, the court in the interest of justice and for good cause shown, may in its discretion grant the motion if it is otherwise meritorious. 4. An order setting aside a sentence pursuant to this section does not affect the validity or status of the underlying conviction, and after entering such an order

the court must resentence the defendant in accordance with the law.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 440 - Post-Judgment Motions440.30 - Motion to Vacate Judgment and to Set Aside Sentence; Procedure.

1. (a) A motion to vacate a judgment pursuant to section 440.10 of this article and a motion to set aside a sentence pursuant to section 440.20 of this article must be made in writing and upon reasonable notice to the people. Upon the motion, a defendant who is in a position adequately to raise more than one ground should raise every such ground upon which he or she intends to challenge the judgment or sentence. If the motion is based upon the existence or occurrence of facts, the motion papers must contain sworn allegations thereof, whether by the defendant or by another person or persons. Such sworn allegations may be based upon personal knowledge of the affiant or upon information and belief, provided that in the latter event the affiant must state the sources of such information and the grounds of such belief. The defendant may further submit documentary evidence or information supporting or tending to support the allegations of the moving papers. The people may file with the court, and in such case must serve a copy thereof upon the defendant or his or her counsel, if any, an answer denying or admitting any or all of the allegations of the motion papers, and may further submit documentary evidence or information refuting or tending to refute such allegations. After all papers of both parties have been filed, and after all documentary evidence or information, if any, has been submitted, the court must consider the same for the purpose of ascertaining whether the motion is determinable without a hearing to resolve questions of fact.(b) In conjunction with the filing or consideration of a motion to vacate a judgment pursuant to section 440.10 of this article by a defendant convicted after a trial, in cases where the court has ordered an evidentiary hearing upon such motion, the court may order that the people produce or make available for inspection property in its possession, custody, or control that was secured in connection with the investigation or prosecution of the defendant upon credible allegations by the defendant and a finding by the court that such property, if obtained, would be probative to the determination of defendant's actual innocence, and that the request is reasonable. The court shall deny or limit such a request upon a finding that such a request, if granted, would threaten the integrity or chain of custody of property or the integrity of the processes or functions of a laboratory conducting DNA testing, pose a risk of harm, intimidation, embarrassment, reprisal, or other substantially negative consequences to any person, undermine the proper functions of law enforcement including the confidentiality of informants, or on the basis of any other factor identified by the court in the interests of justice or public safety. The court shall further ensure that any property produced pursuant to this paragraph is subject to a protective order, where appropriate. The court shall deny any request made pursuant to this paragraph where:(i) (1) the defendant's motion pursuant to section 440.10 of this article does not seek to demonstrate his or her actual innocence of the offense or offenses of which he or she was convicted that are the subject of the motion, or (2) the defendant has not presented credible allegations and the court has not found that such property, if obtained, would be probative to the determination of the defendant's actual innocence and that the request is reasonable;(ii) the defendant has made his or her motion after five years from the date of the judgment of conviction; provided, however, that this limitation period shall be tolled for five years if the defendant is in custody in connection with the conviction that is the subject of his or her motion, and provided further that, notwithstanding such limitation periods, the court may consider the motion if the defendant has shown: (A) that he or she has been pursuing his or her rights diligently and that some extraordinary circumstance prevented the timely filing of the motion; (B) that the facts upon which the motion is predicated were unknown to the defendant or his or her attorney and could not have been ascertained by the exercise of due diligence prior to the expiration of the statute of limitations; or (C) considering all circumstances of the case including but not limited to evidence of the defendant's guilt, the impact of granting or denying such motion upon public confidence in the criminal justice system, or upon the safety or welfare of the community, and the defendant's diligence in seeking to obtain the requested property or related relief, the interests of justice would be served by considering the motion;(iii) the defendant is challenging a judgment convicting him or her of an offense that is not a felony defined in section 10.00 of the penal law; or(iv) upon a finding by the court that the property requested in this motion would be available through other means through reasonable efforts by the defendant to obtain such property.1-a. (a) (1) Where the defendant's motion requests the performance of a forensic DNA test on specified evidence, and upon the court's determination that any evidence containing deoxyribonucleic acid ("DNA") was secured in connection with the trial resulting in the judgment, the court shall grant the application for forensic DNA testing of such evidence upon its determination that if a DNA test had been conducted on such evidence, and if the results had been admitted in the trial resulting in the judgment, there exists a reasonable probability that the verdict would have been more favorable to the defendant.(2) Where the defendant's motion for forensic DNA testing of specified evidence is made following a plea of guilty and entry of judgment thereon convicting him or her of: (A) a homicide offense defined in article one hundred twenty-five of the penal law, any felony sex offense defined in article one hundred thirty of the penal law, a violent felony offense as defined in paragraph (a) of subdivision one of section 70.02 of the penal law, or (B) any other felony offense to which he or she pled guilty after being charged in an indictment or information in superior court with one or more of the offenses listed in clause (A) of this subparagraph, then the court shall grant such a motion upon its determination that evidence containing DNA was secured in connection with the investigation or prosecution of the defendant, and if a DNA test had been conducted on such evidence and the results had been known to the parties prior to the entry of the defendant's plea and judgment thereon, there exists a substantial probability that the evidence would have established the defendant's actual innocence of the offense or offenses that are the subject of the defendant's motion; provided, however, that:(i) the court shall consider whether the defendant had the opportunity to request such testing prior to entering a guilty plea, and, where it finds that the defendant had such opportunity and unjustifiably failed to do so, the court may deny such motion; and(ii) a court shall deny the defendant's motion for forensic DNA testing where the defendant has made his or

her motion more than five years after entry of the judgment of conviction; except that the limitation period may be tolled if the defendant has shown: (A) that he or she has been pursuing his or her rights diligently and that some extraordinary circumstance prevented the timely filing of the motion for forensic DNA testing; (B) that the facts upon which the motion is predicated were unknown to the defendant or his or her attorney and could not have been ascertained by the exercise of due diligence prior to the expiration of this statute of limitations; or (C) considering all circumstances of the case including but not limited to evidence of the defendant's guilt, the impact of granting or denying such motion upon public confidence in the criminal justice system, or upon the safety or welfare of the community, and the defendant's diligence in seeking to obtain the requested property or related relief, the interests of justice would be served by tolling such limitation period.(b) In conjunction with the filing of a motion under this subdivision, the court may direct the people to provide the defendant with information in the possession of the people concerning the current physical location of the specified evidence and if the specified evidence no longer exists or the physical location of the specified evidence is unknown, a representation to that effect and information and documentary evidence in the possession of the people concerning the last known physical location of such specified evidence. If there is a finding by the court that the specified evidence no longer exists or the physical location of such specified evidence is unknown, such information in and of itself shall not be a factor from which any inference unfavorable to the people may be drawn by the court in deciding a motion under this section. The court, on motion of the defendant, may also issue a subpoena duces tecum directing a public or private hospital, laboratory or other entity to produce such specified evidence in its possession and/or information and documentary evidence in its possession concerning the location and status of such specified evidence.(c) In response to a motion under this paragraph, upon notice to the parties and to the entity required to perform the search the court may order an entity that has access to the combined DNA index system ("CODIS") or its successor system to compare a DNA profile obtained from probative biological material gathered in connection with the investigation or prosecution of the defendant against DNA databanks by keyboard searches, or a similar method that does not involve uploading, upon a court's determination that (1) such profile complies with federal bureau of investigation or state requirements, whichever are applicable and as such requirements are applied to law enforcement agencies seeking such a comparison, and that the data meet state DNA index system and/or national DNA index system criteria as such criteria are applied to law enforcement agencies seeking such a comparison and (2) if such comparison had been conducted, and if the results had been admitted in the trial resulting in the judgment, a reasonable probability exists that the verdict would have been more favorable to the defendant, or in a case involving a plea of guilty, if the results had been available to the defendant prior to the plea, a reasonable probability exists that the conviction would not have resulted. For purposes of this subdivision, a "keyboard search" shall mean a search of a DNA profile against the databank in which the profile that is searched is not uploaded to or maintained in the databank.2. If it appears by conceded or uncontradicted allegations of the moving papers or of the answer, or by unquestionable documentary proof, that there are circumstances which require denial thereof pursuant to subdivision two of section 440.10 or subdivision two of section 440.20, the court must summarily deny the motion. If it appears that there are circumstances authorizing, though not requiring, denial thereof pursuant to subdivision three of section 440.10 or subdivision three of section 440.20, the court may in its discretion either (a) summarily deny the motion, or (b) proceed to consider the merits thereof.3. Upon considering the merits of the motion, the court must grant it without conducting a hearing and vacate the judgment or set aside the sentence, as the case may be, if:(a) The moving papers allege a ground constituting legal basis for the motion; and(b) Such ground, if based upon the existence or occurrence of facts, is supported by sworn allegations thereof; and(c) The sworn allegations of fact essential to support the motion are either conceded by the people to be true or are conclusively substantiated by unquestionable documentary proof.4. Upon considering the merits of the motion, the court may deny it without conducting a hearing if:(a) The moving papers do not allege any ground constituting legal basis for the motion; or(b) The motion is based upon the existence or occurrence of facts and the moving papers do not contain sworn allegations substantiating or tending to substantiate all the essential facts, as required by subdivision one; or(c) An allegation of fact essential to support the motion is conclusively refuted by unquestionable documentary proof; or(d) An allegation of fact essential to support the motion (i) is contradicted by a court record or other official document, or is made solely by the defendant and is unsupported by any other affidavit or evidence, and (ii) under these and all the other circumstances attending the case, there is no reasonable possibility that such allegation is true.5. If the court does not determine the motion pursuant to subdivisions two, three or four, it must conduct a hearing and make findings of fact essential to the determination thereof. The defendant has a right to be present at such hearing but may waive such right in writing. If he does not so waive it and if he is confined in a prison or other institution of this state, the court must cause him to be produced at such hearing.6. At such a hearing, the defendant has the burden of proving by a preponderance of the evidence every fact essential to support the motion.7. Regardless of whether a hearing was conducted, the court, upon determining the motion, must set forth on the record its findings of fact, its conclusions of law and the reasons for its determination. (b) In conjunction with the filing or consideration of a motion to vacate a judgment pursuant to section 440.10 of this article by a defendant convicted after a trial, in cases where the court has ordered an evidentiary hearing upon such motion, the court may order that the people produce or make available for inspection property in its possession, custody, or control that was secured in connection with the investigation or prosecution of the defendant upon credible allegations by the defendant and a finding by the court that such property, if obtained, would be probative to the determination of defendant's actual innocence, and that the request is reasonable. The court shall deny or limit such a request upon a finding that such a request, if granted, would threaten the integrity or chain of custody of property or the integrity of the processes or functions of a laboratory conducting DNA testing, pose a risk of harm, intimidation, embarrassment, reprisal, or other substantially negative consequences to any person, undermine the proper functions of law enforcement including the confidentiality of informants, or on the basis of any other factor identified by the court in the interests of justice or public safety. The court shall further ensure that any

property produced pursuant to this paragraph is subject to a protective order, where appropriate. The court shall deny any request made pursuant to this paragraph where: (i) (1) the defendant's motion pursuant to section 440.10 of this article does not seek to demonstrate his or her actual innocence of the offense or offenses of which he or she was convicted that are the subject of the motion, or (2) the defendant has not presented credible allegations and the court has not found that such property, if obtained, would be probative to the determination of the defendant's actual innocence and that the request is reasonable; (ii) the defendant has made his or her motion after five years from the date of the judgment of conviction; provided, however, that this limitation period shall be tolled for five years if the defendant is in custody in connection with the conviction that is the subject of his or her motion, and provided further that, notwithstanding such limitation periods, the court may consider the motion if the defendant has shown: (A) that he or she has been pursuing his or her rights diligently and that some extraordinary circumstance prevented the timely filing of the motion; (B) that the facts upon which the motion is predicated were unknown to the defendant or his or her attorney and could not have been ascertained by the exercise of due diligence prior to the expiration of the statute of limitations; or (C) considering all circumstances of the case including but not limited to evidence of the defendant's guilt, the impact of granting or denying such motion upon public confidence in the criminal justice system, or upon the safety or welfare of the community, and the defendant's diligence in seeking to obtain the requested property or related relief, the interests of justice would be served by considering the motion; (iii) the defendant is challenging a judgment convicting him or her of an offense that is not a felony defined in section 10.00 of the penal law; or (iv) upon a finding by the court that the property requested in this motion would be available through other means through reasonable efforts by the defendant to obtain such property. 1-a. (a) (1) Where the defendant's motion requests the performance of a forensic DNA test on specified evidence, and upon the court's determination that any evidence containing deoxyribonucleic acid ("DNA") was secured in connection with the trial resulting in the judgment, the court shall grant the application for forensic DNA testing of such evidence upon its determination that if a DNA test had been conducted on such evidence, and if the results had been admitted in the trial resulting in the judgment, there exists a reasonable probability that the verdict would have been more favorable to the defendant. (2) Where the defendant's motion for forensic DNA testing of specified evidence is made following a plea of guilty and entry of judgment thereon convicting him or her of: (A) a homicide offense defined in article one hundred twenty-five of the penal law, any felony sex offense defined in article one hundred thirty of the penal law, a violent felony offense as defined in paragraph (a) of subdivision one of section 70.02 of the penal law, or (B) any other felony offense to which he or she pled guilty after being charged in an indictment or information in superior court with one or more of the offenses listed in clause (A) of this subparagraph, then the court shall grant such a motion upon its determination that evidence containing DNA was secured in connection with the investigation or prosecution of the defendant, and if a DNA test had been conducted on such evidence and the results had been known to the parties prior to the entry of the defendant's plea and judgment thereon, there exists a substantial probability that the evidence would have established the defendant's actual innocence of the offense or offenses that are the subject of the defendant's motion; provided, however, that: (i) the court shall consider whether the defendant had the opportunity to request such testing prior to entering a guilty plea, and, where it finds that the defendant had such opportunity and unjustifiably failed to do so, the court may deny such motion; and (ii) a court shall deny the defendant's motion for forensic DNA testing where the defendant has made his or her motion more than five years after entry of the judgment of conviction; except that the limitation period may be tolled if the defendant has shown: (A) that he or she has been pursuing his or her rights diligently and that some extraordinary circumstance prevented the timely filing of the motion for forensic DNA testing; (B) that the facts upon which the motion is predicated were unknown to the defendant or his or her attorney and could not have been ascertained by the exercise of due diligence prior to the expiration of this statute of limitations; or (C) considering all circumstances of the case including but not limited to evidence of the defendant's guilt, the impact of granting or denying such motion upon public confidence in the criminal justice system, or upon the safety or welfare of the community, and the defendant's diligence in seeking to obtain the requested property or related relief, the interests of justice would be served by tolling such limitation period. (b) In conjunction with the filing of a motion under this subdivision, the court may direct the people to provide the defendant with information in the possession of the people concerning the current physical location of the specified evidence and if the specified evidence no longer exists or the physical location of the specified evidence is unknown, a representation to that effect and information and documentary evidence in the possession of the people concerning the last known physical location of such specified evidence. If there is a finding by the court that the specified evidence no longer exists or the physical location of such specified evidence is unknown, such information in and of itself shall not be a factor from which any inference unfavorable to the people may be drawn by the court in deciding a motion under this section. The court, on motion of the defendant, may also issue a subpoena duces tecum directing a public or private hospital, laboratory or other entity to produce such specified evidence in its possession and/or information and documentary evidence in its possession concerning the location and status of such specified evidence. (c) In response to a motion under this paragraph, upon notice to the parties and to the entity required to perform the search the court may order an entity that has access to the combined DNA index system ("CODIS") or its successor system to compare a DNA profile obtained from probative biological material gathered in connection with the investigation or prosecution of the defendant against DNA databanks by keyboard searches, or a similar method that does not involve uploading, upon a court's determination that (1) such profile complies with federal bureau of investigation or state requirements, whichever are applicable and as such requirements are applied to law enforcement agencies seeking such a comparison, and that the data meet state DNA index system and/or national DNA index system criteria as such criteria are applied to law enforcement agencies seeking such a comparison and (2) if such comparison had been conducted, and if the results had been admitted in the trial resulting in the judgment, a reasonable probability exists that the verdict would have been more favorable to the defendant, or in a case involving a plea of guilty, if the results had

been available to the defendant prior to the plea, a reasonable probability exists that the conviction would not have resulted. For purposes of this subdivision, a "keyboard search" shall mean a search of a DNA profile against the databank in which the profile that is searched is not uploaded to or maintained in the databank. 2. If it appears by conceded or uncontradicted allegations of the moving papers or of the answer, or by unquestionable documentary proof, that there are circumstances which require denial thereof pursuant to subdivision two of section 440.10 or subdivision two of section 440.20, the court must summarily deny the motion. If it appears that there are circumstances authorizing, though not requiring, denial thereof pursuant to subdivision three of section 440.10 or subdivision three of section 440.20, the court may in its discretion either (a) summarily deny the motion, or (b) proceed to consider the merits thereof. 3. Upon considering the merits of the motion, the court must grant it without conducting a hearing and vacate the judgment or set aside the sentence, as the case may be, if: (a) The moving papers allege a ground constituting legal basis for the motion; and (b) Such ground, if based upon the existence or occurrence of facts, is supported by sworn allegations thereof; and (c) The sworn allegations of fact essential to support the motion are either conceded by the people to be true or are conclusively substantiated by unquestionable documentary proof. 4. Upon considering the merits of the motion, the court may deny it without conducting a hearing if: (a) The moving papers do not allege any ground constituting legal basis for the motion; or (b) The motion is based upon the existence or occurrence of facts and the moving papers do not contain sworn allegations substantiating or tending to substantiate all the essential facts, as required by subdivision one; or (c) An allegation of fact essential to support the motion is conclusively refuted by unquestionable documentary proof; or (d) An allegation of fact essential to support the motion (i) is contradicted by a court record or other official document, or is made solely by the defendant and is unsupported by any other affidavit or evidence, and (ii) under these and all the other circumstances attending the case, there is no reasonable possibility that such allegation is true. 5. If the court does not determine the motion pursuant to subdivisions two, three or four, it must conduct a hearing and make findings of fact essential to the determination thereof. The defendant has a right to be present at such hearing but may waive such right in writing. If he does not so waive it and if he is confined in a prison or other institution of this state, the court must cause him to be produced at such hearing. 6. At such a hearing, the defendant has the burden of proving by a preponderance of the evidence every fact essential to support the motion. 7. Regardless of whether a hearing was conducted, the court, upon determining the motion, must set forth on the record its findings of fact, its conclusions of law and the reasons for its determination.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 440 - Post-Judgment Motions440.40 - Motion to Set Aside Sentence; by People.

1. At any time not more than one year after the entry of a judgment, the court in which it was entered may, upon motion of the people, set aside the sentence upon the ground that it was invalid as a matter of law. 2. Notwithstanding the provisions of subdivision one, the court must summarily deny the motion when the ground or issue raised thereupon was previously determined on the merits upon an appeal from the judgment or sentence, unless since the time of such appellate determination there has been a retroactively effective change in the law controlling such issue. 3. Notwithstanding the provisions of subdivision one, the court may summarily deny such a motion when the ground or issue raised thereupon was previously determined on the merits upon a prior motion or proceeding in a court of this state, other than an appeal from the judgment or sentence, unless since the time of such determination there has been a retroactively effective change in the law controlling such issue. Despite such circumstance, however, the court, in the interests of justice and for good cause shown, may in its discretion grant the motion if it is otherwise meritorious. 4. The motion must be made upon reasonable notice to the defendant and to the attorney if any who appeared for him in the last proceeding which occurred in connection with the judgment or sentence, and the defendant must be given adequate opportunity to appear in opposition to the motion. The defendant has a right to be present at such proceeding but may waive such right in writing. If he does not so waive it and if he is confined in a prison or other institution of this state, the court must cause him to be produced at the proceeding upon the motion. 5. An order setting aside a sentence pursuant to this section does not affect the validity or status of the underlying conviction, and after entering such an order the court must resentence the defendant in accordance with the law. 6. Upon a resentence imposed pursuant to subdivision five, the terms of which are more severe than those of the original sentence, the defendant's time for taking an appeal from the judgment is automatically extended in the manner prescribed in subdivision four of section 450.30.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 440 - Post-Judgment Motions440.46-A - Motion for Resentence; Persons Convicted of Certain Marihuana Offenses.

offenses. 1. When a person is serving a sentence for a conviction in this state, whether by trial verdict or guilty plea, under former article two hundred twenty-one of the penal law, and such persons' conduct as alleged in the accusatory instrument and/or shown by the guilty plea or trial verdict would not have been a crime under article two hundred twenty-two of the penal law, had such article two hundred twenty-two rather than former article two hundred twenty-one of the penal law been in effect at the time of such conduct, then the chief administrative judge of the state of New York shall, in accordance with this section, automatically vacate, dismiss and expunge such conviction in accordance with section 160.50 of this chapter, and the office of court administration shall immediately notify the state division of criminal justice services, state department of corrections and community supervision and the appropriate local correctional facility which shall immediately effectuate the appropriate relief. Such notification to the division of criminal justice services shall also direct that such agency notify all relevant police and law enforcement agencies of their duty to destroy and/or mark records related to such case in accordance with section 160.50 of this chapter. Nothing in this section shall

prevent a person who believes his or her sentence is required by this section to be vacated, dismissed and/or expunged from filing a petition with the court to effectuate all appropriate relief. 2. (a) When a person is serving or has completed serving a sentence for a conviction in this state, whether by trial verdict or guilty plea, under former article two hundred twenty-one of the penal law, and such person's conduct as alleged in the accusatory instrument and/or shown by the guilty plea or trial verdict, or shown by other information: (i) would not have been a crime under article two hundred twenty-two of the penal law, had such article two hundred twenty-two rather than former article two hundred twenty-one of the penal law been in effect at the time of such conduct; or (ii) under such circumstances such person would have been guilty of a lesser or potentially less onerous offense under such article two hundred twenty-two than such former article two hundred twenty-one of the penal law; then such person may petition the court of conviction pursuant to this article for vacatur of such conviction.(b) (i) Upon receiving a served and filed motion under paragraph (a) of this subdivision, the court shall presume that any conviction by plea was not knowing, voluntary and intelligent and that any conviction by verdict and any accompanying sentence constitutes cruel and unusual punishment under the state constitution if either has severe or ongoing consequences, including but not limited to potential or actual immigration consequences; and the court shall further presume that the movant satisfies the criteria in such paragraph (a) and thereupon make such finding and grant the motion to vacate such conviction on such grounds in a written order unless the party opposing the motion proves, by clear and convincing evidence, that the movant does not satisfy the criteria to bring such motion.(ii) If the petition meets the criteria in subparagraph (ii) of paragraph (a) of this subdivision, the court after affording the parties an opportunity to be heard and present evidence, may substitute, unless it is not in the interests of justice to do so, a conviction for an appropriate lesser offense under article two hundred twenty-two of the penal law.(c) In the event of any vacatur and/or substitution pursuant to this subdivision, the office of court administration shall immediately notify the state division of criminal justice services concerning such determination. Such notification to the division of criminal justice services shall also direct that such agency notify all relevant police and law enforcement agencies of their duty to destroy and/or mark records related to such case in accordance with section 160.50 of this chapter or, where conviction for a crime is substituted pursuant to this subdivision, update such agencies' records accordingly.3. Under no circumstances may substitution under this section result in the imposition of a term of imprisonment or sentencing term, obligation or condition that is in any way either harsher than the original sentence or harsher than the sentence authorized for any substituted lesser offense.4. (a) If the judge who originally sentenced the movant for such offense is not reasonably available, then the presiding judge for such court shall designate another judge authorized to act in the appropriate jurisdiction to determine the petition or application.(b) Unless requested by the movant, no hearing is necessary to grant an application filed under subdivision two of this section.(c) When a felony conviction is vacated pursuant to this section and a lesser offense that is a misdemeanor or violation is substituted for such conviction, such lesser offense shall be considered a misdemeanor or violation, as the case may be, for all purposes. When a misdemeanor conviction is vacated pursuant to this section and a lesser offense that is a violation is substituted for such conviction, such lesser offense shall be considered a violation for all purposes.(d) Nothing in this section is intended to or shall diminish or abrogate any rights or remedies otherwise available to a defendant, petitioner or applicant. Relief under this section is available notwithstanding that the judgment was for a violation of former sections 221.05, 221.10, 221.15, 221.20, 221.35 or 221.40 of the penal law in effect prior to the effective date of this paragraph and that the underlying action or proceeding has already been vacated, dismissed and expunged.(e) Nothing in this and related sections of law is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of this section.(f) The provisions of this section shall be available, used and applied in parallel fashion by the family court and the criminal courts to juvenile delinquency adjudications, adolescent offender adjudications and youthful offender adjudications.(g) The chief administrator of the courts shall promulgate all necessary rules and make available all necessary forms to enable the filing of the petitions and applications provided in this section no later than sixty days following the effective date of this section. All sentences eligible for automatic vacatur, dismissal and expungement pursuant to subdivision one of this section shall be identified and the required entities notified within one year of the effective date of this section. (b) (i) Upon receiving a served and filed motion under paragraph (a) of this subdivision, the court shall presume that any conviction by plea was not knowing, voluntary and intelligent and that any conviction by verdict and any accompanying sentence constitutes cruel and unusual punishment under the state constitution if either has severe or ongoing consequences, including but not limited to potential or actual immigration consequences; and the court shall further presume that the movant satisfies the criteria in such paragraph (a) and thereupon make such finding and grant the motion to vacate such conviction on such grounds in a written order unless the party opposing the motion proves, by clear and convincing evidence, that the movant does not satisfy the criteria to bring such motion. (ii) If the petition meets the criteria in subparagraph (ii) of paragraph (a) of this subdivision, the court after affording the parties an opportunity to be heard and present evidence, may substitute, unless it is not in the interests of justice to do so, a conviction for an appropriate lesser offense under article two hundred twenty-two of the penal law. (c) In the event of any vacatur and/or substitution pursuant to this subdivision, the office of court administration shall immediately notify the state division of criminal justice services concerning such determination. Such notification to the division of criminal justice services shall also direct that such agency notify all relevant police and law enforcement agencies of their duty to destroy and/or mark records related to such case in accordance with section 160.50 of this chapter or, where conviction for a crime is substituted pursuant to this subdivision, update such agencies' records accordingly. 3. Under no circumstances may substitution under this section result in the imposition of a term of imprisonment or sentencing term, obligation or condition that is in any way either harsher than the original sentence or harsher than the sentence authorized for any substituted lesser offense. 4. (a) If the judge who originally sentenced the movant for such offense is not reasonably available, then the presiding judge for such court shall designate another judge authorized to act in the appropriate jurisdiction to determine the petition or application. (b) Unless requested

by the movant, no hearing is necessary to grant an application filed under subdivision two of this section. (c) When a felony conviction is vacated pursuant to this section and a lesser offense that is a misdemeanor or violation is substituted for such conviction, such lesser offense shall be considered a misdemeanor or violation, as the case may be, for all purposes. When a misdemeanor conviction is vacated pursuant to this section and a lesser offense that is a violation is substituted for such conviction, such lesser offense shall be considered a violation for all purposes. (d) Nothing in this section is intended to or shall diminish or abrogate any rights or remedies otherwise available to a defendant, petitioner or applicant. Relief under this section is available notwithstanding that the judgment was for a violation of former sections 221.05, 221.10, 221.15, 221.20, 221.35 or 221.40 of the penal law in effect prior to the effective date of this paragraph and that the underlying action or proceeding has already been vacated, dismissed and expunged. (e) Nothing in this and related sections of law is intended to diminish or abrogate the finality of judgments in any case not falling within the purview of this section. (f) The provisions of this section shall be available, used and applied in parallel fashion by the family court and the criminal courts to juvenile delinquency adjudications, adolescent offender adjudications and youthful offender adjudications. (g) The chief administrator of the courts shall promulgate all necessary rules and make available all necessary forms to enable the filing of the petitions and applications provided in this section no later than sixty days following the effective date of this section. All sentences eligible for automatic vacatur, dismissal and expungement pursuant to subdivision one of this section shall be identified and the required entities notified within one year of the effective date of this section.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 440 - Post-Judgment Motions440.46 - Motion for Resentence; Certain Controlled Substance Offenders.

1. Any person in the custody of the department of corrections and community supervision convicted of a class B felony offense defined in article two hundred twenty of the penal law which was committed prior to January thirteenth, two thousand five, who is serving an indeterminate sentence with a maximum term of more than three years, may, except as provided in subdivision five of this section, upon notice to the appropriate district attorney, apply to be resentenced to a determinate sentence in accordance with sections 60.04 and 70.70 of the penal law in the court which imposed the sentence. 2. As part of any such application, the defendant may also move to be resentenced to a determinate sentence in accordance with section 70.70 of the penal law for any one or more class C, D, or E felony offenses defined in article two hundred twenty or two hundred twenty-one of the penal law, the sentence or sentences for which were imposed by the sentencing court at the same time or were included in the same order of commitment as such class B felony. 3. The provisions of section twenty-three of chapter seven hundred thirty-eight of the laws of two thousand four shall govern the proceedings on and determination of a motion brought pursuant to this section; provided, however that the court's consideration of the institutional record of confinement of such person shall include but not be limited to such person's participation in or willingness to participate in treatment or other programming while incarcerated and such person's disciplinary history. The fact that a person may have been unable to participate in treatment or other programming while incarcerated despite such person's willingness to do so shall not be considered a negative factor in determining a motion pursuant to this section. 4. Subdivision one of section seven hundred seventeen and subdivision four of section seven hundred twenty-two of the county law, and the related provisions of article eighteen-A of such law, shall apply to the preparation of and proceedings on motions pursuant to this section, including any appeals. 5. The provisions of this section shall not apply to any person who is serving a sentence on a conviction for or has a predicate felony conviction for an exclusion offense. For purposes of this subdivision, an "exclusion offense" is:(a) a crime for which the person was previously convicted within the preceding ten years, excluding any time during which the offender was incarcerated for any reason between the time of commission of the previous felony and the time of commission of the present felony, which was: (i) a violent felony offense as defined in section 70.02 of the penal law; or (ii) any other offense for which a merit time allowance is not available pursuant to subparagraph (ii) of paragraph (d) of subdivision one of section eight hundred three of the correction law; or(b) a second violent felony offense pursuant to section 70.04 of the penal law or a persistent violent felony offense pursuant to section 70.08 of the penal law for which the person has previously been adjudicated. (a) a crime for which the person was previously convicted within the preceding ten years, excluding any time during which the offender was incarcerated for any reason between the time of commission of the previous felony and the time of commission of the present felony, which was: (i) a violent felony offense as defined in section 70.02 of the penal law; or (ii) any other offense for which a merit time allowance is not available pursuant to subparagraph (ii) of paragraph (d) of subdivision one of section eight hundred three of the correction law; or (b) a second violent felony offense pursuant to section 70.04 of the penal law or a persistent violent felony offense pursuant to section 70.08 of the penal law for which the person has previously been adjudicated.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 440 - Post-Judgment Motions440.47 - Motion for Resentence; Domestic Violence Cases.

1. (a) Notwithstanding any contrary provision of law, any person confined in an institution operated by the department of correction and community supervision serving a sentence with a minimum or determinate term of eight years or more for an offense committed prior to the effective date of this section and eligible for an alternative sentence pursuant to section 60.12 of the penal law may, on or after such effective date, submit to the judge or justice who imposed the original sentence upon such person a request to apply for resentencing in accordance with section 60.12 of the penal law. Such person must include in his or her request documentation proving that she or he is confined in an institution operated by the department of corrections and community supervision serving a sentence with a minimum or determinate term of eight years or more for an offense committed prior to the effective date of this

section and that she or he is serving such sentence for any offense eligible for an alternative sentence under section 60.12 of the penal law.(b) If, at the time of such person's request to apply for resentencing pursuant to this section, the original sentencing judge or justice is a judge or justice of a court of competent jurisdiction, but such court is not the court in which the original sentence was imposed, then the request shall be randomly assigned to another judge or justice of the court in which the original sentence was imposed. If the original sentencing judge is no longer a judge or justice of a court of competent jurisdiction, then the request shall be randomly assigned to another judge or justice of the court.(c) If the court finds that such person has met the requirements to apply for resentencing in paragraph (a) of this subdivision, the court shall notify such person that he or she may submit an application for resentencing. Upon such notification, the person may request that the court assign him or her an attorney for the preparation of and proceedings on the application for resentencing pursuant to this section. The attorney shall be assigned in accordance with the provisions of subdivision one of section seven hundred seventeen and subdivision four of section seven hundred twenty-two of the county law and the related provisions of article eighteen-A of such law.(d) If the court finds that such person has not met the requirements to apply for resentencing in paragraph (a) of subdivision one of this section, the court shall notify such person and dismiss his or her request without prejudice.2. (a) Upon the court's receipt of an application for resentencing, the court shall promptly notify the appropriate district attorney and provide such district attorney with a copy of the application.(b) If the judge or justice that received the application is not the original sentencing judge or justice, the application may be referred to the original sentencing judge or justice provided that he or she is a judge or justice of a court of competent jurisdiction and that the applicant and the district attorney agree that the application should be referred.(c) An application for resentencing pursuant to this section must include at least two pieces of evidence corroborating the applicant's claim that he or she was, at the time of the offense, a victim of domestic violence subjected to substantial physical, sexual or psychological abuse inflicted by a member of the same family or household as the applicant as such term is defined in subdivision one of section 530.11 of this chapter.At least one piece of evidence must be either a court record, pre-sentence report, social services record, hospital record, sworn statement from a witness to the domestic violence, law enforcement record, domestic incident report, or order of protection. Other evidence may include, but shall not be limited to, local and state department of corrections records, a showing based in part on documentation prepared at or near the time of the commission of the offense or the prosecution thereof tending to support the person's claim, or when there is verification of consultation with a licensed medical or mental health care provider, employee of a court acting within the scope of his or her employment, member of the clergy, attorney, social worker, or rape crisis counselor as defined in section forty-five hundred ten of the civil practice law and rules, or other advocate acting on behalf of an agency that assists victims of domestic violence for the purpose of assisting such person with domestic violence victim counseling or support.(d) If the court finds that the applicant has not complied with the provisions of paragraph (c) of this subdivision, the court shall dismiss the application without prejudice.(e) If the court finds that the applicant has complied with the provisions of paragraph (c) of this subdivision, the court shall conduct a hearing to aid in making its determination of whether the applicant should be resentenced in accordance with section 60.12 of the penal law. At such hearing the court shall determine any controverted issue of fact relevant to the issue of sentencing. Reliable hearsay shall be admissible at such hearings.The court may consider any fact or circumstances relevant to the imposition of a new sentence which are submitted by the applicant or the district attorney and may, in addition, consider the institutional record of confinement of such person, but shall not order a new pre-sentence investigation and report or entertain any matter challenging the underlying basis of the subject conviction. The court's consideration of the institutional record of confinement of such applicant shall include, but not be limited to, such applicant's participation in or willingness to participate in programming such as domestic violence, parenting and substance abuse treatment while incarcerated and such applicant's disciplinary history. The fact that the applicant may have been unable to participate in treatment or other programming while incarcerated despite such applicant's willingness to do so shall not be considered a negative factor in determining a motion pursuant to this section.(f) If the court determines that the applicant should not be resentenced in accordance with section 60.12 of the penal law, the court shall inform such applicant of its decision and shall enter an order to that effect. Any order issued by a court pursuant to this section must include written findings of fact and the reasons for such order.(g) If the court determines that the applicant should be resentenced in accordance with section 60.12 of the penal law, the court shall notify the applicant that, unless he or she withdraws the application or appeals from such order, the court will enter an order vacating the sentence originally imposed and imposing the new sentence to be imposed as authorized by section 60.12 of the penal law. Any order issued by a court pursuant to this section must include written findings of fact and the reasons for such order.3. An appeal may be taken as of right in accordance with applicable provisions of this chapter: (a) from an order denying resentencing; or (b) from a new sentence imposed under this provision and may be based on the grounds that (i) the term of the new sentence is harsh or excessive; or (ii) that the term of the new sentence is unauthorized as a matter of law. An appeal in accordance with the applicable provisions of this chapter may also be taken as of right by the applicant from an order specifying and informing such applicant of the term of the determinate sentence the court would impose upon resentencing on the ground that the term of the proposed sentence is harsh or excessive; upon remand to the sentencing court following such appeal the applicant shall be given an opportunity to withdraw an application for resentencing before any resentence is imposed. The applicant may request that the court assign him or her an attorney for the preparation of and proceedings on any appeals regarding his or her application for resentencing pursuant to this section. The attorney shall be assigned in accordance with the provisions of subdivision one of section seven hundred seventeen and subdivision four of section seven hundred twenty-two of the county law and the related provisions of article eighteen-A of such law.4. In calculating the new term to be served by the applicant pursuant to section 60.12 of the penal law, such applicant shall be credited for any jail time credited towards the subject conviction as well as any period of incarceration credited toward the sentence originally imposed. (b) If, at the time of such person's request to apply for resentencing pursuant to this section,

the original sentencing judge or justice is a judge or justice of a court of competent jurisdiction, but such court is not the court in which the original sentence was imposed, then the request shall be randomly assigned to another judge or justice of the court in which the original sentence was imposed. If the original sentencing judge is no longer a judge or justice of a court of competent jurisdiction, then the request shall be randomly assigned to another judge or justice of the court. (c) If the court finds that such person has met the requirements to apply for resentencing in paragraph (a) of this subdivision, the court shall notify such person that he or she may submit an application for resentencing. Upon such notification, the person may request that the court assign him or her an attorney for the preparation of and proceedings on the application for resentencing pursuant to this section. The attorney shall be assigned in accordance with the provisions of subdivision one of section seven hundred seventeen and subdivision four of section seven hundred twenty-two of the county law and the related provisions of article eighteen-A of such law. (d) If the court finds that such person has not met the requirements to apply for resentencing in paragraph (a) of subdivision one of this section, the court shall notify such person and dismiss his or her request without prejudice. 2. (a) Upon the court's receipt of an application for resentencing, the court shall promptly notify the appropriate district attorney and provide such district attorney with a copy of the application. (b) If the judge or justice that received the application is not the original sentencing judge or justice, the application may be referred to the original sentencing judge or justice provided that he or she is a judge or justice of a court of competent jurisdiction and that the applicant and the district attorney agree that the application should be referred. (c) An application for resentencing pursuant to this section must include at least two pieces of evidence corroborating the applicant's claim that he or she was, at the time of the offense, a victim of domestic violence subjected to substantial physical, sexual or psychological abuse inflicted by a member of the same family or household as the applicant as such term is defined in subdivision one of section 530.11 of this chapter. At least one piece of evidence must be either a court record, pre-sentence report, social services record, hospital record, sworn statement from a witness to the domestic violence, law enforcement record, domestic incident report, or order of protection. Other evidence may include, but shall not be limited to, local and state department of corrections records, a showing based in part on documentation prepared at or near the time of the commission of the offense or the prosecution thereof tending to support the person's claim, or when there is verification of consultation with a licensed medical or mental health care provider, employee of a court acting within the scope of his or her employment, member of the clergy, attorney, social worker, or rape crisis counselor as defined in section forty-five hundred ten of the civil practice law and rules, or other advocate acting on behalf of an agency that assists victims of domestic violence for the purpose of assisting such person with domestic violence victim counseling or support. (d) If the court finds that the applicant has not complied with the provisions of paragraph (c) of this subdivision, the court shall dismiss the application without prejudice. (e) If the court finds that the applicant has complied with the provisions of paragraph (c) of this subdivision, the court shall conduct a hearing to aid in making its determination of whether the applicant should be resentenced in accordance with section 60.12 of the penal law. At such hearing the court shall determine any controverted issue of fact relevant to the issue of sentencing. Reliable hearsay shall be admissible at such hearings. The court may consider any fact or circumstances relevant to the imposition of a new sentence which are submitted by the applicant or the district attorney and may, in addition, consider the institutional record of confinement of such person, but shall not order a new pre-sentence investigation and report or entertain any matter challenging the underlying basis of the subject conviction. The court's consideration of the institutional record of confinement of such applicant shall include, but not be limited to, such applicant's participation in or willingness to participate in programming such as domestic violence, parenting and substance abuse treatment while incarcerated and such applicant's disciplinary history. The fact that the applicant may have been unable to participate in treatment or other programming while incarcerated despite such applicant's willingness to do so shall not be considered a negative factor in determining a motion pursuant to this section. (f) If the court determines that the applicant should not be resentenced in accordance with section 60.12 of the penal law, the court shall inform such applicant of its decision and shall enter an order to that effect. Any order issued by a court pursuant to this section must include written findings of fact and the reasons for such order. (g) If the court determines that the applicant should be resentenced in accordance with section 60.12 of the penal law, the court shall notify the applicant that, unless he or she withdraws the application or appeals from such order, the court will enter an order vacating the sentence originally imposed and imposing the new sentence to be imposed as authorized by section 60.12 of the penal law. Any order issued by a court pursuant to this section must include written findings of fact and the reasons for such order. 3. An appeal may be taken as of right in accordance with applicable provisions of this chapter: (a) from an order denying resentencing; or (b) from a new sentence imposed under this provision and may be based on the grounds that (i) the term of the new sentence is harsh or excessive; or (ii) that the term of the new sentence is unauthorized as a matter of law. An appeal in accordance with the applicable provisions of this chapter may also be taken as of right by the applicant from an order specifying and informing such applicant of the term of the determinate sentence the court would impose upon resentencing on the ground that the term of the proposed sentence is harsh or excessive; upon remand to the sentencing court following such appeal the applicant shall be given an opportunity to withdraw an application for resentencing before any resentence is imposed. The applicant may request that the court assign him or her an attorney for the preparation of and proceedings on any appeals regarding his or her application for resentencing pursuant to this section. The attorney shall be assigned in accordance with the provisions of subdivision one of section seven hundred seventeen and subdivision four of section seven hundred twenty-two of the county law and the related provisions of article eighteen-A of such law. 4. In calculating the new term to be served by the applicant pursuant to section 60.12 of the penal law, such applicant shall be credited for any jail time credited towards the subject conviction as well as any period of incarceration credited toward the sentence originally imposed.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 440 - Post-Judgment Motions440.50 - Notice to Crime Victims of Case Disposition.

1. Upon the request of a victim of a crime, or in any event in all cases in which the final disposition includes a conviction of a violent felony offense as defined in section 70.02 of the penal law, a felony defined in article one hundred twenty-five of such law, or a felony defined in article one hundred thirty of such law, the district attorney shall, within sixty days of the final disposition of the case, inform the victim by letter of such final disposition. If such final disposition results in the commitment of the defendant to the custody of the department of corrections and community supervision for an indeterminate sentence, the notice provided to the crime victim shall also inform the victim of his or her right to submit a written, audiotaped, or videotaped victim impact statement to the department of corrections and community supervision or to meet personally with a member of the state board of parole at a time and place separate from the personal interview between a member or members of the board and the incarcerated individual and make such a statement, subject to procedures and limitations contained in rules of the board, both pursuant to subdivision two of section two hundred fifty-nine-i of the executive law. A copy of such letter shall be provided to the board of parole. The right of the victim under this subdivision to submit a written victim impact statement or to meet personally with a member of the state board of parole applies to each personal interview between a member or members of the board and the incarcerated individual. 2. As used in this section, "victim" means any person alleged or found, upon the record, to have sustained physical or financial injury to person or property as a direct result of the crime charged or a person alleged or found to have sustained, upon the record, an offense under article one hundred thirty of the penal law, or in the case of a homicide or minor child, the victim's family. 3. As used in this section, "final disposition" means an ultimate termination of the case at the trial level including, but not limited to, dismissal, acquittal, or imposition of sentence by the court, or a decision by the district attorney, for whatever reason, to not file the case.

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has been convicted of a felony. The district attorney shall give written notification to the department of education upon the conviction of a felony of any person holding a license pursuant to title eight of the education law. In addition, the district attorney shall give written notification to the department upon the vacatur or reversal of any felony conviction of any such person.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 440 - Post-Judgment Motions440.60 - Notification of Invalid Sentences of Probation.

Whenever it shall appear to the satisfaction of the appropriate director of the probation department that a person sentenced pursuant to article sixty of the penal law has received a sentence which is invalid as a matter of law, it shall become his duty to notify the district attorney of the county in which such person was convicted. Upon such notification, the district attorney shall immediately investigate the matter and if such sentence of probation is in fact invalid as a matter of law, the district attorney shall immediately move to set aside such sentence pursuant to section 440.40 of this chapter.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 440 - Post-Judgment Motions440.65 - Notice to Child Protective Agency of Conviction for Certain Crimes Against a Child.

crimes against a child. Upon conviction of any person for a crime under article one hundred twenty, article one hundred twenty-five, article one hundred thirty, article two hundred sixty or article two hundred sixty-three of the penal law committed against a child under the age of eighteen by a person legally responsible for such child, as defined in subdivision three of section four hundred twelve of the social services law, the district attorney serving the jurisdiction in which such conviction is entered shall notify the local child protective services agency of such conviction including the name of the defendant, the name of the child, the court case number and the name of the prosecutor who appeared for the people.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 440 - Post-Judgment Motions440.70 - Notice to the Secretary of State When False Financing Statement Filed.

filed. Upon conviction of any person for a crime where the defendant intentionally filed or caused to be filed a financing statement pursuant to article nine of the uniform commercial code on form UCC1 that falsely claims that a person is indebted or obligated to such defendant, the court wherein such conviction is entered, or the clerk thereof, shall issue and cause to be filed a certificate with the New York secretary of state: (a) certifying that a judgment of conviction has been entered in such court against the defendant who was listed as the secured party in such form; and (b) specifying the date and location of the filing, any filing or indexing number assigned to such filing, the debtor named in such statement, and a description of the collateral encumbered by the instrument.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 450 - Appeals--in What Cases Authorized and to What Courts Taken450.10 - Appeal by Defendant to Intermediate Appellate Court; in What Cases Authorized as of Right.

cases authorized as of right. An appeal to an intermediate appellate court may be taken as of right by the defendant from the following judgment, sentence and order of a criminal court: 1. A judgment other than one including a sentence of death, unless the appeal is based solely upon the ground that a sentence was harsh or excessive when such sentence was predicated upon entry of a plea of guilty and the sentence imposed did not exceed that which was agreed to by the defendant as a condition of the plea and set forth on the record or filed with the court as required by subdivision five of section 220.50 or subdivision four of section 340.20; 2. A sentence other than one of death, as prescribed in subdivision one of section 450.30, unless the appeal is based solely upon the ground that a sentence was harsh or excessive when such sentence was predicated upon entry of a plea of guilty and the sentence imposed did not exceed that which was agreed to by the defendant as a condition of the plea and set forth in the record or filed with the court as required by subdivision five of section 220.50 or subdivision four of section 340.20; 3. A sentence including an order of criminal forfeiture entered pursuant to section 460.30 of the penal law with respect to such forfeiture order. 4. An order, entered pursuant to section 440.40, setting aside a sentence other than one of death, upon motion of the People. 5. An order denying a motion, made pursuant to subdivision one-a of section 440.30, for forensic DNA testing of evidence.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 450 - Appeals--in What Cases Authorized and to What Courts Taken450.15 - Appeal by Defendant to Intermediate Appellate Court; in What Cases Authorized by Permission.

cases authorized by permission. If an appeal by defendant is not authorized as of right pursuant to section 450.10, the defendant may appeal from the following orders of a criminal court, provided that a certificate granting leave to appeal is issued pursuant to section 460.15: 1. An order denying a motion, made pursuant to section 440.10, to vacate a judgment other than one including a sentence of death; 2. An order denying a motion by the defendant made pursuant to section 440.20, to set aside a sentence other than one of death; 3. A sentence which is not otherwise appealable as of right pursuant to subdivision one or two of section 450.10.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 450 - Appeals--in What Cases Authorized and to What Courts Taken450.20 - Appeal by People to Intermediate Appellate Court; in What Cases Authorized.

authorized. An appeal to an intermediate appellate court may be taken as of right by the people from the following sentence and orders of a criminal court: 1. An order dismissing an accusatory instrument or a count thereof, entered pursuant to section 170.30, 170.50 or 210.20, or an order terminating a prosecution pursuant to subdivision four of section 180.85; 1-a. An order reducing a count or counts of an indictment or dismissing an indictment and directing the filing of a prosecutor's information, entered pursuant to subdivision one-a of section 210.20; 2. An order setting aside a verdict and dismissing an accusatory instrument or a count thereof, entered pursuant to paragraph (b) of subdivision one of section 290.10 or 360.40; 3. An order setting aside a verdict, entered pursuant to section 330.30 or 370.10; 4. A sentence other than one of death, as prescribed in subdivisions two and three of section 450.30; 5. An order, entered pursuant to section 440.10, vacating a judgment other than one including a sentence of death; 6. An order, entered pursuant to section 440.20, setting aside a sentence other than one of death; 7. An order denying a motion by the people, made pursuant to section 440.40, to set aside a sentence other than one of death; 8. An order suppressing evidence, entered before trial pursuant to section 710.20; provided that the people file a statement in the appellate court pursuant to section 450.50. 9. An order entered pursuant to section 460.30 of the penal law setting aside or modifying a verdict of forfeiture. 10. An order, entered pursuant to paragraph (e) of subdivision twelve of section 400.27, finding that the defendant is mentally retarded. 11. An order granting a motion, made pursuant to subdivision one-a of section 440.30, for forensic DNA testing of evidence. 12. That portion of an order dismissing an accusatory instrument or some of its counts pursuant to subdivision two of section 245.80 of this part as a sanction for failure to comply with any discovery order issued pursuant to article two hundred forty-five of this part.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 450 - Appeals--in What Cases Authorized and to What Courts Taken450.30 - Appeal From Sentence.

1. An appeal by the defendant from a sentence, as authorized by subdivision two of section 450.10, may be based upon the ground that such sentence either was (a) invalid as a matter of law, or (b) harsh or excessive. A sentence is invalid as a matter of law not only when the terms thereof are unauthorized but also when it is based upon an erroneous determination that the defendant had a previous valid conviction for an offense or, in the case of a resentence following a revocation of a sentence of probation or conditional discharge, upon an improper revocation of such original sentence. An appeal by the defendant from a sentence, as authorized by subdivision three of section 450.15, may be based upon the ground that such sentence was harsh or excessive. 2. An appeal by the people from a sentence, as authorized by subdivision four of section 450.20, may be based only upon the ground that such sentence was invalid as a matter of law. 3. An appeal from a sentence, within the meaning of this section and sections 450.10 and 450.20, means an appeal from either the sentence originally imposed or from a resentence following an order vacating the original sentence. For purposes of appeal, the judgment consists of the conviction and the original sentence only, and when a

resentence occurs more than thirty days after the original sentence, a defendant who has not previously filed a notice of appeal from the judgment may not appeal from the judgment, but only from the resentence. 4. When as a result of a successful appeal by the people from a sentence, the defendant receives a resentence the terms of which are more severe than those of the original or reversed sentence, the defendant, if he has not taken an appeal from the judgment, may, even though the period for doing so as prescribed in section 460.10 has expired, take such an appeal by filing and serving a notice of appeal, or an affidavit of errors as the case may be, within thirty days after imposition of the resentence. Upon such an appeal, only the conviction is reviewable; and any appellate challenge to the resentence must be made upon a separate appeal therefrom.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 450 - Appeals--in What Cases Authorized and to What Courts Taken450.40 - Appeal by People From Trial Order of Dismissal.

1. An appeal by the people from a trial order of dismissal, as authorized by subdivision two of section 450.20, may, as indicated by section 290.10, be based either (a) upon the ground that the evidence adduced at the trial was legally sufficient to support the count or counts of the accusatory instrument dismissed by the order, or (b) upon the ground that, though not legally sufficient, such evidence would have been legally sufficient had the court not erroneously excluded admissible evidence offered by the people. 2. If the appeal is based upon the ground specified in paragraph (b) of subdivision one, and if the appellate court determines that the evidence unsuccessfully offered by the people was improperly excluded, and if at the trial the people made on offer of proof with respect thereto pursuant to subdivision three of section 290.10, the appellate court, in making its determination whether the people's evidence would have been legally sufficient had it not been for the improper exclusion, must treat the excluded evidentiary matter as it is summarized in the offer of proof as evidence constituting a part of the people's case.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 450 - Appeals--in What Cases Authorized and to What Courts Taken450.50 - Appeal by People From Order Suppressing Evidence; Filing of Statement in Appellate Court.

statement in appellate court. 1. In taking an appeal, pursuant to subdivision eight of section 450.20, to an intermediate appellate court from an order of a criminal court suppressing evidence, the people must file, in addition to a notice of appeal or, as the case may be, an affidavit of errors, a statement asserting that the deprivation of the use of the evidence ordered suppressed has rendered the sum of the proof available to the people with respect to a criminal charge which has been filed in the court either (a) insufficient as a matter of law, or (b) so weak in its entirety that any reasonable possibility of prosecuting such charge to a conviction has been effectively destroyed. 2. The taking of an appeal by the people, pursuant to subdivision eight of section 450.20, from an order suppressing evidence constitutes a bar to the prosecution of the accusatory instrument involving the evidence ordered suppressed, unless and until such suppression order is reversed upon appeal and vacated.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 450 - Appeals--in What Cases Authorized and to What Courts Taken450.55 - Appeal by People From Order Reducing a Count of an Indictment or Directing the Filing of a Prosecutor's Information.

or directing the filing of a prosecutor's information. In taking an appeal to an intermediate appellate court pursuant to subdivision one-a of section 450.20, the people shall file a notice of appeal. Upon request of either party, the hearing and determination of such appeal shall be conducted in an expeditious manner. The chief administrator of the courts, with the advice and consent of the administrative board of the courts, shall adopt rules for the expeditious briefing, hearing and determination of such appeals.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 450 - Appeals--in What Cases Authorized and to What Courts Taken450.60 - Appeal to Intermediate Appellate Court; to What Court Taken.

The particular intermediate appellate courts to which appeals authorized by sections 450.10 and 450.20 must be taken are as follows: 1. An appeal from a judgment, sentence or order of the supreme court must be taken to the appellate division of the department in which such judgment, sentence or order was entered. 2. An appeal from a judgment, sentence or order of a county court must be taken to the appellate division of the department in which such judgment, sentence or order was entered. 3. An appeal from a judgment, sentence or order of a local criminal court located outside of New York City must, except as otherwise provided in this subdivision, be taken to the county court of the county in which such judgment, sentence or order was entered. If the appellate division of the second, third or fourth department has established an appellate term of the supreme court for its department, it may direct that appeals from such judgments, sentences and orders of such local criminal courts, or of particular classifications of such local criminal courts, be taken to such appellate term of the supreme court instead of to the county court; and in such case such an appeal must be so taken. 4. An appeal from a judgment, sentence or order of the New York City criminal court must be taken, if such judgment, sentence or order was entered at a term of such court held in New York or Bronx county, to the appellate division of the first department, and, if entered at a term of such court held in Kings, Queens or Richmond county, to the appellate division of the second department; except that if the appellate division of either such department has established an appellate term of the supreme court for its department, it may direct that all such appeals be taken thereto; and in such case such an appeal must be so

taken.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 450 - Appeals--in What Cases Authorized and to What Courts Taken450.70 - Appeal by Defendant Directly to Court of Appeals; in What Cases Authorized.

cases authorized. An appeal directly to the court of appeals may be taken as of right by the defendant from the following judgment and orders of a superior court: 1. A judgment including a sentence of death; 2. An order denying a motion, made pursuant to section 440.10, to vacate a judgment including a sentence of death; 3. An order denying a motion, made pursuant to section 440.20, to set aside a sentence of death; 4. An order denying a motion, made pursuant to paragraph (d) of subdivision eleven of section 400.27, to set aside a sentence of death.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 450 - Appeals--in What Cases Authorized and to What Courts Taken450.80 - Appeal by People Directly to Court of Appeals; in What Cases Authorized.

authorized. An appeal directly to the court of appeals may be taken as of right by the people from the following orders of a superior court: 1. An order, entered pursuant to section 440.10, vacating a judgment including a sentence of death; 2. An order, entered pursuant to section 440.20, setting aside a sentence of death 3. An order, entered pursuant to paragraph (d) of subdivision eleven of section 400.27, setting aside a sentence of death; 4. An order, entered pursuant to subdivision twelve of section 400.27, setting aside a sentence of death.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 450 - Appeals--in What Cases Authorized and to What Courts Taken450.90 - Appeal to Court of Appeals From Order of Intermediate Appellate Court; in What Cases Authorized.

court; in what cases authorized. 1. Provided that a certificate granting leave to appeal is issued pursuant to section 460.20, an appeal may, except as provided in subdivision two, be taken to the court of appeals by either the defendant or the people from any adverse or partially adverse order of an intermediate appellate court entered upon an appeal taken to such intermediate appellate court pursuant to section 450.10, 450.15, or 450.20, or from an order granting or denying a motion to set aside an order of an intermediate appellate court on the ground of ineffective assistance or wrongful deprivation of appellate counsel, or by either the defendant or the people from any adverse or partially adverse order of an intermediate appellate court entered upon an appeal taken to such intermediate appellate court from an order entered pursuant to section 440.46 or section 440.47 of this chapter. An order of an intermediate appellate court is adverse to the party who was the appellant in such court when it affirms the judgment, sentence or order appealed from, and is adverse to the party who was the respondent in such court when it reverses the judgment, sentence or order appealed from. An appellate court order which modifies a judgment or order appealed from is partially adverse to each party. 2. An appeal to the court of appeals from an order of an intermediate appellate court reversing or modifying a judgment, sentence or order of a criminal court may be taken only if:(a) The court of appeals determines that the intermediate appellate court's determination of reversal or modification was on the law alone or upon the law and such facts which, but for the determination of law, would not have led to reversal or modification; or(b) The appeal is based upon a contention that corrective action, as that term is defined in section 470.10, taken or directed by the intermediate appellate court was illegal. (a) The court of appeals determines that the intermediate appellate court's determination of reversal or modification was on the law alone or upon the law and such facts which, but for the determination of law, would not have led to reversal or modification; or (b) The appeal is based upon a contention that corrective action, as that term is defined in section 470.10, taken or directed by the intermediate appellate court was illegal.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 460 - Appeals--Taking and Perfection Thereof and Stays During Pendency Thereof460.10 - Appeal; How Taken.

1. Except as provided in subdivisions two and three, an appeal taken as of right to an intermediate appellate court or directly to the court of appeals from a judgment, sentence or order of a criminal court is taken as follows:(a) A party seeking to appeal from a judgment or a sentence or an order and sentence included within such judgment, or from a resentence, or from an order of a criminal court not included in a judgment, must, within thirty days after imposition of the sentence or, as the case may be, within thirty days after service upon such party of a copy of an order not included in a judgment, file with the clerk of the criminal court in which such sentence was imposed or in which such order was entered a written notice of appeal, in duplicate, stating that such party appeals therefrom to a designated appellate court.(b) If the defendant is the appellant, he must, within such thirty day period, serve a copy of such notice of appeal upon the district attorney of the county embracing the criminal court in which the judgment or order being appealed was entered. If the appeal is directly to the court of appeals, the district attorney, following such service upon him, must immediately give written notice thereof to the public servant having custody of the defendant.(c) If the people are the appellant, they must, within such thirty day period, serve a copy of such notice of appeal upon the defendant or upon the attorney who last appeared for him in the court in which the order being appealed was entered.(d) Upon filing and service of the notice of appeal as prescribed in paragraphs (a), (b) and (c), the appeal is deemed to have been taken.(e) Following the filing with him of the notice of appeal in

duplicate, the clerk of the court in which the judgment, sentence or order being appealed was entered or imposed, must endorse upon such instruments the filing date and must transmit the duplicate notice of appeal to the clerk of the court to which the appeal is being taken.2. An appeal taken as of right to a county court or to an appellate term of the supreme court from a judgment, sentence or order of a local criminal court in a case in which the underlying proceedings were recorded by a court stenographer is taken in the manner provided in subdivision one; except that where no clerk is employed by such local criminal court the appellant must file the notice of appeal with the judge of such court, and must further file a copy thereof with the clerk of the appellate court to which the appeal is being taken.3. An appeal taken as of right to a county court or to an appellate term of the supreme court from a judgment, sentence or order of a local criminal court in a case in which the underlying proceedings were not recorded by a court stenographer is taken as follows:(a) Within thirty days after entry or imposition in such local criminal court of the judgment, sentence or order being appealed, the appellant must file with such court either (i) an affidavit of errors, setting forth alleged errors or defects in the proceedings which are the subjects of the appeal, or (ii) a notice of appeal. Where a notice of appeal is filed, the appellant must serve a copy thereof upon the respondent in the manner provided in paragraphs (b) and (c) of subdivision one, and, within sixty days after the appellant receives a transcript of the electronically recorded proceedings, must file with such court an affidavit of errors.(b) Not more than three days after the filing of the affidavit of errors, the appellant must serve a copy thereof upon the respondent or the respondent's counsel or authorized representative. If the defendant is the appellant, such service must be upon the district attorney of the county in which the local criminal court is located. If the people are the appellant, such service must be upon the defendant or upon the attorney who appeared for him in the proceedings in the local criminal court.(c) Upon filing and service of the affidavit of errors as prescribed in paragraphs (a) and (b), the appeal is deemed to have been taken.(d) Within ten days after the appellant's filing of the affidavit of errors with the local criminal court, such court must file with the clerk of the appellate court to which the appeal has been taken both the affidavit of errors and the court's return, and must deliver a copy of such return to each party or a representative thereof as indicated in paragraph (b). The court's return must set forth or summarize evidence, facts or occurrences in or adduced at the proceedings resulting in the judgment, sentence or order, which constitute the factual foundation for the contentions alleged in the affidavit of errors.(e) If the local criminal court does not file such return within the prescribed period, or if it files a defective return, the appellate court, upon application of the appellant, must order such local criminal court to file a return or an amended return, as the case may be, within a designated time which such appellate court deems reasonable.4. An appeal by a defendant to an intermediate appellate court by permission, pursuant to section 450.15, is taken as follows:(a) Within thirty days after service upon the defendant of a copy of the order sought to be appealed, the defendant must make application, pursuant to section 460.15, for a certificate granting leave to appeal to the intermediate appellate court.(b) If such application is granted and such certificate is issued, the defendant, within fifteen days after issuance thereof, must file with the criminal court in which the order sought to be appealed was rendered the certificate granting leave to appeal together with a written notice of appeal, or if the appeal is from a local criminal court in a case in which the underlying proceedings were not recorded by a court stenographer, either (i) an affidavit of errors, or (ii) a notice of appeal. In all other respects the appeal shall be taken as provided in subdivisions one, two and three.5. An appeal to the court of appeals from an order of an intermediate appellate court is taken as follows:(a) Within thirty days after service upon the appellant of a copy of the order sought to be appealed, the appellant must make application, pursuant to section 460.20, for a certificate granting leave to appeal to the court of appeals. The appellate division of each judicial department shall adopt rules governing the procedures for service of a copy of such order.(b) If such application is granted, the issuance of the certificate granting leave to appeal shall constitute the taking of the appeal.6. Where a notice of appeal, an affidavit of errors, an application for leave to appeal to an intermediate appellate court, or an application for leave to appeal to the court of appeals is premature or contains an inaccurate description of the judgment, sentence or order being or sought to be appealed, the appellate court, in its discretion, may, in the interest of justice, treat such instrument as valid. Where an appellant files a notice of appeal within the prescribed period but, through mistake, inadvertence or excusable neglect, omits to serve a copy thereof upon the respondent within the prescribed period, the appellate court to which the appeal is sought to be taken may, in its discretion and for good cause shown, permit such service to be made within a designated period of time, and upon such service the appeal is deemed to be taken. (a) A party seeking to appeal from a judgment or a sentence or an order and sentence included within such judgment, or from a resentence, or from an order of a criminal court not included in a judgment, must, within thirty days after imposition of the sentence or, as the case may be, within thirty days after service upon such party of a copy of an order not included in a judgment, file with the clerk of the criminal court in which such sentence was imposed or in which such order was entered a written notice of appeal, in duplicate, stating that such party appeals therefrom to a designated appellate court. (b) If the defendant is the appellant, he must, within such thirty day period, serve a copy of such notice of appeal upon the district attorney of the county embracing the criminal court in which the judgment or order being appealed was entered. If the appeal is directly to the court of appeals, the district attorney, following such service upon him, must immediately give written notice thereof to the public servant having custody of the defendant. (c) If the people are the appellant, they must, within such thirty day period, serve a copy of such notice of appeal upon the defendant or upon the attorney who last appeared for him in the court in which the order being appealed was entered. (d) Upon filing and service of the notice of appeal as prescribed in paragraphs (a), (b) and (c), the appeal is deemed to have been taken. (e) Following the filing with him of the notice of appeal in duplicate, the clerk of the court in which the judgment, sentence or order being appealed was entered or imposed, must endorse upon such instruments the filing date and must transmit the duplicate notice of appeal to the clerk of the court to which the appeal is being taken. 2. An appeal taken as of right to a county court or to an appellate term of the supreme court from a judgment, sentence or order of a local criminal court in a case in which the underlying proceedings were recorded by a court stenographer is taken in the manner provided in subdivision one; except that where no clerk is employed

by such local criminal court the appellant must file the notice of appeal with the judge of such court, and must further file a copy thereof with the clerk of the appellate court to which the appeal is being taken. 3. An appeal taken as of right to a county court or to an appellate term of the supreme court from a judgment, sentence or order of a local criminal court in a case in which the underlying proceedings were not recorded by a court stenographer is taken as follows: (a) Within thirty days after entry or imposition in such local criminal court of the judgment, sentence or order being appealed, the appellant must file with such court either (i) an affidavit of errors, setting forth alleged errors or defects in the proceedings which are the subjects of the appeal, or (ii) a notice of appeal. Where a notice of appeal is filed, the appellant must serve a copy thereof upon the respondent in the manner provided in paragraphs (b) and (c) of subdivision one, and, within sixty days after the appellant receives a transcript of the electronically recorded proceedings, must file with such court an affidavit of errors. (b) Not more than three days after the filing of the affidavit of errors, the appellant must serve a copy thereof upon the respondent or the respondent's counsel or authorized representative. If the defendant is the appellant, such service must be upon the district attorney of the county in which the local criminal court is located. If the people are the appellant, such service must be upon the defendant or upon the attorney who appeared for him in the proceedings in the local criminal court. (c) Upon filing and service of the affidavit of errors as prescribed in paragraphs (a) and (b), the appeal is deemed to have been taken. (d) Within ten days after the appellant's filing of the affidavit of errors with the local criminal court, such court must file with the clerk of the appellate court to which the appeal has been taken both the affidavit of errors and the court's return, and must deliver a copy of such return to each party or a representative thereof as indicated in paragraph (b). The court's return must set forth or summarize evidence, facts or occurrences in or adduced at the proceedings resulting in the judgment, sentence or order, which constitute the factual foundation for the contentions alleged in the affidavit of errors. (e) If the local criminal court does not file such return within the prescribed period, or if it files a defective return, the appellate court, upon application of the appellant, must order such local criminal court to file a return or an amended return, as the case may be, within a designated time which such appellate court deems reasonable. 4. An appeal by a defendant to an intermediate appellate court by permission, pursuant to section 450.15, is taken as follows: (a) Within thirty days after service upon the defendant of a copy of the order sought to be appealed, the defendant must make application, pursuant to section 460.15, for a certificate granting leave to appeal to the intermediate appellate court. (b) If such application is granted and such certificate is issued, the defendant, within fifteen days after issuance thereof, must file with the criminal court in which the order sought to be appealed was rendered the certificate granting leave to appeal together with a written notice of appeal, or if the appeal is from a local criminal court in a case in which the underlying proceedings were not recorded by a court stenographer, either (i) an affidavit of errors, or (ii) a notice of appeal. In all other respects the appeal shall be taken as provided in subdivisions one, two and three. 5. An appeal to the court of appeals from an order of an intermediate appellate court is taken as follows: (a) Within thirty days after service upon the appellant of a copy of the order sought to be appealed, the appellant must make application, pursuant to section 460.20, for a certificate granting leave to appeal to the court of appeals. The appellate division of each judicial department shall adopt rules governing the procedures for service of a copy of such order. (b) If such application is granted, the issuance of the certificate granting leave to appeal shall constitute the taking of the appeal. 6. Where a notice of appeal, an affidavit of errors, an application for leave to appeal to an intermediate appellate court, or an application for leave to appeal to the court of appeals is premature or contains an inaccurate description of the judgment, sentence or order being or sought to be appealed, the appellate court, in its discretion, may, in the interest of justice, treat such instrument as valid. Where an appellant files a notice of appeal within the prescribed period but, through mistake, inadvertence or excusable neglect, omits to serve a copy thereof upon the respondent within the prescribed period, the appellate court to which the appeal is sought to be taken may, in its discretion and for good cause shown, permit such service to be made within a designated period of time, and upon such service the appeal is deemed to be taken.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 460 - Appeals--Taking and Perfection Thereof and Stays During Pendency Thereof460.15 - Certificate Granting Leave to Appeal to Intermediate Appellate Court.

appellate court. 1. A certificate granting leave to appeal to an intermediate appellate court is an order of one judge or justice of the intermediate appellate court to which the appeal is sought to be taken granting such permission and certifying that the case involves questions of law or fact which ought to be reviewed by the intermediate appellate court. 2. An application for such a certificate must be made in a manner determined by the rules of the appellate division of the department in which such intermediate appellate court is located. Not more than one application may be made for such a certificate.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 460 - Appeals--Taking and Perfection Thereof and Stays During Pendency Thereof460.20 - Certificate Granting Leave to Appeal to Court of Appeals.

1. A certificate granting leave to appeal to the court of appeals from an order of an intermediate appellate court is an order of a judge granting such permission and certifying that the case involves a question of law which ought to be reviewed by the court of appeals. 2. Such certificate may be issued by the following judges in the indicated situations:(a) Where the appeal sought is from an order of the appellate division, the certificate may be issued by (i) a judge of the court of appeals or (ii) a justice of the appellate division of the department which entered the order sought to be appealed.(b) Where the appeal sought is from an order of an intermediate appellate court other than the appellate division, the certificate may be issued only by a judge of the court of appeals.3. An application for such a certificate must be made in the following manner:(a) An application to a justice of the appellate division must

be made upon reasonable notice to the respondent;(b) An application seeking such a certificate from a judge of the court of appeals must be made to the chief judge of such court by submission thereof, either in writing or first orally and then in writing, to the clerk of the court of appeals. The chief judge must then designate a judge of such court to determine the application. The clerk must then notify the respondent of the application and must inform both parties of such designation.4. A justice of the appellate division to whom such an application has been made, or a judge of the court of appeals designated to determine such an application, may in his discretion determine it upon such papers as he may request the parties to submit, or upon oral argument, or upon both.5. Every judge or justice acting pursuant to this section shall file with the clerk of the court of appeals, immediately upon issuance, a copy of every certificate granting or denying leave to appeal. (a) Where the appeal sought is from an order of the appellate division, the certificate may be issued by (i) a judge of the court of appeals or (ii) a justice of the appellate division of the department which entered the order sought to be appealed. (b) Where the appeal sought is from an order of an intermediate appellate court other than the appellate division, the certificate may be issued only by a judge of the court of appeals. 3. An application for such a certificate must be made in the following manner: (a) An application to a justice of the appellate division must be made upon reasonable notice to the respondent; (b) An application seeking such a certificate from a judge of the court of appeals must be made to the chief judge of such court by submission thereof, either in writing or first orally and then in writing, to the clerk of the court of appeals. The chief judge must then designate a judge of such court to determine the application. The clerk must then notify the respondent of the application and must inform both parties of such designation. 4. A justice of the appellate division to whom such an application has been made, or a judge of the court of appeals designated to determine such an application, may in his discretion determine it upon such papers as he may request the parties to submit, or upon oral argument, or upon both. 5. Every judge or justice acting pursuant to this section shall file with the clerk of the court of appeals, immediately upon issuance, a copy of every certificate granting or denying leave to appeal.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 460 - Appeals--Taking and Perfection Thereof and Stays During Pendency Thereof460.30 - Extension of Time for Taking Appeal.

1. Upon motion to an intermediate appellate court of a defendant who desires to take an appeal to such court from a judgment, sentence or order of a criminal court but has failed to file a notice of appeal, an application for leave to appeal, or, as the case may be, an affidavit of errors, with such criminal court within the prescribed period, or upon motion to the court of appeals of a defendant who desires to take an appeal to such court from an order of a superior court or of an intermediate appellate court, but has failed to make an application for a certificate granting leave to appeal to the court of appeals, or has failed to file a notice of appeal with the intermediate appellate court, within the prescribed period, such intermediate appellate court or the court of appeals, as the case may be, may order that the time for the taking of such appeal or applying for leave to appeal be extended to a date not more than thirty days subsequent to the determination of such motion, upon the ground that the failure to so file or make application in timely fashion resulted from (a) improper conduct of a public servant or improper conduct, death or disability of the defendant's attorney, or (b) inability of the defendant and his attorney to have communicated, in person or by mail, concerning whether an appeal should be taken, prior to the expiration of the time within which to take an appeal due to defendant's incarceration in an institution and through no lack of due diligence or fault of the attorney or defendant. Such motion must be made with due diligence after the time for the taking of such appeal has expired, and in any case not more than one year thereafter. 2. The motion must be in writing and upon reasonable notice to the people and with opportunity to be heard. The motion papers must contain sworn allegations of facts claimed to establish the improper conduct, inability to communicate, or other facts essential to support the motion, and the people may file papers in opposition thereto. After all papers have been filed, the court must consider the same for the purpose of ascertaining whether the motion is determinable without a hearing to resolve issues of fact. 3. If the motion papers allege facts constituting a legal basis for the motion, and if the essential allegations are either conclusively substantiated by unquestionable documentary proof or are conceded by the people to be true, the court must grant the motion. 4. If the motion papers do not allege facts constituting a legal basis for the motion, or if an essential allegation is conclusively refuted by unquestionable documentary proof, the court may deny the motion. 5. If the court does not determine the motion pursuant to subdivision three or four, it must order the criminal court which entered or imposed the judgment, sentence or order sought to be appealed to conduct a hearing and to make and report findings of fact essential to the determination of such motion. Upon receipt of such report, the intermediate appellate court or the court of appeals, as the case may be, must determine the motion. 6. An order of an intermediate appellate court granting or denying a motion made pursuant to this section is appealable to the court of appeals if (a) such order states that the determination was made upon the law alone, and (b) a judge of the court of appeals, pursuant to procedure provided in section 460.20, of this chapter, issues a certificate granting leave to the appellant to appeal to the court of appeals.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 460 - Appeals--Taking and Perfection Thereof and Stays During Pendency Thereof460.40 - Effect of Taking of Appeal Upon Judgment or Order of Courts Below; When Stayed.

below; when stayed. 1. The taking of an appeal by the defendant directly to the court of appeals, pursuant to subdivision one of section 450.70, from a superior court judgment including a sentence of death stays the execution of such sentence. Except as provided in subdivision two of this section, in no other case does the taking of an appeal, by either party, in and of itself stay the execution of any judgment, sentence or order of either a criminal court or an intermediate appellate court. 2. The taking of an appeal

by the people to an intermediate appellate court pursuant to subdivision one-a of section 450.20, from an order reducing a count or counts of an indictment or dismissing an indictment and directing the filing of a prosecutor's information, stays the effect of such order. In addition, the taking of an appeal by the people to an intermediate appellate court pursuant to subdivision one of section 450.20, from an order dismissing a count or counts of an indictment charging murder in the first degree, stays the effect of such order. 3. Within six months of the effective date of this subdivision, the court of appeals shall adopt rules to ensure that a defendant is granted a stay of the execution of any death warrant issued pursuant to article twenty-two-B of the correction law to allow the defendant an opportunity to prepare and timely file an initial motion pursuant to section 440.10 or 440.20 seeking to set aside a sentence of death or vacate a judgment including a sentence of death and to allow the motion and any appeal from the denial thereof to be timely determined. The rules shall provide that in the event a defendant seeks to file any subsequent motion with respect to the judgment or sentence following a final determination of the defendant's initial motion pursuant to section 440.10 or 440.20, a motion for a stay of the execution of the death warrant may only be granted for good cause shown. The people and the defendant shall have a right to appeal to the court of appeals from orders granting or denying such stay motions and any rules adopted pursuant to this subdivision shall provide that the court of appeals may affirm such orders, reverse them or modify them upon such terms as the court deems appropriate and shall provide for the expeditious perfection and determination of such appeals. Prior to adoption of the rules, the court of appeals shall issue proposed rules and receive written comments thereon from interested parties.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 460 - Appeals--Taking and Perfection Thereof and Stays During Pendency Thereof460.50 - Stay of Judgment Pending Appeal to Intermediate Appellate Court.

court. 1. Upon application of a defendant who has taken an appeal to an intermediate appellate court from a judgment or from a sentence of a criminal court, a judge designated in subdivision two may issue an order both (a) staying or suspending the execution of the judgment pending the determination of the appeal, and (b) either releasing the defendant on his own recognizance or fixing bail pursuant to the provisions of article five hundred thirty. That phase of the order staying or suspending execution of the judgment does not become effective unless and until the defendant is released, either on his own recognizance or upon the posting of bail. 2. An order as prescribed in subdivision one may be issued by the following judges in the indicated situations:(a) If the appeal is to the appellate division from a judgment or a sentence of either the supreme court or the New York City criminal court, such order may be issued by (i) a justice of the appellate division of the department in which the judgment was entered, or (ii) a justice of the supreme court of the judicial district embracing the county in which the judgment was entered;(b) If the appeal is to the appellate division from a judgment or a sentence of a county court, such order may be issued by (i) a justice of such appellate division, or (ii) a justice of the supreme court of the judicial district embracing the county in which the judgment was entered, or (iii) a judge of such county court;(c) If the appeal is to an appellate term of the supreme court from a judgment or sentence of the New York City criminal court, such order may be issued by a justice of the supreme court of the judicial district embracing the county in which the judgment was entered;(d) With respect to appeals to county courts from judgments or sentences of local criminal courts, and with respect to appeals to appellate terms of the supreme court from judgments or sentences of any criminal courts located outside of New York City, the judges who may issue such orders in any particular situation are determined by rules of the appellate division of the department embracing the appellate court to which the appeal has been taken.3. An application for an order specified in this section must be made upon reasonable notice to the people, and the people must be accorded adequate opportunity to appear in opposition thereto. Not more than one application may be made pursuant to this section.4. Notwithstanding the provisions of subdivision one, if within one hundred twenty days after the issuance of such an order the appeal has not been brought to argument in or submitted to the intermediate appellate court, the operation of such order terminates and the defendant must surrender himself to the criminal court in which the judgment was entered in order that execution of the judgment be commenced or resumed; except that this subdivision does not apply where the intermediate appellate court has (a) extended the time for argument or submission of the appeal to a date beyond the specified period of one hundred twenty days, and (b) upon application of the defendant, expressly ordered that the operation of the order continue until the date of the determination of the appeal or some other designated future date or occurrence.5. Where the defendant is at liberty during the pendency of an appeal as a result of an order issued pursuant to this section, the intermediate appellate court, upon affirmance of the judgment, must by appropriate certificate remit the case to the criminal court in which such judgment was entered. The criminal court must, upon at least two days notice to the defendant, his surety and his attorney, promptly direct the defendant to surrender himself to the criminal court in order that execution of the judgment be commenced or resumed, and if necessary the criminal court may issue a bench warrant to secure his appearance.6. Upon application of a defendant who has been granted a certificate granting leave to appeal pursuant to section 460.15 of this chapter, and in accordance with the procedures set forth in subdivisions three, four and five of this section, the intermediate appellate court may issue an order both (a) staying or suspending the execution of the judgment pending the determination of the appeal, and (b) either releasing the defendant on his own recognizance or fixing bail pursuant to the provisions of article five hundred thirty. That phase of the order staying or suspending execution of the judgment does not become effective unless and until the defendant is released, either on his own recognizance or upon the posting of bail. (a) If the appeal is to the appellate division from a judgment or a sentence of either the supreme court or the New York City criminal court, such order may be issued by (i) a justice of the appellate division of the department in which the judgment was entered, or (ii) a justice of the supreme court of the judicial district embracing the county in which the judgment was entered; (b) If the appeal is to the appellate division from a judgment or a sentence of a county court, such order may be issued by (i) a justice of such appellate division, or (ii) a justice of the

supreme court of the judicial district embracing the county in which the judgment was entered, or (iii) a judge of such county court; (c) If the appeal is to an appellate term of the supreme court from a judgment or sentence of the New York City criminal court, such order may be issued by a justice of the supreme court of the judicial district embracing the county in which the judgment was entered; (d) With respect to appeals to county courts from judgments or sentences of local criminal courts, and with respect to appeals to appellate terms of the supreme court from judgments or sentences of any criminal courts located outside of New York City, the judges who may issue such orders in any particular situation are determined by rules of the appellate division of the department embracing the appellate court to which the appeal has been taken. 3. An application for an order specified in this section must be made upon reasonable notice to the people, and the people must be accorded adequate opportunity to appear in opposition thereto. Not more than one application may be made pursuant to this section. 4. Notwithstanding the provisions of subdivision one, if within one hundred twenty days after the issuance of such an order the appeal has not been brought to argument in or submitted to the intermediate appellate court, the operation of such order terminates and the defendant must surrender himself to the criminal court in which the judgment was entered in order that execution of the judgment be commenced or resumed; except that this subdivision does not apply where the intermediate appellate court has (a) extended the time for argument or submission of the appeal to a date beyond the specified period of one hundred twenty days, and (b) upon application of the defendant, expressly ordered that the operation of the order continue until the date of the determination of the appeal or some other designated future date or occurrence. 5. Where the defendant is at liberty during the pendency of an appeal as a result of an order issued pursuant to this section, the intermediate appellate court, upon affirmance of the judgment, must by appropriate certificate remit the case to the criminal court in which such judgment was entered. The criminal court must, upon at least two days notice to the defendant, his surety and his attorney, promptly direct the defendant to surrender himself to the criminal court in order that execution of the judgment be commenced or resumed, and if necessary the criminal court may issue a bench warrant to secure his appearance. 6. Upon application of a defendant who has been granted a certificate granting leave to appeal pursuant to section 460.15 of this chapter, and in accordance with the procedures set forth in subdivisions three, four and five of this section, the intermediate appellate court may issue an order both (a) staying or suspending the execution of the judgment pending the determination of the appeal, and (b) either releasing the defendant on his own recognizance or fixing bail pursuant to the provisions of article five hundred thirty. That phase of the order staying or suspending execution of the judgment does not become effective unless and until the defendant is released, either on his own recognizance or upon the posting of bail.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 460 - Appeals--Taking and Perfection Thereof and Stays During Pendency Thereof460.60 - Stay of Judgment Pending Appeal to Court of Appeals From Intermediate Appellate Court.

intermediate appellate court. 1. (a) A judge who, pursuant to section 460.20 of this chapter, has received an application for a certificate granting a defendant leave to appeal to the court of appeals from an order of an intermediate appellate court affirming or modifying a judgment including a sentence of imprisonment, a sentence of imprisonment, or an order appealed pursuant to section 450.15 of this chapter, of a criminal court, may, upon application of such defendant-appellant issue an order both (i) staying or suspending the execution of the judgment pending the determination of the application for leave to appeal, and, if that application is granted, staying or suspending the execution of the judgment pending the determination of the appeal, and (ii) either releasing the defendant on his own recognizance or continuing bail as previously determined or fixing bail pursuant to the provisions of article five hundred thirty. Such an order is effective immediately and that phase of the order staying or suspending execution of the judgment does not become effective unless and until the defendant is released, either on his own recognizance or upon the posting of bail.(b) If the application for leave to appeal is denied, the stay or suspension pending the application automatically terminates upon the signing of the certificate denying leave. Upon such termination, the certificate denying leave must be sent to the criminal court in which the original judgment was entered, and the latter must proceed in the manner provided in subdivision five of section 460.50 of this chapter.2. An application pursuant to subdivision one must be made upon reasonable notice to the people, and the people must be accorded adequate opportunity to appear in opposition thereto. Such an application may be made immediately after the entry of the order sought to be appealed or at any subsequent time during the pendency of the appeal. Not more than one application may be made pursuant to this section.3. Notwithstanding the provisions of subdivision one, if within one hundred twenty days after the issuance of a certificate granting leave to appeal, the appeal or prospective appeal has not been brought to argument in or submitted to the court of appeals, the operation of an order issued pursuant to subdivision one of this section terminates and the defendant must surrender himself to the criminal court in which the original judgment was entered in order that execution of such judgment be commenced or resumed; except that this subdivision does not apply where the court of appeals has (a) extended the time for argument or submission of the appeal to a date beyond the specified period of one hundred twenty days and (b) upon application of the defendant expressly ordered that the operation of such order continue until the date of the determination of the appeal or some other designated future date or occurrence.4. Where the defendant is at liberty during the pendency of an appeal as a result of an order issued pursuant to this section, the court of appeals upon affirmance of the judgment or order, must, by appropriate certificate, remit the case to the criminal court in which the judgment was entered, and the latter must proceed in the manner provided in subdivision five of section 460.50 of this chapter. (b) If the application for leave to appeal is denied, the stay or suspension pending the application automatically terminates upon the signing of the certificate denying leave. Upon such termination, the certificate denying leave must be sent to the criminal court in which the original judgment was entered, and the latter must proceed in the manner provided in subdivision five of section 460.50 of this chapter. 2. An application pursuant to subdivision one must be made

upon reasonable notice to the people, and the people must be accorded adequate opportunity to appear in opposition thereto. Such an application may be made immediately after the entry of the order sought to be appealed or at any subsequent time during the pendency of the appeal. Not more than one application may be made pursuant to this section. 3. Notwithstanding the provisions of subdivision one, if within one hundred twenty days after the issuance of a certificate granting leave to appeal, the appeal or prospective appeal has not been brought to argument in or submitted to the court of appeals, the operation of an order issued pursuant to subdivision one of this section terminates and the defendant must surrender himself to the criminal court in which the original judgment was entered in order that execution of such judgment be commenced or resumed; except that this subdivision does not apply where the court of appeals has (a) extended the time for argument or submission of the appeal to a date beyond the specified period of one hundred twenty days and (b) upon application of the defendant expressly ordered that the operation of such order continue until the date of the determination of the appeal or some other designated future date or occurrence. 4. Where the defendant is at liberty during the pendency of an appeal as a result of an order issued pursuant to this section, the court of appeals upon affirmance of the judgment or order, must, by appropriate certificate, remit the case to the criminal court in which the judgment was entered, and the latter must proceed in the manner provided in subdivision five of section 460.50 of this chapter.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 460 - Appeals--Taking and Perfection Thereof and Stays During Pendency Thereof460.70 - Appeal; How Perfected.

1. Except as provided in subdivision two, the mode of and time for perfecting an appeal which has been taken to an intermediate appellate court from a judgement, sentence or order of a criminal court are determined by rules of the appellate division of the department in which such appellate court is located. Among the matters to be determined by such court rules are the times when the appeal must be noticed for and brought to argument, the content and form of the records and briefs to be served and filed, and the time when such records and briefs must be served and filed. When an appeal is taken by a defendant pursuant to section 450.10, a transcript shall be prepared and settled and shall be filed with the criminal court by the court reporter. Electronically recorded proceedings that were not recorded by a stenographer shall be transcribed and filed with the court as directed by the chief administrator of the courts. The expense for such transcript and any reproduced copies of such transcript shall be paid by the defendant. Where the defendant is granted permission to proceed as a poor person by the appellate court, the court reporter shall promptly make and file with the criminal court a transcript of the stenographic minutes of such proceedings as the appellate court shall direct. The expense of transcripts and any reproduced copies of transcripts prepared for poor persons under this section shall be a state charge payable out of funds appropriated to the office of court administration for that purpose. The appellate court shall where such is necessary for perfection of the appeal, order that the criminal court furnish a reproduced copy of such transcript to the defendant or his counsel. 2. An appeal which has been taken to a county court or to an appellate term of the supreme court from a judgment, sentence or order of a local criminal court pursuant to subdivision three of section 460.10 is perfected as follows:(a) After the local criminal court has, pursuant to paragraph (d) of subdivision three of section 460.10, filed its return with the clerk of the appellate court and delivered a copy thereof to the appellant, the appellant must file with such clerk, and serve a copy thereof upon the respondent, a notice of argument, noticing the appeal for argument at the term of such appellate court immediately following the term being held at the time of the appellant's receipt of the return. Upon motion of the appellant, however, such appellate court may for good cause shown enlarge the time to a subsequent term, in which case the appellant must notice the appeal for argument at such subsequent term;(b) The appellant must further comply with all court rules applicable to the mode of perfecting such appeals;(c) If the appellant does not file a notice of argument as provided in paragraph (a) or does not comply with all applicable court rules as provided in paragraph (b), the appellate court may, either upon motion of the respondent or upon its own motion, dismiss the appeal.3. The mode of and time for perfecting any appeal which has been taken to the court of appeals are determined by the rules of the court of appeals. Among the matters to be determined by such court rules are the times when the appeal must be noticed for and brought to argument, the content, form and number of the records and briefs and copies thereof to be served and filed, and the times when such records and briefs must be served and filed.When an appeal is taken by a defendant pursuant to section 450.70, the defendant shall cause to be prepared and printed or otherwise duplicated pursuant to rules of the court of appeals the record on appeal and the required number of copies thereof. If the defendant is granted permission to appeal as a poor person, the expense thereof shall be a state charge payable out of funds appropriated to the office of court administration for that purpose. (a) After the local criminal court has, pursuant to paragraph (d) of subdivision three of section 460.10, filed its return with the clerk of the appellate court and delivered a copy thereof to the appellant, the appellant must file with such clerk, and serve a copy thereof upon the respondent, a notice of argument, noticing the appeal for argument at the term of such appellate court immediately following the term being held at the time of the appellant's receipt of the return. Upon motion of the appellant, however, such appellate court may for good cause shown enlarge the time to a subsequent term, in which case the appellant must notice the appeal for argument at such subsequent term; (b) The appellant must further comply with all court rules applicable to the mode of perfecting such appeals; (c) If the appellant does not file a notice of argument as provided in paragraph (a) or does not comply with all applicable court rules as provided in paragraph (b), the appellate court may, either upon motion of the respondent or upon its own motion, dismiss the appeal. 3. The mode of and time for perfecting any appeal which has been taken to the court of appeals are determined by the rules of the court of appeals. Among the matters to be determined by such court rules are the times when the appeal must be noticed for and brought to argument, the content, form and number of the records and briefs and copies thereof to be served and filed, and the times when such records and briefs must be served and filed. When an appeal is taken by a defendant pursuant to section 450.70, the

defendant shall cause to be prepared and printed or otherwise duplicated pursuant to rules of the court of appeals the record on appeal and the required number of copies thereof. If the defendant is granted permission to appeal as a poor person, the expense thereof shall be a state charge payable out of funds appropriated to the office of court administration for that purpose.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 460 - Appeals--Taking and Perfection Thereof and Stays During Pendency Thereof460.80 - Appeal; Argument and Submission Thereof.

The mode of and procedure for arguing or otherwise litigating appeals in criminal cases are determined by rules of the individual appellate courts. Among the matters to be determined by such court rules are the circumstances in which oral argument is required and those in which the case may be submitted by either or both parties without oral argument; the consequences or effect of failure to present oral argument when such is required; the amount of time for oral argument allowed to each party; and the number of counsel entitled to be heard.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 460 - Appeals--Taking and Perfection Thereof and Stays During Pendency Thereof460.90 - Filing of Papers on Appeal to the Appellate Division by Electronic Means.

electronic means. Notwithstanding any other provision of law, the appellate division in each judicial department may promulgate rules authorizing a program in the use of electronic means for the taking and perfection of appeals in accordance with the provisions of section twenty-one hundred twelve of the civil practice law and rules. Provided however, such rules shall not require an unrepresented party or any attorney who furnishes a certification specified in subparagraph (i) or (ii) of paragraph (c) of subdivision two of section 10.40 of this chapter to take or perfect an appeal by electronic means. Provided further, however, before promulgating any such rules, the appellate division in each judicial department shall consult with the chief administrator of the courts and shall provide an opportunity for review and comment by all those who are or would be affected including district attorneys; representatives of the office of indigent legal services; not-for-profit legal service providers; public defenders; statewide and local specialty bar associations whose membership devotes a significant portion of their practice to assigned criminal cases pursuant to subparagraph (i) of paragraph (a) of subdivision three of section seven hundred twenty-two of the county law; institutional providers of criminal defense services and other members of the criminal defense bar; representatives of victims' rights organizations; unaffiliated attorneys who regularly appear in proceedings that are or would be affected by such electronic filing program; interested members of the criminal justice community; and any other persons in whose county a program has been implemented in any of the courts therein as deemed to be appropriate by any appellate division. To the extent practicable, rules promulgated by the appellate division in each judicial department pursuant to this section shall be uniform. For purposes of this section, "electronic means" shall be as defined in subdivision (f) of rule twenty-one hundred three of such law and rules.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 470 - Appeals--Determination Thereof470.05 - Determination of Appeals; General Criteria.

1. An appellate court must determine an appeal without regard to technical errors or defects which do not affect the substantial rights of the parties. 2. For purposes of appeal, a question of law with respect to a ruling or instruction of a criminal court during a trial or proceeding is presented when a protest thereto was registered, by the party claiming error, at the time of such ruling or instruction or at any subsequent time when the court had an opportunity of effectively changing the same. Such protest need not be in the form of an "exception" but is sufficient if the party made his position with respect to the ruling or instruction known to the court, or if in reponse to a protest by a party, the court expressly decided the question raised on appeal. In addition, a party who without success has either expressly or impliedly sought or requested a particular ruling or instruction, is deemed to have thereby protested the court's ultimate disposition of the matter or failure to rule or instruct accordingly sufficiently to raise a question of law with respect to such disposition or failure regardless of whether any actual protest thereto was registered.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 470 - Appeals--Determination Thereof470.10 - Determination of Appeals; Definitions of Terms.

The following definitions are applicable to this article: 1. "Reversal" by an appellate court of a judgment, sentence or order of another court means the vacating of such judgment, sentence or order. 2. "Modification" by an appellate court of a judgment or order of another court means the vacating of a part thereof and affirmance of the remainder. 3. "Corrective action" means affirmative action taken or directed by an appellate court upon reversing or modifying a judgment, sentence or order of another court, which disposes of or continues the case in a manner consonant with the determinations and principles underlying the reversal or modification.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 470 - Appeals--Determination Thereof470.15 - Determination of Appeals by Intermediate Appellate Courts; Scope of Review.

scope of review. 1. Upon an appeal to an intermediate appellate court from a judgment, sentence or order of a criminal court, such

intermediate appellate court may consider and determine any question of law or issue of fact involving error or defect in the criminal court proceedings which may have adversely affected the appellant. 2. Upon such an appeal, the intermediate appellate court must either affirm or reverse or modify the criminal court judgment, sentence or order. The ways in which it may modify a judgment include, but are not limited to, the following:(a) Upon a determination that the trial evidence adduced in support of a verdict is not legally sufficient to establish the defendant's guilt of an offense of which he was convicted but is legally sufficient to establish his guilt of a lesser included offense, the court may modify the judgment by changing it to one of conviction for the lesser offense;(b) Upon a determination that the trial evidence is not legally sufficient to establish the defendant's guilt of all the offenses of which he was convicted but is legally sufficient to establish his guilt of one or more of such offenses, the court may modify the judgment by reversing it with respect to the unsupported counts and otherwise affirming it;(c) Upon a determination that a sentence imposed upon a valid conviction is illegal or unduly harsh or severe, the court may modify the judgment by reversing it with respect to the sentence and by otherwise affirming it.3. A reversal or a modification of a judgment, sentence or order must be based upon a determination made:(a) Upon the law; or(b) Upon the facts; or(c) As a matter of discretion in the interest of justice; or(d) Upon any two or all three of the bases specified in paragraphs (a), (b) and (c).4. The kinds of determinations of reversal or modification deemed to be upon the law include, but are not limited to, the following:(a) That a ruling or instruction of the court, duly protested by the defendant, as prescribed in subdivision two of section 470.05, at a trial resulting in a judgment, deprived the defendant of a fair trial;(b) That evidence adduced at a trial resulting in a judgment was not legally sufficient to establish the defendant's guilt of an offense of which he was convicted;(c) That a sentence was unauthorized, illegally imposed or otherwise invalid as a matter of law.5. The kinds of determinations of reversal or modification deemed to be on the facts include, but are not limited to, a determination that a verdict of conviction resulting in a judgment was, in whole or in part, against the weight of the evidence.6. The kinds of determinations of reversal or modification deemed to be made as a matter of discretion in the interest of justice include, but are not limited to, the following:(a) That an error or defect occurring at a trial resulting in a judgment, which error or defect was not duly protested at trial as prescribed in subdivision two of section 470.05 so as to present a question of law, deprived the defendant of a fair trial;(b) That a sentence, though legal, was unduly harsh or severe. (a) Upon a determination that the trial evidence adduced in support of a verdict is not legally sufficient to establish the defendant's guilt of an offense of which he was convicted but is legally sufficient to establish his guilt of a lesser included offense, the court may modify the judgment by changing it to one of conviction for the lesser offense; (b) Upon a determination that the trial evidence is not legally sufficient to establish the defendant's guilt of all the offenses of which he was convicted but is legally sufficient to establish his guilt of one or more of such offenses, the court may modify the judgment by reversing it with respect to the unsupported counts and otherwise affirming it; (c) Upon a determination that a sentence imposed upon a valid conviction is illegal or unduly harsh or severe, the court may modify the judgment by reversing it with respect to the sentence and by otherwise affirming it. 3. A reversal or a modification of a judgment, sentence or order must be based upon a determination made: (a) Upon the law; or (b) Upon the facts; or (c) As a matter of discretion in the interest of justice; or (d) Upon any two or all three of the bases specified in paragraphs (a), (b) and (c). 4. The kinds of determinations of reversal or modification deemed to be upon the law include, but are not limited to, the following: (a) That a ruling or instruction of the court, duly protested by the defendant, as prescribed in subdivision two of section 470.05, at a trial resulting in a judgment, deprived the defendant of a fair trial; (b) That evidence adduced at a trial resulting in a judgment was not legally sufficient to establish the defendant's guilt of an offense of which he was convicted; (c) That a sentence was unauthorized, illegally imposed or otherwise invalid as a matter of law. 5. The kinds of determinations of reversal or modification deemed to be on the facts include, but are not limited to, a determination that a verdict of conviction resulting in a judgment was, in whole or in part, against the weight of the evidence. 6. The kinds of determinations of reversal or modification deemed to be made as a matter of discretion in the interest of justice include, but are not limited to, the following: (a) That an error or defect occurring at a trial resulting in a judgment, which error or defect was not duly protested at trial as prescribed in subdivision two of section 470.05 so as to present a question of law, deprived the defendant of a fair trial; (b) That a sentence, though legal, was unduly harsh or severe.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 470 - Appeals--Determination Thereof470.20 - Determination of Appeals by Intermediate Appellate Courts; Corrective Action Upon Reversal or Modification.

corrective action upon reversal or modification. Upon reversing or modifying a judgment, sentence or order of a criminal court, an intermediate appellate court must take or direct such corrective action as is necessary and appropriate both to rectify any injustice to the appellant resulting from the error or defect which is the subject of the reversal or modification and to protect the rights of the respondent. The particular corrective action to be taken or directed is governed in part by the following rules: 1. Upon a reversal of a judgment after trial for error or defect which resulted in prejudice to the defendant or deprived him of a fair trial, the court must, whether such reversal be on the law or as a matter of discretion in the interest of justice, order a new trial of the accusatory instrument and remit the case to the criminal court for such action. 2. Upon a reversal of a judgment after trial for legal insufficiency of trial evidence, the court must dismiss the accusatory instrument. 3. Upon a modification of a judgment after trial for legal insufficiency of trial evidence with respect to one or more but not all of the offenses of which the defendant was convicted, the court must dismiss the count or counts of the accusatory instrument determined to be legally unsupported and must otherwise affirm the judgment. In such case, it must either reduce the total sentence to that imposed by the criminal court upon the counts with respect to which the judgment is affirmed or remit the case to the criminal court for re-sentence upon such counts; provided that nothing contained in this paragraph precludes further sentence reduction in the exercise of the appellate court's discretion pursuant to

subdivision six. 4. Upon a modification of a judgment after trial which reduces a conviction of a crime to one for a lesser included offense, the court must remit the case to the criminal court with a direction that the latter sentence the defendant accordingly. 5. Upon a reversal or modification of a judgment after trial upon the ground that the verdict, either in its entirety or with respect to a particular count or counts, is against the weight of the trial evidence, the court must dismiss the accusatory instrument or any reversed count. 6. Upon modifying a judgment or reversing a sentence as a matter of discretion in the interest of justice upon the ground that the sentence is unduly harsh or severe, the court must itself impose some legally authorized lesser sentence.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 470 - Appeals--Determination Thereof470.25 - Determination of Appeals by Intermediate Appellate Courts; Form and Content of Order.

form and content of order. 1. An order of an intermediate appellate court which affirms a judgment, sentence or order of a criminal court need only state such affirmance. 2. An order of an intermediate appellate court which reverses or modifies a judgment, sentence or order of a criminal court must contain the following:(a) A statement of whether the determination was upon the law or upon the facts or as a matter of discretion in the interest of justice, or upon any specified two or all three of such bases; and(b) If the decision is rendered without opinion, a brief statement of the specific grounds of the reversal or modification; and(c) A statement of the corrective action taken or directed by the court; and(d) If the determination is exclusively upon the law, a statement of whether or not the facts upon which the criminal court's judgment, sentence or order is based have been considered and determined to have been established. In the absence of such a statement, it is presumed that the intermediate appellate court did not consider or make any determination with respect to such facts. (a) A statement of whether the determination was upon the law or upon the facts or as a matter of discretion in the interest of justice, or upon any specified two or all three of such bases; and (b) If the decision is rendered without opinion, a brief statement of the specific grounds of the reversal or modification; and (c) A statement of the corrective action taken or directed by the court; and (d) If the determination is exclusively upon the law, a statement of whether or not the facts upon which the criminal court's judgment, sentence or order is based have been considered and determined to have been established. In the absence of such a statement, it is presumed that the intermediate appellate court did not consider or make any determination with respect to such facts.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 470 - Appeals--Determination Thereof470.30 - Determination by Court of Appeals of Appeals Taken Directly Thereto From Judgments and Orders of Criminal Courts.

thereto from judgments and orders of criminal courts. 1. Wherever appropriate, the rules set forth in sections 470.15 and 470.20, governing the consideration and determination by intermediate appellate courts of appeals thereto from judgments and orders of criminal courts, and prescribing their scope of review and the corrective action to be taken by them upon reversal or modification, apply equally to the consideration and determination by the court of appeals of appeals taken directly thereto, pursuant to sections 450.70 and 450.80, from judgments and orders of superior criminal courts. 2. Whenever a sentence of death is imposed, the judgment and sentence shall be reviewed on the record by the court of appeals. Review by the court of appeals pursuant to subdivision one of section 450.70 may not be waived. 3. With regard to the sentence, the court shall, in addition to exercising the powers and scope of review granted under subdivision one of this section, determine:(a) whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary or legally impermissible factor including whether the imposition of the verdict or sentence was based upon the race of the defendant or a victim of the crime for which the defendant was convicted;(b) whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases considering both the crime and the defendant. In conducting such review the court, upon request of the defendant, in addition to any other determination, shall review whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases by virtue of the race of the defendant or a victim of the crime for which the defendant was convicted; and(c) whether the decision to impose the sentence of death was against the weight of the evidence.4. The court shall include in its decision:(a) the aggravating and mitigating factors established in the record on appeal; and(b) those similar cases it took into consideration.5. In addition to exercising any other corrective action pursuant to subdivision one of this section, the court, with regard to review of a sentence of death, shall be authorized to:(a) affirm the sentence of death; or(b) set the sentence aside and remand the case for resentencing pursuant to the procedures set forth in section 400.27 for a determination as to whether the defendant shall be sentenced to death, life imprisonment without parole or to a term of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole; or(c) set the sentence aside and remand the case for resentencing by the court for a determination as to whether the defendant shall be sentenced to life imprisonment without parole or to a term of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole. (a) whether the sentence of death was imposed under the influence of passion, prejudice, or any other arbitrary or legally impermissible factor including whether the imposition of the verdict or sentence was based upon the race of the defendant or a victim of the crime for which the defendant was convicted; (b) whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases considering both the crime and the defendant. In conducting such review the court, upon request of the defendant, in addition to any other determination, shall review whether the sentence of death is excessive or disproportionate to the penalty imposed in similar cases by virtue of the race of the defendant or a victim of the crime for which the defendant was convicted; and (c) whether the decision to impose the sentence of death was against the weight of the evidence. 4. The court shall include in its decision: (a) the aggravating

and mitigating factors established in the record on appeal; and (b) those similar cases it took into consideration. 5. In addition to exercising any other corrective action pursuant to subdivision one of this section, the court, with regard to review of a sentence of death, shall be authorized to: (a) affirm the sentence of death; or (b) set the sentence aside and remand the case for resentencing pursuant to the procedures set forth in section 400.27 for a determination as to whether the defendant shall be sentenced to death, life imprisonment without parole or to a term of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole; or (c) set the sentence aside and remand the case for resentencing by the court for a determination as to whether the defendant shall be sentenced to life imprisonment without parole or to a term of imprisonment for the class A-I felony of murder in the first degree other than a sentence of life imprisonment without parole.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 470 - Appeals--Determination Thereof470.35 - Determination by Court of Appeals of Appeals From Orders of Intermediate Appellate Courts; Scope of Review.

intermediate appellate courts; scope of review. 1. Upon an appeal to the court of appeals from an order of an intermediate appellate court affirming a judgment, sentence or order of a criminal court, the court of appeals may consider and determine not only questions of law which were raised or considered upon the appeal to the intermediate appellate court, but also any question of law involving alleged error or defect in the criminal court proceedings resulting in the original criminal court judgment, sentence or order, regardless of whether such question was raised, considered or determined upon the appeal to the intermediate appellate court. 2. Upon an appeal to the court of appeals from an order of an intermediate appellate court reversing or modifying a judgment, sentence or order of a criminal court, the court of appeals may consider and determine:(a) Any question of law which was determined by the intermediate appellate court and which, as so determined, constituted a basis for such court's order of reversal or modification; and(b) Any other question of law involving alleged or possible error or defect in the criminal court proceedings resulting in the original judgment, sentence or order which may have adversely affected the party who was appellant in the intermediate appellate court and who is respondent in the court of appeals. The court of appeals is not precluded from considering and determining such a question by the circumstance that it was not considered or determined by the intermediate appellate court, or that it did not constitute a basis for such court's reversal or modification, or that the party who may have been adversely affected thereby is the respondent rather than the appellant in the court of appeals; and the court of appeals, even though rejecting the intermediate appellate court's reasons for its order of reversal or modification, may affirm or modify such order upon the basis of such other questions; and(c) Any question concerning the legality of the corrective action taken by the intermediate appellate court.3. Upon such an appeal, the court must affirm, reverse or modify the intermediate appellate court order. (a) Any question of law which was determined by the intermediate appellate court and which, as so determined, constituted a basis for such court's order of reversal or modification; and (b) Any other question of law involving alleged or possible error or defect in the criminal court proceedings resulting in the original judgment, sentence or order which may have adversely affected the party who was appellant in the intermediate appellate court and who is respondent in the court of appeals. The court of appeals is not precluded from considering and determining such a question by the circumstance that it was not considered or determined by the intermediate appellate court, or that it did not constitute a basis for such court's reversal or modification, or that the party who may have been adversely affected thereby is the respondent rather than the appellant in the court of appeals; and the court of appeals, even though rejecting the intermediate appellate court's reasons for its order of reversal or modification, may affirm or modify such order upon the basis of such other questions; and (c) Any question concerning the legality of the corrective action taken by the intermediate appellate court. 3. Upon such an appeal, the court must affirm, reverse or modify the intermediate appellate court order.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 470 - Appeals--Determination Thereof470.40 - Determination by Court of Appeals of Appeals From Intermediate Appellate Courts; Corrective Action Upon Reversal or Modification.

appellate courts; corrective action upon reversal or modification. 1. Upon reversing or modifying an order of an intermediate appellate court affirming a criminal court judgment, sentence or order, the court of appeals must take or direct such corrective action as the intermediate appellate court would, pursuant to section 470.20, have been required or authorized to take or direct had it reversed or modified the criminal court judgment, sentence or order upon the same ground or grounds. 2. Upon reversing an order of an intermediate appellate court reversing or modifying a criminal court judgment, sentence or order upon the ground that questions of law were erroneously determined by the intermediate appellate court in favor of the party appellant therein, the court of appeals must take or direct corrective action as follows:(a) If the facts underlying the original criminal court judgment, sentence or order were considered and determined to have been established by the intermediate appellate court, the court of appeals must reinstate and affirm the original criminal court judgment, sentence or order and remit the case to such criminal court for whatever further proceedings may be necessary to complete the action or proceedings therein; provided, however, that where such facts were applied to an erroneous determination of law, the court of appeals may remit the case to the intermediate appellate court for a further determination of the facts;(b) If the facts underlying the original criminal court judgment, sentence or order were not, or are presumed not to have been, considered and determined by the intermediate appellate court, the court of appeals must remit the case to such intermediate appellate court for determination of the facts.3. Upon modifying an intermediate appellate court order reversing or modifying a criminal court judgment or order, upon the ground that corrective action taken or directed by the intermediate appellate court was illegal, the court of appeals must either (a) itself take or direct the appropriate corrective action or (b) remit the

case to the intermediate appellate court for appropriate corrective action by the latter. (a) If the facts underlying the original criminal court judgment, sentence or order were considered and determined to have been established by the intermediate appellate court, the court of appeals must reinstate and affirm the original criminal court judgment, sentence or order and remit the case to such criminal court for whatever further proceedings may be necessary to complete the action or proceedings therein; provided, however, that where such facts were applied to an erroneous determination of law, the court of appeals may remit the case to the intermediate appellate court for a further determination of the facts; (b) If the facts underlying the original criminal court judgment, sentence or order were not, or are presumed not to have been, considered and determined by the intermediate appellate court, the court of appeals must remit the case to such intermediate appellate court for determination of the facts. 3. Upon modifying an intermediate appellate court order reversing or modifying a criminal court judgment or order, upon the ground that corrective action taken or directed by the intermediate appellate court was illegal, the court of appeals must either (a) itself take or direct the appropriate corrective action or (b) remit the case to the intermediate appellate court for appropriate corrective action by the latter.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 470 - Appeals--Determination Thereof470.45 - Remission of Case by Appellate Court to Criminal Court Upon Reversal or Modification of Judgment; Action by Criminal Court.

reversal or modification of judgment; action by criminal court. Upon reversing or modifying a judgment and directing corrective action, an appellate court must remit the case to the criminal court in which the judgment was entered. Such criminal court must execute the direction of the appellate court and must, depending upon the nature of such direction, either discharge the defendant from custody, exonerate his bail or issue a securing order.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 470 - Appeals--Determination Thereof470.50 - Reargument of Appeal; Motion and Criteria For.

1. After its determination of an appeal taken pursuant to article four hundred fifty, an appellate court, in the interest of justice and for good cause shown, may in its discretion, upon motion of a party adversely affected by its determination, or upon its own motion, order a reargument or reconsideration of the appeal. Upon such an order the court may either direct further oral argument by the parties or confine its reconsideration to re-examination of the issues as previously argued or submitted upon the appeal proper. Upon ordering a reargument or reconsideration of an appeal, the court must again determine the appeal pursuant to the provisions of this article. 2. The court of appeals may promulgate rules limiting the time within which a motion for reargument of appeals determined by such court may be made, and the appellate division of each department may similarly promulgate such rules with respect to appeals determined by such appellate division and appeals determined by the other intermediate appellate courts located within such department. In the absence of any such rule of limitation, a motion for reargument may be made at any time.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 470 - Appeals--Determination Thereof470.55 - Status of Accusatory Instrument Upon Order of New Trial or Restoration of Action to Pre-Pleading Status.

restoration of action to pre-pleading status. 1. Upon a new trial of an accusatory instrument resulting from an appellate court order reversing a judgment and ordering such new trial, such accusatory instrument is deemed to contain all the counts and to charge all the offenses which it contained and charged at the time the previous trial was commenced, regardless of whether any count was dismissed by the court in the course of such trial, except (a) those upon or of which the defendant was acquitted or deemed to have been acquitted, and (b) those dismissed upon appeal or upon some other post-judgment order. 2. Upon an appellate court order which reverses a judgment based upon a plea of guilty to an accusatory instrument or a part thereof, but which does not dismiss the entire accusatory instrument, the criminal action is, in the absence of express appellate court direction to the contrary, restored to its pre-pleading status and the accusatory instrument is deemed to contain all the counts and to charge all the offenses which it contained and charged at the time of the entry of the plea, except those dismissed upon appeal or upon some other post-judgment order. Where the plea of guilty was entered and accepted, pursuant to subdivision three of section 220.30, upon the condition that it constituted a complete disposition and dismissal not only of the accusatory instrument underlying the judgment reversed but also of one or more other accusatory instruments against the defendant then pending in the same court, the appellate court order of reversal completely restores such other accusatory instruments; and such is the case even where the order of reversal dismisses the entire accusatory instrument underlying the judgment reversed.

2024 New York LawsCPL - Criminal ProcedurePart 2 - The Principal ProceedingsTitle M - Proceedings After JudgmentArticle 470 - Appeals--Determination Thereof470.60 - Dismissal of Appeal.

1. At any time after an appeal has been taken and before determination thereof, the appellate court in which such appeal is pending may, upon motion of the respondent or upon its own motion, dismiss such appeal upon the ground of mootness, lack of jurisdiction to determine it, failure of timely prosecution or perfection thereof, or other substantial defect, irregularity or failure of action by the appellant with respect to the prosecution or perfection of such appeal. 2. Such motion must be made upon reasonable notice to the appellant and with opportunity to be heard. If the people are the appellant, such notice must be served upon the appropriate district attorney either personally or by ordinary mail. If the appellant is a defendant, such notice must be served upon him by ordinary mail

at his last known place of residence or, if he is imprisoned, at the institution in which he is confined, and similar notice must be served upon the attorney, if any, who last appeared for him. Upon determination of the motion, a copy of the order entered thereon must similarly be served. 3. Provided that a certificate granting leave to appeal is issued pursuant to this subdivision, an appeal may be taken, in the manner prescribed in subdivision four of section 460.10, to the court of appeals from an order of an intermediate appellate court dismissing an appeal thereto. Such appeal may be based either upon the ground that the dismissal was invalid as a matter of law or upon the ground that it constituted an abuse of discretion. A certificate granting leave to appeal from such an order of dismissal may be issued only by a judge of the court of appeals upon an application made in the manner prescribed in paragraph (b) of subdivision three of section 460.20. Upon such an appeal, the court of appeals must either affirm or reverse the intermediate appellate court order.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle P - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants and Witnesses Under Control of Court--Recognizance, BailArticle 500 - Recognizance, Bail and Commitment--Definitions of Terms500.10 - Recognizance, Bail and Commitment; Definitions of Terms.

As used in this title, and in this chapter generally, the following terms have the following meanings: 1. "Principal" means a defendant in a criminal action or proceeding, or a person adjudged a material witness therein, or any other person so involved therein that the principal may by law be compelled to appear before a court for the purpose of having such court exercise control over the principal's person to secure the principal's future attendance at the action or proceeding when required, and who in fact either is before the court for such purpose or has been before it and been subjected to such control. 2. "Release on own recognizance." A court releases a principal on the principal's own recognizance when, having acquired control over the principal's person, it permits the principal to be at liberty during the pendency of the criminal action or proceeding involved upon condition that the principal will appear thereat whenever the principal's attendance may be required and will at all times render the principal amenable to the orders and processes of the court. 3. "Fix bail." A court fixes bail when, having acquired control over the person of a principal, it designates a sum of money and stipulates that, if bail in such amount is posted on behalf of the principal and approved, it will permit him to be at liberty during the pendency of the criminal action or proceeding involved. 3-a. "Release under non-monetary conditions." A court releases a principal under non-monetary conditions when, having acquired control over a person, it authorizes the person to be at liberty during the pendency of the criminal action or proceeding involved under conditions ordered by the court. The conditions ordered shall reflect the findings of the individualized determination warranting such imposition of non-monetary conditions to reasonably assure the principal's return to court and reasonably assure the principal's compliance with court conditions. A principal shall not be required to pay for any part of the cost of release on non-monetary conditions. Such conditions may include, among other conditions reasonable under the circumstances:(a) that the principal be in contact with a pretrial services agency serving principals in that county;(b) that the principal abide by reasonable, specified restrictions on travel that are reasonably related to an actual risk of flight from the jurisdiction, or that the principal surrender his or her passport;(c) that the principal refrain from possessing a firearm, destructive device or other dangerous weapon;(d) that, upon a finding in accordance with subdivision four of section 510.45 of this title, the person be placed in reasonable pretrial supervision with a pretrial services agency serving principals in that county, provided, however that where non-monetary conditions are imposed in combination with a securing order also fixing bail, the court shall not be required to make such separate finding;(e) that the principal refrain from associating with certain persons who are connected with the instant charge, including, when appropriate, specified victims, witnesses, or co-defendants;(f) that the principal be referred to a pretrial services agency for placement in mandatory programming, including counseling, treatment, including but not limited to mental health and chemical dependence treatment, and intimate partner violence intervention programs. Where applicable, the court may refer the principal to a crisis stabilization center or direct that the principal be removed to a hospital pursuant to section 9.43 of the mental hygiene law;(g) that the principal make diligent efforts to maintain employment, housing, or enrollment in school or educational programming;(h) that the principal obey an order of protection issued by the court, including an order issued pursuant to section 530.11 of this title;(i) that the principal obey conditions set by the court addressed to the safety of a victim of a family offense as defined in section 530.11 of this title including conditions that may be requested by or on behalf of the victim; and(j) that, when it is shown pursuant to paragraph (a) of subdivision four of section 510.40 of this title that no other realistic non-monetary condition or set of non-monetary conditions will suffice to reasonably assure the principal's return to court, the principal's location be monitored with an approved electronic monitoring device, in accordance with such subdivision four of section 510.40 of this title.3-b. Subdivision three-a of this section presents a non-exclusive list of conditions that may be considered and imposed by law, singularly or in combination, when reasonable under the circumstances of the defendant, the case, and the situation of the defendant. The court need not necessarily order one or more specific conditions first before ordering one or more or additional conditions.3-c. (a) "Release for mental health assessment and evaluation." When a principal appearing before the court appears, by clear and convincing evidence, to be mentally ill at the present moment such that if left unattended their conduct may result in harm to himself or herself or others, the court may: order as a condition of release under supervision that the principal seek a voluntary psychiatric assessment under section 9.13 of the mental hygiene law if the principal has a recently documented history of mental illness or psychiatric hospitalization, and the defense consents to the assessment.(b) "Involuntary assessment pending release." When a principal appearing before the court appears, by clear and convincing evidence, to be mentally ill at the present moment such that if left unattended their conduct may result in immediate serious harm to himself or herself or others, the court may order as a condition of release under supervision that the

principal be taken by an entity, including but not limited to, pretrial services agencies, or another qualified provider, to a local hospital for immediate psychiatric assessment involuntarily under section 9.43 of the mental hygiene law if the principal is conducting himself or herself before the court, in such a manner which in a person who is not mentally ill would be deemed disorderly conduct which is likely to result in immediate serious harm to himself or herself or others. The court is also authorized to request peace officers, when acting pursuant to their special duties, or police officers, who are members of an authorized police department or force or of a sheriff's department, to take into custody and transport such person to a hospital for determination by the director of community services when such person qualifies for admission pursuant to this section. The court may authorize an ambulance service, as defined by subdivision two of section three thousand one of the public health law, to transport such person to any hospital specified in subdivision (a) of section 9.39 of the mental hygiene law or any comprehensive psychiatric emergency program specified in subdivision (a) of section 9.40 of the mental hygiene law, that is willing to receive such person. Upon removal, there shall be a determination made by the director of such hospital or program whether such person should be retained therein pursuant to section 9.39 of the mental hygiene law. If the principal is hospitalized, at the time of release the hospital shall complete a discharge plan with linkages to community-based mental health treatment, including services that are provided after the individual has stabilized, if applicable and other community-based services as may be deemed necessary and appropriate and notify pretrial services agencies and the defense counsel of the person's discharge. Pretrial services agencies are responsible for ensuring continuity of care for the principal in the community.(c) "Pretrial services." Pretrial services agencies shall be required, upon the request of the court to provide a summary of the assessment, limited to necessary and relevant information relating to the principal's completion of an assessment and evaluation, placement, treatment, and discharge from the hospital solely for the purpose of ensuring compliance with the conditions of release and in accordance with any applicable state and federal confidentiality laws. Conditions of release may not be revoked solely based on noncompliance with treatment.(d) "Confidential." Any clinical record produced as a part of the assessment, services or treatment plans required pursuant to this subdivision shall be considered confidential and shall not be considered part of the public record, and access to such records shall be limited in accordance with applicable federal and state privacy laws. Such information shall not be used as part of the criminal proceeding and shall be expunged upon the resolution of the case.(e) "Referral." Courts shall refer the principal, where appropriate, to a judicial diversion program as defined in section 216.00 of this chapter or to any other appropriate treatment court.4. "Commit to the custody of the sheriff." A court commits a principal to the custody of the sheriff when, having acquired control over the principal's person, it orders that the principal be confined in the custody of the sheriff during the pendency of the criminal action or proceeding involved.5. "Securing order" means an order of a court committing a principal to the custody of the sheriff or fixing bail, where authorized, or releasing the principal on the principal's own recognizance or releasing the principal under non-monetary conditions, or, as otherwise authorized under this title, ordering non-monetary conditions in conjunction with fixing bail.6. "Order of recognizance or bail" means a securing order releasing a principal on the principal's own recognizance or under non-monetary conditions or, where authorized, fixing bail.7. "Application for recognizance or bail" means an application by a principal that the court, instead of committing the principal to or retaining the principal in the custody of the sheriff, either release the principal on the principal's own recognizance, release under non-monetary conditions, or, where authorized, fix bail.8. "Post bail" means to deposit bail in the amount and form fixed by the court, with the court or with some other authorized public servant or agency.9. "Bail" means cash bail, a bail bond or money paid with a credit card.10. "Cash bail" means a sum of money, in the amount designated in an order fixing bail, posted by a principal or by another person on his behalf with a court or other authorized public servant or agency, upon the condition that such money will become forfeit to the people of the state of New York if the principal does not comply with the directions of a court requiring his attendance at the criminal action or proceeding involved or does not otherwise render himself amenable to the orders and processes of the court.11. "Obligor" means a person who executes a bail bond on behalf of a principal and thereby assumes the undertaking described therein. The principal himself may be an obligor.12. "Surety" means an obligor who is not a principal.13. "Bail bond" means a written undertaking, executed by one or more obligors, that the principal designated in such instrument will, while at liberty as a result of an order fixing bail and of the posting of the bail bond in satisfaction thereof, appear in a designated criminal action or proceeding when his attendance is required and otherwise render himself amenable to the orders and processes of the court, and that in the event that he fails to do so the obligor or obligors will pay to the people of the state of New York a specified sum of money, in the amount designated in the order fixing bail.14. "Appearance bond" means a bail bond in which the only obligor is the principal.15. "Surety bond" means a bail bond in which the obligor or obligors consist of one or more sureties or of one or more sureties and the principal.16. "Insurance company bail bond" means a surety bond, executed in the form prescribed by the superintendent of financial services, in which the surety-obligor is a corporation licensed by the superintendent of financial services to engage in the business of executing bail bonds.17. "Secured bail bond" means a bail bond secured by either:(a) Personal property which is not exempt from execution and which, over and above all liabilities and encumbrances, has a value equal to or greater than the total amount of the undertaking; or(b) Real property having a value of at least twice the total amount of the undertaking. For purposes of this paragraph, value of real property is determined by either:(i) dividing the last assessed value of such property by the last given equalization rate or in a special assessing unit, as defined in article eighteen of the real property tax law, the appropriate class ratio established pursuant to section twelve hundred two of such law of the assessing municipality wherein the property is situated and by deducting from the resulting figure the total amount of any liens or other encumbrances upon such property; or(ii) the value of the property as indicated in a certified appraisal report submitted by a state certified general real estate appraiser duly licensed by the department of state as provided in section one hundred sixty-j of the executive law, and by deducting from the appraised value the total amount of any liens or other encumbrances upon such property. A lien report issued by a title insurance

company licensed under article sixty-four of the insurance law, that guarantees the correctness of a lien search conducted by it, shall be presumptive proof of liens upon the property.18. "Partially secured bail bond" means a bail bond secured only by a deposit of a sum of money not exceeding ten percent of the total amount of the undertaking.19. "Unsecured bail bond" means a bail bond, other than an insurance company bail bond, not secured by any deposit of or lien upon property.20. "Court" includes, where appropriate, a judge authorized to act as described in a particular statute, though not as a court.21. "Qualifies for electronic monitoring," for purposes of subdivision four of section 510.40 of this title, means a person charged with a felony, a misdemeanor crime of domestic violence, a misdemeanor defined in article one hundred thirty of the penal law, a crime and the circumstances of paragraph (b) of subdivision two of section 530.60 of this title apply, or any misdemeanor where the defendant stands previously convicted, within the past five years, of a violent felony offense as defined in section 70.02 of the penal law. For the purposes of this subdivision, in calculating such five year period, any period of time during which the defendant was incarcerated for any reason between the time of the commission of any such previous crime and the time of commission of the present crime shall be excluded and such five year period shall be extended by a period or periods equal to the time served under such incarceration.22. "Misdemeanor crime of domestic violence," for purposes of subdivision twenty-one of this section, means a misdemeanor under the penal law provisions and circumstances described in subdivision one of section 530.11 of this title. (a) that the principal be in contact with a pretrial services agency serving principals in that county; (b) that the principal abide by reasonable, specified restrictions on travel that are reasonably related to an actual risk of flight from the jurisdiction, or that the principal surrender his or her passport; (c) that the principal refrain from possessing a firearm, destructive device or other dangerous weapon; (d) that, upon a finding in accordance with subdivision four of section 510.45 of this title, the person be placed in reasonable pretrial supervision with a pretrial services agency serving principals in that county, provided, however that where non-monetary conditions are imposed in combination with a securing order also fixing bail, the court shall not be required to make such separate finding; (e) that the principal refrain from associating with certain persons who are connected with the instant charge, including, when appropriate, specified victims, witnesses, or co-defendants; (f) that the principal be referred to a pretrial services agency for placement in mandatory programming, including counseling, treatment, including but not limited to mental health and chemical dependence treatment, and intimate partner violence intervention programs. Where applicable, the court may refer the principal to a crisis stabilization center or direct that the principal be removed to a hospital pursuant to section 9.43 of the mental hygiene law; (g) that the principal make diligent efforts to maintain employment, housing, or enrollment in school or educational programming; (h) that the principal obey an order of protection issued by the court, including an order issued pursuant to section 530.11 of this title; (i) that the principal obey conditions set by the court addressed to the safety of a victim of a family offense as defined in section 530.11 of this title including conditions that may be requested by or on behalf of the victim; and (j) that, when it is shown pursuant to paragraph (a) of subdivision four of section 510.40 of this title that no other realistic non-monetary condition or set of non-monetary conditions will suffice to reasonably assure the principal's return to court, the principal's location be monitored with an approved electronic monitoring device, in accordance with such subdivision four of section 510.40 of this title. 3-b. Subdivision three-a of this section presents a non-exclusive list of conditions that may be considered and imposed by law, singularly or in combination, when reasonable under the circumstances of the defendant, the case, and the situation of the defendant. The court need not necessarily order one or more specific conditions first before ordering one or more or additional conditions. 3-c. (a) "Release for mental health assessment and evaluation." When a principal appearing before the court appears, by clear and convincing evidence, to be mentally ill at the present moment such that if left unattended their conduct may result in harm to himself or herself or others, the court may: order as a condition of release under supervision that the principal seek a voluntary psychiatric assessment under section 9.13 of the mental hygiene law if the principal has a recently documented history of mental illness or psychiatric hospitalization, and the defense consents to the assessment. (b) "Involuntary assessment pending release." When a principal appearing before the court appears, by clear and convincing evidence, to be mentally ill at the present moment such that if left unattended their conduct may result in immediate serious harm to himself or herself or others, the court may order as a condition of release under supervision that the principal be taken by an entity, including but not limited to, pretrial services agencies, or another qualified provider, to a local hospital for immediate psychiatric assessment involuntarily under section 9.43 of the mental hygiene law if the principal is conducting himself or herself before the court, in such a manner which in a person who is not mentally ill would be deemed disorderly conduct which is likely to result in immediate serious harm to himself or herself or others. The court is also authorized to request peace officers, when acting pursuant to their special duties, or police officers, who are members of an authorized police department or force or of a sheriff's department, to take into custody and transport such person to a hospital for determination by the director of community services when such person qualifies for admission pursuant to this section. The court may authorize an ambulance service, as defined by subdivision two of section three thousand one of the public health law, to transport such person to any hospital specified in subdivision (a) of section 9.39 of the mental hygiene law or any comprehensive psychiatric emergency program specified in subdivision (a) of section 9.40 of the mental hygiene law, that is willing to receive such person. Upon removal, there shall be a determination made by the director of such hospital or program whether such person should be retained therein pursuant to section 9.39 of the mental hygiene law. If the principal is hospitalized, at the time of release the hospital shall complete a discharge plan with linkages to community-based mental health treatment, including services that are provided after the individual has stabilized, if applicable and other community-based services as may be deemed necessary and appropriate and notify pretrial services agencies and the defense counsel of the person's discharge. Pretrial services agencies are responsible for ensuring continuity of care for the principal in the community. (c) "Pretrial services." Pretrial services agencies shall be required, upon the request of the court to provide a summary of the assessment, limited to necessary and relevant information relating to the principal's completion of

an assessment and evaluation, placement, treatment, and discharge from the hospital solely for the purpose of ensuring compliance with the conditions of release and in accordance with any applicable state and federal confidentiality laws. Conditions of release may not be revoked solely based on noncompliance with treatment. (d) "Confidential." Any clinical record produced as a part of the assessment, services or treatment plans required pursuant to this subdivision shall be considered confidential and shall not be considered part of the public record, and access to such records shall be limited in accordance with applicable federal and state privacy laws. Such information shall not be used as part of the criminal proceeding and shall be expunged upon the resolution of the case. (e) "Referral." Courts shall refer the principal, where appropriate, to a judicial diversion program as defined in section 216.00 of this chapter or to any other appropriate treatment court. 4. "Commit to the custody of the sheriff." A court commits a principal to the custody of the sheriff when, having acquired control over the principal's person, it orders that the principal be confined in the custody of the sheriff during the pendency of the criminal action or proceeding involved. 5. "Securing order" means an order of a court committing a principal to the custody of the sheriff or fixing bail, where authorized, or releasing the principal on the principal's own recognizance or releasing the principal under non-monetary conditions, or, as otherwise authorized under this title, ordering non-monetary conditions in conjunction with fixing bail. 6. "Order of recognizance or bail" means a securing order releasing a principal on the principal's own recognizance or under non-monetary conditions or, where authorized, fixing bail. 7. "Application for recognizance or bail" means an application by a principal that the court, instead of committing the principal to or retaining the principal in the custody of the sheriff, either release the principal on the principal's own recognizance, release under non-monetary conditions, or, where authorized, fix bail. 8. "Post bail" means to deposit bail in the amount and form fixed by the court, with the court or with some other authorized public servant or agency. 9. "Bail" means cash bail, a bail bond or money paid with a credit card. 10. "Cash bail" means a sum of money, in the amount designated in an order fixing bail, posted by a principal or by another person on his behalf with a court or other authorized public servant or agency, upon the condition that such money will become forfeit to the people of the state of New York if the principal does not comply with the directions of a court requiring his attendance at the criminal action or proceeding involved or does not otherwise render himself amenable to the orders and processes of the court. 11. "Obligor" means a person who executes a bail bond on behalf of a principal and thereby assumes the undertaking described therein. The principal himself may be an obligor. 12. "Surety" means an obligor who is not a principal. 13. "Bail bond" means a written undertaking, executed by one or more obligors, that the principal designated in such instrument will, while at liberty as a result of an order fixing bail and of the posting of the bail bond in satisfaction thereof, appear in a designated criminal action or proceeding when his attendance is required and otherwise render himself amenable to the orders and processes of the court, and that in the event that he fails to do so the obligor or obligors will pay to the people of the state of New York a specified sum of money, in the amount designated in the order fixing bail. 14. "Appearance bond" means a bail bond in which the only obligor is the principal. 15. "Surety bond" means a bail bond in which the obligor or obligors consist of one or more sureties or of one or more sureties and the principal. 16. "Insurance company bail bond" means a surety bond, executed in the form prescribed by the superintendent of financial services, in which the surety-obligor is a corporation licensed by the superintendent of financial services to engage in the business of executing bail bonds. 17. "Secured bail bond" means a bail bond secured by either: (a) Personal property which is not exempt from execution and which, over and above all liabilities and encumbrances, has a value equal to or greater than the total amount of the undertaking; or (b) Real property having a value of at least twice the total amount of the undertaking. For purposes of this paragraph, value of real property is determined by either: (i) dividing the last assessed value of such property by the last given equalization rate or in a special assessing unit, as defined in article eighteen of the real property tax law, the appropriate class ratio established pursuant to section twelve hundred two of such law of the assessing municipality wherein the property is situated and by deducting from the resulting figure the total amount of any liens or other encumbrances upon such property; or (ii) the value of the property as indicated in a certified appraisal report submitted by a state certified general real estate appraiser duly licensed by the department of state as provided in section one hundred sixty-j of the executive law, and by deducting from the appraised value the total amount of any liens or other encumbrances upon such property. A lien report issued by a title insurance company licensed under article sixty-four of the insurance law, that guarantees the correctness of a lien search conducted by it, shall be presumptive proof of liens upon the property. 18. "Partially secured bail bond" means a bail bond secured only by a deposit of a sum of money not exceeding ten percent of the total amount of the undertaking. 19. "Unsecured bail bond" means a bail bond, other than an insurance company bail bond, not secured by any deposit of or lien upon property. 20. "Court" includes, where appropriate, a judge authorized to act as described in a particular statute, though not as a court. 21. "Qualifies for electronic monitoring," for purposes of subdivision four of section 510.40 of this title, means a person charged with a felony, a misdemeanor crime of domestic violence, a misdemeanor defined in article one hundred thirty of the penal law, a crime and the circumstances of paragraph (b) of subdivision two of section 530.60 of this title apply, or any misdemeanor where the defendant stands previously convicted, within the past five years, of a violent felony offense as defined in section 70.02 of the penal law. For the purposes of this subdivision, in calculating such five year period, any period of time during which the defendant was incarcerated for any reason between the time of the commission of any such previous crime and the time of commission of the present crime shall be excluded and such five year period shall be extended by a period or periods equal to the time served under such incarceration. 22. "Misdemeanor crime of domestic violence," for purposes of subdivision twenty-one of this section, means a misdemeanor under the penal law provisions and circumstances described in subdivision one of section 530.11 of this title.

to be applied. The imposition of a specific type of securing order is in some cases required by law and in other cases within the discretion of the court in accordance with the principles of, and pursuant to its authority granted under, this title. 1. When a principal, whose future court attendance at a criminal action or proceeding is or may be required, comes under the control of a court, such court shall impose a securing order in accordance with this title. Except as otherwise required by law, the court shall make an individualized determination as to whether the principal poses a risk of flight to avoid prosecution, consider the kind and degree of control or restriction necessary to reasonably assure the principal's return to court, and select a securing order consistent with its determination under this subdivision. The court shall explain the basis for its determination and its choice of securing order on the record or in writing. In making a determination under this subdivision, the court must consider and take into account available information about the principal, including:(a) The principal's activities and history;(b) If the principal is a defendant, the charges facing the principal;(c) The principal's criminal conviction record if any;(d) The principal's record of previous adjudication as a juvenile delinquent, as retained pursuant to section 354.1 of the family court act, or, of pending cases where fingerprints are retained pursuant to section 306.1 of such act, or a youthful offender, if any;(e) The principal's previous record with respect to flight to avoid criminal prosecution;(f) If monetary bail is authorized, according to the restrictions set forth in this title, the principal's individual financial circumstances, and, in cases where bail is authorized, the principal's ability to post bail without posing undue hardship, as well as his or her ability to obtain a secured, unsecured, or partially secured bond;(g) Any violation by the principal of an order of protection issued by any court;(h) The principal's history of use or possession of a firearm;(i) Whether the charge is alleged to have caused serious harm to an individual or group of individuals; and(j) If the principal is a defendant, in the case of an application for a securing order pending appeal, the merit or lack of merit of the appeal.2. A principal is entitled to representation by counsel under this chapter in preparing an application for release, when a securing order is being considered and when a securing order is being reviewed for modification, revocation or termination. If the principal is financially unable to obtain counsel, counsel shall be assigned to the principal.3. In cases other than as described in subdivision four of this section, the court shall release the principal pending trial on the principal's own recognizance, unless the court finds on the record or in writing that release on the principal's own recognizance will not reasonably assure the principal's return to court. In such instances, the court shall release the principal under non-monetary conditions as provided for in subdivision three-a of section 500.10 of this title that will reasonably assure the principal's return to court. The court shall explain its choice of securing order on the record or in writing.4. Where the principal stands charged with a qualifying offense, the court, unless otherwise prohibited by law, may in its discretion release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, or order non-monetary conditions in conjunction with fixing bail, or, where the defendant is charged with a qualifying offense which is a felony, the court may commit the principal to the custody of the sheriff. A principal stands charged with a qualifying offense for the purposes of this subdivision when he or she stands charged with:(a) a felony enumerated in section 70.02 of the penal law, other than robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling;(b) a crime involving witness intimidation under section 215.15 of the penal law;(c) a crime involving witness tampering under section 215.11, 215.12 or 215.13 of the penal law;(d) a class A felony defined in the penal law, provided that for class A felonies under article two hundred twenty of the penal law, only class A-I felonies shall be a qualifying offense;(e) a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law, or a felony sex offense defined in section 70.80 of the penal law, or a crime involving incest as defined in section 255.25, 255.26 or 255.27 of such law, or a misdemeanor defined in article one hundred thirty of such law;(f) conspiracy in the second degree as defined in section 105.15 of the penal law, where the underlying allegation of such charge is that the defendant conspired to commit a class A felony defined in article one hundred twenty-five of the penal law;(g) money laundering in support of terrorism in the first degree as defined in section 470.24 of the penal law; money laundering in support of terrorism in the second degree as defined in section 470.23 of the penal law; money laundering in support of terrorism in the third degree as defined in section 470.22 of the penal law; money laundering in support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law;(h) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this title;(i) facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law, promoting an obscene sexual performance by a child as defined in section 263.10 of the penal law or promoting a sexual performance by a child as defined in section 263.15 of the penal law;(j) any crime that is alleged to have caused the death of another person;(k) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law or unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is alleged to have committed the offense against a member of the defendant's same family or household

as defined in subdivision one of section 530.11 of this title;(l) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular assault in the first degree as defined in section 120.04 of the penal law;(m) assault in the third degree as defined in section 120.00 of the penal law or arson in the third degree as defined in section 150.10 of the penal law, when such crime is charged as a hate crime as defined in section 485.05 of the penal law;(n) aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law or criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law;(o) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise corruption as defined in section 460.20 of the penal law, or money laundering in the first degree as defined in section 470.20 of the penal law;(p) failure to register as a sex offender pursuant to section one hundred sixty-eight-t of the correction law or endangering the welfare of a child as defined in subdivision one of section 260.10 of the penal law, where the defendant is required to maintain registration under article six-C of the correction law and designated a level three offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law;(q) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law, or a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal law;(r) any felony offense committed by the principal while serving a sentence of probation or while released to post release supervision;(s) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law;(t) any felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance, released under conditions, or had yet to be arraigned after the issuance of a desk appearance ticket for a separate felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law, provided, however, that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision. For the purposes of this paragraph, "harm to an identifiable person or property" shall include but not be limited to theft of or damage to property. However, based upon a review of the facts alleged in the accusatory instrument, if the court determines that such theft is negligible and does not appear to be in furtherance of other criminal activity, the principal shall be released on his or her own recognizance or under appropriate non-monetary conditions; or(u) criminal possession of a weapon in the third degree as defined in subdivision three of section 265.02 of the penal law or criminal sale of a firearm to a minor as defined in section 265.16 of the penal law.5. Notwithstanding the provisions of subdivisions three and four of this section, with respect to any charge for which bail or remand is not ordered, and for which the court would not or could not otherwise require bail or remand, a defendant may, at any time, request that the court set bail in a nominal amount requested by the defendant in the form specified in paragraph (a) of subdivision one of section 520.10 of this title; if the court is satisfied that the request is voluntary, the court shall set such bail in such amount.6. When a securing order is revoked or otherwise terminated in the course of an uncompleted action or proceeding but the principal's future court attendance still is or may be required and the principal is still under the control of a court, a new securing order must be issued. When the court revokes or otherwise terminates a securing order which committed the principal to the custody of the sheriff, the court shall give written notification to the sheriff of such revocation or termination of the securing order. (a) The principal's activities and history; (b) If the principal is a defendant, the charges facing the principal; (c) The principal's criminal conviction record if any; (d) The principal's record of previous adjudication as a juvenile delinquent, as retained pursuant to section 354.1 of the family court act, or, of pending cases where fingerprints are retained pursuant to section 306.1 of such act, or a youthful offender, if any; (e) The principal's previous record with respect to flight to avoid criminal prosecution; (f) If monetary bail is authorized, according to the restrictions set forth in this title, the principal's individual financial circumstances, and, in cases where bail is authorized, the principal's ability to post bail without posing undue hardship, as well as his or her ability to obtain a secured, unsecured, or partially secured bond; (g) Any violation by the principal of an order of protection issued by any court; (h) The principal's history of use or possession of a firearm; (i) Whether the charge is alleged to have caused serious harm to an individual or group of individuals; and (j) If the principal is a defendant, in the case of an application for a securing order pending appeal, the merit or lack of merit of the appeal. 2. A principal is entitled to representation by counsel under this chapter in preparing an application for release, when a securing order is being considered and when a securing order is being reviewed for modification, revocation or termination. If the principal is financially unable to obtain counsel, counsel shall be assigned to the principal. 3. In cases other than as described in subdivision four of this section, the court shall release the principal pending trial on the principal's own recognizance, unless the court finds on the record or in writing that release on the principal's own recognizance will not reasonably assure the principal's return to court. In such instances, the court shall release the principal under non-monetary conditions as provided for in subdivision three-a of section 500.10 of this title that will reasonably assure the principal's return to court. The court shall explain its choice of securing order on the record or in writing. 4. Where the principal stands charged with a qualifying offense, the court, unless otherwise prohibited by law, may in its discretion release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, or order non-monetary conditions in conjunction with fixing bail, or, where the defendant is charged with a qualifying offense which is a felony, the court may commit the principal to the custody of the sheriff. A principal stands charged with a qualifying offense for the purposes of this subdivision when he or she stands charged with: (a) a felony enumerated in section 70.02 of the penal law, other than robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling; (b) a crime involving witness intimidation under section 215.15 of the penal law; (c) a crime involving witness tampering under section 215.11,

215.12 or 215.13 of the penal law; (d) a class A felony defined in the penal law, provided that for class A felonies under article two hundred twenty of the penal law, only class A-I felonies shall be a qualifying offense; (e) a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law, or a felony sex offense defined in section 70.80 of the penal law, or a crime involving incest as defined in section 255.25, 255.26 or 255.27 of such law, or a misdemeanor defined in article one hundred thirty of such law; (f) conspiracy in the second degree as defined in section 105.15 of the penal law, where the underlying allegation of such charge is that the defendant conspired to commit a class A felony defined in article one hundred twenty-five of the penal law; (g) money laundering in support of terrorism in the first degree as defined in section 470.24 of the penal law; money laundering in support of terrorism in the second degree as defined in section 470.23 of the penal law; money laundering in support of terrorism in the third degree as defined in section 470.22 of the penal law; money laundering in support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law; (h) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this title; (i) facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law, promoting an obscene sexual performance by a child as defined in section 263.10 of the penal law or promoting a sexual performance by a child as defined in section 263.15 of the penal law; (j) any crime that is alleged to have caused the death of another person; (k) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law or unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is alleged to have committed the offense against a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this title; (l) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular assault in the first degree as defined in section 120.04 of the penal law; (m) assault in the third degree as defined in section 120.00 of the penal law or arson in the third degree as defined in section 150.10 of the penal law, when such crime is charged as a hate crime as defined in section 485.05 of the penal law; (n) aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law or criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law; (o) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise corruption as defined in section 460.20 of the penal law, or money laundering in the first degree as defined in section 470.20 of the penal law; (p) failure to register as a sex offender pursuant to section one hundred sixty-eight-t of the correction law or endangering the welfare of a child as defined in subdivision one of section 260.10 of the penal law, where the defendant is required to maintain registration under article six-C of the correction law and designated a level three offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law; (q) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law, or a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal law; (r) any felony offense committed by the principal while serving a sentence of probation or while released to post release supervision; (s) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law; (t) any felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance, released under conditions, or had yet to be arraigned after the issuance of a desk appearance ticket for a separate felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law, provided, however, that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision. For the purposes of this paragraph, "harm to an identifiable person or property" shall include but not be limited to theft of or damage to property. However, based upon a review of the facts alleged in the accusatory instrument, if the court determines that such theft is negligible and does not appear to be in furtherance of other criminal activity, the principal shall be released on his or her own recognizance or under appropriate non-monetary conditions; or (u) criminal possession of a weapon in the third degree as defined in subdivision three of section 265.02 of the penal law or criminal sale of a firearm to a minor as defined in section 265.16 of the penal law. 5. Notwithstanding the provisions of subdivisions three and four of this section, with respect to any charge for which bail or remand is not ordered, and for which the court would not or could not otherwise require bail or remand, a defendant may, at any time, request that the court set bail in a nominal amount requested by the defendant in the form specified in paragraph (a) of subdivision one of section 520.10 of this title; if the court is satisfied that the request is voluntary, the court shall set such bail in such amount. 6. When a securing order is revoked or otherwise terminated in the course of an uncompleted action or proceeding but the principal's future court attendance still is or may be required and the principal is still under the control of a court, a new securing order must be issued. When the court revokes or otherwise terminates a securing order which committed the principal to the custody of the sheriff, the court shall give written notification to the sheriff of such revocation or termination of the securing order.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle P - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants and Witnesses Under Control of Court--Recognizance, BailArticle 510 - Recognizance, Bail and Commitment-Determination of Application for Recognizance or Bail, Issuance of Securing Orders, and Related Matters510.15 - Commitment of Principal Under Seventeen or Eighteen.

1. When a principal who is under the age of sixteen is committed to the custody of the sheriff the court must direct that the principal be taken to and lodged in a place certified by the office of children and family services as a juvenile detention facility for the reception of children. When a principal who (a) commencing October first, two thousand eighteen, is sixteen years of age; or (b) commencing October first, two thousand nineteen, is sixteen or seventeen years of age, is committed to the custody of the sheriff, the court must direct that the principal be taken to and lodged in a place certified by the office of children and family services in conjunction with the state commission of correction as a specialized secure juvenile detention facility for older youth. Where such a direction is made the sheriff shall deliver the principal in accordance therewith and such person shall although lodged and cared for in a juvenile detention facility continue to be deemed to be in the custody of the sheriff. No principal under the age specified to whom the provisions of this section may apply shall be detained in any prison, jail, lockup, or other place used for adults convicted of a crime or under arrest and charged with the commission of a crime without the approval of the office of children and family services which shall consult with the commission of correction if the principal is sixteen years of age or older in the case of each principal and the statement of its reasons therefor; nor shall a principal under the age specified who is charged solely with a violation as defined in subdivision three of section 10.00 of the penal law be subject to detention. The sheriff shall not be liable for any acts done to or by such principal resulting from negligence in the detention of and care for such principal, when the principal is not in the actual custody of the sheriff. 2. Except upon consent of the defendant or for good cause shown, in any case in which a new securing order is issued for a principal previously committed to the custody of the sheriff pursuant to this section, such order shall further direct the sheriff to deliver the principal from a juvenile detention facility to the person or place specified in the order.

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1. Upon any occasion when a court has issued a securing order with respect to a principal and the principal is confined in the custody of the sheriff as a result of the securing order or a previously issued securing order, the principal may make an application for recognizance, release under non-monetary conditions, bail, a reduction of bail, or imposition of non-monetary conditions in conjunction with bail or a reduction of bail. 2. (a) The principal is entitled to representation by counsel in the making and presentation of such application. If the principal is financially unable to obtain counsel, counsel shall be assigned to the principal.(b) Upon such application, the principal must be accorded an opportunity to be heard, present evidence and to contend that an order of recognizance, release under non-monetary conditions or, where authorized, bail, a reduction of bail, or imposition of non-monetary conditions in conjunction with bail or a reduction of bail, must or should issue, that the court should release the principal on the principal's own recognizance or under non-monetary conditions rather than fix bail, or where bail has been imposed, reduce the amount of bail and impose non-monetary conditions, where authorized under this title, and that if bail is authorized and fixed it should be in a suggested amount and form.3. When an application for a change in securing order is brought under this section and one or more of the charge or charges on which such securing order was based have been dismissed and/or reduced such that the securing order is no longer supported by the provisions of section 510.10 of this article, the court shall impose a new securing order in accordance with such section. (b) Upon such application, the principal must be accorded an opportunity to be heard, present evidence and to contend that an order of recognizance, release under non-monetary conditions or, where authorized, bail, a reduction of bail, or imposition of non-monetary conditions in conjunction with bail or a reduction of bail, must or should issue, that the court should release the principal on the principal's own recognizance or under non-monetary conditions rather than fix bail, or where bail has been imposed, reduce the amount of bail and impose non-monetary conditions, where authorized under this title, and that if bail is authorized and fixed it should be in a suggested amount and form. 3. When an application for a change in securing order is brought under this section and one or more of the charge or charges on which such securing order was based have been dismissed and/or reduced such that the securing order is no longer supported by the provisions of section 510.10 of this article, the court shall impose a new securing order in accordance with such section.

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controlling determination. 1. With respect to any principal, the court in all cases, unless otherwise provided by law, must impose a securing order in accordance with section 510.10 of this article, and shall explain the basis for its determination and choice of securing order on the record or in writing. 2. Where the principal is a defendant-appellant in a pending appeal from a judgment of

conviction, the court must also consider the likelihood of ultimate reversal of the judgment. A determination that the appeal is palpably without merit alone justifies, but does not require, a denial of the application, regardless of any determination made with respect to the factors specified in subdivision one of this section. 3. When bail or recognizance is ordered, the court shall inform the principal, if the principal is a defendant charged with the commission of a felony, that the release is conditional and that the court may revoke the order of release and may be authorized to commit the principal to the custody of the sheriff in accordance with the provisions of subdivision two of section 530.60 of this chapter if the principal commits a subsequent felony while at liberty upon such order.

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alleged violations of conditions of release. 1. Upon ordering that a principal be released on the principal's own recognizance, or released under non-monetary conditions, or, if bail has been fixed, upon the posting of bail, the court must direct the principal to appear in the criminal action or proceeding involved whenever the principal's attendance may be required and to be at all times amenable to the orders and processes of the court. If such principal is in the custody of the sheriff or at liberty upon bail at the time of the order, the court must direct that the principal be discharged from such custody or, as the case may be, that the principal's bail be exonerated. 2. Upon the issuance of an order fixing bail, where authorized, and upon the posting thereof, the court must examine the bail to determine whether it complies with the order. If it does, the court must, in the absence of some factor or circumstance which in law requires or authorizes disapproval thereof, approve the bail and must issue a certificate of release, authorizing the principal to be at liberty, and, if the principal is in the custody of the sheriff at the time, directing the sheriff to discharge the principal therefrom. If the bail fixed is not posted, or is not approved after being posted, the court must order that the principal be committed to the custody of the sheriff. In the event of any such non-approval, the court shall explain promptly in writing the reasons therefor. 3. Non-monetary conditions of release shall be individualized and established in writing by the court. At future court appearances, the court shall consider a lessening of conditions or modification of conditions to a less burdensome form based on the principal's compliance with such conditions of release. In the event of alleged non-compliance with the conditions of release in an important respect, pursuant to this subdivision, additional conditions may be imposed by the court, on the record or in writing, only after notice of the facts and circumstances of such alleged non-compliance, reasonable under the circumstances, affording the principal and the principal's attorney and the people an opportunity to present relevant, admissible evidence, relevant witnesses and to cross-examine witnesses, and a finding by clear and convincing evidence that the principal violated a condition of release in an important respect. Following such a finding, in determining whether to impose additional conditions for non-compliance, the court shall consider and may select conditions as provided for in subdivision three-a of section 500.10 of this title that will reasonably assure the defendant's return to court. The court shall explain on the record or in writing the reasons for its determination and for any changes to the conditions imposed. 4. (a) Electronic monitoring of a principal's location may be ordered only if the court finds, after notice, an opportunity to be heard and an individualized determination explained on the record or in writing, that the defendant qualifies for electronic monitoring in accordance with subdivision twenty-one of section 500.10 of this title, and no other realistic non-monetary condition or set of non-monetary conditions will suffice to reasonably assure a principal's return to court.(b) The specific method of electronic monitoring of the principal's location must be approved by the court. The procedure and method of such electronic monitoring shall reflect the findings of the individualized determination warranting such imposition of electronic monitoring to reasonably assure the principal's return to court, and shall be unobtrusive to the greatest extent practicable.(c) Electronic monitoring of the location of a principal may be conducted only by a public entity under the supervision and control of a county or municipality or a non-profit entity under contract to the county, municipality or the state. A county or municipality shall be authorized to enter into a contract with another county or municipality in the state to monitor principals under non-monetary conditions of release in its county, but counties, municipalities and the state shall not contract with any private for-profit entity for such purposes. Counties, municipalities and the state may contract with a private for-profit entity to supply electronic monitoring devices or other items, provided that any interaction with persons under electronic monitoring or the data produced by such monitoring shall be conducted solely by employees of a county, municipality, the state, or a non-profit entity under contract with such county, municipality or the state.(d) Electronic monitoring of a principal's location may be for a maximum period of sixty days, and may be renewed for such period, after notice, an opportunity to be heard and a de novo, individualized determination in accordance with this subdivision, which shall be explained on the record or in writing.A defendant subject to electronic location monitoring under this subdivision shall be considered held or confined in custody for purposes of section 180.80 of this chapter and shall be considered committed to the custody of the sheriff for purposes of section 170.70 of the chapter, as applicable.5. If a principal is released under non-monetary conditions, the court shall, on the record and in an individualized written document provided to the principal, notify the principal, in plain language and a manner sufficiently clear and specific:(a) of any conditions to which the principal is subject, to serve as a guide for the principal's conduct; and(b) that the possible consequences for violation of such a condition may include revocation of the securing order and the ordering of a more restrictive securing order. (b) The specific method of electronic monitoring of the principal's location must be approved by the court. The procedure and method of such electronic monitoring shall reflect the findings of the individualized determination warranting such imposition of electronic

monitoring to reasonably assure the principal's return to court, and shall be unobtrusive to the greatest extent practicable. (c) Electronic monitoring of the location of a principal may be conducted only by a public entity under the supervision and control of a county or municipality or a non-profit entity under contract to the county, municipality or the state. A county or municipality shall be authorized to enter into a contract with another county or municipality in the state to monitor principals under non-monetary conditions of release in its county, but counties, municipalities and the state shall not contract with any private for-profit entity for such purposes. Counties, municipalities and the state may contract with a private for-profit entity to supply electronic monitoring devices or other items, provided that any interaction with persons under electronic monitoring or the data produced by such monitoring shall be conducted solely by employees of a county, municipality, the state, or a non-profit entity under contract with such county, municipality or the state. (d) Electronic monitoring of a principal's location may be for a maximum period of sixty days, and may be renewed for such period, after notice, an opportunity to be heard and a de novo, individualized determination in accordance with this subdivision, which shall be explained on the record or in writing. A defendant subject to electronic location monitoring under this subdivision shall be considered held or confined in custody for purposes of section 180.80 of this chapter and shall be considered committed to the custody of the sheriff for purposes of section 170.70 of the chapter, as applicable. 5. If a principal is released under non-monetary conditions, the court shall, on the record and in an individualized written document provided to the principal, notify the principal, in plain language and a manner sufficiently clear and specific: (a) of any conditions to which the principal is subject, to serve as a guide for the principal's conduct; and (b) that the possible consequences for violation of such a condition may include revocation of the securing order and the ordering of a more restrictive securing order.

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1. The court or, upon direction of the court, a certified pretrial services agency, shall notify all principals released under non-monetary conditions and on recognizance of all court appearances in advance by text message, telephone call, electronic mail or first class mail. The chief administrator of the courts shall, pursuant to subdivision one of section 10.40 of this chapter, develop a form which shall be offered to the principal at court appearances. On such form, which upon completion shall be retained in the court file, the principal may select one such preferred manner of notice. 2. Such form may request the information necessary for the defendant to be provided with notice in accordance with such single, selected manner of notice. After notice of such consequence, a defendant who intentionally declines to provide the information necessary for the defendant to be provided with such notice pursuant to this section shall forfeit the opportunity to receive such notice until such information is timely provided. Any failure by the court or certified pretrial services agency to provide notice of a scheduled court appearance in the manner provided in this section shall not in and of itself constitute grounds or authorization for the defendant to fail to appear for such scheduled court appearance.

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1. The office of court administration shall certify and regularly review for recertification one or more pretrial services agencies in each county to monitor principals released under non-monetary conditions. Such office shall maintain a listing on its public website identifying by county each pretrial services agency so certified in the state. 2. Every such agency shall be a public entity under the supervision and control of a county or municipality or a non-profit entity under contract to the county, municipality or the state. A county or municipality shall be authorized to enter into a contract with another county or municipality in the state to monitor principals under non-monetary conditions of release in its county, but counties, municipalities and the state shall not contract with any private for-profit entity for such purposes. 3. (a) Any questionnaire, instrument or tool used with a principal in the process of considering or determining the principal's possible release on recognizance, release under non-monetary conditions or on bail, or used with a principal in the process of considering or determining a condition or conditions of release or monitoring by a pretrial services agency, shall be promptly made available to the principal and the principal's counsel upon written request. Any such blank form questionnaire, instrument or tool regularly used in the county for such purpose or a related purpose shall be made available to any person promptly upon request.(b) Any such questionnaire, instrument or tool used to inform determinations on release or conditions of release shall be:(i) designed and implemented in a way that ensures the results are free from discrimination on the basis of race, national origin, sex, or any other protected class; and(ii) empirically validated and regularly revalidated, with such validation and revalidation studies and all underlying data, except personal identifying information for any defendant, publicly available upon request.4. Supervision by a pre-trial services agency may be ordered as a non-monetary condition pursuant to this title only if the court finds, after notice, an opportunity to be heard and an individualized determination explained on the record or in writing, that no other realistic non-monetary condition or set of non-monetary conditions will suffice to reasonably assure the principal's return to court.5. Each pretrial service agency certified by the office of court administration pursuant to this section shall at the end of each year prepare and file with such office an annual report, which the office shall compile, publish on its website and make available upon request to members of the public. Such reports shall not include any personal identifying information for any

individual defendants. Each such report, in addition to other relevant information, shall set forth, disaggregated by each county served:(a) the number of defendants supervised by the agency;(b) the length of time (in months) each such person was supervised by the agency prior to acquittal, dismissal, release on recognizance, revocation of release on conditions, and sentencing;(c) the race, ethnicity, age and sex of each person supervised;(d) the crimes with which each person supervised was charged;(e) the number of persons supervised for whom release conditions were modified by the court, describing generally for each person or group of persons the type and nature of the condition or conditions added or removed;(f) the number of persons supervised for whom release under conditions was revoked by the court, and the basis for such revocations; and(g) the court disposition in each supervised case, including sentencing information. (b) Any such questionnaire, instrument or tool used to inform determinations on release or conditions of release shall be: (i) designed and implemented in a way that ensures the results are free from discrimination on the basis of race, national origin, sex, or any other protected class; and (ii) empirically validated and regularly revalidated, with such validation and revalidation studies and all underlying data, except personal identifying information for any defendant, publicly available upon request. 4. Supervision by a pre-trial services agency may be ordered as a non-monetary condition pursuant to this title only if the court finds, after notice, an opportunity to be heard and an individualized determination explained on the record or in writing, that no other realistic non-monetary condition or set of non-monetary conditions will suffice to reasonably assure the principal's return to court. 5. Each pretrial service agency certified by the office of court administration pursuant to this section shall at the end of each year prepare and file with such office an annual report, which the office shall compile, publish on its website and make available upon request to members of the public. Such reports shall not include any personal identifying information for any individual defendants. Each such report, in addition to other relevant information, shall set forth, disaggregated by each county served: (a) the number of defendants supervised by the agency; (b) the length of time (in months) each such person was supervised by the agency prior to acquittal, dismissal, release on recognizance, revocation of release on conditions, and sentencing; (c) the race, ethnicity, age and sex of each person supervised; (d) the crimes with which each person supervised was charged; (e) the number of persons supervised for whom release conditions were modified by the court, describing generally for each person or group of persons the type and nature of the condition or conditions added or removed; (f) the number of persons supervised for whom release under conditions was revoked by the court, and the basis for such revocations; and (g) the court disposition in each supervised case, including sentencing information.

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1. When the attendance of a principal confined in the custody of the sheriff is required at the criminal action or proceeding at a particular time and place, the court may compel such attendance by directing the sheriff to produce the principal at such time and place. If the principal is at liberty on the principal's own recognizance or non-monetary conditions or on bail, the principal's attendance may be achieved or compelled by various methods, including notification and the issuance of a bench warrant, prescribed by law in provisions governing such matters with respect to the particular kind of action or proceeding involved. 2. Except when the principal is charged with a new crime while at liberty, absent relevant, credible evidence demonstrating that a principal's failure to appear for a scheduled court appearance was willful, the court, prior to issuing a bench warrant for a failure to appear for a scheduled court appearance, shall provide at least forty-eight hours notice to the principal or the principal's counsel that the principal is required to appear, in order to give the principal an opportunity to appear voluntarily.

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thereof. 1. The only authorized forms of bail are the following:(a) Cash bail.(b) An insurance company bail bond.(c) A secured surety bond.(d) A secured appearance bond.(e) A partially secured surety bond.(f) A partially secured appearance bond.(g) An unsecured surety bond.(h) An unsecured appearance bond.(i) Credit card or similar device; provided, however, that notwithstanding any other provision of law, any person posting bail by credit card or similar device also may be required to pay a reasonable administrative fee. The amount of such administrative fee and the time and manner of its payment shall be in accordance with the system established pursuant to subdivision four of section 150.30 of this chapter or paragraph (j) of subdivision two of section two hundred twelve of the judiciary law, as appropriate.2. The methods of fixing bail are as follows:(a) A court may designate the amount of the bail without designating the form or forms in which it may be posted. In such case, the bail may be posted in either of the forms specified in paragraphs (g) and (h) of subdivision one;(b) The court shall direct that the bail be posted in any one of three or more of the forms specified in subdivision one of this section, designated in the alternative, and may designate different amounts varying with the forms, except that one of the forms shall be either an unsecured or partially secured surety bond, as selected by the court. (a) Cash bail. (b) An insurance company bail bond. (c) A secured surety bond. (d) A secured appearance bond. (e) A partially secured surety bond. (f) A partially secured appearance bond. (g) An unsecured surety bond. (h) An unsecured appearance bond. (i) Credit card or similar device; provided, however, that notwithstanding any other provision of law, any person posting bail by credit card or similar device also may be required to pay a reasonable administrative fee. The amount of such administrative fee and the

time and manner of its payment shall be in accordance with the system established pursuant to subdivision four of section 150.30 of this chapter or paragraph (j) of subdivision two of section two hundred twelve of the judiciary law, as appropriate. 2. The methods of fixing bail are as follows: (a) A court may designate the amount of the bail without designating the form or forms in which it may be posted. In such case, the bail may be posted in either of the forms specified in paragraphs (g) and (h) of subdivision one; (b) The court shall direct that the bail be posted in any one of three or more of the forms specified in subdivision one of this section, designated in the alternative, and may designate different amounts varying with the forms, except that one of the forms shall be either an unsecured or partially secured surety bond, as selected by the court.

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1. Where a court has fixed bail pursuant to subdivision two of section 520.10, at any time after the principal has been committed to the custody of the sheriff pending the posting thereof, cash bail in the amount designated in the order fixing bail may be posted even though such bail was not specified in such order. Cash bail may be deposited with (a) the county treasurer of the county in which the criminal action or proceeding is pending or, in the city of New York with the commissioner of finance, or (b) the court which issued such order, or (c) the sheriff in whose custody the principal has been committed. Upon proof of the deposit of the designated amount the principal must be forthwith released from custody. 2. The person posting cash bail must complete and sign a form which states (a) the name, residential address and occupation of each person posting cash bail; and (b) the title of the criminal action or proceeding involved; and (c) the offense or offenses which are the subjects of the action or proceeding involved, and the status of such action or proceeding; and (d) the name of the principal and the nature of his involvement in or connection with such action or proceeding; and (e) that the person or persons posting cash bail undertake that the principal will appear in such action or proceeding whenever required and will at all times render himself amenable to the orders and processes of the court; and (f) the date of the principal's next appearance in court; and (g) an acknowledgement that the cash bail will be forfeited if the principal does not comply with any requirement or order of process to appear in court; and (h) the amount of money posted as cash bail. 3. Money posted as cash bail is and shall remain the property of the person posting it unless forfeited to the court.

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affidavits; form and contents thereof. 1. (a) Except as provided in paragraph (b) when a bail bond is to be posted in satisfaction of bail, the obligor or obligors must submit to the court a bail bond in the amount fixed, executed in the form prescribed in subdivision two, accompanied by a justifying affidavit of each obligor, executed in the form prescribed in subdivision four.(b) When a bail bond is to be posted in satisfaction of bail fixed for a defendant charged by information or simplified information or prosecutor's information with one or more traffic infractions and no other offense, the defendant may submit to the court, with the consent of the court, an insurance company bail bond covering the amount fixed, executed in a form prescribed by the superintendent of financial services.2. Except as provided in paragraph (b) of subdivision one, a bail bond must be subscribed and sworn to by each obligor and must state:(a) The name, residential address and occupation of each obligor; and(b) The title of the criminal action or proceeding involved; and(c) The offense or offenses which are the subjects of the action or proceeding involved, and the status of such action or proceeding; and(d) The name of the principal and the nature of his involvement in or connection with such action or proceeding; and(e) That the obligor, or the obligors jointly and severally, undertake that the principal will appear in such action or proceeding whenever required and will at all times render himself amenable to the orders and processes of the court; and(f) That in the event that the principal does not comply with any such requirement, order or process, such obligor or obligors will pay to the people of the state of New York a designated sum of money fixed by the court.3. A bail bond posted in the course of a criminal action is effective and binding upon the obligor or obligors until the imposition of sentence or other termination of the action, regardless of whether the action is dismissed in the local criminal court after an indictment on the same charge or charges by a superior court, and regardless of whether such action is partially conducted or prosecuted in a court or courts other than the one in which the action was pending when such bond was posted, unless prior to such termination such order of bail is vacated or revoked or the principal is surrendered, or unless the terms of such bond expressly limit its effectiveness to a lesser period; provided, however, the effectiveness of such bond may only be limited to a lesser period if the obligor or obligors submit notice of the limitation to the court and the district attorney not less than fourteen days before effectiveness ends.4. A justifying affidavit must be subscribed and sworn to by the obligor-affiant and must state his name, residential address and occupation. Depending upon the kind of bail bond which it justifies, such affidavit must contain further statements as follows:(a) An affidavit justifying an insurance company bail bond must state:(i) The amount of the premium paid to the obligor; and(ii) All security and all promises of indemnity received by the surety-obligor in connection with its execution of the bond, and the name, occupation and residential and business addresses of every person who has given any such indemnifying security or promise.An action by the surety-obligor against an indemnitor, seeking retention of security deposited by the latter with the former or enforcement of any indemnity agreement of a kind described in this sub-paragraph, will not lie except with respect to agreements and security specified in the justifying affidavit.(b) An affidavit justifying a secured bail bond must state every item of personal property deposited and of real property pledged as security, the value of each such item, and

the nature and amount of every lien or encumbrance thereon.(c) An affidavit justifying a partially secured bail bond or an unsecured bail bond must state the place and nature of the obligor-affiant's business or employment, the length of time he has been engaged therein, his income during the past year, and his average income over the past five years. (b) When a bail bond is to be posted in satisfaction of bail fixed for a defendant charged by information or simplified information or prosecutor's information with one or more traffic infractions and no other offense, the defendant may submit to the court, with the consent of the court, an insurance company bail bond covering the amount fixed, executed in a form prescribed by the superintendent of financial services. 2. Except as provided in paragraph (b) of subdivision one, a bail bond must be subscribed and sworn to by each obligor and must state: (a) The name, residential address and occupation of each obligor; and (b) The title of the criminal action or proceeding involved; and (c) The offense or offenses which are the subjects of the action or proceeding involved, and the status of such action or proceeding; and (d) The name of the principal and the nature of his involvement in or connection with such action or proceeding; and (e) That the obligor, or the obligors jointly and severally, undertake that the principal will appear in such action or proceeding whenever required and will at all times render himself amenable to the orders and processes of the court; and (f) That in the event that the principal does not comply with any such requirement, order or process, such obligor or obligors will pay to the people of the state of New York a designated sum of money fixed by the court. 3. A bail bond posted in the course of a criminal action is effective and binding upon the obligor or obligors until the imposition of sentence or other termination of the action, regardless of whether the action is dismissed in the local criminal court after an indictment on the same charge or charges by a superior court, and regardless of whether such action is partially conducted or prosecuted in a court or courts other than the one in which the action was pending when such bond was posted, unless prior to such termination such order of bail is vacated or revoked or the principal is surrendered, or unless the terms of such bond expressly limit its effectiveness to a lesser period; provided, however, the effectiveness of such bond may only be limited to a lesser period if the obligor or obligors submit notice of the limitation to the court and the district attorney not less than fourteen days before effectiveness ends. 4. A justifying affidavit must be subscribed and sworn to by the obligor-affiant and must state his name, residential address and occupation. Depending upon the kind of bail bond which it justifies, such affidavit must contain further statements as follows: (a) An affidavit justifying an insurance company bail bond must state: (i) The amount of the premium paid to the obligor; and (ii) All security and all promises of indemnity received by the surety-obligor in connection with its execution of the bond, and the name, occupation and residential and business addresses of every person who has given any such indemnifying security or promise. An action by the surety-obligor against an indemnitor, seeking retention of security deposited by the latter with the former or enforcement of any indemnity agreement of a kind described in this sub-paragraph, will not lie except with respect to agreements and security specified in the justifying affidavit. (b) An affidavit justifying a secured bail bond must state every item of personal property deposited and of real property pledged as security, the value of each such item, and the nature and amount of every lien or encumbrance thereon. (c) An affidavit justifying a partially secured bail bond or an unsecured bail bond must state the place and nature of the obligor-affiant's business or employment, the length of time he has been engaged therein, his income during the past year, and his average income over the past five years.

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1. Following the posting of a bail bond and the justifying affidavit or affidavits or the posting of cash bail, the court may conduct an inquiry for the purpose of determining the reliability of the obligors or person posting cash bail, the value and sufficiency of any security offered, and whether any feature of the undertaking contravenes public policy; provided that before undertaking an inquiry, of a person posting cash bail the court, after application of the district attorney, must have had reasonable cause to believe that the person posting cash bail is not in rightful possession of money posted as cash bail or that such money constitutes the fruits of criminal or unlawful conduct. The court may inquire into any matter stated or required to be stated in the justifying affidavits, and may also inquire into other matters appropriate to the determination, which include but are not limited to the following:(a) The background, character and reputation of any obligor, and, in the case of an insurance company bail bond, the qualifications of the surety-obligor and its executing agent; and(b) The source of any money or property deposited by any obligor as security, and whether any such money or property constitutes the fruits of criminal or unlawful conduct; and(c) The source of any money or property delivered or agreed to be delivered to any obligor as indemnification on the bond, and whether any such money or property constitutes the fruits of criminal or unlawful conduct; and(d) The background, character and reputation of any person who has indemnified or agreed to indemnify an obligor upon the bond; and whether any such indemnitor, not being licensed by the superintendent of financial services in accordance with the insurance law, has within a period of one month prior to such indemnity transaction given indemnification or security for like purpose in more than two cases not arising out of the same transaction; and(e) The source of any money posted as cash bail, and whether any such money constitutes the fruits of criminal or unlawful conduct;(f) The background, character and reputation of the person posting cash bail.2. Upon such inquiry, the court may examine, under oath or otherwise, the obligors and any other persons who may possess material information. The district attorney has a right to attend such inquiry, to call witnesses and to examine any witness in the proceeding. The court may, upon application of the district attorney, adjourn the proceeding for a reasonable period to allow him to investigate the matter.3. At the conclusion of the inquiry, the court must issue an order either approving or disapproving the bail. (a) The background, character and reputation of any obligor, and, in the case of an insurance company bail bond, the qualifications of the surety-obligor and its executing agent; and (b) The source of any money or property deposited by any obligor as security, and whether any such money or property constitutes the fruits

of criminal or unlawful conduct; and (c) The source of any money or property delivered or agreed to be delivered to any obligor as indemnification on the bond, and whether any such money or property constitutes the fruits of criminal or unlawful conduct; and (d) The background, character and reputation of any person who has indemnified or agreed to indemnify an obligor upon the bond; and whether any such indemnitor, not being licensed by the superintendent of financial services in accordance with the insurance law, has within a period of one month prior to such indemnity transaction given indemnification or security for like purpose in more than two cases not arising out of the same transaction; and (e) The source of any money posted as cash bail, and whether any such money constitutes the fruits of criminal or unlawful conduct; (f) The background, character and reputation of the person posting cash bail. 2. Upon such inquiry, the court may examine, under oath or otherwise, the obligors and any other persons who may possess material information. The district attorney has a right to attend such inquiry, to call witnesses and to examine any witness in the proceeding. The court may, upon application of the district attorney, adjourn the proceeding for a reasonable period to allow him to investigate the matter. 3. At the conclusion of the inquiry, the court must issue an order either approving or disapproving the bail.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle P - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants and Witnesses Under Control of Court--Recognizance, BailArticle 520 - Bail and Bail Bonds520.40 - Transfer of Cash Bail From Local Criminal Court to Superior Court.

court. When a local criminal court acquires control over the person of an accused and such court designates the amount of bail that the accused may post and such bail is posted in cash and subsequently the accused is arraigned in superior court where bail is fixed by such court, the accused may request that the cash bail posted in the local criminal court be transferred to the superior court. Notice of such request must be given to the person who posted cash bail. Upon such a request the superior court shall make an order directing the local criminal court to transfer the cash bail that it holds to the superior court for use in the superior court. If there is an overage, the superior court shall order it be paid over to the person who posted the cash bail in the local criminal court. If there is a deficiency, the accused shall post additional bail as directed by the superior court.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle P - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants and Witnesses Under Control of Court--Recognizance, BailArticle 530 - Orders of Recognizance or Bail With Respect to Defendants in Criminal Actions and Proceedings--When and by What Courts Authorized530.10 - Order of Recognizance Release Under Non-Monetary Conditions or Bail; in General.

bail; in general. Under circumstances prescribed in this article, a court, upon application of a defendant charged with or convicted of an offense, is required to issue a securing order for such defendant during the pendency of either: 1. A criminal action based upon such charge; or 2. An appeal taken by the defendant from a judgment of conviction or a sentence or from an order of an intermediate appellate court affirming or modifying a judgment of conviction or a sentence.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle P - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants and Witnesses Under Control of Court--Recognizance, BailArticle 530 - Orders of Recognizance or Bail With Respect to Defendants in Criminal Actions and Proceedings--When and by What Courts Authorized530.11 - Procedures for Family Offense Matters.

1. Jurisdiction. The family court and the criminal courts shall have concurrent jurisdiction over any proceeding concerning acts which would constitute disorderly conduct, unlawful dissemination or publication of an intimate image, harassment in the first degree, harassment in the second degree, aggravated harassment in the second degree, sexual misconduct, forcible touching, sexual abuse in the third degree, sexual abuse in the second degree as set forth in subdivision one of section 130.60 of the penal law, stalking in the first degree, stalking in the second degree, stalking in the third degree, stalking in the fourth degree, criminal mischief, menacing in the second degree, menacing in the third degree, reckless endangerment, strangulation in the first degree, strangulation in the second degree, criminal obstruction of breathing or blood circulation, assault in the second degree, assault in the third degree, an attempted assault, identity theft in the first degree, identity theft in the second degree, identity theft in the third degree, grand larceny in the fourth degree, grand larceny in the third degree, coercion in the second degree or coercion in the third degree as set forth in subdivisions one, two and three of section 135.60 of the penal law between spouses or former spouses, or between parent and child or between members of the same family or household except that if the respondent would not be criminally responsible by reason of age pursuant to section 30.00 of the penal law, then the family court shall have exclusive jurisdiction over such proceeding. Notwithstanding a complainant's election to proceed in family court, the criminal court shall not be divested of jurisdiction to hear a family offense proceeding pursuant to this section. For purposes of this section, "disorderly conduct" includes disorderly conduct not in a public place. For purposes of this section, "members of the same family or household" with respect to a proceeding in the criminal courts shall mean the following:(a) persons related by consanguinity or affinity;(b) persons legally married to one another;(c) persons formerly married to one another regardless of whether they still reside in the same household;(d) persons who have a child in common, regardless of whether such persons have been married or have lived together at any time;(e) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors the court may consider in determining whether a relationship is an "intimate relationship" include but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in

nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"; and(f) persons who are related by consanguinity or affinity to parties who are or have been in an intimate relationship as defined in paragraph (e) of this subdivision.2. Information to petitioner or complainant. The chief administrator of the courts shall designate the appropriate probation officers, warrant officers, sheriffs, police officers, district attorneys or any other law enforcement officials, to inform any petitioner or complainant bringing a proceeding under this section before such proceeding is commenced, of the procedures available for the institution of family offense proceedings, including but not limited to the following:(a) That there is concurrent jurisdiction with respect to family offenses in both family court and the criminal courts;(b) That a family court proceeding is a civil proceeding and is for the purpose of attempting to stop the violence, end family disruption and obtain protection. That referrals for counseling, or counseling services, are available through probation for this purpose;(c) That a proceeding in the criminal courts is for the purpose of prosecution of the offender and can result in a criminal conviction of the offender;(d) That a proceeding or action subject to the provisions of this section is initiated at the time of the filing of an accusatory instrument or family court petition, not at the time of arrest, or request for arrest, if any;(f) That an arrest may precede the commencement of a family court or a criminal court proceeding, but an arrest is not a requirement for commencing either proceeding.(h) At such time as the complainant first appears before the court on a complaint or information, the court shall advise the complainant that the complainant may: continue with the proceeding in criminal court; or have the allegations contained therein heard in a family court proceeding; or proceed concurrently in both criminal and family court. Notwithstanding a complainant's election to proceed in family court, the criminal court shall not be divested of jurisdiction to hear a family offense proceeding pursuant to this section;(i) Nothing herein shall be deemed to limit or restrict complainant's rights to proceed directly and without court referral in either a criminal or family court, or both, as provided for in section one hundred fifteen of the family court act and section 100.07 of this chapter;2-a. Upon the filing of an accusatory instrument charging a crime or violation described in subdivision one of this section between members of the same family or household, as such terms are defined in this section, or as soon as the complainant first appears before the court, whichever is sooner, the court shall advise the complainant of the right to proceed in both the criminal and family courts, pursuant to section 100.07 of this chapter.3. Official responsibility. No official or other person designated pursuant to subdivision two of this section shall discourage or prevent any person who wishes to file a petition or sign a complaint from having access to any court for that purpose.4. When a person is arrested for an alleged family offense or an alleged violation of an order of protection or temporary order of protection or arrested pursuant to a warrant issued by the supreme or family court, and the supreme or family court, as applicable, is not in session, such person shall be brought before a local criminal court in the county of arrest or in the county in which such warrant is returnable pursuant to article one hundred twenty of this chapter. Such local criminal court may issue any order authorized under subdivision eleven of section 530.12 of this article, section one hundred fifty-four-d or one hundred fifty-five of the family court act or subdivision three-b of section two hundred forty or subdivision two-a of section two hundred fifty-two of the domestic relations law, in addition to discharging other arraignment responsibilities as set forth in this chapter. In making such order, the local criminal court shall consider de novo the recommendation and securing order, if any, made by the supreme or family court as indicated on the warrant or certificate of warrant. Unless the petitioner or complainant requests otherwise, the court, in addition to scheduling further criminal proceedings, if any, regarding such alleged family offense or violation allegation, shall make such matter returnable in the supreme or family court, as applicable, on the next day such court is in session.5. Filing and enforcement of out-of-state orders of protection. A valid order of protection or temporary order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction shall be accorded full faith and credit and enforced as if it were issued by a court within the state for as long as the order remains in effect in the issuing jurisdiction in accordance with sections two thousand two hundred sixty-five and two thousand two hundred sixty-six of title eighteen of the United States Code.(a) An order issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction shall be deemed valid if:(i) the issuing court had personal jurisdiction over the parties and over the subject matter under the law of the issuing jurisdiction;(ii) the person against whom the order was issued had reasonable notice and an opportunity to be heard prior to issuance of the order; provided, however, that if the order was a temporary order of protection issued in the absence of such person, that notice had been given and that an opportunity to be heard had been provided within a reasonable period of time after the issuance of the order; and(iii) in the case of orders of protection or temporary orders of protection issued against both a petitioner, plaintiff or complainant and respondent or defendant, the order or portion thereof sought to be enforced was supported by: (A) a pleading requesting such order, including, but not limited to, a petition, cross-petition or counterclaim; and (B) a judicial finding that the requesting party is entitled to the issuance of the order which may result from a judicial finding of fact, judicial acceptance of an admission by the party against whom the order was issued or judicial finding that the party against whom the order was issued had given knowing, intelligent and voluntary consent to its issuance.(b) Notwithstanding the provisions of article fifty-four of the civil practice law and rules, an order of protection or temporary order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, accompanied by a sworn affidavit that upon information and belief such order is in effect as written and has not been vacated or modified, may be filed without fee with the clerk of the court, who shall transmit information regarding such order to the statewide registry of orders of protection and warrants established pursuant to section two hundred twenty-one-a of the executive law; provided, however, that such filing and registry entry shall not be required for enforcement of the order.6. Notice. Every police officer, peace officer or district attorney investigating a family offense under this article shall advise the victim of the availability of a shelter or other services in the community, and shall immediately give the victim written notice of the legal rights and remedies available to a victim of a family offense under the relevant provisions of this chapter and the family

court act. Such notice shall be prepared, at minimum, in plain English, Spanish, Chinese and Russian and if necessary, shall be delivered orally, and shall include but not be limited to the information contained in the following statement:"Are you the victim of domestic violence? If you need help now, you can call 911 for the police to come to you. You can also call a domestic violence hotline. You can have a confidential talk with an advocate at the hotline about help you can get in your community including: where you can get treatment for injuries, where you can get shelter, where you can get support, and what you can do to be safe. The New York State 24-hour Domestic & Sexual Violence Hotline number is (insert the statewide multilingual 800 number). They can give you information in many languages. If you are deaf or hard of hearing, call 711.This is what the police can do:They can help you and your children find a safe place such as a family or friend's house or a shelter in your community.You can ask the officer to take you or help you and your children get to a safe place in your community.They can help connect you to a local domestic violence program.They can help you get to a hospital or clinic for medical care.They can help you get your personal belongings.They must complete a report discussing the incident. They will give you a copy of this police report before they leave the scene. It is free.They may, and sometimes must, arrest the person who harmed you if you are the victim of a crime. The person arrested could be released at any time, so it is important to plan for your safety.If you have been abused or threatened, this is what you can ask the police or district attorney to do:File a criminal complaint against the person who harmed you.Ask the criminal court to issue an order of protection for you and your child if the district attorney files a criminal case with the court.Give you information about filing a family offense petition in your local family court.You also have the right to ask the family court for an order of protection for you and your children.This is what you can ask the family court to do:To have your family offense petition filed the same day you go to court.To have your request heard in court the same day you file or the next day court is open.Only a judge can issue an order of protection. The judge does that as part of a criminal or family court case against the person who harmed you. An order of protection in family court or in criminal court can say:That the other person have no contact or communication with you by mail, phone, computer or through other people.That the other person stay away from you and your children, your home, job or school.That the other person not assault, harass, threaten, strangle, or commit another family offense against you or your children.That the other person turn in their firearms and firearms licenses, and not get any more firearms.That you have temporary custody of your children.That the other person pay temporary child support.That the other person not harm your pets or service animals.If the family court is closed because it is night, a weekend, or a holiday, you can go to a criminal court to ask for an order of protection.If you do not speak English or cannot speak it well, you can ask the police, the district attorney, or the criminal or family court to get you an interpreter who speaks your language. The interpreter can help you explain what happened.You can get the forms you need to ask for an order of protection at your local family court (insert addresses and contact information for courts). You can also get them online: www.NYCourts.gov/forms.You do not need a lawyer to ask for an order of protection.You have a right to get a lawyer in the family court. If the family court finds that you cannot afford to pay for a lawyer, it must get you one for free.If you file a complaint or family court petition, you will be asked to swear to its truthfulness because it is a crime to file a legal document that you know is false."The division of criminal justice services in consultation with the state office for the prevention of domestic violence shall prepare the form of such written notice consistent with provisions of this section and distribute copies thereof to the appropriate law enforcement officials pursuant to subdivision nine of section eight hundred forty-one of the executive law.Additionally, copies of such notice shall be provided to the chief administrator of the courts to be distributed to victims of family offenses through the criminal court at such time as such persons first come before the court and to the state department of health for distribution to all hospitals defined under article twenty-eight of the public health law. No cause of action for damages shall arise in favor of any person by reason of any failure to comply with the provisions of this subdivision except upon a showing of gross negligence or willful misconduct.7. Rules of court regarding concurrent jurisdiction. The chief administrator of the courts, pursuant to paragraph (e) of subdivision two of section two hundred twelve of the judiciary law, shall promulgate rules to facilitate record sharing and other communication between the criminal and family courts, subject to applicable provisions of this chapter and the family court act pertaining to the confidentiality, expungement and sealing of records, when such courts exercise concurrent jurisdiction over family offense proceedings. (a) persons related by consanguinity or affinity; (b) persons legally married to one another; (c) persons formerly married to one another regardless of whether they still reside in the same household; (d) persons who have a child in common, regardless of whether such persons have been married or have lived together at any time; (e) persons who are not related by consanguinity or affinity and who are or have been in an intimate relationship regardless of whether such persons have lived together at any time. Factors the court may consider in determining whether a relationship is an "intimate relationship" include but are not limited to: the nature or type of relationship, regardless of whether the relationship is sexual in nature; the frequency of interaction between the persons; and the duration of the relationship. Neither a casual acquaintance nor ordinary fraternization between two individuals in business or social contexts shall be deemed to constitute an "intimate relationship"; and (f) persons who are related by consanguinity or affinity to parties who are or have been in an intimate relationship as defined in paragraph (e) of this subdivision. 2. Information to petitioner or complainant. The chief administrator of the courts shall designate the appropriate probation officers, warrant officers, sheriffs, police officers, district attorneys or any other law enforcement officials, to inform any petitioner or complainant bringing a proceeding under this section before such proceeding is commenced, of the procedures available for the institution of family offense proceedings, including but not limited to the following: (a) That there is concurrent jurisdiction with respect to family offenses in both family court and the criminal courts; (b) That a family court proceeding is a civil proceeding and is for the purpose of attempting to stop the violence, end family disruption and obtain protection. That referrals for counseling, or counseling services, are available through probation for this purpose; (c) That a proceeding in the criminal courts is for the purpose of prosecution of the offender and can result in a criminal conviction of the offender; (d) That a proceeding or action

subject to the provisions of this section is initiated at the time of the filing of an accusatory instrument or family court petition, not at the time of arrest, or request for arrest, if any; (f) That an arrest may precede the commencement of a family court or a criminal court proceeding, but an arrest is not a requirement for commencing either proceeding. (h) At such time as the complainant first appears before the court on a complaint or information, the court shall advise the complainant that the complainant may: continue with the proceeding in criminal court; or have the allegations contained therein heard in a family court proceeding; or proceed concurrently in both criminal and family court. Notwithstanding a complainant's election to proceed in family court, the criminal court shall not be divested of jurisdiction to hear a family offense proceeding pursuant to this section; (i) Nothing herein shall be deemed to limit or restrict complainant's rights to proceed directly and without court referral in either a criminal or family court, or both, as provided for in section one hundred fifteen of the family court act and section 100.07 of this chapter; 2-a. Upon the filing of an accusatory instrument charging a crime or violation described in subdivision one of this section between members of the same family or household, as such terms are defined in this section, or as soon as the complainant first appears before the court, whichever is sooner, the court shall advise the complainant of the right to proceed in both the criminal and family courts, pursuant to section 100.07 of this chapter. 3. Official responsibility. No official or other person designated pursuant to subdivision two of this section shall discourage or prevent any person who wishes to file a petition or sign a complaint from having access to any court for that purpose. 4. When a person is arrested for an alleged family offense or an alleged violation of an order of protection or temporary order of protection or arrested pursuant to a warrant issued by the supreme or family court, and the supreme or family court, as applicable, is not in session, such person shall be brought before a local criminal court in the county of arrest or in the county in which such warrant is returnable pursuant to article one hundred twenty of this chapter. Such local criminal court may issue any order authorized under subdivision eleven of section 530.12 of this article, section one hundred fifty-four-d or one hundred fifty-five of the family court act or subdivision three-b of section two hundred forty or subdivision two-a of section two hundred fifty-two of the domestic relations law, in addition to discharging other arraignment responsibilities as set forth in this chapter. In making such order, the local criminal court shall consider de novo the recommendation and securing order, if any, made by the supreme or family court as indicated on the warrant or certificate of warrant. Unless the petitioner or complainant requests otherwise, the court, in addition to scheduling further criminal proceedings, if any, regarding such alleged family offense or violation allegation, shall make such matter returnable in the supreme or family court, as applicable, on the next day such court is in session. 5. Filing and enforcement of out-of-state orders of protection. A valid order of protection or temporary order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction shall be accorded full faith and credit and enforced as if it were issued by a court within the state for as long as the order remains in effect in the issuing jurisdiction in accordance with sections two thousand two hundred sixty-five and two thousand two hundred sixty-six of title eighteen of the United States Code. (a) An order issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction shall be deemed valid if: (i) the issuing court had personal jurisdiction over the parties and over the subject matter under the law of the issuing jurisdiction; (ii) the person against whom the order was issued had reasonable notice and an opportunity to be heard prior to issuance of the order; provided, however, that if the order was a temporary order of protection issued in the absence of such person, that notice had been given and that an opportunity to be heard had been provided within a reasonable period of time after the issuance of the order; and (iii) in the case of orders of protection or temporary orders of protection issued against both a petitioner, plaintiff or complainant and respondent or defendant, the order or portion thereof sought to be enforced was supported by: (A) a pleading requesting such order, including, but not limited to, a petition, cross-petition or counterclaim; and (B) a judicial finding that the requesting party is entitled to the issuance of the order which may result from a judicial finding of fact, judicial acceptance of an admission by the party against whom the order was issued or judicial finding that the party against whom the order was issued had given knowing, intelligent and voluntary consent to its issuance. (b) Notwithstanding the provisions of article fifty-four of the civil practice law and rules, an order of protection or temporary order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, accompanied by a sworn affidavit that upon information and belief such order is in effect as written and has not been vacated or modified, may be filed without fee with the clerk of the court, who shall transmit information regarding such order to the statewide registry of orders of protection and warrants established pursuant to section two hundred twenty-one-a of the executive law; provided, however, that such filing and registry entry shall not be required for enforcement of the order. 6. Notice. Every police officer, peace officer or district attorney investigating a family offense under this article shall advise the victim of the availability of a shelter or other services in the community, and shall immediately give the victim written notice of the legal rights and remedies available to a victim of a family offense under the relevant provisions of this chapter and the family court act. Such notice shall be prepared, at minimum, in plain English, Spanish, Chinese and Russian and if necessary, shall be delivered orally, and shall include but not be limited to the information contained in the following statement: "Are you the victim of domestic violence? If you need help now, you can call 911 for the police to come to you. You can also call a domestic violence hotline. You can have a confidential talk with an advocate at the hotline about help you can get in your community including: where you can get treatment for injuries, where you can get shelter, where you can get support, and what you can do to be safe. The New York State 24-hour Domestic & Sexual Violence Hotline number is (insert the statewide multilingual 800 number). They can give you information in many languages. If you are deaf or hard of hearing, call 711. This is what the police can do: They can help you and your children find a safe place such as a family or friend's house or a shelter in your community. You can ask the officer to take you or help you and your children get to a safe place in your community. They can help connect you to a local domestic violence program. They can help you get to a hospital or clinic for medical care. They can help you get your personal belongings. They must complete a report discussing the incident. They will give you a copy of this police report before they leave the scene. It is free. They may, and

sometimes must, arrest the person who harmed you if you are the victim of a crime. The person arrested could be released at any time, so it is important to plan for your safety. If you have been abused or threatened, this is what you can ask the police or district attorney to do: File a criminal complaint against the person who harmed you. Ask the criminal court to issue an order of protection for you and your child if the district attorney files a criminal case with the court. Give you information about filing a family offense petition in your local family court. You also have the right to ask the family court for an order of protection for you and your children. This is what you can ask the family court to do: To have your family offense petition filed the same day you go to court. To have your request heard in court the same day you file or the next day court is open. Only a judge can issue an order of protection. The judge does that as part of a criminal or family court case against the person who harmed you. An order of protection in family court or in criminal court can say: That the other person have no contact or communication with you by mail, phone, computer or through other people. That the other person stay away from you and your children, your home, job or school. That the other person not assault, harass, threaten, strangle, or commit another family offense against you or your children. That the other person turn in their firearms and firearms licenses, and not get any more firearms. That you have temporary custody of your children. That the other person pay temporary child support. That the other person not harm your pets or service animals. If the family court is closed because it is night, a weekend, or a holiday, you can go to a criminal court to ask for an order of protection. If you do not speak English or cannot speak it well, you can ask the police, the district attorney, or the criminal or family court to get you an interpreter who speaks your language. The interpreter can help you explain what happened. You can get the forms you need to ask for an order of protection at your local family court (insert addresses and contact information for courts). You can also get them online: www.NYCourts.gov/forms. You do not need a lawyer to ask for an order of protection. You have a right to get a lawyer in the family court. If the family court finds that you cannot afford to pay for a lawyer, it must get you one for free. If you file a complaint or family court petition, you will be asked to swear to its truthfulness because it is a crime to file a legal document that you know is false." The division of criminal justice services in consultation with the state office for the prevention of domestic violence shall prepare the form of such written notice consistent with provisions of this section and distribute copies thereof to the appropriate law enforcement officials pursuant to subdivision nine of section eight hundred forty-one of the executive law. Additionally, copies of such notice shall be provided to the chief administrator of the courts to be distributed to victims of family offenses through the criminal court at such time as such persons first come before the court and to the state department of health for distribution to all hospitals defined under article twenty-eight of the public health law. No cause of action for damages shall arise in favor of any person by reason of any failure to comply with the provisions of this subdivision except upon a showing of gross negligence or willful misconduct. 7. Rules of court regarding concurrent jurisdiction. The chief administrator of the courts, pursuant to paragraph (e) of subdivision two of section two hundred twelve of the judiciary law, shall promulgate rules to facilitate record sharing and other communication between the criminal and family courts, subject to applicable provisions of this chapter and the family court act pertaining to the confidentiality, expungement and sealing of records, when such courts exercise concurrent jurisdiction over family offense proceedings.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle P - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants and Witnesses Under Control of Court--Recognizance, BailArticle 530 - Orders of Recognizance or Bail With Respect to Defendants in Criminal Actions and Proceedings--When and by What Courts Authorized530.12 - Protection for Victims of Family Offenses.

1. When a criminal action is pending involving a complaint charging any crime or violation between spouses, former spouses, parent and child, or between members of the same family or household, as members of the same family or household are defined in subdivision one of section 530.11 of this article, the court, in addition to any other powers conferred upon it by this chapter may issue a temporary order of protection in conjunction with any securing order committing the defendant to the custody of the sheriff or as a condition of any order of recognizance or bail or an adjournment in contemplation of dismissal.(a) In addition to any other conditions, such an order may require the defendant: (1) to stay away from the home, school, business or place of employment of the family or household member or of any designated witness, provided that the court shall make a determination, and shall state such determination in a written decision or on the record, whether to impose a condition pursuant to this paragraph, provided further, however, that failure to make such a determination shall not affect the validity of such temporary order of protection. In making such determination, the court shall consider, but shall not be limited to consideration of, whether the temporary order of protection is likely to achieve its purpose in the absence of such a condition, conduct subject to prior orders of protection, prior incidents of abuse, past or present injury, threats, drug or alcohol abuse, and access to weapons;(2) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods;(3) to refrain from committing a family offense, as defined in subdivision one of section 530.11 of this article, or any criminal offense against the child or against the family or household member or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons;(4) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety and welfare of a child, family or household member's life or health;(5) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this chapter, the family court act or the domestic relations law;(6) (A) to refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by the victim or a minor child residing in the household.(B) "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law;(7) (A) to promptly return specified identification documents to the

protected party, in whose favor the order of protection or temporary order of protection is issued; provided, however, that such order may: (i) include any appropriate provision designed to ensure that any such document is available for use as evidence in this proceeding, and available if necessary for legitimate use by the party against whom such order is issued; and (ii) specify the manner in which such return shall be accomplished.(B) For purposes of this subparagraph, "identification document" shall mean any of the following: (i) exclusively in the name of the protected party: birth certificate, passport, social security card, health insurance or other benefits card, a card or document used to access bank, credit or other financial accounts or records, tax returns, any driver's license, and immigration documents including but not limited to a United States permanent resident card and employment authorization document; and (ii) upon motion and after notice and an opportunity to be heard, any of the following, including those that may reflect joint use or ownership, that the court determines are necessary and are appropriately transferred to the protected party: any card or document used to access bank, credit or other financial accounts or records, tax returns, and any other identifying cards and documents;(8) (A) to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order.(B) For purposes of this subparagraph, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address.(b) The court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.2. Notwithstanding any other provision of law, a temporary order of protection issued or continued by a family court pursuant to section eight hundred thirteen of the family court act shall continue in effect, absent action by the appropriate criminal court pursuant to subdivision three of this section, until the defendant is arraigned upon an accusatory instrument filed pursuant to section eight hundred thirteen of the family court act in such criminal court.3. The court may issue a temporary order of protection ex parte upon the filing of an accusatory instrument and for good cause shown. When a family court order of protection is modified, the criminal court shall forward a copy of such modified order to the family court issuing the original order of protection; provided, however, that where a copy of the modified order is transmitted to the family court by facsimile or other electronic means, the original copy of such modified order and accompanying affidavit shall be forwarded immediately thereafter.3-a. Emergency powers when family court not in session; issuance of temporary orders of protection. Upon the request of the petitioner, a local criminal court may on an ex parte basis issue a temporary order of protection pending a hearing in family court, provided that a sworn affidavit, verified in accordance with subdivision one of section 100.30 of this chapter, is submitted: (i) alleging that the family court is not in session; (ii) alleging that a family offense, as defined in subdivision one of section eight hundred twelve of the family court act and subdivision one of section 530.11 of this article, has been committed; (iii) alleging that a family offense petition has been filed or will be filed in family court on the next day the court is in session; and (iv) showing good cause. Upon appearance in a local criminal court, the petitioner shall be advised that he or she may continue with the proceeding either in family court or upon the filing of a local criminal court accusatory instrument in criminal court or both. Upon issuance of a temporary order of protection where petitioner requests that it be returnable in family court, the local criminal court shall transfer the matter forthwith to the family court and shall make the matter returnable in family court on the next day the family court is in session, or as soon thereafter as practicable, but in no event more than four calendar days after issuance of the order. The local criminal court, upon issuing a temporary order of protection returnable in family court pursuant to this subdivision, shall immediately forward, in a manner designed to insure arrival before the return date set in the order, a copy of the temporary order of protection and sworn affidavit to the family court and shall provide a copy of such temporary order of protection to the petitioner; provided, however, that where a copy of the temporary order of protection and affidavit are transmitted to the family court by facsimile or other electronic means, the original order and affidavit shall be forwarded to the family court immediately thereafter. Any temporary order of protection issued pursuant to this subdivision shall be issued to the respondent, and copies shall be filed as required in subdivisions six and eight of this section for orders of protection issued pursuant to this section. Any temporary order of protection issued pursuant to this subdivision shall plainly state the date that such order expires which, in the case of an order returnable in family court, shall be not more than four calendar days after its issuance, unless sooner vacated or modified by the family court. A petitioner requesting a temporary order of protection returnable in family court pursuant to this subdivision in a case in which a family court petition has not been filed shall be informed that such temporary order of protection shall expire as provided for herein, unless the petitioner files a petition pursuant to subdivision one of section eight hundred twenty-one of the family court act on or before the return date in family court and the family court issues a temporary order of protection or order of protection as authorized under article eight of the family court act. Nothing in this subdivision shall limit or restrict the petitioner's right to proceed directly and without court referral in either a criminal or family court, or both, as provided for in section one hundred fifteen of the family court act and section 100.07 of this chapter.3-b. Emergency powers when family court not in session; modifications of orders of protection or temporary orders of protection. Upon the request of the petitioner, a local criminal court may on an ex parte basis modify a temporary order of protection or order of protection which has been issued under article four, five, six or eight of the family court act pending a hearing in family court, provided that a sworn affidavit verified in accordance with subdivision one of section 100.30 of this chapter is submitted: (i) alleging that the family court is not in session and (ii) showing good cause, including a showing that the existing order is insufficient for the purposes of protection of the petitioner, the petitioner's child or children or other members of the petitioner's family or household. The local criminal court shall make the matter regarding the modification of the order returnable in family court on the next day the family court is in session, or as soon thereafter as practicable, but in no event more than four calendar days after issuance of the modified order. The court shall immediately forward a copy of the modified order, if any, and sworn affidavit to the family court and shall provide a copy of such modified order, if any, and affidavit to the

petitioner; provided, however, that where copies of such modified order and affidavit are transmitted to the family court by facsimile or other electronic means, the original copies of such modified order and affidavit shall be forwarded to the family court immediately thereafter. Any modified temporary order of protection or order of protection issued pursuant to this subdivision shall be issued to the respondent and copies shall be filed as required in subdivisions six and eight of this section for orders of protection issued pursuant to this section.4. The court may issue or extend a temporary order of protection ex parte or on notice simultaneously with the issuance of a warrant for the arrest of defendant. Such temporary order of protection may continue in effect until the day the defendant subsequently appears in court pursuant to such warrant or voluntarily or otherwise.5. * Upon sentencing on a conviction for any crime or violation between spouses, between a parent and child, or between members of the same family or household as defined in subdivision one of section 530.11 of this article, the court may in addition to any other disposition, including a conditional discharge or youthful offender adjudication, enter an order of protection. Where a temporary order of protection was issued, the court shall state on the record the reasons for issuing or not issuing an order of protection. The duration of such an order shall be fixed by the court and: (A) in the case of a felony conviction, shall not exceed the greater of: (i) eight years from the date of such sentencing, except where the sentence is or includes a sentence of probation on a conviction for a felony sexual assault, as provided in subparagraph (iii) of paragraph (a) of subdivision three of section 65.00 of the penal law, in which case, ten years from the date of such sentencing, or (ii) eight years from the date of the expiration of the maximum term of an indeterminate or the term of a determinate sentence of imprisonment actually imposed; or (B) in the case of a conviction for a class A misdemeanor, shall not exceed the greater of: (i) five years from the date of such sentencing, except where the sentence is or includes a sentence of probation on a conviction for a misdemeanor sexual assault, as provided in subparagraph (ii) of paragraph (b) of subdivision three of section 65.00 of the penal law, in which case, six years from the date of such sentencing, or (ii) five years from the date of the expiration of the maximum term of a definite or intermittent term actually imposed; or (C) in the case of a conviction for any other offense, shall not exceed the greater of: (i) two years from the date of sentencing, or (ii) two years from the date of the expiration of the maximum term of a definite or intermittent term actually imposed. For purposes of determining the duration of an order of protection entered pursuant to this subdivision, a conviction shall be deemed to include a conviction that has been replaced by a youthful offender adjudication. In addition to any other conditions, such an order may require the defendant:* NB Effective until September 1, 2025* Upon sentencing on a conviction for any crime or violation between spouses, between a parent and child, or between members of the same family or household as defined in subdivision one of section 530.11 of this article, the court may in addition to any other disposition, including a conditional discharge or youthful offender adjudication, enter an order of protection. Where a temporary order of protection was issued, the court shall state on the record the reasons for issuing or not issuing an order of protection. The duration of such an order shall be fixed by the court and, in the case of a felony conviction, shall not exceed the greater of: (i) five years from the date of such sentencing, or (ii) three years from the date of the expiration of the maximum term of an indeterminate sentence of imprisonment actually imposed; or in the case of a conviction for a class A misdemeanor, shall not exceed three years from the date of such sentencing; or in the case of a conviction for any other offense, shall not exceed one year from the date of sentencing. For purposes of determining the duration of an order of protection entered pursuant to this subdivision, a conviction shall be deemed to include a conviction that has been replaced by a youthful offender adjudication. In addition to any other conditions, such an order may require the defendant:* NB Effective September 1, 2025(a) to stay away from the home, school, business or place of employment of the family or household member, the other spouse or the child, or of any witness designated by the court, provided that the court shall make a determination, and shall state such determination in a written decision or on the record, whether to impose a condition pursuant to this paragraph, provided further, however, that failure to make such a determination shall not affect the validity of such order of protection. In making such determination, the court shall consider, but shall not be limited to consideration of, whether the order of protection is likely to achieve its purpose in the absence of such a condition, conduct subject to prior orders of protection, prior incidents of abuse, extent of past or present injury, threats, drug or alcohol abuse, and access to weapons;(b) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods;(c) to refrain from committing a family offense, as defined in subdivision one of section 530.11 of this article, or any criminal offense against the child or against the family or household member or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons;(d) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety and welfare of a child, family or household member's life or health;(e) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this chapter, the family court act or the domestic relations law; or(f) (i) to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order.(ii) For purposes of this paragraph, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address.6. An order of protection or a temporary order of protection issued pursuant to subdivision one, two, three, four or five of this section shall bear in a conspicuous manner the term "order of protection" or "temporary order of protection" as the case may be and a copy shall be filed by the clerk of the court with the sheriff's office in the county in which the complainant resides, or, if the complainant resides within a city, with the police department of such city. The order of protection or temporary order of protection shall also contain the following notice: "This order of protection will remain in effect even if the protected party has, or consents to have, contact or communication with the party against whom the order is issued. This order of protection can only be modified or terminated by the court. The protected party cannot be held to violate this order nor be arrested for violating this order.". The absence of such language shall not affect the validity of such order. A copy of such order of protection or temporary order of

protection may from time to time be filed by the clerk of the court with any other police department or sheriff's office having jurisdiction of the residence, work place, and school of anyone intended to be protected by such order. A copy of the order may also be filed by the complainant at the appropriate police department or sheriff's office having jurisdiction. Any subsequent amendment or revocation of such order shall be filed in the same manner as herein provided.Such order of protection shall plainly state the date that such order expires.6-a. The court shall inquire as to the existence of any other orders of protection between the defendant and the person or persons for whom the order of protection is sought.7. A family offense subject to the provisions of this section which occurs subsequent to the issuance of an order of protection under this chapter shall be deemed a new offense for which the complainant may seek to file a new accusatory instrument and may file a family court petition under article eight of the family court act as provided for in section 100.07 of this chapter.8. In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the complainant and defendant and defense counsel and to any other person affected by the order a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or department of corrections and community supervision where the individual is under probation or parole supervision. The presentation of a copy of such order or a warrant to any peace officer acting pursuant to his or her special duties or police officer shall constitute authority for him or her to arrest a person who has violated the terms of such order and bring such person before the court and, otherwise, so far as lies within his or her power, to aid in securing the protection such order was intended to afford. The protected party in whose favor the order of protection or temporary order of protection is issued may not be held to violate an order issued in his or her favor nor may such protected party be arrested for violating such order.9. If no warrant, order or temporary order of protection has been issued by the court, and an act alleged to be a family offense as defined in section 530.11 of this chapter is the basis of the arrest, the magistrate shall permit the complainant to file a petition, information or accusatory instrument and for reasonable cause shown, shall thereupon hold such respondent or defendant, admit to, fix or accept bail, or parole him or her for hearing before the family court or appropriate criminal court as the complainant shall choose in accordance with the provisions of section 530.11 of this chapter.10. Punishment for contempt based on a violation of an order of protection or temporary order of protection shall not affect the original criminal action, nor reduce or diminish a sentence upon conviction for the original crime or violation alleged therein or for a lesser included offense thereof.11. If a defendant is brought before the court for failure to obey any lawful order issued under this section, or an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, and if, after hearing, the court is satisfied by competent proof that the defendant has willfully failed to obey any such order, the court may:(a) revoke an order of recognizance or release under non-monetary conditions or revoke an order of bail or order forfeiture of such bail and commit the defendant to custody; or(b) restore the case to the calendar when there has been an adjournment in contemplation of dismissal and commit the defendant to custody; or(c) revoke a conditional discharge in accordance with section 410.70 of this chapter and impose probation supervision or impose a sentence of imprisonment in accordance with the penal law based on the original conviction; or(d) revoke probation in accordance with section 410.70 of this chapter and impose a sentence of imprisonment in accordance with the penal law based on the original conviction. In addition, if the act which constitutes the violation of the order of protection or temporary order of protection is a crime or a violation the defendant may be charged with and tried for that crime or violation.12. The chief administrator of the courts shall promulgate appropriate uniform temporary orders of protection and orders of protection forms to be used throughout the state. Such forms shall be promulgated and developed in a manner to ensure the compatability of such forms with the statewide computerized registry established pursuant to section two hundred twenty-one-a of the executive law.13. Notwithstanding the foregoing provisions, an order of protection, or temporary order of protection when applicable, may be entered against a former spouse and persons who have a child in common, regardless of whether such persons have been married or have lived together at any time, or against a member of the same family or household as defined in subdivision one of section 530.11 of this article.14. The people shall make reasonable efforts to notify the complainant alleging a crime constituting a family offense when the people have decided to decline prosecution of such crime, to dismiss the criminal charges against the defendant or to enter into a plea agreement. The people shall advise the complainant of the right to file a petition in the family court pursuant to section 100.07 of this chapter and section one hundred fifteen of the family court act.In any case where allegations of criminal conduct are transferred from the family court to the criminal court pursuant to paragraph (ii) of subdivision (b) of section eight hundred forty-six of the family court act, the people shall advise the family court making the transfer of any decision to file an accusatory instrument against the family court respondent and shall notify such court of the disposition of such instrument and the sentence, if any, imposed upon such respondent.Release of a defendant from custody shall not be delayed because of the requirements of this subdivision.15. Any motion to vacate or modify an order of protection or temporary order of protection shall be on notice to the non-moving party, except as provided in subdivision three-b of this section. (a) In addition to any other conditions, such an order may require the defendant: (1) to stay away from the home, school, business or place of employment of the family or household member or of any designated witness, provided that the court shall make a determination, and shall state such determination in a written decision or on the record, whether to impose a condition pursuant to this paragraph, provided further, however, that failure to make such a determination shall not affect the validity of such temporary order of protection. In making such determination, the court shall consider, but shall not be limited to consideration of, whether the temporary order of protection is likely to achieve its purpose in the absence of such a condition, conduct subject to prior orders of protection, prior incidents of abuse, past or present injury, threats, drug or alcohol abuse, and access to weapons; (2) to permit a parent, or a person entitled to visitation by a court order

or a separation agreement, to visit the child at stated periods; (3) to refrain from committing a family offense, as defined in subdivision one of section 530.11 of this article, or any criminal offense against the child or against the family or household member or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons; (4) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety and welfare of a child, family or household member's life or health; (5) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this chapter, the family court act or the domestic relations law; (6) (A) to refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by the victim or a minor child residing in the household. (B) "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law; (7) (A) to promptly return specified identification documents to the protected party, in whose favor the order of protection or temporary order of protection is issued; provided, however, that such order may: (i) include any appropriate provision designed to ensure that any such document is available for use as evidence in this proceeding, and available if necessary for legitimate use by the party against whom such order is issued; and (ii) specify the manner in which such return shall be accomplished. (B) For purposes of this subparagraph, "identification document" shall mean any of the following: (i) exclusively in the name of the protected party: birth certificate, passport, social security card, health insurance or other benefits card, a card or document used to access bank, credit or other financial accounts or records, tax returns, any driver's license, and immigration documents including but not limited to a United States permanent resident card and employment authorization document; and (ii) upon motion and after notice and an opportunity to be heard, any of the following, including those that may reflect joint use or ownership, that the court determines are necessary and are appropriately transferred to the protected party: any card or document used to access bank, credit or other financial accounts or records, tax returns, and any other identifying cards and documents; (8) (A) to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order. (B) For purposes of this subparagraph, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address. (b) The court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law. 2. Notwithstanding any other provision of law, a temporary order of protection issued or continued by a family court pursuant to section eight hundred thirteen of the family court act shall continue in effect, absent action by the appropriate criminal court pursuant to subdivision three of this section, until the defendant is arraigned upon an accusatory instrument filed pursuant to section eight hundred thirteen of the family court act in such criminal court. 3. The court may issue a temporary order of protection ex parte upon the filing of an accusatory instrument and for good cause shown. When a family court order of protection is modified, the criminal court shall forward a copy of such modified order to the family court issuing the original order of protection; provided, however, that where a copy of the modified order is transmitted to the family court by facsimile or other electronic means, the original copy of such modified order and accompanying affidavit shall be forwarded immediately thereafter. 3-a. Emergency powers when family court not in session; issuance of temporary orders of protection. Upon the request of the petitioner, a local criminal court may on an ex parte basis issue a temporary order of protection pending a hearing in family court, provided that a sworn affidavit, verified in accordance with subdivision one of section 100.30 of this chapter, is submitted: (i) alleging that the family court is not in session; (ii) alleging that a family offense, as defined in subdivision one of section eight hundred twelve of the family court act and subdivision one of section 530.11 of this article, has been committed; (iii) alleging that a family offense petition has been filed or will be filed in family court on the next day the court is in session; and (iv) showing good cause. Upon appearance in a local criminal court, the petitioner shall be advised that he or she may continue with the proceeding either in family court or upon the filing of a local criminal court accusatory instrument in criminal court or both. Upon issuance of a temporary order of protection where petitioner requests that it be returnable in family court, the local criminal court shall transfer the matter forthwith to the family court and shall make the matter returnable in family court on the next day the family court is in session, or as soon thereafter as practicable, but in no event more than four calendar days after issuance of the order. The local criminal court, upon issuing a temporary order of protection returnable in family court pursuant to this subdivision, shall immediately forward, in a manner designed to insure arrival before the return date set in the order, a copy of the temporary order of protection and sworn affidavit to the family court and shall provide a copy of such temporary order of protection to the petitioner; provided, however, that where a copy of the temporary order of protection and affidavit are transmitted to the family court by facsimile or other electronic means, the original order and affidavit shall be forwarded to the family court immediately thereafter. Any temporary order of protection issued pursuant to this subdivision shall be issued to the respondent, and copies shall be filed as required in subdivisions six and eight of this section for orders of protection issued pursuant to this section. Any temporary order of protection issued pursuant to this subdivision shall plainly state the date that such order expires which, in the case of an order returnable in family court, shall be not more than four calendar days after its issuance, unless sooner vacated or modified by the family court. A petitioner requesting a temporary order of protection returnable in family court pursuant to this subdivision in a case in which a family court petition has not been filed shall be informed that such temporary order of protection shall expire as provided for herein, unless the petitioner files a petition pursuant to subdivision one of section eight hundred twenty-one of the family court act on or before the return date in family court and the family court issues a temporary order of protection or order of protection as authorized under article eight of the family court act. Nothing in this subdivision shall limit or restrict the petitioner's right to proceed directly and without court referral in either a criminal or family court, or both, as provided for in section one hundred fifteen of the family

court act and section 100.07 of this chapter. 3-b. Emergency powers when family court not in session; modifications of orders of protection or temporary orders of protection. Upon the request of the petitioner, a local criminal court may on an ex parte basis modify a temporary order of protection or order of protection which has been issued under article four, five, six or eight of the family court act pending a hearing in family court, provided that a sworn affidavit verified in accordance with subdivision one of section 100.30 of this chapter is submitted: (i) alleging that the family court is not in session and (ii) showing good cause, including a showing that the existing order is insufficient for the purposes of protection of the petitioner, the petitioner's child or children or other members of the petitioner's family or household. The local criminal court shall make the matter regarding the modification of the order returnable in family court on the next day the family court is in session, or as soon thereafter as practicable, but in no event more than four calendar days after issuance of the modified order. The court shall immediately forward a copy of the modified order, if any, and sworn affidavit to the family court and shall provide a copy of such modified order, if any, and affidavit to the petitioner; provided, however, that where copies of such modified order and affidavit are transmitted to the family court by facsimile or other electronic means, the original copies of such modified order and affidavit shall be forwarded to the family court immediately thereafter. Any modified temporary order of protection or order of protection issued pursuant to this subdivision shall be issued to the respondent and copies shall be filed as required in subdivisions six and eight of this section for orders of protection issued pursuant to this section. 4. The court may issue or extend a temporary order of protection ex parte or on notice simultaneously with the issuance of a warrant for the arrest of defendant. Such temporary order of protection may continue in effect until the day the defendant subsequently appears in court pursuant to such warrant or voluntarily or otherwise. 5. * Upon sentencing on a conviction for any crime or violation between spouses, between a parent and child, or between members of the same family or household as defined in subdivision one of section 530.11 of this article, the court may in addition to any other disposition, including a conditional discharge or youthful offender adjudication, enter an order of protection. Where a temporary order of protection was issued, the court shall state on the record the reasons for issuing or not issuing an order of protection. The duration of such an order shall be fixed by the court and: (A) in the case of a felony conviction, shall not exceed the greater of: (i) eight years from the date of such sentencing, except where the sentence is or includes a sentence of probation on a conviction for a felony sexual assault, as provided in subparagraph (iii) of paragraph (a) of subdivision three of section 65.00 of the penal law, in which case, ten years from the date of such sentencing, or (ii) eight years from the date of the expiration of the maximum term of an indeterminate or the term of a determinate sentence of imprisonment actually imposed; or (B) in the case of a conviction for a class A misdemeanor, shall not exceed the greater of: (i) five years from the date of such sentencing, except where the sentence is or includes a sentence of probation on a conviction for a misdemeanor sexual assault, as provided in subparagraph (ii) of paragraph (b) of subdivision three of section 65.00 of the penal law, in which case, six years from the date of such sentencing, or (ii) five years from the date of the expiration of the maximum term of a definite or intermittent term actually imposed; or (C) in the case of a conviction for any other offense, shall not exceed the greater of: (i) two years from the date of sentencing, or (ii) two years from the date of the expiration of the maximum term of a definite or intermittent term actually imposed. For purposes of determining the duration of an order of protection entered pursuant to this subdivision, a conviction shall be deemed to include a conviction that has been replaced by a youthful offender adjudication. In addition to any other conditions, such an order may require the defendant: * NB Effective until September 1, 2025 * Upon sentencing on a conviction for any crime or violation between spouses, between a parent and child, or between members of the same family or household as defined in subdivision one of section 530.11 of this article, the court may in addition to any other disposition, including a conditional discharge or youthful offender adjudication, enter an order of protection. Where a temporary order of protection was issued, the court shall state on the record the reasons for issuing or not issuing an order of protection. The duration of such an order shall be fixed by the court and, in the case of a felony conviction, shall not exceed the greater of: (i) five years from the date of such sentencing, or (ii) three years from the date of the expiration of the maximum term of an indeterminate sentence of imprisonment actually imposed; or in the case of a conviction for a class A misdemeanor, shall not exceed three years from the date of such sentencing; or in the case of a conviction for any other offense, shall not exceed one year from the date of sentencing. For purposes of determining the duration of an order of protection entered pursuant to this subdivision, a conviction shall be deemed to include a conviction that has been replaced by a youthful offender adjudication. In addition to any other conditions, such an order may require the defendant: * NB Effective September 1, 2025 (a) to stay away from the home, school, business or place of employment of the family or household member, the other spouse or the child, or of any witness designated by the court, provided that the court shall make a determination, and shall state such determination in a written decision or on the record, whether to impose a condition pursuant to this paragraph, provided further, however, that failure to make such a determination shall not affect the validity of such order of protection. In making such determination, the court shall consider, but shall not be limited to consideration of, whether the order of protection is likely to achieve its purpose in the absence of such a condition, conduct subject to prior orders of protection, prior incidents of abuse, extent of past or present injury, threats, drug or alcohol abuse, and access to weapons; (b) to permit a parent, or a person entitled to visitation by a court order or a separation agreement, to visit the child at stated periods; (c) to refrain from committing a family offense, as defined in subdivision one of section 530.11 of this article, or any criminal offense against the child or against the family or household member or against any person to whom custody of the child is awarded, or from harassing, intimidating or threatening such persons; (d) to refrain from acts of commission or omission that create an unreasonable risk to the health, safety and welfare of a child, family or household member's life or health; (e) to permit a designated party to enter the residence during a specified period of time in order to remove personal belongings not in issue in this proceeding or in any other proceeding or action under this chapter, the family court act or the domestic relations law; or (f) (i) to refrain from remotely controlling any connected devices affecting the home, vehicle or property

of the person protected by the order. (ii) For purposes of this paragraph, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address. 6. An order of protection or a temporary order of protection issued pursuant to subdivision one, two, three, four or five of this section shall bear in a conspicuous manner the term "order of protection" or "temporary order of protection" as the case may be and a copy shall be filed by the clerk of the court with the sheriff's office in the county in which the complainant resides, or, if the complainant resides within a city, with the police department of such city. The order of protection or temporary order of protection shall also contain the following notice: "This order of protection will remain in effect even if the protected party has, or consents to have, contact or communication with the party against whom the order is issued. This order of protection can only be modified or terminated by the court. The protected party cannot be held to violate this order nor be arrested for violating this order.". The absence of such language shall not affect the validity of such order. A copy of such order of protection or temporary order of protection may from time to time be filed by the clerk of the court with any other police department or sheriff's office having jurisdiction of the residence, work place, and school of anyone intended to be protected by such order. A copy of the order may also be filed by the complainant at the appropriate police department or sheriff's office having jurisdiction. Any subsequent amendment or revocation of such order shall be filed in the same manner as herein provided. Such order of protection shall plainly state the date that such order expires. 6-a. The court shall inquire as to the existence of any other orders of protection between the defendant and the person or persons for whom the order of protection is sought. 7. A family offense subject to the provisions of this section which occurs subsequent to the issuance of an order of protection under this chapter shall be deemed a new offense for which the complainant may seek to file a new accusatory instrument and may file a family court petition under article eight of the family court act as provided for in section 100.07 of this chapter. 8. In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the complainant and defendant and defense counsel and to any other person affected by the order a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or department of corrections and community supervision where the individual is under probation or parole supervision. The presentation of a copy of such order or a warrant to any peace officer acting pursuant to his or her special duties or police officer shall constitute authority for him or her to arrest a person who has violated the terms of such order and bring such person before the court and, otherwise, so far as lies within his or her power, to aid in securing the protection such order was intended to afford. The protected party in whose favor the order of protection or temporary order of protection is issued may not be held to violate an order issued in his or her favor nor may such protected party be arrested for violating such order. 9. If no warrant, order or temporary order of protection has been issued by the court, and an act alleged to be a family offense as defined in section 530.11 of this chapter is the basis of the arrest, the magistrate shall permit the complainant to file a petition, information or accusatory instrument and for reasonable cause shown, shall thereupon hold such respondent or defendant, admit to, fix or accept bail, or parole him or her for hearing before the family court or appropriate criminal court as the complainant shall choose in accordance with the provisions of section 530.11 of this chapter. 10. Punishment for contempt based on a violation of an order of protection or temporary order of protection shall not affect the original criminal action, nor reduce or diminish a sentence upon conviction for the original crime or violation alleged therein or for a lesser included offense thereof. 11. If a defendant is brought before the court for failure to obey any lawful order issued under this section, or an order of protection issued by a court of competent jurisdiction in another state, territorial or tribal jurisdiction, and if, after hearing, the court is satisfied by competent proof that the defendant has willfully failed to obey any such order, the court may: (a) revoke an order of recognizance or release under non-monetary conditions or revoke an order of bail or order forfeiture of such bail and commit the defendant to custody; or (b) restore the case to the calendar when there has been an adjournment in contemplation of dismissal and commit the defendant to custody; or (c) revoke a conditional discharge in accordance with section 410.70 of this chapter and impose probation supervision or impose a sentence of imprisonment in accordance with the penal law based on the original conviction; or (d) revoke probation in accordance with section 410.70 of this chapter and impose a sentence of imprisonment in accordance with the penal law based on the original conviction. In addition, if the act which constitutes the violation of the order of protection or temporary order of protection is a crime or a violation the defendant may be charged with and tried for that crime or violation. 12. The chief administrator of the courts shall promulgate appropriate uniform temporary orders of protection and orders of protection forms to be used throughout the state. Such forms shall be promulgated and developed in a manner to ensure the compatability of such forms with the statewide computerized registry established pursuant to section two hundred twenty-one-a of the executive law. 13. Notwithstanding the foregoing provisions, an order of protection, or temporary order of protection when applicable, may be entered against a former spouse and persons who have a child in common, regardless of whether such persons have been married or have lived together at any time, or against a member of the same family or household as defined in subdivision one of section 530.11 of this article. 14. The people shall make reasonable efforts to notify the complainant alleging a crime constituting a family offense when the people have decided to decline prosecution of such crime, to dismiss the criminal charges against the defendant or to enter into a plea agreement. The people shall advise the complainant of the right to file a petition in the family court pursuant to section 100.07 of this chapter and section one hundred fifteen of the family court act. In any case where allegations of criminal conduct are transferred from the family court to the criminal court pursuant to paragraph (ii) of subdivision (b) of section eight hundred forty-six of the family court act, the people shall advise the family court making the transfer of any decision to file an accusatory instrument against the family court respondent and shall notify such court of the disposition of such instrument and the sentence, if any,

imposed upon such respondent. Release of a defendant from custody shall not be delayed because of the requirements of this subdivision. 15. Any motion to vacate or modify an order of protection or temporary order of protection shall be on notice to the non-moving party, except as provided in subdivision three-b of this section.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle P - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants and Witnesses Under Control of Court--Recognizance, BailArticle 530 - Orders of Recognizance or Bail With Respect to Defendants in Criminal Actions and Proceedings--When and by What Courts Authorized530.13 - Protection of Victims of Crimes, Other Than Family Offenses.

1. When any criminal action is pending, and the court has not issued a temporary order of protection pursuant to section 530.12 of this article, the court, in addition to the other powers conferred upon it by this chapter, may for good cause shown issue a temporary order of protection in conjunction with any securing order or an adjournment in contemplation of dismissal. In addition to any other conditions, such an order may require that the defendant:(a) stay away from the home, school, business or place of employment of the victims of, or designated witnesses to, the alleged offense;(b) refrain from harassing, intimidating, threatening or otherwise interfering with the victims of the alleged offense and such members of the family or household of such victims or designated witnesses as shall be specifically named by the court in such order;(c) 1. to refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by such victim or victims or a minor child residing in such victim's or victims' household.2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law;(d) 1. to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order.2. For purposes of this paragraph, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address.In addition to the foregoing provisions, the court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law.2. The court may issue a temporary order of protection under this section ex parte upon the filing of an accusatory instrument and for good cause shown.3. The court may issue or extend a temporary order of protection under this section ex parte simultaneously with the issuance of a warrant for the arrest of the defendant. Such temporary order of protection may continue in effect until the day the defendant subsequently appears in court pursuant to such warrant or voluntarily or otherwise.4. * Upon sentencing on a conviction for any offense, where the court has not issued an order of protection pursuant to section 530.12 of this article, the court may, in addition to any other disposition, including a conditional discharge or youthful offender adjudication, enter an order of protection. Where a temporary order of protection was issued, the court shall state on the record the reasons for issuing or not issuing an order of protection. The duration of such an order shall be fixed by the court and; (A) in the case of a felony conviction, shall not exceed the greater of: (i) eight years from the date of such sentencing, except where the sentence is or includes a sentence of probation on a conviction for a felony sexual assault, as provided in subparagraph (iii) of paragraph (a) of subdivision three of section 65.00 of the penal law, in which case, ten years from the date of such sentencing, or (ii) eight years from the date of the expiration of the maximum term of an indeterminate or the term of a determinate sentence of imprisonment actually imposed; or (B) in the case of a conviction for a class A misdemeanor, shall not exceed the greater of: (i) five years from the date of such sentencing, except where the sentence is or includes a sentence of probation on a conviction for a misdemeanor sexual assault, as provided in subparagraph (ii) of paragraph (b) of subdivision three of section 65.00 of the penal law, in which case, six years from the date of such sentencing or (ii) five years from the date of the expiration of the maximum term of a definite or intermittent term actually imposed; or (C) in the case of a conviction for any other offense, shall not exceed the greater of: (i) two years from the date of sentencing, or (ii) two years from the date of the expiration of the maximum term of a definite or intermittent term actually imposed. For purposes of determining the duration of an order of protection entered pursuant to this subdivision, a conviction shall be deemed to include a conviction that has been replaced by a youthful offender adjudication. In addition to any other conditions such an order may require that the defendant:* NB Effective until September 1, 2025* Upon sentencing on a conviction for any offense, where the court has not issued an order of protection pursuant to section 530.12 of this article, the court may, in addition to any other disposition, including a conditional discharge or youthful offender adjudication, enter an order of protection. Where a temporary order of protection was issued, the court shall state on the record the reasons for issuing or not issuing an order of protection. The duration of such an order shall be fixed by the court and, in the case of a felony conviction, shall not exceed the greater of: (i) five years from the date of such sentencing, or (ii) three years from the date of the expiration of the maximum term of an indeterminate sentence of imprisonment actually imposed; or in the case of a conviction for a class A misdemeanor, shall not exceed three years from the date of such sentencing; or in the case of a conviction for any other offense, shall not exceed one year from the date of sentencing. For purposes of determining the duration of an order of protection entered pursuant to this subdivision, a conviction shall be deemed to include a conviction that has been replaced by a youthful offender adjudication. In addition to any other conditions such an order may require that the defendant:* NB Effective September 1, 2025(a) stay away from the home, school, business or place of employment of the victim or victims, or of any witness designated by the court, of such offense;(b) refrain from harassing, intimidating, threatening or otherwise interfering with the victim or victims of the offense and such members of the family or household of such victim or victims as shall be specifically named by the court in such order;(c) 1. to refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by such victim or victims or a minor child residing in such victim's or victims' household.2.

"Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law;(d) 1. to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order.2. For purposes of this paragraph, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address.5. The court shall inquire as to the existence of any other orders of protection between the defendant and the person or persons for whom the order of protection is sought. An order of protection issued under this section shall plainly state the date that such order expires. Orders of protection issued to protect victims of domestic violence, as defined in section four hundred fifty-nine-a of the social services law, shall be on uniform statewide forms that shall be promulgated by the chief administrator of the courts in a manner to ensure the compatibility of such forms with the statewide registry of orders of protection and warrants established pursuant to section two hundred twenty-one-a of the executive law. A copy of an order of protection or a temporary order of protection issued pursuant to subdivision one, two, three, or four of this section shall be filed by the clerk of the court with the sheriff's office in the county in which such victim or victims reside, or, if the victim or victims reside within a city, with the police department of such city. A copy of such order of protection or temporary order of protection may from time to time be filed by the clerk of the court with any other police department or sheriff's office having jurisdiction of the residence, work place, and school of anyone intended to be protected by such order. A copy of the order may also be filed by the victim or victims at the appropriate police department or sheriff's office having jurisdiction. Any subsequent amendment or revocation of such order shall be filed in the same manner as herein provided.6. In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the victim and the defendant and defense counsel and to any other person affected by the order, a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or department of corrections and community supervision where the individual is under probation or parole supervision. The presentation of a copy of such order or a warrant to any police officer or peace officer acting pursuant to his or her special duties shall constitute authority for him or her to arrest a person who has violated the terms of such order and bring such person before the court and, otherwise, so far as lies within his or her power, to aid in securing the protection such order was intended to afford.7. Punishment for contempt based upon a violation of an order or protection or temporary order of protection issued under this section shall not affect a pending criminal action, nor reduce or diminish a sentence upon conviction for any other crimes or offenses.8. If a defendant is brought before the court for failure to obey any lawful order issued under this section and if, after hearing, the court is satisfied by competent proof that the defendant has willfully failed to obey any such order, the court may:(a) revoke an order of recognizance, release under non-monetary conditions or bail and commit the defendant to custody; or(b) restore the case to the calendar when there has been an adjournment in contemplation of dismissal and commit the defendant to custody or impose or increase bail pending a trial of the original crime or violation; or(c) revoke a conditional discharge in accordance with section 410.70 of this chapter and impose probation supervision or impose a sentence of imprisonment in accordance with the penal law based on the original conviction; or(d) revoke probation in accordance with section 410.70 of this chapter and impose a sentence of imprisonment in accordance with the penal law based on the original conviction. In addition, if the act which constitutes the violation of the order of protection or temporary order of protection is a crime or a violation the defendant may be charged with and tried for that crime or violation.9. The chief administrator of the courts shall promulgate appropriate uniform temporary order of protection and order of protection forms to be used throughout the state. (a) stay away from the home, school, business or place of employment of the victims of, or designated witnesses to, the alleged offense; (b) refrain from harassing, intimidating, threatening or otherwise interfering with the victims of the alleged offense and such members of the family or household of such victims or designated witnesses as shall be specifically named by the court in such order; (c) 1. to refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by such victim or victims or a minor child residing in such victim's or victims' household. 2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law; (d) 1. to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order. 2. For purposes of this paragraph, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address. In addition to the foregoing provisions, the court may issue an order, pursuant to section two hundred twenty-seven-c of the real property law, authorizing the party for whose benefit any order of protection has been issued to terminate a lease or rental agreement pursuant to section two hundred twenty-seven-c of the real property law. 2. The court may issue a temporary order of protection under this section ex parte upon the filing of an accusatory instrument and for good cause shown. 3. The court may issue or extend a temporary order of protection under this section ex parte simultaneously with the issuance of a warrant for the arrest of the defendant. Such temporary order of protection may continue in effect until the day the defendant subsequently appears in court pursuant to such warrant or voluntarily or otherwise. 4. * Upon sentencing on a conviction for any offense, where the court has not issued an order of protection pursuant to section 530.12 of this article, the court may, in addition to any other disposition, including a conditional discharge or youthful offender adjudication, enter an order of protection. Where a temporary order of protection was issued, the court shall state on the record the reasons for issuing or not issuing an order of protection. The duration of such an order shall be fixed by the court and; (A) in the case of a felony conviction, shall not exceed the greater of: (i) eight years from the date of such sentencing, except where the sentence is or includes a sentence of probation on a conviction for a felony sexual assault, as

provided in subparagraph (iii) of paragraph (a) of subdivision three of section 65.00 of the penal law, in which case, ten years from the date of such sentencing, or (ii) eight years from the date of the expiration of the maximum term of an indeterminate or the term of a determinate sentence of imprisonment actually imposed; or (B) in the case of a conviction for a class A misdemeanor, shall not exceed the greater of: (i) five years from the date of such sentencing, except where the sentence is or includes a sentence of probation on a conviction for a misdemeanor sexual assault, as provided in subparagraph (ii) of paragraph (b) of subdivision three of section 65.00 of the penal law, in which case, six years from the date of such sentencing or (ii) five years from the date of the expiration of the maximum term of a definite or intermittent term actually imposed; or (C) in the case of a conviction for any other offense, shall not exceed the greater of: (i) two years from the date of sentencing, or (ii) two years from the date of the expiration of the maximum term of a definite or intermittent term actually imposed. For purposes of determining the duration of an order of protection entered pursuant to this subdivision, a conviction shall be deemed to include a conviction that has been replaced by a youthful offender adjudication. In addition to any other conditions such an order may require that the defendant: * NB Effective until September 1, 2025 * Upon sentencing on a conviction for any offense, where the court has not issued an order of protection pursuant to section 530.12 of this article, the court may, in addition to any other disposition, including a conditional discharge or youthful offender adjudication, enter an order of protection. Where a temporary order of protection was issued, the court shall state on the record the reasons for issuing or not issuing an order of protection. The duration of such an order shall be fixed by the court and, in the case of a felony conviction, shall not exceed the greater of: (i) five years from the date of such sentencing, or (ii) three years from the date of the expiration of the maximum term of an indeterminate sentence of imprisonment actually imposed; or in the case of a conviction for a class A misdemeanor, shall not exceed three years from the date of such sentencing; or in the case of a conviction for any other offense, shall not exceed one year from the date of sentencing. For purposes of determining the duration of an order of protection entered pursuant to this subdivision, a conviction shall be deemed to include a conviction that has been replaced by a youthful offender adjudication. In addition to any other conditions such an order may require that the defendant: * NB Effective September 1, 2025 (a) stay away from the home, school, business or place of employment of the victim or victims, or of any witness designated by the court, of such offense; (b) refrain from harassing, intimidating, threatening or otherwise interfering with the victim or victims of the offense and such members of the family or household of such victim or victims as shall be specifically named by the court in such order; (c) 1. to refrain from intentionally injuring or killing, without justification, any companion animal the defendant knows to be owned, possessed, leased, kept or held by such victim or victims or a minor child residing in such victim's or victims' household. 2. "Companion animal", as used in this section, shall have the same meaning as in subdivision five of section three hundred fifty of the agriculture and markets law; (d) 1. to refrain from remotely controlling any connected devices affecting the home, vehicle or property of the person protected by the order. 2. For purposes of this paragraph, "connected device" shall mean any device, or other physical object that is capable of connecting to the internet, directly or indirectly, and that is assigned an internet protocol address or bluetooth address. 5. The court shall inquire as to the existence of any other orders of protection between the defendant and the person or persons for whom the order of protection is sought. An order of protection issued under this section shall plainly state the date that such order expires. Orders of protection issued to protect victims of domestic violence, as defined in section four hundred fifty-nine-a of the social services law, shall be on uniform statewide forms that shall be promulgated by the chief administrator of the courts in a manner to ensure the compatibility of such forms with the statewide registry of orders of protection and warrants established pursuant to section two hundred twenty-one-a of the executive law. A copy of an order of protection or a temporary order of protection issued pursuant to subdivision one, two, three, or four of this section shall be filed by the clerk of the court with the sheriff's office in the county in which such victim or victims reside, or, if the victim or victims reside within a city, with the police department of such city. A copy of such order of protection or temporary order of protection may from time to time be filed by the clerk of the court with any other police department or sheriff's office having jurisdiction of the residence, work place, and school of anyone intended to be protected by such order. A copy of the order may also be filed by the victim or victims at the appropriate police department or sheriff's office having jurisdiction. Any subsequent amendment or revocation of such order shall be filed in the same manner as herein provided. 6. In any proceeding in which an order of protection or temporary order of protection or a warrant has been issued under this section, the clerk of the court shall issue to the victim and the defendant and defense counsel and to any other person affected by the order, a copy of the order of protection or temporary order of protection and ensure that a copy of the order of protection or temporary order of protection be transmitted to the local correctional facility where the individual is or will be detained, the state or local correctional facility where the individual is or will be imprisoned, and the supervising probation department or department of corrections and community supervision where the individual is under probation or parole supervision. The presentation of a copy of such order or a warrant to any police officer or peace officer acting pursuant to his or her special duties shall constitute authority for him or her to arrest a person who has violated the terms of such order and bring such person before the court and, otherwise, so far as lies within his or her power, to aid in securing the protection such order was intended to afford. 7. Punishment for contempt based upon a violation of an order or protection or temporary order of protection issued under this section shall not affect a pending criminal action, nor reduce or diminish a sentence upon conviction for any other crimes or offenses. 8. If a defendant is brought before the court for failure to obey any lawful order issued under this section and if, after hearing, the court is satisfied by competent proof that the defendant has willfully failed to obey any such order, the court may: (a) revoke an order of recognizance, release under non-monetary conditions or bail and commit the defendant to custody; or (b) restore the case to the calendar when there has been an adjournment in contemplation of dismissal and commit the defendant to custody or impose or increase bail pending a trial of the original crime or violation; or (c) revoke a conditional discharge in accordance with section 410.70 of this chapter and impose probation supervision

or impose a sentence of imprisonment in accordance with the penal law based on the original conviction; or (d) revoke probation in accordance with section 410.70 of this chapter and impose a sentence of imprisonment in accordance with the penal law based on the original conviction. In addition, if the act which constitutes the violation of the order of protection or temporary order of protection is a crime or a violation the defendant may be charged with and tried for that crime or violation. 9. The chief administrator of the courts shall promulgate appropriate uniform temporary order of protection and order of protection forms to be used throughout the state.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle P - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants and Witnesses Under Control of Court--Recognizance, BailArticle 530 - Orders of Recognizance or Bail With Respect to Defendants in Criminal Actions and Proceedings--When and by What Courts Authorized530.14 - Suspension and Revocation of a License to Carry, Possess, Repair or Dispose of a Firearm or Firearms Pursuant to Section 400.00 of the Penal Law and Ineligibilty for Such a License; Order to Surrender Firearms; Order to Seize Firearms.

repair or dispose of a firearm or firearms pursuant to section 400.00 of the penal law and ineligibility for such a license; order to surrender firearms; order to seize firearms. 1. Suspension of firearms license and ineligibility for such a license upon issuance of temporary order of protection. Whenever a temporary order of protection is issued pursuant to subdivision one of section 530.12 or subdivision one of section 530.13 of this article the court shall inquire of the defendant and the prosecutor as to the existence and location of any firearm, rifle or shotgun reasonably believed to be owned or possessed by the defendant, and the prosecutor will make reasonable efforts to obtain such information regarding the same and present it to the court and:(a) the court shall suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender of any or all firearms, rifles and shotguns owned or possessed where the court receives information that gives the court good cause to believe that (i) the defendant has a prior conviction of any violent felony offense as defined in section 70.02 of the penal law; (ii) the defendant has previously been found to have willfully failed to obey a prior order of protection and such willful failure involved (A) the infliction of physical injury, as defined in subdivision nine of section 10.00 of the penal law, (B) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, or (C) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; or (iii) the defendant has a prior conviction for stalking in the first degree as defined in section 120.60 of the penal law, stalking in the second degree as defined in section 120.55 of the penal law, stalking in the third degree as defined in section 120.50 of the penal law or stalking in the fourth degree as defined in section 120.45 of such law;(b) the court shall where the court finds a substantial risk that the defendant may use or threaten to use a firearm, rifle or shotgun unlawfully against the person or persons for whose protection the temporary order of protection is issued, suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed; and(c) the court shall where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or may for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of this part, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.2. Revocation or suspension of firearms license and ineligibility for such a license upon issuance of an order of protection. Whenever an order of protection is issued pursuant to subdivision five of section 530.12 or subdivision four of section 530.13 of this article the court shall inquire of the defendant and the prosecutor as to the existence and location of any firearm, rifle or shotgun reasonably believed to be owned or possessed by the defendant, and the prosecutor will make reasonable efforts to obtain such information regarding the same and present it to the court and:(a) the court shall revoke any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender of any or all firearms, rifles and shotguns owned or possessed where such action is required by section 400.00 of the penal law;(b) the court shall where the court finds a substantial risk that the defendant may use or threaten to use a firearm, rifle or shotgun unlawfully against the person or persons for whose protection the order of protection is issued, (i) revoke any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender of any or all firearms, rifles and shotguns owned or possessed or (ii) suspend or continue to suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed; and(c) the court shall where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or may for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of this part, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.3. Revocation or suspension of firearms license and ineligibility for such a license upon a finding of a willful failure to obey an order of protection. Whenever a defendant has been found pursuant to subdivision eleven of section 530.12 or subdivision eight of section 530.13 of this article to have willfully failed to obey an order of protection issued by a court of competent jurisdiction in this state or another state, territorial or tribal jurisdiction, in addition to any other remedies available pursuant to subdivision eleven of section 530.12 or subdivision eight of section 530.13 of this article the court shall inquire of the defendant and the prosecutor as to the existence and location of any firearm, rifle or shotgun reasonably believed to be owned or

possessed by the defendant, and the prosecutor will make reasonable efforts to obtain such information regarding the same and present it to the court and:(a) the court shall revoke any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender of any or all firearms, rifles and shotguns owned or possessed where the willful failure to obey such order involved (i) the infliction of physical injury, as defined in subdivision nine of section 10.00 of the penal law, (ii) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, (iii) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; or (iv) behavior constituting stalking in the first degree as defined in section 120.60 of the penal law, stalking in the second degree as defined in section 120.55 of the penal law, stalking in the third degree as defined in section 120.50 of the penal law or stalking in the fourth degree as defined in section 120.45 of such law;(b) the court shall where the court finds a substantial risk that the defendant may use or threaten to use a firearm, rifle or shotgun unlawfully against the person or persons for whose protection the order of protection was issued, (i) revoke any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed or (ii) suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed; and(c) the court shall where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or may for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of this part, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States.4. Suspension. Any suspension order issued pursuant to this section shall remain in effect for the duration of the temporary order of protection or order of protection, unless modified or vacated by the court.5. Surrender. (a) Where an order to surrender one or more firearms, rifles and shotguns has been issued, the temporary order of protection or order of protection shall specify the place where such weapons shall be surrendered, shall specify a date and time by which the surrender shall be completed and, to the extent possible, shall describe such weapons to be surrendered, and shall direct the authority receiving such surrendered weapons to immediately notify the court of such surrender.(b) The prompt surrender of one or more firearms, rifles or shotguns pursuant to a court order issued pursuant to this section shall be considered a voluntary surrender for purposes of subparagraph (f) of paragraph one of subdivision a of section 265.20 of the penal law. The disposition of any such weapons, including weapons ordered to be seized pursuant to this section and section eight hundred forty-two-a of the family court act, shall be in accordance with the provisions of subdivision six of section 400.05 of the penal law; provided, however, that upon termination of any suspension order issued pursuant to this section or section eight hundred forty-two-a of the family court act, upon written application of the subject of the order, with notice and opportunity to be heard to the district attorney, the county attorney, the protected party, and every licensing officer responsible for issuance of a firearms license to the subject of the order pursuant to article four hundred of the penal law, and upon a written finding that there is no legal impediment to the subject's possession of a surrendered firearm, rifle or shotgun, any court of record exercising criminal jurisdiction may order the return of a firearm, rifle or shotgun not otherwise disposed of in accordance with subdivision six of section 400.05 of the penal law. When issuing such order in connection with any firearm subject to a license requirement under article four hundred of the penal law, if the licensing officer informs the court that he or she will seek to revoke the license, the order shall be stayed by the court until the conclusion of any license revocation proceeding.(c) The provisions of this section shall not be deemed to limit, restrict or otherwise impair the authority of the court to order and direct the surrender of any or all firearms, rifles and shotguns owned or possessed by a defendant pursuant to sections 530.12 or 530.13 of this article.(d) If any other person demonstrates that such person is the lawful owner of any weapon taken into custody pursuant to this section or section eight hundred forty-two-a of the family court act, and provided that the court has made a written finding that there is no legal impediment to the person's possession of such a weapon, such court shall direct that such weapon be returned to such lawful owner.6. Notice. (a) Where an order requiring surrender, revocation, suspension, seizure or ineligibility has been issued pursuant to this section, any temporary order of protection or order of protection issued shall state that such firearm license has been suspended or revoked or that the defendant is ineligible for such license, as the case may be, and that the defendant is prohibited from possessing any firearm, rifle or shotgun.(b) The court revoking or suspending the license, ordering the defendant ineligible for such a license, or ordering the surrender or seizure of any firearm, rifle or shotgun shall immediately notify the duly constituted police authorities of the locality concerning such action and, in the case of orders of protection and temporary orders of protection issued pursuant to section 530.12 of this article, shall immediately notify the statewide registry of orders of protection.(c) The court revoking or suspending the license or ordering the defendant ineligible for such a license shall give written notice thereof without unnecessary delay to the division of state police at its office in the city of Albany.(d) Where an order of revocation, suspension, ineligibility, surrender or seizure is modified or vacated, the court shall immediately notify the statewide registry of orders of protection and the duly constituted police authorities of the locality concerning such action and shall give written notice thereof without unnecessary delay to the division of state police at its office in the city of Albany.7. Hearing. The defendant shall have the right to a hearing before the court regarding any revocation, suspension, ineligibility, surrender or seizure order issued pursuant to this section, provided that nothing in this subdivision shall preclude the court from issuing any such order prior to a hearing. Where the court has issued such an order prior to a hearing, it shall commence such hearing within fourteen days of the date such order was issued.8. Nothing in this section shall delay or otherwise interfere with the issuance of a temporary order of protection or the timely arraignment of a defendant in custody.

(a) the court shall suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender of any or all firearms, rifles and shotguns owned or possessed where the court receives information that gives the court good cause to believe that (i) the defendant has a prior conviction of any violent felony offense as defined in section 70.02 of the penal law; (ii) the defendant has previously been found to have willfully failed to obey a prior order of protection and such willful failure involved (A) the infliction of physical injury, as defined in subdivision nine of section 10.00 of the penal law, (B) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, or (C) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; or (iii) the defendant has a prior conviction for stalking in the first degree as defined in section 120.60 of the penal law, stalking in the second degree as defined in section 120.55 of the penal law, stalking in the third degree as defined in section 120.50 of the penal law or stalking in the fourth degree as defined in section 120.45 of such law; (b) the court shall where the court finds a substantial risk that the defendant may use or threaten to use a firearm, rifle or shotgun unlawfully against the person or persons for whose protection the temporary order of protection is issued, suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed; and (c) the court shall where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or may for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of this part, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States. 2. Revocation or suspension of firearms license and ineligibility for such a license upon issuance of an order of protection. Whenever an order of protection is issued pursuant to subdivision five of section 530.12 or subdivision four of section 530.13 of this article the court shall inquire of the defendant and the prosecutor as to the existence and location of any firearm, rifle or shotgun reasonably believed to be owned or possessed by the defendant, and the prosecutor will make reasonable efforts to obtain such information regarding the same and present it to the court and: (a) the court shall revoke any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender of any or all firearms, rifles and shotguns owned or possessed where such action is required by section 400.00 of the penal law; (b) the court shall where the court finds a substantial risk that the defendant may use or threaten to use a firearm, rifle or shotgun unlawfully against the person or persons for whose protection the order of protection is issued, (i) revoke any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender of any or all firearms, rifles and shotguns owned or possessed or (ii) suspend or continue to suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed; and (c) the court shall where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or may for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of this part, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States. 3. Revocation or suspension of firearms license and ineligibility for such a license upon a finding of a willful failure to obey an order of protection. Whenever a defendant has been found pursuant to subdivision eleven of section 530.12 or subdivision eight of section 530.13 of this article to have willfully failed to obey an order of protection issued by a court of competent jurisdiction in this state or another state, territorial or tribal jurisdiction, in addition to any other remedies available pursuant to subdivision eleven of section 530.12 or subdivision eight of section 530.13 of this article the court shall inquire of the defendant and the prosecutor as to the existence and location of any firearm, rifle or shotgun reasonably believed to be owned or possessed by the defendant, and the prosecutor will make reasonable efforts to obtain such information regarding the same and present it to the court and: (a) the court shall revoke any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender of any or all firearms, rifles and shotguns owned or possessed where the willful failure to obey such order involved (i) the infliction of physical injury, as defined in subdivision nine of section 10.00 of the penal law, (ii) the use or threatened use of a deadly weapon or dangerous instrument as those terms are defined in subdivisions twelve and thirteen of section 10.00 of the penal law, (iii) behavior constituting any violent felony offense as defined in section 70.02 of the penal law; or (iv) behavior constituting stalking in the first degree as defined in section 120.60 of the penal law, stalking in the second degree as defined in section 120.55 of the penal law, stalking in the third degree as defined in section 120.50 of the penal law or stalking in the fourth degree as defined in section 120.45 of such law; (b) the court shall where the court finds a substantial risk that the defendant may use or threaten to use a firearm, rifle or shotgun unlawfully against the person or persons for whose protection the order of protection was issued, (i) revoke any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed or (ii) suspend any such existing license possessed by the defendant, order the defendant ineligible for such a license and order the immediate surrender pursuant to subparagraph (f) of paragraph one of subdivision a of section 265.20 and subdivision six of section 400.05 of the penal law, of any or all firearms, rifles and shotguns owned or possessed; and (c) the court shall where the defendant willfully refuses to surrender such firearm, rifle or shotgun pursuant to paragraphs (a) and (b) of this subdivision, or may for other good cause shown, order the immediate seizure of such firearm, rifle or shotgun, and search therefor, pursuant to an order issued in accordance with article six hundred ninety of this

part, consistent with such rights as the defendant may derive from this article or the constitution of this state or the United States. 4. Suspension. Any suspension order issued pursuant to this section shall remain in effect for the duration of the temporary order of protection or order of protection, unless modified or vacated by the court. 5. Surrender. (a) Where an order to surrender one or more firearms, rifles and shotguns has been issued, the temporary order of protection or order of protection shall specify the place where such weapons shall be surrendered, shall specify a date and time by which the surrender shall be completed and, to the extent possible, shall describe such weapons to be surrendered, and shall direct the authority receiving such surrendered weapons to immediately notify the court of such surrender. (b) The prompt surrender of one or more firearms, rifles or shotguns pursuant to a court order issued pursuant to this section shall be considered a voluntary surrender for purposes of subparagraph (f) of paragraph one of subdivision a of section 265.20 of the penal law. The disposition of any such weapons, including weapons ordered to be seized pursuant to this section and section eight hundred forty-two-a of the family court act, shall be in accordance with the provisions of subdivision six of section 400.05 of the penal law; provided, however, that upon termination of any suspension order issued pursuant to this section or section eight hundred forty-two-a of the family court act, upon written application of the subject of the order, with notice and opportunity to be heard to the district attorney, the county attorney, the protected party, and every licensing officer responsible for issuance of a firearms license to the subject of the order pursuant to article four hundred of the penal law, and upon a written finding that there is no legal impediment to the subject's possession of a surrendered firearm, rifle or shotgun, any court of record exercising criminal jurisdiction may order the return of a firearm, rifle or shotgun not otherwise disposed of in accordance with subdivision six of section 400.05 of the penal law. When issuing such order in connection with any firearm subject to a license requirement under article four hundred of the penal law, if the licensing officer informs the court that he or she will seek to revoke the license, the order shall be stayed by the court until the conclusion of any license revocation proceeding. (c) The provisions of this section shall not be deemed to limit, restrict or otherwise impair the authority of the court to order and direct the surrender of any or all firearms, rifles and shotguns owned or possessed by a defendant pursuant to sections 530.12 or 530.13 of this article. (d) If any other person demonstrates that such person is the lawful owner of any weapon taken into custody pursuant to this section or section eight hundred forty-two-a of the family court act, and provided that the court has made a written finding that there is no legal impediment to the person's possession of such a weapon, such court shall direct that such weapon be returned to such lawful owner. 6. Notice. (a) Where an order requiring surrender, revocation, suspension, seizure or ineligibility has been issued pursuant to this section, any temporary order of protection or order of protection issued shall state that such firearm license has been suspended or revoked or that the defendant is ineligible for such license, as the case may be, and that the defendant is prohibited from possessing any firearm, rifle or shotgun. (b) The court revoking or suspending the license, ordering the defendant ineligible for such a license, or ordering the surrender or seizure of any firearm, rifle or shotgun shall immediately notify the duly constituted police authorities of the locality concerning such action and, in the case of orders of protection and temporary orders of protection issued pursuant to section 530.12 of this article, shall immediately notify the statewide registry of orders of protection. (c) The court revoking or suspending the license or ordering the defendant ineligible for such a license shall give written notice thereof without unnecessary delay to the division of state police at its office in the city of Albany. (d) Where an order of revocation, suspension, ineligibility, surrender or seizure is modified or vacated, the court shall immediately notify the statewide registry of orders of protection and the duly constituted police authorities of the locality concerning such action and shall give written notice thereof without unnecessary delay to the division of state police at its office in the city of Albany. 7. Hearing. The defendant shall have the right to a hearing before the court regarding any revocation, suspension, ineligibility, surrender or seizure order issued pursuant to this section, provided that nothing in this subdivision shall preclude the court from issuing any such order prior to a hearing. Where the court has issued such an order prior to a hearing, it shall commence such hearing within fourteen days of the date such order was issued. 8. Nothing in this section shall delay or otherwise interfere with the issuance of a temporary order of protection or the timely arraignment of a defendant in custody.

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therein. When a criminal action is pending in a local criminal court, such court, upon application of a defendant, shall proceed as follows: 1. (a) In cases other than as described in paragraph (b) of this subdivision, the court shall release the principal pending trial on the principal's own recognizance or release the principal pending trial under non-monetary conditions, the determination for which shall be made in accordance with subdivision one of section 510.10 of this title. The court shall explain the basis for its determination and choice of securing order on the record or in writing.(b) Where the principal stands charged with a qualifying offense, the court, unless otherwise prohibited by law, may in its discretion release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, order non-monetary conditions in conjunction with fixing bail, or, where the defendant is charged with a qualifying offense which is a felony, the court may commit the principal to the custody of the sheriff. The court shall explain its choice of securing order on the record or in writing. A principal stands charged with a qualifying offense when he or she stands charged with:(i) a felony enumerated in section 70.02 of the penal law, other than robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is

charged with entering the living area of the dwelling;(ii) a crime involving witness intimidation under section 215.15 of the penal law;(iii) a crime involving witness tampering under section 215.11, 215.12 or 215.13 of the penal law;(iv) a class A felony defined in the penal law, provided, that for class A felonies under article two hundred twenty of such law, only class A-I felonies shall be a qualifying offense;(v) a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law, or a felony sex offense defined in section 70.80 of the penal law or a crime involving incest as defined in section 255.25, 255.26 or 255.27 of such law, or a misdemeanor defined in article one hundred thirty of such law;(vi) conspiracy in the second degree as defined in section 105.15 of the penal law, where the underlying allegation of such charge is that the defendant conspired to commit a class A felony defined in article one hundred twenty-five of the penal law;(vii) money laundering in support of terrorism in the first degree as defined in section 470.24 of the penal law; money laundering in support of terrorism in the second degree as defined in section 470.23 of the penal law; money laundering in support of terrorism in the third degree as defined in section 470.22 of the penal law; money laundering in support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law;(viii) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article;(ix) facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law, promoting an obscene sexual performance by a child as defined in section 263.10 of the penal law or promoting a sexual performance by a child as defined in section 263.15 of the penal law;(x) any crime that is alleged to have caused the death of another person;(xi) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law or unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is alleged to have committed the offense against a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article;(xii) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular assault in the first degree as defined in section 120.04 of the penal law;(xiii) assault in the third degree as defined in section 120.00 of the penal law or arson in the third degree as defined in section 150.10 of the penal law, when such crime is charged as a hate crime as defined in section 485.05 of the penal law;(xiv) aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law or criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law;(xv) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise corruption as defined in section 460.20 of the penal law, or money laundering in the first degree as defined in section 470.20 of the penal law;(xvi) failure to register as a sex offender pursuant to section one hundred sixty-eight-t of the correction law or endangering the welfare of a child as defined in subdivision one of section 260.10 of the penal law, where the defendant is required to maintain registration under article six-C of the correction law and designated a level three offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law;(xvii) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law, or a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal law;(xviii) any felony offense committed by the principal while serving a sentence of probation or while released to post release supervision;(xix) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law;(xx) any felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law where such charge arose from conduct occurring while the defendant was released on his or her own recognizance, released under conditions, or had yet to be arraigned after the issuance of a desk appearance ticket for a separate felony or class A misdemeanor involving harm to an identifiable person or property, provided, however, that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision. For the purposes of this paragraph, "harm to an identifiable person or property" shall include but not be limited to theft of or damage to property. However, based upon a review of the facts alleged in the accusatory instrument, if the court determines that such theft is negligible and does not appear to be in furtherance of other criminal activity, the principal shall be released on his or her own recognizance or under appropriate non-monetary conditions; or(xxi) criminal possession of a weapon in the third degree as defined in subdivision three of section 265.02 of the penal law or criminal sale of a firearm to a minor as defined in section 265.16 of the penal law.(d) Notwithstanding the provisions of paragraphs (a) and (b) of this subdivision, with respect to any charge for which bail or remand is not ordered, and for which the court would not or could not otherwise require bail or remand, a defendant may, at any time, request that the court set bail in a nominal amount requested by the defendant in the form specified in paragraph (a) of subdivision one of section 520.10 of this title; if the court is satisfied that the request is voluntary, the court shall set such bail in such amount.2. When the defendant is charged, by felony complaint, with a felony, the court may, in its discretion, and in accordance with section 510.10 of this title, order recognizance, release under non-monetary conditions, or, where authorized, fix bail, or order non-monetary conditions in conjunction with fixing bail, or commit the defendant to the custody of the sheriff except as otherwise provided in subdivision one of this section or this subdivision:(a) A city court, a town court or a village court may not order recognizance or bail when (i) the defendant is charged with a class A felony, or (ii) the defendant has two previous felony convictions;(b) No local criminal court may order recognizance,

release under non-monetary conditions or bail with respect to a defendant charged with a felony unless and until:(i) The district attorney has been heard in the matter or, after knowledge or notice of the application and reasonable opportunity to be heard, has failed to appear at the proceeding or has otherwise waived his right to do so; and(ii) The court and counsel for the defendant have been furnished with a report of the division of criminal justice services concerning the defendant's criminal record, if any, or with a police department report with respect to the defendant's prior arrest and conviction record, if any. If neither report is available, the court, with the consent of the district attorney, may dispense with this requirement; provided, however, that in an emergency, including but not limited to a substantial impairment in the ability of such division or police department to timely furnish such report, such consent shall not be required if, for reasons stated on the record, the court deems it unnecessary. When the court has been furnished with any such report or record, it shall furnish a copy thereof to counsel for the defendant or, if the defendant is not represented by counsel, to the defendant. (b) Where the principal stands charged with a qualifying offense, the court, unless otherwise prohibited by law, may in its discretion release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, order non-monetary conditions in conjunction with fixing bail, or, where the defendant is charged with a qualifying offense which is a felony, the court may commit the principal to the custody of the sheriff. The court shall explain its choice of securing order on the record or in writing. A principal stands charged with a qualifying offense when he or she stands charged with: (i) a felony enumerated in section 70.02 of the penal law, other than robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling; (ii) a crime involving witness intimidation under section 215.15 of the penal law; (iii) a crime involving witness tampering under section 215.11, 215.12 or 215.13 of the penal law; (iv) a class A felony defined in the penal law, provided, that for class A felonies under article two hundred twenty of such law, only class A-I felonies shall be a qualifying offense; (v) a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law, or a felony sex offense defined in section 70.80 of the penal law or a crime involving incest as defined in section 255.25, 255.26 or 255.27 of such law, or a misdemeanor defined in article one hundred thirty of such law; (vi) conspiracy in the second degree as defined in section 105.15 of the penal law, where the underlying allegation of such charge is that the defendant conspired to commit a class A felony defined in article one hundred twenty-five of the penal law; (vii) money laundering in support of terrorism in the first degree as defined in section 470.24 of the penal law; money laundering in support of terrorism in the second degree as defined in section 470.23 of the penal law; money laundering in support of terrorism in the third degree as defined in section 470.22 of the penal law; money laundering in support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law; (viii) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article; (ix) facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law, promoting an obscene sexual performance by a child as defined in section 263.10 of the penal law or promoting a sexual performance by a child as defined in section 263.15 of the penal law; (x) any crime that is alleged to have caused the death of another person; (xi) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law or unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is alleged to have committed the offense against a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article; (xii) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular assault in the first degree as defined in section 120.04 of the penal law; (xiii) assault in the third degree as defined in section 120.00 of the penal law or arson in the third degree as defined in section 150.10 of the penal law, when such crime is charged as a hate crime as defined in section 485.05 of the penal law; (xiv) aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law or criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law; (xv) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise corruption as defined in section 460.20 of the penal law, or money laundering in the first degree as defined in section 470.20 of the penal law; (xvi) failure to register as a sex offender pursuant to section one hundred sixty-eight-t of the correction law or endangering the welfare of a child as defined in subdivision one of section 260.10 of the penal law, where the defendant is required to maintain registration under article six-C of the correction law and designated a level three offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law; (xvii) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law, or a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal law; (xviii) any felony offense committed by the principal while serving a sentence of probation or while released to post release supervision; (xix) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law; (xx) any felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law where such charge arose from conduct occurring while the defendant was released on his or her own recognizance, released under conditions, or had yet to be arraigned after the issuance of a desk appearance ticket for a separate felony or class A misdemeanor involving harm to an

identifiable person or property, provided, however, that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision. For the purposes of this paragraph, "harm to an identifiable person or property" shall include but not be limited to theft of or damage to property. However, based upon a review of the facts alleged in the accusatory instrument, if the court determines that such theft is negligible and does not appear to be in furtherance of other criminal activity, the principal shall be released on his or her own recognizance or under appropriate non-monetary conditions; or (xxi) criminal possession of a weapon in the third degree as defined in subdivision three of section 265.02 of the penal law or criminal sale of a firearm to a minor as defined in section 265.16 of the penal law. (d) Notwithstanding the provisions of paragraphs (a) and (b) of this subdivision, with respect to any charge for which bail or remand is not ordered, and for which the court would not or could not otherwise require bail or remand, a defendant may, at any time, request that the court set bail in a nominal amount requested by the defendant in the form specified in paragraph (a) of subdivision one of section 520.10 of this title; if the court is satisfied that the request is voluntary, the court shall set such bail in such amount. 2. When the defendant is charged, by felony complaint, with a felony, the court may, in its discretion, and in accordance with section 510.10 of this title, order recognizance, release under non-monetary conditions, or, where authorized, fix bail, or order non-monetary conditions in conjunction with fixing bail, or commit the defendant to the custody of the sheriff except as otherwise provided in subdivision one of this section or this subdivision: (a) A city court, a town court or a village court may not order recognizance or bail when (i) the defendant is charged with a class A felony, or (ii) the defendant has two previous felony convictions; (b) No local criminal court may order recognizance, release under non-monetary conditions or bail with respect to a defendant charged with a felony unless and until: (i) The district attorney has been heard in the matter or, after knowledge or notice of the application and reasonable opportunity to be heard, has failed to appear at the proceeding or has otherwise waived his right to do so; and (ii) The court and counsel for the defendant have been furnished with a report of the division of criminal justice services concerning the defendant's criminal record, if any, or with a police department report with respect to the defendant's prior arrest and conviction record, if any. If neither report is available, the court, with the consent of the district attorney, may dispense with this requirement; provided, however, that in an emergency, including but not limited to a substantial impairment in the ability of such division or police department to timely furnish such report, such consent shall not be required if, for reasons stated on the record, the court deems it unnecessary. When the court has been furnished with any such report or record, it shall furnish a copy thereof to counsel for the defendant or, if the defendant is not represented by counsel, to the defendant.

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bail; by superior court judge when action is pending in local criminal court. 1. When a criminal action is pending in a local criminal court, other than one consisting of a superior court judge sitting as such, a judge of a superior court holding a term thereof in the county, upon application of a defendant, may order recognizance, release under non-monetary conditions or, where authorized, bail when such local criminal court:(a) Lacks authority to issue such an order, pursuant to the relevant provisions of section 530.20 of this article; or(b) Has denied an application for recognizance, release under non-monetary conditions or bail; or(c) Has fixed bail, where authorized, which is excessive; or(d) Has set a securing order of release under non-monetary conditions which are more restrictive than necessary to reasonably assure the defendant's return to court.In such case, such superior court judge may vacate the order of such local criminal court and release the defendant on recognizance or under non-monetary conditions, or where authorized, fix bail in a lesser amount or in a less burdensome form, or order non-monetary conditions in conjunction with fixing bail, including fixing bail in a lesser amount or in a less burdensome form, the determination for which shall be made in accordance with section 510.10 of this title. The court shall explain the basis for its determination and choice of securing order on the record or in writing.2. Notwithstanding the provisions of subdivision one of this section, when the defendant is charged with a felony in a local criminal court, a superior court judge may not order recognizance, release under non-monetary conditions or, where authorized, bail unless and until the district attorney has had an opportunity to be heard in the matter and such judge and counsel for the defendant have been furnished with a report as described in subparagraph (ii) of paragraph (b) of subdivision two of section 530.20 of this article.3. Not more than one application may be made pursuant to this section. (a) Lacks authority to issue such an order, pursuant to the relevant provisions of section 530.20 of this article; or (b) Has denied an application for recognizance, release under non-monetary conditions or bail; or (c) Has fixed bail, where authorized, which is excessive; or (d) Has set a securing order of release under non-monetary conditions which are more restrictive than necessary to reasonably assure the defendant's return to court. In such case, such superior court judge may vacate the order of such local criminal court and release the defendant on recognizance or under non-monetary conditions, or where authorized, fix bail in a lesser amount or in a less burdensome form, or order non-monetary conditions in conjunction with fixing bail, including fixing bail in a lesser amount or in a less burdensome form, the determination for which shall be made in accordance with section 510.10 of this title. The court shall explain the basis for its determination and choice of securing order on the record or in writing. 2. Notwithstanding the provisions of subdivision one of this section, when the defendant is charged with a felony in a local criminal court, a superior court judge may not order recognizance, release under non-monetary conditions or, where authorized, bail unless and until the district attorney has had an opportunity to be heard in the

matter and such judge and counsel for the defendant have been furnished with a report as described in subparagraph (ii) of paragraph (b) of subdivision two of section 530.20 of this article. 3. Not more than one application may be made pursuant to this section.

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bail; by superior court when action is pending therein. When a criminal action is pending in a superior court, such court, upon application of a defendant, must or may order recognizance or bail as follows: 1. When the defendant is charged with an offense or offenses of less than felony grade only, the court must, unless otherwise provided by law, order recognizance or release under non-monetary conditions in accordance with this section. 2. When the defendant is charged with a felony, the court may, unless otherwise provided by law in its discretion, order recognizance, release under non-monetary conditions or, where authorized, bail. In any such case in which an indictment (a) has resulted from an order of a local criminal court holding the defendant for the action of the grand jury, or (b) was filed at a time when a felony complaint charging the same conduct was pending in a local criminal court, and in which such local criminal court or a superior court judge has issued an order of recognizance, release under non-monetary conditions or, where authorized, bail which is still effective, the superior court's order may be in the form of a direction continuing the effectiveness of the previous order. 3. In cases other than as described in subdivision four of this section the court shall release the principal pending trial on the principal's own recognizance or release the principal pending trial under non-monetary conditions, the determination for which shall be made in accordance with section 510.10 of this title. The court shall explain the basis for its determination and choice of securing order on the record or in writing. 4. Where the principal stands charged with a qualifying offense, the court, unless otherwise prohibited by law, may in its discretion, and in accordance with section 510.10 of this title, release the principal pending trial on the principal's own recognizance or under non-monetary conditions, fix bail, or order non-monetary conditions in conjunction with fixing bail, or, where the defendant is charged with a qualifying offense which is a felony, the court may commit the principal to the custody of the sheriff. The court shall explain the basis for its determination and its choice of securing order on the record or in writing. A principal stands charged with a qualifying offense for the purposes of this subdivision when he or she stands charged with:(a) a felony enumerated in section 70.02 of the penal law, other than robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling;(b) a crime involving witness intimidation under section 215.15 of the penal law;(c) a crime involving witness tampering under section 215.11, 215.12 or 215.13 of the penal law;(d) a class A felony defined in the penal law, provided that for class A felonies under article two hundred twenty of such law, only class A-I felonies shall be a qualifying offense;(e) a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law, or a felony sex offense defined in section 70.80 of the penal law or a crime involving incest as defined in section 255.25, 255.26 or 255.27 of such law, or a misdemeanor defined in article one hundred thirty of such law;(f) conspiracy in the second degree as defined in section 105.15 of the penal law, where the underlying allegation of such charge is that the defendant conspired to commit a class A felony defined in article one hundred twenty-five of the penal law;(g) money laundering in support of terrorism in the first degree as defined in section 470.24 of the penal law; money laundering in support of terrorism in the second degree as defined in section 470.23 of the penal law; money laundering in support of terrorism in the third degree as defined in section 470.22 of the penal law; money laundering in support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law;(h) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article;(i) facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law, promoting an obscene sexual performance by a child as defined in section 263.10 of the penal law or promoting a sexual performance by a child as defined in section 263.15 of the penal law;(j) any crime that is alleged to have caused the death of another person;(k) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law or unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is alleged to have committed the offense against a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article;(l) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular assault in the first degree as defined in section 120.04 of the penal law;(m) assault in the third degree as defined in section 120.00 of the penal law or arson in the third degree as defined in section 150.10 of the penal law, when such crime is charged as a hate crime as defined in section 485.05 of the penal law;(n) aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law or criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law;(o) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise corruption as

defined in section 460.20 of the penal law, or money laundering in the first degree as defined in section 470.20 of the penal law;(p) failure to register as a sex offender pursuant to section one hundred sixty-eight-t of the correction law or endangering the welfare of a child as defined in subdivision one of section 260.10 of the penal law, where the defendant is required to maintain registration under article six-C of the correction law and designated a level three offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law;(q) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law, or a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal law;(r) any felony offense committed by the principal while serving a sentence of probation or while released to post release supervision;(s) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law;(t) any felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance, released under conditions, or had yet to be arraigned after the issuance of a desk appearance ticket for a separate felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law, provided, however, that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision. For the purposes of this paragraph, "harm to an identifiable person or property" shall include but not be limited to theft of or damage to property. However, based upon a review of the facts alleged in the accusatory instrument, if the court determines that such theft is negligible and does not appear to be in furtherance of other criminal activity, the principal shall be released on his or her own recognizance or under appropriate non-monetary conditions; or(u) criminal possession of a weapon in the third degree as defined in subdivision three of section 265.02 of the penal law or criminal sale of a firearm to a minor as defined in section 265.16 of the penal law.5. Notwithstanding the provisions of subdivisions three and four of this section, with respect to any charge for which bail or remand is not ordered, and for which the court would not or could not otherwise require bail or remand, a defendant may, at any time, request that the court set bail in a nominal amount requested by the defendant in the form specified in paragraph (a) of subdivision one of section 520.10 of this title; if the court is satisfied that the request is voluntary, the court shall set such bail in such amount.6. Notwithstanding the provisions of subdivisions two, three and four of this section, a superior court may not order recognizance, release under non-monetary conditions or, where authorized, bail, or permit a defendant to remain at liberty pursuant to an existing order, after the defendant has been convicted of either: (a) a class A felony or (b) any class B or class C felony as defined in article one hundred thirty of the penal law committed or attempted to be committed by a person eighteen years of age or older against a person less than eighteen years of age. In either case the court must commit or remand the defendant to the custody of the sheriff.7. Notwithstanding the provisions of subdivisions two, three and four of this section, a superior court may not order recognizance, release under non-monetary conditions or, where authorized, bail when the defendant is charged with a felony unless and until the district attorney has had an opportunity to be heard in the matter and such court and counsel for the defendant have been furnished with a report as described in subparagraph (ii) of paragraph (b) of subdivision two of section 530.20 of this article. (a) a felony enumerated in section 70.02 of the penal law, other than robbery in the second degree as defined in subdivision one of section 160.10 of the penal law, provided, however, that burglary in the second degree as defined in subdivision two of section 140.25 of the penal law shall be a qualifying offense only where the defendant is charged with entering the living area of the dwelling; (b) a crime involving witness intimidation under section 215.15 of the penal law; (c) a crime involving witness tampering under section 215.11, 215.12 or 215.13 of the penal law; (d) a class A felony defined in the penal law, provided that for class A felonies under article two hundred twenty of such law, only class A-I felonies shall be a qualifying offense; (e) a sex trafficking offense defined in section 230.34 or 230.34-a of the penal law, or a felony sex offense defined in section 70.80 of the penal law or a crime involving incest as defined in section 255.25, 255.26 or 255.27 of such law, or a misdemeanor defined in article one hundred thirty of such law; (f) conspiracy in the second degree as defined in section 105.15 of the penal law, where the underlying allegation of such charge is that the defendant conspired to commit a class A felony defined in article one hundred twenty-five of the penal law; (g) money laundering in support of terrorism in the first degree as defined in section 470.24 of the penal law; money laundering in support of terrorism in the second degree as defined in section 470.23 of the penal law; money laundering in support of terrorism in the third degree as defined in section 470.22 of the penal law; money laundering in support of terrorism in the fourth degree as defined in section 470.21 of the penal law; or a felony crime of terrorism as defined in article four hundred ninety of the penal law, other than the crime defined in section 490.20 of such law; (h) criminal contempt in the second degree as defined in subdivision three of section 215.50 of the penal law, criminal contempt in the first degree as defined in subdivision (b), (c) or (d) of section 215.51 of the penal law or aggravated criminal contempt as defined in section 215.52 of the penal law, and the underlying allegation of such charge of criminal contempt in the second degree, criminal contempt in the first degree or aggravated criminal contempt is that the defendant violated a duly served order of protection where the protected party is a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article; (i) facilitating a sexual performance by a child with a controlled substance or alcohol as defined in section 263.30 of the penal law, use of a child in a sexual performance as defined in section 263.05 of the penal law or luring a child as defined in subdivision one of section 120.70 of the penal law, promoting an obscene sexual performance by a child as defined in section 263.10 of the penal law or promoting a sexual performance by a child as defined in section 263.15 of the penal law; (j) any crime that is alleged to have caused the death of another person; (k) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law or unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, and is alleged to have committed the

offense against a member of the defendant's same family or household as defined in subdivision one of section 530.11 of this article; (l) aggravated vehicular assault as defined in section 120.04-a of the penal law or vehicular assault in the first degree as defined in section 120.04 of the penal law; (m) assault in the third degree as defined in section 120.00 of the penal law or arson in the third degree as defined in section 150.10 of the penal law, when such crime is charged as a hate crime as defined in section 485.05 of the penal law; (n) aggravated assault upon a person less than eleven years old as defined in section 120.12 of the penal law or criminal possession of a weapon on school grounds as defined in section 265.01-a of the penal law; (o) grand larceny in the first degree as defined in section 155.42 of the penal law, enterprise corruption as defined in section 460.20 of the penal law, or money laundering in the first degree as defined in section 470.20 of the penal law; (p) failure to register as a sex offender pursuant to section one hundred sixty-eight-t of the correction law or endangering the welfare of a child as defined in subdivision one of section 260.10 of the penal law, where the defendant is required to maintain registration under article six-C of the correction law and designated a level three offender pursuant to subdivision six of section one hundred sixty-eight-l of the correction law; (q) a crime involving bail jumping under section 215.55, 215.56 or 215.57 of the penal law, or a crime involving escaping from custody under section 205.05, 205.10 or 205.15 of the penal law; (r) any felony offense committed by the principal while serving a sentence of probation or while released to post release supervision; (s) a felony, where the defendant qualifies for sentencing on such charge as a persistent felony offender pursuant to section 70.10 of the penal law; (t) any felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law, where such charge arose from conduct occurring while the defendant was released on his or her own recognizance, released under conditions, or had yet to be arraigned after the issuance of a desk appearance ticket for a separate felony or class A misdemeanor involving harm to an identifiable person or property, or any charge of criminal possession of a firearm as defined in section 265.01-b of the penal law, provided, however, that the prosecutor must show reasonable cause to believe that the defendant committed the instant crime and any underlying crime. For the purposes of this subparagraph, any of the underlying crimes need not be a qualifying offense as defined in this subdivision. For the purposes of this paragraph, "harm to an identifiable person or property" shall include but not be limited to theft of or damage to property. However, based upon a review of the facts alleged in the accusatory instrument, if the court determines that such theft is negligible and does not appear to be in furtherance of other criminal activity, the principal shall be released on his or her own recognizance or under appropriate non-monetary conditions; or (u) criminal possession of a weapon in the third degree as defined in subdivision three of section 265.02 of the penal law or criminal sale of a firearm to a minor as defined in section 265.16 of the penal law. 5. Notwithstanding the provisions of subdivisions three and four of this section, with respect to any charge for which bail or remand is not ordered, and for which the court would not or could not otherwise require bail or remand, a defendant may, at any time, request that the court set bail in a nominal amount requested by the defendant in the form specified in paragraph (a) of subdivision one of section 520.10 of this title; if the court is satisfied that the request is voluntary, the court shall set such bail in such amount. 6. Notwithstanding the provisions of subdivisions two, three and four of this section, a superior court may not order recognizance, release under non-monetary conditions or, where authorized, bail, or permit a defendant to remain at liberty pursuant to an existing order, after the defendant has been convicted of either: (a) a class A felony or (b) any class B or class C felony as defined in article one hundred thirty of the penal law committed or attempted to be committed by a person eighteen years of age or older against a person less than eighteen years of age. In either case the court must commit or remand the defendant to the custody of the sheriff. 7. Notwithstanding the provisions of subdivisions two, three and four of this section, a superior court may not order recognizance, release under non-monetary conditions or, where authorized, bail when the defendant is charged with a felony unless and until the district attorney has had an opportunity to be heard in the matter and such court and counsel for the defendant have been furnished with a report as described in subparagraph (ii) of paragraph (b) of subdivision two of section 530.20 of this article.

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sentence. 1. When the defendant is at liberty in the course of a criminal action as a result of a prior securing order and the court revokes such order and then, where authorized, fixes no bail, fixes bail in a greater amount or in a more burdensome form than was previously fixed, or, in conjunction with the imposition of non-monetary conditions, fixes bail in a greater amount or in a more burdensome form than was previously fixed and remands or commits defendant to the custody of the sheriff, or issues a more restrictive securing order, a judge designated in subdivision two of this section, upon application of the defendant following conviction of an offense other than a class A felony or a class B or class C felony offense as defined in article one hundred thirty of the penal law committed or attempted to be committed by a person eighteen years of age or older against a person less than eighteen years of age, and before sentencing, may issue a securing order and release the defendant on the defendant's own recognizance, release the defendant under non-monetary conditions, or, where authorized, fix bail, which may be in conjunction with the imposition of non-monetary conditions, fix bail in a lesser amount or in a less burdensome form, which may be in conjunction with the imposition of non-monetary conditions, or issue a less restrictive securing order, than fixed by the court in which the conviction was entered. 2. An order as prescribed in subdivision one may be issued by the following judges in the indicated situations:(a) If the criminal action was pending in supreme court or county court, such order may be issued by a justice of the appellate division of the

department in which the conviction was entered.(b) If the criminal action was pending in a local criminal court, such order may be issued by a judge of a superior court holding a term thereof in the county in which the conviction was entered.2-a. Notwithstanding the provisions of subdivision four of section 510.10, paragraph (b) of subdivision one of section 530.20 and subdivision four of section 530.40 of this title, when a defendant charged with an offense that is not such a qualifying offense is convicted, whether by guilty plea or verdict, in such criminal action or proceeding of an offense that is not a qualifying offense, the court may, in accordance with law, issue a securing order: releasing the defendant on the defendant's own recognizance or under non-monetary conditions where authorized, fix bail, or ordering non-monetary conditions in conjunction with fixing bail, or remand the defendant to the custody of the sheriff where authorized.3. An application for an order specified in this section must be made upon reasonable notice to the people, and the people must be accorded adequate opportunity to appear in opposition thereto. Not more than one application may be made pursuant to this section. Defendant must allege in his application that he intends to take an appeal to an intermediate appellate court immediately after sentence is pronounced.4. Notwithstanding the provisions of subdivision one, if within thirty days after sentence the defendant has not taken an appeal to an intermediate appellate court from the judgment or sentence, the operation of such order terminates and the defendant must surrender himself to the criminal court in which the judgment was entered in order that execution of the judgment be commenced.5. Notwithstanding the provisions of subdivision one, if within one hundred twenty days after the filing of the notice of appeal such appeal has not been brought to argument in or submitted to the intermediate appellate court, the operation of such order terminates and the defendant must surrender himself to the criminal court in which the judgment was entered in order that execution of the judgment be commenced or resumed; except that this subdivision does not apply where the intermediate appellate court has (a) extended the time for argument or submission of the appeal to a date beyond the specified period of one hundred twenty days, and (b) upon application of the defendant, expressly ordered that the operation of the order continue until the date of the determination of the appeal or some other designated future date or occurrence.6. Where the defendant is at liberty during the pendency of an appeal as a result of an order issued pursuant to this section, the intermediate appellate court, upon affirmance of the judgment, must by appropriate certificate remit the case to the criminal court in which such judgment was entered. The criminal court must, upon at least two days notice to the defendant, his surety and his attorney, promptly direct the defendant to surrender himself to the criminal court in order that execution of the judgment be commenced or resumed, and if necessary the criminal court may issue a bench warrant to secure his appearance. (a) If the criminal action was pending in supreme court or county court, such order may be issued by a justice of the appellate division of the department in which the conviction was entered. (b) If the criminal action was pending in a local criminal court, such order may be issued by a judge of a superior court holding a term thereof in the county in which the conviction was entered. 2-a. Notwithstanding the provisions of subdivision four of section 510.10, paragraph (b) of subdivision one of section 530.20 and subdivision four of section 530.40 of this title, when a defendant charged with an offense that is not such a qualifying offense is convicted, whether by guilty plea or verdict, in such criminal action or proceeding of an offense that is not a qualifying offense, the court may, in accordance with law, issue a securing order: releasing the defendant on the defendant's own recognizance or under non-monetary conditions where authorized, fix bail, or ordering non-monetary conditions in conjunction with fixing bail, or remand the defendant to the custody of the sheriff where authorized. 3. An application for an order specified in this section must be made upon reasonable notice to the people, and the people must be accorded adequate opportunity to appear in opposition thereto. Not more than one application may be made pursuant to this section. Defendant must allege in his application that he intends to take an appeal to an intermediate appellate court immediately after sentence is pronounced. 4. Notwithstanding the provisions of subdivision one, if within thirty days after sentence the defendant has not taken an appeal to an intermediate appellate court from the judgment or sentence, the operation of such order terminates and the defendant must surrender himself to the criminal court in which the judgment was entered in order that execution of the judgment be commenced. 5. Notwithstanding the provisions of subdivision one, if within one hundred twenty days after the filing of the notice of appeal such appeal has not been brought to argument in or submitted to the intermediate appellate court, the operation of such order terminates and the defendant must surrender himself to the criminal court in which the judgment was entered in order that execution of the judgment be commenced or resumed; except that this subdivision does not apply where the intermediate appellate court has (a) extended the time for argument or submission of the appeal to a date beyond the specified period of one hundred twenty days, and (b) upon application of the defendant, expressly ordered that the operation of the order continue until the date of the determination of the appeal or some other designated future date or occurrence. 6. Where the defendant is at liberty during the pendency of an appeal as a result of an order issued pursuant to this section, the intermediate appellate court, upon affirmance of the judgment, must by appropriate certificate remit the case to the criminal court in which such judgment was entered. The criminal court must, upon at least two days notice to the defendant, his surety and his attorney, promptly direct the defendant to surrender himself to the criminal court in order that execution of the judgment be commenced or resumed, and if necessary the criminal court may issue a bench warrant to secure his appearance.

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1. A judge who is otherwise authorized pursuant to section 460.50 or section 460.60 to issue an order of recognizance or bail pending the determination of an appeal, may do so unless the defendant received a class A felony sentence or a sentence for any class B or class C felony offense defined in article one hundred thirty of the penal law committed or attempted to be committed by a

person eighteen years of age or older against a person less than eighteen years of age. 2. Notwithstanding the provisions of subdivision four of section 510.10, paragraph (b) of subdivision one of section 530.20 and subdivision four of section 530.40 of this title, when a defendant charged with an offense that is not such a qualifying offense applies, pending determination of an appeal, for an order of recognizance or release on non-monetary conditions, where authorized, fixing bail, or ordering non-monetary conditions in conjunction with fixing bail, a judge identified in subdivision two of section 460.50 or paragraph (a) of subdivision one of section 460.60 of this chapter may, in accordance with law, and except as otherwise provided by law, issue a securing order: releasing the defendant on the defendant's own recognizance or under non-monetary conditions where authorized, fixing bail, or ordering non-monetary conditions in conjunction with fixing bail, or remanding the defendant to the custody of the sheriff where authorized. 3. Where an appeal by the people has been taken from an order dismissing one or more counts of an accusatory instrument for failure to comply with a discovery order pursuant to subdivision twelve of section 450.20 of this chapter and the defendant is charged with a qualifying offense in the remaining counts in the accusatory instrument, pending determination of an appeal, the defendant may apply for an order of recognizance or release on non-monetary conditions, where authorized, fixing bail, or ordering non-monetary conditions in conjunction with fixing bail. A judge identified in subdivision two of section 460.50 of this chapter or paragraph (a) of subdivision one of section 460.60 of this chapter may, in accordance with law, and except as otherwise provided by law, issue a securing order releasing the defendant on the defendant's own recognizance or under non-monetary conditions where authorized, fixing bail, or ordering non-monetary conditions in conjunction with fixing bail, or remanding the defendant to the custody of the sheriff where authorized.

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1. Whenever in the course of a criminal action or proceeding a defendant is at liberty as a result of an order of recognizance, release under non-monetary conditions or bail issued pursuant to this chapter, and the court considers it necessary to review such order, whether due to a motion by the people or otherwise, the court may, and except as provided in subdivision two of section 510.50 of this title concerning a failure to appear in court, by a bench warrant if necessary, require the defendant to appear before the court. Upon such appearance, the court, for good cause shown, may revoke the order of recognizance, release under non-monetary conditions, or bail. If the defendant is entitled to recognizance, release under non-monetary conditions, or bail as a matter of right, the court must issue another such order. If the defendant is not, the court may either issue such an order or commit the defendant to the custody of the sheriff in accordance with this section. Where the defendant is committed to the custody of the sheriff and is held on a felony complaint, a new period as provided in section 180.80 of this chapter shall commence to run from the time of the defendant's commitment under this subdivision. 2. (a) Whenever in the course of a criminal action or proceeding a defendant charged with the commission of a felony is at liberty as a result of an order of recognizance, release under non-monetary conditions or bail issued pursuant to this article it shall be grounds for revoking such order that the court finds reasonable cause to believe the defendant committed one or more specified class A or violent felony offenses or intimidated a victim or witness in violation of section 215.15, 215.16 or 215.17 of the penal law while at liberty.(b) Except as provided in paragraph (a) of this subdivision or any other law, whenever in the course of a criminal action or proceeding a defendant charged with the commission of an offense is at liberty as a result of a securing order issued pursuant to this article it shall be grounds for revoking such order and imposing a new securing order in accordance with paragraph (d) of this subdivision, the basis for which shall be made on the record or in writing, in such criminal action or proceeding when the court has found, by clear and convincing evidence, that the defendant:(i) persistently and willfully failed to appear after notice of scheduled appearances in the case before the court; or(ii) violated an order of protection in the manner prohibited by subdivision (b), (c) or (d) of section 215.51 of the penal law while at liberty; or(iii) stands charged in such criminal action or proceeding with a misdemeanor or violation and, after being so charged, intimidated a victim or witness in violation of section 215.15, 215.16 or 215.17 of the penal law or tampered with a witness in violation of section 215.11, 215.12 or 215.13 of the penal law, law while at liberty; or(iv) stands charged in such action or proceeding with a felony and, after being so charged, committed a felony while at liberty.(c) Before revoking an order of recognizance, release under non-monetary conditions, or bail pursuant to this subdivision, the court must hold a hearing and shall receive any relevant, admissible evidence not legally privileged. The defendant may cross-examine witnesses and may present relevant, admissible evidence on his own behalf. Such hearing may be consolidated with, and conducted at the same time as, a felony hearing conducted pursuant to article one hundred eighty of this chapter. A transcript of testimony taken before the grand jury upon presentation of the subsequent offense shall be admissible as evidence during the hearing. The district attorney may move to introduce grand jury testimony of a witness in lieu of that witness' appearance at the hearing.(d) Revocation of an order of recognizance, release under non-monetary conditions or bail and a new securing order fixing bail or commitment, as specified in this paragraph and pursuant to this subdivision shall be for the following periods:(i) Under paragraph (a) of this subdivision, revocation of the order of recognizance, release under non-monetary conditions or, as the case may be, bail, and a new securing order fixing bail or committing the defendant to the custody of the sheriff shall be as follows:(A) For a period not to exceed ninety days exclusive of any periods of adjournment requested by the defendant; or(B) Until the charges contained within the accusatory instrument have been reduced or dismissed such that no count remains which charges the defendant with commission of a felony; or(C) Until reduction or dismissal of the charges contained within the accusatory instrument charging the subsequent offense such that no count remains which charges the defendant with commission of

a class A or violent felony offense.Upon expiration of any of the three periods specified within this subparagraph, whichever is shortest, the court may grant or deny release upon an order of bail or recognizance in accordance with the provisions of this article. Upon conviction to an offense the provisions of article five hundred thirty of this chapter shall apply;(ii) Under subparagraph (i) of paragraph (b) of this subdivision, revocation of a previously issued securing order shall result in the issuance of a new securing order which may, if otherwise authorized by law, permit the principal's release on recognizance or release under non-monetary conditions, but shall also render the defendant eligible for an order fixing bail, or ordering non-monetary conditions in conjunction with fixing bail, provided, however, that in accordance with the principles in this title the court must impose a new securing order in accordance with subdivision one of section 510.10 of this title, and in imposing such order, may consider the circumstances warranting such revocation. Nothing in this subparagraph shall be interpreted as shortening the period of detention, or requiring or authorizing any less restrictive form of a securing order, which may be imposed pursuant to any other law; and(iii) Under subparagraphs (ii), (iii), and (iv) of paragraph (b) of this subdivision, revocation of a previously issued securing order shall result in the issuance of a new securing order which may, if otherwise authorized by law, permit the principal's release on recognizance or release under non-monetary conditions, but shall also render the defendant eligible for an order fixing bail or ordering non-monetary conditions in conjunction with fixing bail. In issuing the new securing order, the court shall consider the kind and degree of control or restriction necessary to reasonably assure the principal's return to court and compliance with court conditions, and select a securing order consistent with its determination, taking into account the factors required to be considered under subdivision one of section 510.10 of this title, the circumstances warranting such revocation, and the nature and extent of the principal's noncompliance with previously ordered non-monetary conditions of the securing order subject to revocation under this subdivision. Nothing in this subparagraph shall be interpreted as shortening the period of detention, or requiring or authorizing any less restrictive form of a securing order, which may be imposed pursuant to any other law.(e) Notwithstanding the provisions of paragraph (a) or (b) of this subdivision a defendant, against whom a felony complaint has been filed which charges the defendant with commission of a class A or violent felony offense or violation of section 215.15, 215.16 or 215.17 of the penal law committed while he was at liberty as specified therein, may be committed to the custody of the sheriff pending a revocation hearing for a period not to exceed seventy-two hours. An additional period not to exceed seventy-two hours may be granted by the court upon application of the district attorney upon a showing of good cause or where the failure to commence the hearing was due to the defendant's request or occurred with his consent. Such good cause must consist of some compelling fact or circumstance which precluded conducting the hearing within the initial prescribed period. (b) Except as provided in paragraph (a) of this subdivision or any other law, whenever in the course of a criminal action or proceeding a defendant charged with the commission of an offense is at liberty as a result of a securing order issued pursuant to this article it shall be grounds for revoking such order and imposing a new securing order in accordance with paragraph (d) of this subdivision, the basis for which shall be made on the record or in writing, in such criminal action or proceeding when the court has found, by clear and convincing evidence, that the defendant: (i) persistently and willfully failed to appear after notice of scheduled appearances in the case before the court; or (ii) violated an order of protection in the manner prohibited by subdivision (b), (c) or (d) of section 215.51 of the penal law while at liberty; or (iii) stands charged in such criminal action or proceeding with a misdemeanor or violation and, after being so charged, intimidated a victim or witness in violation of section 215.15, 215.16 or 215.17 of the penal law or tampered with a witness in violation of section 215.11, 215.12 or 215.13 of the penal law, law while at liberty; or (iv) stands charged in such action or proceeding with a felony and, after being so charged, committed a felony while at liberty. (c) Before revoking an order of recognizance, release under non-monetary conditions, or bail pursuant to this subdivision, the court must hold a hearing and shall receive any relevant, admissible evidence not legally privileged. The defendant may cross-examine witnesses and may present relevant, admissible evidence on his own behalf. Such hearing may be consolidated with, and conducted at the same time as, a felony hearing conducted pursuant to article one hundred eighty of this chapter. A transcript of testimony taken before the grand jury upon presentation of the subsequent offense shall be admissible as evidence during the hearing. The district attorney may move to introduce grand jury testimony of a witness in lieu of that witness' appearance at the hearing. (d) Revocation of an order of recognizance, release under non-monetary conditions or bail and a new securing order fixing bail or commitment, as specified in this paragraph and pursuant to this subdivision shall be for the following periods: (i) Under paragraph (a) of this subdivision, revocation of the order of recognizance, release under non-monetary conditions or, as the case may be, bail, and a new securing order fixing bail or committing the defendant to the custody of the sheriff shall be as follows: (A) For a period not to exceed ninety days exclusive of any periods of adjournment requested by the defendant; or (B) Until the charges contained within the accusatory instrument have been reduced or dismissed such that no count remains which charges the defendant with commission of a felony; or (C) Until reduction or dismissal of the charges contained within the accusatory instrument charging the subsequent offense such that no count remains which charges the defendant with commission of a class A or violent felony offense. Upon expiration of any of the three periods specified within this subparagraph, whichever is shortest, the court may grant or deny release upon an order of bail or recognizance in accordance with the provisions of this article. Upon conviction to an offense the provisions of article five hundred thirty of this chapter shall apply; (ii) Under subparagraph (i) of paragraph (b) of this subdivision, revocation of a previously issued securing order shall result in the issuance of a new securing order which may, if otherwise authorized by law, permit the principal's release on recognizance or release under non-monetary conditions, but shall also render the defendant eligible for an order fixing bail, or ordering non-monetary conditions in conjunction with fixing bail, provided, however, that in accordance with the principles in this title the court must impose a new securing order in accordance with subdivision one of section 510.10 of this title, and in imposing such order, may consider the circumstances warranting such revocation. Nothing in this subparagraph shall be interpreted as shortening the period of detention, or requiring or

authorizing any less restrictive form of a securing order, which may be imposed pursuant to any other law; and (iii) Under subparagraphs (ii), (iii), and (iv) of paragraph (b) of this subdivision, revocation of a previously issued securing order shall result in the issuance of a new securing order which may, if otherwise authorized by law, permit the principal's release on recognizance or release under non-monetary conditions, but shall also render the defendant eligible for an order fixing bail or ordering non-monetary conditions in conjunction with fixing bail. In issuing the new securing order, the court shall consider the kind and degree of control or restriction necessary to reasonably assure the principal's return to court and compliance with court conditions, and select a securing order consistent with its determination, taking into account the factors required to be considered under subdivision one of section 510.10 of this title, the circumstances warranting such revocation, and the nature and extent of the principal's noncompliance with previously ordered non-monetary conditions of the securing order subject to revocation under this subdivision. Nothing in this subparagraph shall be interpreted as shortening the period of detention, or requiring or authorizing any less restrictive form of a securing order, which may be imposed pursuant to any other law. (e) Notwithstanding the provisions of paragraph (a) or (b) of this subdivision a defendant, against whom a felony complaint has been filed which charges the defendant with commission of a class A or violent felony offense or violation of section 215.15, 215.16 or 215.17 of the penal law committed while he was at liberty as specified therein, may be committed to the custody of the sheriff pending a revocation hearing for a period not to exceed seventy-two hours. An additional period not to exceed seventy-two hours may be granted by the court upon application of the district attorney upon a showing of good cause or where the failure to commence the hearing was due to the defendant's request or occurred with his consent. Such good cause must consist of some compelling fact or circumstance which precluded conducting the hearing within the initial prescribed period.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle P - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants and Witnesses Under Control of Court--Recognizance, BailArticle 530 - Orders of Recognizance or Bail With Respect to Defendants in Criminal Actions and Proceedings--When and by What Courts Authorized530.70 - Order of Recognizance or Bail; Bench Warrant.

1. A bench warrant issued by a superior court, by a district court, by the New York City criminal court or by a superior court judge sitting as a local criminal court may be executed anywhere in the state. A bench warrant issued by a city court, a town court or a village court may be executed in the county of issuance or any adjoining county; and it may be executed anywhere else in the state upon the written endorsement thereon of a local criminal court of the county in which the defendant is to be taken into custody. When so endorsed, the warrant is deemed the process of the endorsing court as well as that of the issuing court. 2. A bench warrant may be addressed to: (a) any police officer whose geographical area of employment embraces either the place where the offense charged was allegedly committed or the locality of the court by which the warrant is issued; or (b) any uniformed court officer for a court in the city of New York, the county of Nassau, the county of Suffolk or the county of Westchester or for any other court that is part of the unified court system of the state for execution in the building wherein such court officer is employed or in the immediate vicinity thereof. A bench warrant must be executed in the same manner as a warrant of arrest, as provided in section 120.80, and following the arrest, such executing police officer or court officer must without unnecessary delay bring the defendant before the court in which it is returnable; provided, however, if the court in which the bench warrant is returnable is a city, town or village court, and such court is not available, and the bench warrant is addressed to a police officer, such executing police officer must without unnecessary delay bring the defendant before an alternate local criminal court, as provided in subdivision five of section 120.90; or if the court in which the bench warrant is returnable is a superior court, and such court is not available, and the bench warrant is addressed to a police officer, such executing police officer may bring the defendant to the local correctional facility of the county in which such court sits, to be detained there until not later than the commencement of the next session of such court occurring on the next business day. 2-a. A court which issues a bench warrant may attach thereto a summary of the basis for the warrant. In any case where, pursuant to subdivision two of this section, a defendant arrested upon a bench warrant is brought before a local criminal court other than the court in which the warrant is returnable, such local criminal court shall consider such summary before issuing a securing order with respect to the defendant. 3. A bench warrant may be executed by (a) any officer to whom it is addressed, or (b) any other police officer delegated to execute it under circumstances prescribed in subdivisions four and five. 4. The issuing court may authorize the delegation of such warrant. Where the issuing court has so authorized, a police officer to whom a bench warrant is addressed may delegate another police officer to whom it is not addressed to execute such warrant as his or her agent when:(a) He or she has reasonable cause to believe that the defendant is in a particular county other than the one in which the warrant is returnable; and(b) The geographical area of employment of the delegated police officer embraces the locality where the arrest is to be made.5. Under circumstances specified in subdivision four, the police officer to whom the bench warrant is addressed may inform the delegated officer, by telecommunication, mail or any other means, of the issuance of the warrant, of the offense charged in the underlying accusatory instrument and of all other pertinent details, and may request him or her to act as his or her agent in arresting the defendant pursuant to such bench warrant. Upon such request, the delegated police officer is to the same extent as the delegating officer, authorized to make such arrest pursuant to the bench warrant within the geographical area of such delegated officer's employment. Upon so arresting the defendant, he or she must without unnecessary delay deliver the defendant or cause him or her to be delivered to the custody of the police officer by whom he or she was so delegated, and the latter must then without unnecessary delay bring the defendant before the court in which such bench warrant is returnable.6. A bench warrant may be executed by an officer of the state department of corrections and community supervision or a probation officer when the person named within the warrant is under the supervision of the department of corrections and community supervision or a department of

probation and the probation officer is authorized by his or her probation director, as the case may be. The warrant must be executed upon the same conditions and in the same manner as is otherwise provided for execution by a police officer. (a) He or she has reasonable cause to believe that the defendant is in a particular county other than the one in which the warrant is returnable; and (b) The geographical area of employment of the delegated police officer embraces the locality where the arrest is to be made. 5. Under circumstances specified in subdivision four, the police officer to whom the bench warrant is addressed may inform the delegated officer, by telecommunication, mail or any other means, of the issuance of the warrant, of the offense charged in the underlying accusatory instrument and of all other pertinent details, and may request him or her to act as his or her agent in arresting the defendant pursuant to such bench warrant. Upon such request, the delegated police officer is to the same extent as the delegating officer, authorized to make such arrest pursuant to the bench warrant within the geographical area of such delegated officer's employment. Upon so arresting the defendant, he or she must without unnecessary delay deliver the defendant or cause him or her to be delivered to the custody of the police officer by whom he or she was so delegated, and the latter must then without unnecessary delay bring the defendant before the court in which such bench warrant is returnable. 6. A bench warrant may be executed by an officer of the state department of corrections and community supervision or a probation officer when the person named within the warrant is under the supervision of the department of corrections and community supervision or a department of probation and the probation officer is authorized by his or her probation director, as the case may be. The warrant must be executed upon the same conditions and in the same manner as is otherwise provided for execution by a police officer.

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1. At any time before the forfeiture of a bail bond, an obligor may surrender the defendant in his exoneration, or the defendant may surrender himself, to the court in which his case is pending or to the sheriff to whose custody he was committed at the time of giving bail, in the following manner:(a) A certified copy of the bail bond must be delivered to the sheriff, who must detain the defendant in his custody thereon, as upon a commitment. The sheriff must acknowledge the surrender by a certificate in writing, and must forthwith notify the court in which the case is pending that such surrender has been made.(b) Upon the bail bond and the certificate of the sheriff, or upon the surrender to the court in which the case is pending, such court must, upon five days notice to the district attorney, order that the bail be exonerated. On filing such order, the bail is exonerated accordingly.2. For the purpose of surrendering the defendant, an obligor or the person who posted cash bail for the defendant may take him into custody at any place within the state, or he may, by a written authority indorsed on a certified copy of the bail bond, empower any person over twenty years of age to do so.3. At any time before the forfeiture of cash bail, the defendant may surrender himself or the person who posted bail for the defendant may surrender the defendant in the manner prescribed in subdivision one. In such case, the court must order a return of the money to the person who posted it, upon producing the certificate of the sheriff showing the surrender, and upon a notice of five days to the district attorney. (a) A certified copy of the bail bond must be delivered to the sheriff, who must detain the defendant in his custody thereon, as upon a commitment. The sheriff must acknowledge the surrender by a certificate in writing, and must forthwith notify the court in which the case is pending that such surrender has been made. (b) Upon the bail bond and the certificate of the sheriff, or upon the surrender to the court in which the case is pending, such court must, upon five days notice to the district attorney, order that the bail be exonerated. On filing such order, the bail is exonerated accordingly. 2. For the purpose of surrendering the defendant, an obligor or the person who posted cash bail for the defendant may take him into custody at any place within the state, or he may, by a written authority indorsed on a certified copy of the bail bond, empower any person over twenty years of age to do so. 3. At any time before the forfeiture of cash bail, the defendant may surrender himself or the person who posted bail for the defendant may surrender the defendant in the manner prescribed in subdivision one. In such case, the court must order a return of the money to the person who posted it, upon producing the certificate of the sheriff showing the surrender, and upon a notice of five days to the district attorney.

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1. If, without sufficient excuse, a principal does not appear when required or does not render himself amenable to the orders and processes of the criminal court wherein bail has been posted, the court must enter such facts upon its minutes and the bail bond or the cash bail, as the case may be, is thereupon forfeited. 2. If the principal appears at any time before the final adjournment of the court, and satisfactorily excuses his neglect, the court may direct the forfeiture to be discharged upon such terms as are just. If the forfeiture is not so discharged and the forfeited bail consisted of a bail bond, the district attorney, within one hundred twenty days after the adjournment of the court at which such bond was directed to be forfeited, must proceed against the obligor or obligors who executed such bond, in the manner prescribed in subdivision three. If the forfeited bail consisted of cash bail, the county treasurer with whom it is deposited shall give written notice of the forfeiture to the person who posted cash bail for the defendant may at any time after the final adjournment of the court or forty-five days after notice of forfeiture required herein has been given, whichever comes later, apply the money deposited to the use of the county. 3. A bail bond or cash bail, upon being forfeited, together with a certified copy of the order of the court forfeiting the same, must be filed by the district attorney in the office of the clerk of the

county wherein such order was issued. Such clerk must docket the same in the book kept by him for docketing of judgments and enter therein a judgment against the obligor or obligors who executed such bail bond for the amount of the penalty of said bond or against the person who posted the cash bail for the amount of the cash bail, and the bond and the certified copy of the order of the court forfeiting the bond or the cash bail constitutes the judgment roll. Such judgment constitutes a lien on the real estate of the obligor or obligors who executed such bail bond from the time of the entry of the judgment. An execution may be issued to collect the amount of said bail bond in the same form and with the same effect as upon a judgment recovered in an action in said county upon a debt in favor of the people of the state of New York against such obligor or obligors.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle P - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants and Witnesses Under Control of Court--Recognizance, BailArticle 540 - Forfeiture of Bail and Remission Thereof540.20 - Forfeiture of Bail; Certain Local Criminal Courts.

Notwithstanding the provisions of section 540.10, when bail has been posted in a city court, town court or village court in connection with a local criminal court accusatory instrument, other than a felony complaint, and thereafter such bail is forfeited, the following rules are applicable: 1. If such bail consists of a bail bond, the financial officer of such city, town or village must promptly commence an action for the recovery of the sum of money specified in such bond, and upon collection thereof shall pay the same over to the treasurer or financial officer of the city, the supervisor of the town or the treasurer of the village. Any amount recovered in such action, unless otherwise provided by law, shall be the property of the city, town or village in which the offense charged is alleged to have been committed. 2. If such bail consists of cash bail, the local criminal court must:(a) If it is a city court, pay the forfeited bail to the treasurer or other financial officer of the city. Such forfeited bail, unless otherwise provided by law, is the property of such city.(b) If it is a town court or a village court, pay the forfeited bail to the state comptroller on or before the tenth day of the month next succeeding such forfeiture. Such forfeited bail, unless otherwise provided by law, is the property of the town or village in which the offense charged is alleged to have been committed; provided, however, that when (i) a single amount of bail is posted for more than a single offense charged, and (ii) the town or village justice court does not attribute a specific amount of bail to each offense, and (iii) forfeited bail for at least two of the offenses would be the property of different governmental entities, the entire amount of forfeited bail shall be the property of the town or village in which the offenses charged are alleged to have been committed, except that, when forfeited bail for at least one of the offenses would be the property of the state, the entire amount of forfeited bail shall be the property of the state. (a) If it is a city court, pay the forfeited bail to the treasurer or other financial officer of the city. Such forfeited bail, unless otherwise provided by law, is the property of such city. (b) If it is a town court or a village court, pay the forfeited bail to the state comptroller on or before the tenth day of the month next succeeding such forfeiture. Such forfeited bail, unless otherwise provided by law, is the property of the town or village in which the offense charged is alleged to have been committed; provided, however, that when (i) a single amount of bail is posted for more than a single offense charged, and (ii) the town or village justice court does not attribute a specific amount of bail to each offense, and (iii) forfeited bail for at least two of the offenses would be the property of different governmental entities, the entire amount of forfeited bail shall be the property of the town or village in which the offenses charged are alleged to have been committed, except that, when forfeited bail for at least one of the offenses would be the property of the state, the entire amount of forfeited bail shall be the property of the state.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle P - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants and Witnesses Under Control of Court--Recognizance, BailArticle 540 - Forfeiture of Bail and Remission Thereof540.30 - Remission of Forfeiture.

1. After the forfeiture of a bail bond or cash bail, as provided in section 540.10, an application for remission of such forfeiture may be made to a court as follows:(a) If the forfeiture has been ordered by a superior court, the application must be made in such court;(b) If the forfeiture has been ordered by a local criminal court, the application must be made to a superior court in the county, except that if the local criminal court which ordered the forfeiture was a district court, the application may alternatively be made to that district court.2. The application must be made within one year after the forfeiture of the bail is declared upon at least five days notice to the district attorney and service of copies of the affidavits and papers upon which the application is founded. The court may grant the application and remit the forfeiture or any part thereof, upon such terms as are just. The application may be granted only upon payment of the costs and expenses incurred in the proceedings for the enforcement of the forfeiture. (a) If the forfeiture has been ordered by a superior court, the application must be made in such court; (b) If the forfeiture has been ordered by a local criminal court, the application must be made to a superior court in the county, except that if the local criminal court which ordered the forfeiture was a district court, the application may alternatively be made to that district court. 2. The application must be made within one year after the forfeiture of the bail is declared upon at least five days notice to the district attorney and service of copies of the affidavits and papers upon which the application is founded. The court may grant the application and remit the forfeiture or any part thereof, upon such terms as are just. The application may be granted only upon payment of the costs and expenses incurred in the proceedings for the enforcement of the forfeiture.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 550 - Securing Attendance of Defendants--in General550.10 - Securing Attendance of

Defendants; in General.

Depending upon the status of a criminal action pending against a defendant, the geographical location of the defendant at the time and other factors, his attendance thereat for purposes of arraignment or prosecution may be secured by the following methods: 1. If the defendant has never been arraigned in the action, and if he is at liberty within the state, his attendance may, under given circumstances, be secured by a warrant of arrest, as prescribed in article one hundred twenty, a superior court warrant of arrest, as prescribed in subdivision three of section 210.10, or a summons, as prescribed in article one hundred thirty. 2. If the defendant has been arraigned in the action and, by virtue of a securing order, is either in the custody of the sheriff or at liberty within the state on his own recognizance or on bail, his attendance may be secured as follows:(a) If the defendant is confined in the custody of the sheriff, the court may direct the sheriff to produce him;(b) If the defendant is at liberty within the state as a result of an order releasing him on his own recognizance or on bail, the court may secure his attendance by notification or by the issuance of a bench warrant.3. If the defendant's attendance cannot be secured by methods described in subdivisions one and two, either because he is outside the state or because he is confined in an institution within the state as a result of an order issued in some other action, proceeding or matter, his attendance may, under indicated circumstances, be secured by procedures prescribed in the ensuing articles of this title. (a) If the defendant is confined in the custody of the sheriff, the court may direct the sheriff to produce him; (b) If the defendant is at liberty within the state as a result of an order releasing him on his own recognizance or on bail, the court may secure his attendance by notification or by the issuance of a bench warrant. 3. If the defendant's attendance cannot be secured by methods described in subdivisions one and two, either because he is outside the state or because he is confined in an institution within the state as a result of an order issued in some other action, proceeding or matter, his attendance may, under indicated circumstances, be secured by procedures prescribed in the ensuing articles of this title.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 560 - Securing Attendance of Defendants Confined in Institutions Within the State560.10 - Securing Attendance of Defendants Confined in Institutions Within the State.

within the state. 1. When a criminal action is pending against a defendant who is confined in an institution within the state pursuant to a court order issued in a different action, proceeding or matter, the following courts and judges may, under the indicated circumstances, order that the defendant be produced in the court in which the criminal action is pending for purposes of arraignment or prosecution therein:(a) If the action is pending in a superior court or with a superior court judge sitting as a local criminal court, or in a district court or the New York City criminal court, such court may, upon application of the district attorney, order the production therein of a defendant confined in any institution within the state.(b) If the action is pending in a city court or a town court or a village court, such court may, upon application of the district attorney, order production therein of a defendant confined in a county jail of such county. Production therein of a defendant confined in any other institution within the state may, upon application of the district attorney, be ordered by a judge of a superior court holding a term thereof in the county in which the action is pending.2. An application by a district attorney, pursuant to subdivision one, for production of a defendant confined in an institution located in another county in connection with a criminal action or proceeding pending in such other county, must be made upon reasonable notice to the district attorney of such other county and to the attorney representing such defendant in or in connection with the action or proceeding pending therein, and the court or judge must accord them reasonable opportunity to be heard in the matter. If such court or judge determines that production of the defendant would result in an unreasonable interference with the conduct of the action in such other county, it must deny the application. If an order of production is issued, a justice of the appellate division, of either the department embracing the county of issuance thereof or of the department embracing the county of the defendant's confinement, upon application of the district attorney of the county of confinement or of the attorney representing the defendant in or in connection with the action pending therein, may for good cause shown vacate such order of production. (a) If the action is pending in a superior court or with a superior court judge sitting as a local criminal court, or in a district court or the New York City criminal court, such court may, upon application of the district attorney, order the production therein of a defendant confined in any institution within the state. (b) If the action is pending in a city court or a town court or a village court, such court may, upon application of the district attorney, order production therein of a defendant confined in a county jail of such county. Production therein of a defendant confined in any other institution within the state may, upon application of the district attorney, be ordered by a judge of a superior court holding a term thereof in the county in which the action is pending. 2. An application by a district attorney, pursuant to subdivision one, for production of a defendant confined in an institution located in another county in connection with a criminal action or proceeding pending in such other county, must be made upon reasonable notice to the district attorney of such other county and to the attorney representing such defendant in or in connection with the action or proceeding pending therein, and the court or judge must accord them reasonable opportunity to be heard in the matter. If such court or judge determines that production of the defendant would result in an unreasonable interference with the conduct of the action in such other county, it must deny the application. If an order of production is issued, a justice of the appellate division, of either the department embracing the county of issuance thereof or of the department embracing the county of the defendant's confinement, upon application of the district attorney of the county of confinement or of the attorney representing the defendant in or in connection with the action pending therein, may for good cause shown vacate such order of production.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 570 - Securing Attendance of Defendants Who Are Outside the State but Within the United States--Rendition to Other Jurisdictions of Defendants Within the State -- Uniform Criminal Extradition Act570.02 - Short Title.

This article may be cited and referred to as the uniform criminal extradition act.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 570 - Securing Attendance of Defendants Who Are Outside the State but Within the United States--Rendition to Other Jurisdictions of Defendants Within the State -- Uniform Criminal Extradition Act570.04 - Definitions.

As used in this article, the following terms have the following meanings: 1. "Governor" includes any person performing the functions of governor by authority of the law of this state. 2. "Executive authority" includes the governor, and any person performing the functions of governor in a state other than this state. 3. "State," when referring to a state other than this state, includes any other state or territory, organized or unorganized, of the United States of America.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 570 - Securing Attendance of Defendants Who Are Outside the State but Within the United States--Rendition to Other Jurisdictions of Defendants Within the State -- Uniform Criminal Extradition Act570.06 - Fugitives From Justice; Duty of Governor.

Subject to the provisions of this article, the provisions of the constitution of the United States controlling, and any and all acts of congress enacted in pursuance thereof, it is the duty of the governor of this state to have arrested and delivered up to the executive authority of any other state of the United States any person charged in that state with treason, felony, or other crime, who has fled from justice and is found in this state.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 570 - Securing Attendance of Defendants Who Are Outside the State but Within the United States--Rendition to Other Jurisdictions of Defendants Within the State -- Uniform Criminal Extradition Act570.08 - Demand; Form.

No demand for the extradition of a person charged with crime in another state shall be recognized by the governor unless in writing alleging that the accused was present in the demanding state at the time of the commission of the alleged crime, and that thereafter he fled from the state, except in cases arising under section 570.14 or 570.16, and accompanied by a copy of an indictment found or by information supported by an affidavit in the state having jurisdiction of the crime, or by a copy of an affidavit made before a magistrate there, together with a copy of any warrant which was issued thereon, or by a copy of a judgment of conviction or of a sentence imposed in execution thereof, together with a statement by the executive authority of the demanding state that the person claimed has escaped from confinement or has broken the terms of his bail, probation or parole. The indictment, information or affidavit made before the magistrate must substantially charge the person demanded with having committed a crime under the law of that state; and the copy of the indictment, information, affidavit, judgment of conviction or sentence must be authenticated by the executive authority making the demand.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 570 - Securing Attendance of Defendants Who Are Outside the State but Within the United States--Rendition to Other Jurisdictions of Defendants Within the State -- Uniform Criminal Extradition Act570.10 - Investigation by Governor.

When a demand shall be made upon the governor of this state by the executive authority of another state for the surrender of a person so charged with crime, the governor may call upon the attorney general or any district attorney in this state to investigate or assist in investigating the demand, and to report to him the situation and circumstances of the person so demanded, and whether he ought to be surrendered.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 570 - Securing Attendance of Defendants Who Are Outside the State but Within the United States--Rendition to Other Jurisdictions of Defendants Within the State -- Uniform Criminal Extradition Act570.12 -

Extradition of Persons Imprisoned or Awaiting Trial in Another State.

state. When it is desired to have returned to this state a person charged in this state with a crime and such person is imprisoned or is held under criminal proceedings then pending against him in another state, the governor of this state may agree with the executive authority of such other state for the extradition of such person before the conclusion of his term of sentence in such other state, upon condition that such person be returned to such other state at the expense of this state as soon as the prosecution in this state is terminated.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 570 - Securing Attendance of Defendants Who Are Outside the State but Within the United States--Rendition to Other Jurisdictions of Defendants Within the State -- Uniform Criminal Extradition Act570.14 - Extradition of Persons Who Left the Demanding State Under Compulsion.

compulsion. The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state who is charged in the manner provided in section 570.08 with having violated the laws of the state whose executive authority is making the demand, even though such person left the demanding state involuntarily.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 570 - Securing Attendance of Defendants Who Are Outside the State but Within the United States--Rendition to Other Jurisdictions of Defendants Within the State -- Uniform Criminal Extradition Act570.16 - Extradition of Persons Not Present in Demanding State at Time of Commission of Crime.

of commission of crime. The governor of this state may also surrender, on demand of the executive authority of any other state, any person in this state charged in such other state in the manner provided in section 570.08 with committing an act in this state or in a third state, intentionally resulting in a crime in the state whose executive authority is making the demand, when the acts for which extradition is sought would be punishable by the laws of this state, if the consequences claimed to have resulted therefrom in the demanding state had taken effect in this state; and the provisions of this article not otherwise inconsistent, shall apply to such cases, even though the accused was not in that state at the time of the commission of the crime, and has not fled therefrom; provided, however, that the governor of this state may, in his discretion, make any such surrender conditional upon agreement by the executive authority of the demanding state, that the person so surrendered will be held to answer no criminal charges of any nature except those set forth in the requisition upon which such person is so surrendered, at least until such person has been given reasonable opportunity to return to this state after his acquittal, if he shall be acquitted, or if he shall be convicted, after he shall be released from confinement. Nothing in this section shall apply to the crime of libel.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 570 - Securing Attendance of Defendants Who Are Outside the State but Within the United States--Rendition to Other Jurisdictions of Defendants Within the State -- Uniform Criminal Extradition Act570.17 - Extradition for Legally Protected Health Activity.

1. For purposes of this section, the following terms shall have the following meanings:(a) "Reproductive health services" shall mean and include all services, care, or products of a medical, surgical, psychiatric, therapeutic, diagnostic, mental health, behavioral health, preventative, rehabilitative, supportive, consultative, referral, prescribing, or dispensing nature relating to the human reproductive system provided in accordance with the constitution and the laws of this state, whether provided in person or by means of telehealth or telehealth services, which includes, but is not limited to, all services, care and products relating to pregnancy, assisted reproduction, contraception, miscarriage management or the termination of a pregnancy, and self-managed terminations.(b) "Legally protected health activity" shall mean and include the following acts and omissions by providers and facilitators of reproductive health services, to the extent they are not in violation of the constitution or the laws of this state, provided that such provider is physically present in the state:(i) the exercise or attempted exercise by any person of rights to reproductive health services as secured by the constitution or laws of this state or the provision of insurance coverage for such services or care; and(ii) any act or omission undertaken to aid or encourage, or attempt to aid or encourage, any person in the exercise or attempted exercise of rights to reproductive health services as secured by the constitution or laws of this state, or to provide insurance coverage for such services or care; provided, however, that the provision of such reproductive health services by a person duly licensed under the laws of this state and physically present in this state and the provision of insurance coverage for such services or care shall be a legally protected health activity if the service or care is permitted under the laws of this state, regardless of the patient's location.2. Except as required by federal law, no demand for the extradition of a person subject to criminal liability that is in whole or in part based on the alleged provision or receipt of, assistance in provision or receipt of, material support for, or any theory of vicarious, joint, several or conspiracy liability for any legally protected health activity performed in New York shall be recognized by the governor unless the executive authority of the demanding state shall allege in writing that the accused was physically present in the demanding state at the time of the commission of the alleged crime, and that thereafter he, she or they fled from that state. (a) "Reproductive health

services" shall mean and include all services, care, or products of a medical, surgical, psychiatric, therapeutic, diagnostic, mental health, behavioral health, preventative, rehabilitative, supportive, consultative, referral, prescribing, or dispensing nature relating to the human reproductive system provided in accordance with the constitution and the laws of this state, whether provided in person or by means of telehealth or telehealth services, which includes, but is not limited to, all services, care and products relating to pregnancy, assisted reproduction, contraception, miscarriage management or the termination of a pregnancy, and self-managed terminations. (b) "Legally protected health activity" shall mean and include the following acts and omissions by providers and facilitators of reproductive health services, to the extent they are not in violation of the constitution or the laws of this state, provided that such provider is physically present in the state: (i) the exercise or attempted exercise by any person of rights to reproductive health services as secured by the constitution or laws of this state or the provision of insurance coverage for such services or care; and (ii) any act or omission undertaken to aid or encourage, or attempt to aid or encourage, any person in the exercise or attempted exercise of rights to reproductive health services as secured by the constitution or laws of this state, or to provide insurance coverage for such services or care; provided, however, that the provision of such reproductive health services by a person duly licensed under the laws of this state and physically present in this state and the provision of insurance coverage for such services or care shall be a legally protected health activity if the service or care is permitted under the laws of this state, regardless of the patient's location. 2. Except as required by federal law, no demand for the extradition of a person subject to criminal liability that is in whole or in part based on the alleged provision or receipt of, assistance in provision or receipt of, material support for, or any theory of vicarious, joint, several or conspiracy liability for any legally protected health activity performed in New York shall be recognized by the governor unless the executive authority of the demanding state shall allege in writing that the accused was physically present in the demanding state at the time of the commission of the alleged crime, and that thereafter he, she or they fled from that state.

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If the governor decides that the demand should be complied with, he shall sign a warrant of arrest, which shall be sealed with the state seal, and be directed to any police officer or other person whom he may think fit to entrust with the execution thereof. The warrant must substantially recite the facts necessary to the validity of its issuance.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 570 - Securing Attendance of Defendants Who Are Outside the State but Within the United States--Rendition to Other Jurisdictions of Defendants Within the State -- Uniform Criminal Extradition Act570.19 - Extradition of Gender-Affirming Care Providers, Seekers, Parents, Guardians, and Helpers.

parents, guardians, and helpers. No demand for the extradition of a person subject to criminal liability that is in whole or part based on the alleged provision or receipt of, support for, or any theory of vicarious, joint, several or conspiracy liability for gender-affirming care, as defined in paragraph (c) of subdivision one of section sixty-five hundred thirty-one-b of the education law, lawfully performed in New York shall be recognized by the governor unless the executive authority of the demanding state shall allege in writing that the accused was present in the demanding state at the time of the commission of the alleged offense, and that thereafter he, she or they fled from that state.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 570 - Securing Attendance of Defendants Who Are Outside the State but Within the United States--Rendition to Other Jurisdictions of Defendants Within the State -- Uniform Criminal Extradition Act570.20 - Execution of Warrant; Manner and Place Thereof.

Such warrant shall authorize the police officer or other person to whom directed to arrest the accused at any time and any place where he may be found within the state and to command the aid of all police officers or other persons in the execution of the warrant, and to deliver the accused, subject to the provisions of this article to the duly authorized agent of the demanding state.

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Every such police officer or other person empowered to make the arrest, shall have the same authority, in arresting the accused to command assistance therein, as police officers have by law in the execution of any criminal process directed to them, with like penalties against those who refuse their assistance.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 570 - Securing Attendance of Defendants Who Are Outside the State but Within the United States--Rendition to Other Jurisdictions of Defendants Within the State -- Uniform Criminal Extradition Act570.24 - Rights of Accused Person; Application for Writ of Habeas Corpus.

corpus. No person arrested upon such warrant shall be delivered over to the agent whom the executive authority demanding him shall have appointed to receive him unless he shall first be taken forthwith before a justice or judge of a court of record in this state, who shall inform him of the demand made for his surrender and of the crime with which he is charged, and that he has the right to demand and procure legal counsel; and if the prisoner or his counsel shall state that he or they desire to test the legality of his arrest, the justice or judge of such court of record shall fix a reasonable time to be allowed within which to apply for a writ of habeas corpus. When such writ is applied for, notice thereof, and of the time and place of hearing thereon, shall be given to the district attorney of the county in which the arrest is made and in which the accused is in custody, and to the said agent of the demanding state.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 570 - Securing Attendance of Defendants Who Are Outside the State but Within the United States--Rendition to Other Jurisdictions of Defendants Within the State -- Uniform Criminal Extradition Act570.26 - Noncompliance With Preceding Section; Penalties for Violation.

Any officer who shall deliver to the agent for extradition of the demanding state a person in his custody under the governor's warrant, in disobedience of the preceding section, shall be guilty of a felony.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 570 - Securing Attendance of Defendants Who Are Outside the State but Within the United States--Rendition to Other Jurisdictions of Defendants Within the State -- Uniform Criminal Extradition Act570.28 - Confinement of the Accused in Jail When Necessary.

The officer or persons executing the governor's warrant of arrest, or the agent of the demanding state to whom the prisoner may have been delivered may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or person having charge of him is ready to proceed on his route, such officer or person, however, being chargeable with the expense of keeping.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 570 - Securing Attendance of Defendants Who Are Outside the State but Within the United States--Rendition to Other Jurisdictions of Defendants Within the State -- Uniform Criminal Extradition Act570.30 - Confinement of Extradited Persons Passing Through This State.

The officer or agent of a demanding state to whom a prisoner may have been delivered following extradition proceedings in another state, or to whom a prisoner may have been delivered after waiving extradition in such other state, and who is passing through this state with such a prisoner for the purpose of immediately returning such prisoner to the demanding state may, when necessary, confine the prisoner in the jail of any county or city through which he may pass; and the keeper of such jail must receive and safely keep the prisoner until the officer or agent having charge of him is ready to proceed on his route, such officer or agent, however, being chargeable with the expense of keeping, provided, however, that such officer or agent shall produce and show to the keeper of such jail satisfactory written evidence of the fact that he is actually transporting such prisoner to the demanding state after a requisition by the executive authority of such demanding state or waiver thereof. Such person shall not be entitled to demand a new requisition while in this state.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 570 - Securing Attendance of Defendants Who Are Outside the State but Within the United States--Rendition to Other Jurisdictions of Defendants Within the State -- Uniform Criminal Extradition Act570.32 - Arrest of Accused Before Making of Requisition.

Whenever any person within this state shall be charged on the oath of any credible person before any local criminal court of this state with the commission of any crime in any other state and, except in cases arising under section 570.14 or 570.16, with having fled from justice, or, with having been convicted of a crime in that state and having escaped from confinement, or having broken the terms of his bail, probation or parole, or, whenever complaint shall have been made before any local criminal court in this state

setting forth on the affidavit of any credible person in another state that a crime has been committed in such other state and that the accused has been charged in such other state with the commission of the crime, and, except in cases arising under section 570.14 or 570.16, has fled from justice, or with having been convicted of a crime in that state and having escaped from confinement or having broken the terms of his bail, probation or parole and is believed to be in this state, the local criminal court shall issue a warrant directed to any police officer directing him to apprehend the person named therein, wherever he may be found in this state, and to bring him before the same or any other local criminal court which may be available in or convenient of access to the place where the arrest may be made, to answer the charge or complaint and affidavit, and a certified copy of the sworn charge or complaint and affidavit upon which the warrant is issued shall be attached to such warrant.

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The arrest of a person in this state may be lawfully made also by any police officer or a private person, without a warrant, upon reasonable information that the accused stands charged in the courts of another state with a crime punishable by death or imprisonment for a term exceeding one year; but when so arrested the accused must be taken before a local criminal court with all practicable speed and complaint must be made against him under oath setting forth the ground for the arrest as in the preceding section; and, thereafter, his answers shall be heard as if he had been arrested on a warrant.

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If from the examination before the local criminal court it appears that the person held is the person charged with having committed the crime alleged, and, except in cases arising under section 570.14 or 570.16, that he has fled from justice, the local criminal court must, by a warrant reciting the accusation, commit him to the county jail for such a time not exceeding thirty days and specified in the warrant, as will enable the arrest of the accused to be made under a warrant of the governor on a requisition of the executive authority of the state having jurisdiction of the offense, unless the accused gives bail as provided in the next section, or until he shall be legally discharged.

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Unless the offense with which the prisoner is charged is shown to be an offense punishable by death or life imprisonment under the laws of the state in which it was committed, a justice of the supreme court or county judge in this state may admit the person arrested to bail by bond or undertaking, with sufficient sureties, and in such sum as he deems proper, conditioned for his appearance before him at a time specified in such bond or undertaking but not later than thirty days after the examination referred to in section 570.36 and for his surrender, to be arrested upon the warrant of the governor of this state.

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If the accused is not arrested under warrant of the governor by the expiration of the time specified in the warrant, bond or undertaking, a local criminal court may discharge him or may recommit him for a further period of sixty days, or for further periods not to exceed in the aggregate sixty days, or a supreme court justice or county judge may again take bail for his appearance and surrender, as provided in section 570.38 but within a period not to exceed sixty days after the date of such new bond or undertaking.

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If the prisoner is admitted to bail, and fails to appear and surrender himself according to the conditions of his bond or undertaking, the justice of the supreme court or county judge, by proper order, shall declare the bond forfeited and order his immediate arrest without warrant if he be within this state. Recovery may be had on such bond or undertaking in the name of the state as in the case of other bonds or undertakings given by the accused in criminal proceedings within this state.

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requisition. If a criminal prosecution has been instituted against such person under the laws of this state and is still pending, the governor, in his discretion, may either surrender him on demand of the executive authority of another state or hold him until he has been tried and discharged or convicted and punished in this state.

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The guilt or innocence of the accused as to the crime with which he is charged may not be inquired into by the governor, or in any proceeding after the demand for extradition accompanied by a charge of crime in legal form as above provided shall have been presented to the governor, except as it may be involved in identifying the person held as the person charged with the crime.

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The governor may recall his warrant of arrest or may issue another warrant whenever he deems proper.

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Any person arrested in this state charged with having committed any crime in another state or alleged to have escaped from confinement, or broken the terms of his bail, probation or parole, may waive the issuance and service of the warrant provided for in sections 570.18 and 570.20 and all other procedure incidental to extradition proceedings by executing or subscribing in the presence of a judge of any court of record within this state a writing which states that he consents to return to the demanding state, provided, however, that before such waiver shall be executed or subscribed by such person it shall be the duty of such judge to inform such person of his rights to the issuance and service of a warrant of extradition and to obtain a writ of habeas corpus as provided for in section 570.24. If and when such consent has been duly executed it shall forthwith be forwarded to the office of the secretary of state of this state and filed therein. The judge shall direct the officer having such person in custody to deliver forthwith such person to the duly accredited agent or agents of the demanding state, and shall deliver or cause to be delivered to such agent or agents a copy of such consent. Provided, however, that nothing in this section shall be deemed to limit the rights of the accused person to return voluntarily and without formality to the demanding state, nor shall this waiver procedure be deemed to be an exclusive procedure or to limit the powers, rights or duties of the officers of the demanding state or of this state.

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Whenever the governor of this state shall demand a person charged with crime or with escaping from confinement or breaking the terms of his bail, probation or parole in this state from the executive authority of any other state, or from the chief justice or an associate justice of the supreme court of the District of Columbia authorized to receive such demand under the laws of the United States, he shall issue a warrant under the seal of this state to some agent commanding him to receive the person so charged, if delivered to him, and convey him to the proper officer of the county in this state in which the offense was committed.

Title: cpl

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contents. 1. When the return to this state of a person charged with crime in this state is required, the district attorney of the county in which the offense was committed, or, if the offense is one which is cognizable by him or her, the attorney general shall present to the governor his or her written application for a requisition for the return of the person charged, in which application shall be stated the name of the person so charged, the crime charged against him or her, the approximate time, place and circumstances of its commission, the state in which he or she is believed to be, including the location of the accused therein at the time the application is made and certifying that, in the opinion of the said district attorney or attorney general the ends of justice require the arrest and return of the accused to this state for trial and that the proceeding is not instituted to enforce a private claim. 2. When there is required the return to this state of a person who has been convicted of a crime in this state and has escaped from confinement or broken the terms of his or her bail, probation or parole, the district attorney of the county in which the offense was committed, the warden of the institution or sheriff of the county, from which escape was made, or the commissioner of the state department of corrections and community supervision or his or her designee shall present to the governor a written application for a requisition for the return of such person, in which application shall be stated the name of the person, the crime of which he or she was convicted, the circumstances of his or her escape from confinement or of the breach of the terms of his or her bail, probation or parole, the state in which he or she is believed to be, including the location of the person therein at the time the application is made. 3. The application shall be verified by affidavit, shall be executed in duplicate and shall be accompanied by two certified copies of the accusatory instrument stating the offense with which the accused is charged, or of the judgment of conviction or of the sentence. The district attorney, attorney general, warden, sheriff or the commissioner of the state department of corrections and community supervision or his or her designee may also attach such further affidavits and other documents in duplicate as he or she shall deem proper to be submitted with such application. One copy of the application, with the action of the governor indicated by endorsement thereon, and one of the certified copies of the accusatory instrument, or of the judgment of conviction or the sentence shall be filed in the office of the secretary of state to remain of record in that office. The other copies of all papers shall be forwarded with the governor's requisition.

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The expenses of extradition must be borne by the county from which the application for a requisition comes or, where the application is made by the attorney general, by the county in which the offense was committed. In the case of extradition of a person who has been convicted of a crime in this state and has escaped from a state prison or reformatory, the expense of extradition shall be borne by the department of corrections and community supervision. Where a person has broken the terms of his or her parole from a state prison or reformatory, the expense of extradition shall be borne by the state department of corrections and community supervision. Where a person has broken the terms of his or her bail or probation, the expense of extradition shall be borne by the county. Where a person has been convicted but not yet confined to a prison, or has been sentenced for a felony to a county jail or penitentiary and escapes, the expenses of extradition shall be charged to the county from whose custody the escape is effected. Nothing in this section shall preclude a county or the department of corrections and community supervision, as the case may be, from collecting the expenses involved in extradition from the person who was extradited.

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A person brought into this state on or after waiver of extradition based on a criminal charge shall not be subject to service of personal process in civil actions arising out of the same facts as the criminal proceeding to answer which he is being or has been returned until he has been convicted in the criminal proceeding, or if acquitted, until he has had reasonable opportunity to return to the state from which he was extradicted.

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United States--Rendition to Other Jurisdictions of Defendants Within the State -- Uniform Criminal Extradition Act570.60 - No Immunity From Other Criminal Prosecution While in This State.

state. After a person has been brought back to this state by extradition proceedings, he may be tried in this state for other offenses which he may be charged with having committed here as well as that specified in the requisition for his extradition.

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Nothing in this article contained shall be deemed to constitute a waiver by this state of its right, power or privilege to try such demanded person for offenses committed within this state, or of its right, power or privilege to regain custody of such person by extradition proceedings or otherwise for the purpose of trial, sentence or punishment for any offense committed within this state, nor shall any proceedings had under this article which result in, or fail to result in, extradition be deemed a waiver by this state of any of its rights, privileges or jurisdiction in any way whatsoever.

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The provisions of this article shall be so interpreted and construed as to effectuate its general purposes to make uniform the law of those states which enact it.

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If any part of this article is for any reason declared void, such invalidity shall not affect the validity of the remaining portions thereof.

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institutions of other jurisdictions of the United States; methods. The attendance in a criminal action pending in a court of this state of a defendant confined as a prisoner in an institution of another jurisdiction of the United States may, under prescribed circumstances, be secured pursuant to: 1. Section 570.12 of article five hundred seventy, known as the uniform criminal extradition act; or 2. Section 580.20, known as the agreement on detainers; or 3. Section 580.30.

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The agreement on detainers is hereby enacted into law and entered into by this state with all other jurisdictions legally joining therein in the form substantially as follows: TEXT OF THE AGREEMENT ON DETAINERS The contracting states solemnly agree that: ARTICLE I The party states find that charges outstanding against a prisoner, detainers based on untried indictments, informations or complaints, and difficulties in securing speedy trial of persons already incarcerated in other jurisdictions, produce uncertainties which obstruct programs of prisoner treatment and rehabilitation. Accordingly, it is the policy of the party states and the purpose of this agreement to encourage the expeditious and orderly disposition of such charges and determination of the proper status of any and all detainers based on untried indictments, informations or complaints. The party states also find that proceedings with reference to such charges and detainers, when emanating from another jurisdiction, cannot properly be had in the absence of cooperative procedures. It is the further purpose of this agreement to provide such cooperative procedures. ARTICLE II As used in this agreement:(a) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.(b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article III hereof or at the time that a

request for custody or availability is initiated pursuant to Article IV hereof.(c) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article III or Article IV hereof.ARTICLE III(a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred eighty days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint; provided that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner.(b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of correction or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested.(c) The warden, commissioner of correction or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information or complaint on which the detainer is based.(d) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of correction or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice, request, and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.(e) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (d) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law.(f) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (a) hereof shall void the request.ARTICLE IV(a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Article V(a) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated; provided that the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request; and provided further that there shall be a period of thirty days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner.(b) Upon receipt of the officer's written request as provided in paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor.(c) In respect of any proceeding made possible by this Article, trial shall be commenced within one hundred twenty days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance.(d) Nothing contained in this Article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (a) hereof but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery.(e) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Article V(e) hereof, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice.ARTICLE V(a) In response to a request made under Article III or Article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. In

the case of a federal prisoner, the appropriate authority in receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian.(b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand:(1) Proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given.(2) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made.(c) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III or Article IV hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect.(d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution.(e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state.(f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow.(g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law.(h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor.ARTICLE VI(a) In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter.(b) No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill.ARTICLE VIIEach state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement.ARTICLE VIIIThis agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by incarcerated individuals or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof.ARTICLE IX1. This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.2. The phrase "appropriate court" as used in the agreement on detainers shall, with reference to the courts of this state, mean any court with criminal jurisdiction.3. All courts, departments, agencies, officers and employees of this state and its political subdivisions are hereby directed to enforce the agreement on detainers and to cooperate with one another and with other party states in enforcing the agreement and effectuating its purposes.4. Escape from custody while in another state pursuant to the agreement on detainers shall constitute an offense against the laws of this state to the same extent and degree as an escape from the institution in which the prisoner was confined immediately prior to having been sent to another state pursuant to the provisions of the agreement on detainers and shall be punishable in the same manner as an escape from said institution.5. It shall be lawful and mandatory upon the warden or other official in charge of a penal or correctional institution in this state to give over the person of any incarcerated individual thereof whenever so required by the operation of the agreement on detainers.6. The governor is hereby authorized and empowered to designate an administrator who shall perform the duties and functions and exercise the powers conferred upon such person by Article VII of the agreement on detainers.7. In order to implement Article IV(a) of the agreement on detainers, and in furtherance of its purposes, the appropriate authorities having custody of the prisoner shall, promptly upon receipt of the officer's written request, notify the prisoner and the governor in writing that a request for temporary custody has been made and such notification shall describe the source and contents of said request. The authorities having custody of the prisoner shall also advise him in writing of his rights to counsel, to make representations to the governor within thirty days, and to contest the legality of his

delivery. (a) "State" shall mean a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico. (b) "Sending state" shall mean a state in which a prisoner is incarcerated at the time that he initiates a request for final disposition pursuant to Article III hereof or at the time that a request for custody or availability is initiated pursuant to Article IV hereof. (c) "Receiving state" shall mean the state in which trial is to be had on an indictment, information or complaint pursuant to Article III or Article IV hereof. ARTICLE III (a) Whenever a person has entered upon a term of imprisonment in a penal or correctional institution of a party state, and whenever during the continuance of the term of imprisonment there is pending in any other party state any untried indictment, information or complaint on the basis of which a detainer has been lodged against the prisoner, he shall be brought to trial within one hundred eighty days after he shall have caused to be delivered to the prosecuting officer and the appropriate court of the prosecuting officer's jurisdiction written notice of the place of his imprisonment and his request for a final disposition to be made of the indictment, information or complaint; provided that for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. The request of the prisoner shall be accompanied by a certificate of the appropriate official having custody of the prisoner, stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. (b) The written notice and request for final disposition referred to in paragraph (a) hereof shall be given or sent by the prisoner to the warden, commissioner of correction or other official having custody of him, who shall promptly forward it together with the certificate to the appropriate prosecuting official and court by registered or certified mail, return receipt requested. (c) The warden, commissioner of correction or other official having custody of the prisoner shall promptly inform him of the source and contents of any detainer lodged against him and shall also inform him of his right to make a request for final disposition of the indictment, information or complaint on which the detainer is based. (d) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall operate as a request for final disposition of all untried indictments, informations or complaints on the basis of which detainers have been lodged against the prisoner from the state to whose prosecuting official the request for final disposition is specifically directed. The warden, commissioner of correction or other official having custody of the prisoner shall forthwith notify all appropriate prosecuting officers and courts in the several jurisdictions within the state to which the prisoner's request for final disposition is being sent of the proceeding being initiated by the prisoner. Any notification sent pursuant to this paragraph shall be accompanied by copies of the prisoner's written notice, request, and the certificate. If trial is not had on any indictment, information or complaint contemplated hereby prior to the return of the prisoner to the original place of imprisonment, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice. (e) Any request for final disposition made by a prisoner pursuant to paragraph (a) hereof shall also be deemed to be a waiver of extradition with respect to any charge or proceeding contemplated thereby or included therein by reason of paragraph (d) hereof, and a waiver of extradition to the receiving state to serve any sentence there imposed upon him, after completion of his term of imprisonment in the sending state. The request for final disposition shall also constitute a consent by the prisoner to the production of his body in any court where his presence may be required in order to effectuate the purposes of this agreement and a further consent voluntarily to be returned to the original place of imprisonment in accordance with the provisions of this agreement. Nothing in this paragraph shall prevent the imposition of a concurrent sentence if otherwise permitted by law. (f) Escape from custody by the prisoner subsequent to his execution of the request for final disposition referred to in paragraph (a) hereof shall void the request. ARTICLE IV (a) The appropriate officer of the jurisdiction in which an untried indictment, information or complaint is pending shall be entitled to have a prisoner against whom he has lodged a detainer and who is serving a term of imprisonment in any party state made available in accordance with Article V(a) hereof upon presentation of a written request for temporary custody or availability to the appropriate authorities of the state in which the prisoner is incarcerated; provided that the court having jurisdiction of such indictment, information or complaint shall have duly approved, recorded and transmitted the request; and provided further that there shall be a period of thirty days after receipt by the appropriate authorities before the request be honored, within which period the governor of the sending state may disapprove the request for temporary custody or availability, either upon his own motion or upon motion of the prisoner. (b) Upon receipt of the officer's written request as provided in paragraph (a) hereof, the appropriate authorities having the prisoner in custody shall furnish the officer with a certificate stating the term of commitment under which the prisoner is being held, the time already served, the time remaining to be served on the sentence, the amount of good time earned, the time of parole eligibility of the prisoner, and any decisions of the state parole agency relating to the prisoner. Said authorities simultaneously shall furnish all other officers and appropriate courts in the receiving state who have lodged detainers against the prisoner with similar certificates and with notices informing them of the request for custody or availability and of the reasons therefor. (c) In respect of any proceeding made possible by this Article, trial shall be commenced within one hundred twenty days of the arrival of the prisoner in the receiving state, but for good cause shown in open court, the prisoner or his counsel being present, the court having jurisdiction of the matter may grant any necessary or reasonable continuance. (d) Nothing contained in this Article shall be construed to deprive any prisoner of any right which he may have to contest the legality of his delivery as provided in paragraph (a) hereof but such delivery may not be opposed or denied on the ground that the executive authority of the sending state has not affirmatively consented to or ordered such delivery. (e) If trial is not had on any indictment, information or complaint contemplated hereby prior to the prisoner's being returned to the original place of imprisonment pursuant to Article V(e) hereof, such indictment, information or complaint shall not be of any further force or effect, and the court shall enter an order dismissing the same with prejudice. ARTICLE V (a) In response to a request made under Article III or Article IV hereof, the appropriate authority in a sending state shall offer to deliver temporary custody of such

prisoner to the appropriate authority in the state where such indictment, information or complaint is pending against such person in order that speedy and efficient prosecution may be had. If the request for final disposition is made by the prisoner, the offer of temporary custody shall accompany the written notice provided for in Article III of this agreement. In the case of a federal prisoner, the appropriate authority in receiving state shall be entitled to temporary custody as provided by this agreement or to the prisoner's presence in federal custody at the place for trial, whichever custodial arrangement may be approved by the custodian. (b) The officer or other representative of a state accepting an offer of temporary custody shall present the following upon demand: (1) Proper identification and evidence of his authority to act for the state into whose temporary custody the prisoner is to be given. (2) A duly certified copy of the indictment, information or complaint on the basis of which the detainer has been lodged and on the basis of which the request for temporary custody of the prisoner has been made. (c) If the appropriate authority shall refuse or fail to accept temporary custody of said person, or in the event that an action on the indictment, information or complaint on the basis of which the detainer has been lodged is not brought to trial within the period provided in Article III or Article IV hereof, the appropriate court of the jurisdiction where the indictment, information or complaint has been pending shall enter an order dismissing the same with prejudice, and any detainer based thereon shall cease to be of any force or effect. (d) The temporary custody referred to in this agreement shall be only for the purpose of permitting prosecution on the charge or charges contained in one or more untried indictments, informations or complaints which form the basis of the detainer or detainers or for prosecution on any other charge or charges arising out of the same transaction. Except for his attendance at court and while being transported to or from any place at which his presence may be required, the prisoner shall be held in a suitable jail or other facility regularly used for persons awaiting prosecution. (e) At the earliest practicable time consonant with the purposes of this agreement, the prisoner shall be returned to the sending state. (f) During the continuance of temporary custody or while the prisoner is otherwise being made available for trial as required by this agreement, time being served on the sentence shall continue to run but good time shall be earned by the prisoner only if, and to the extent that, the law and practice of the jurisdiction which imposed the sentence may allow. (g) For all purposes other than that for which temporary custody as provided in this agreement is exercised, the prisoner shall be deemed to remain in the custody of and subject to the jurisdiction of the sending state and any escape from temporary custody may be dealt with in the same manner as an escape from the original place of imprisonment or in any other manner permitted by law. (h) From the time that a party state receives custody of a prisoner pursuant to this agreement until such prisoner is returned to the territory and custody of the sending state, the state in which the one or more untried indictments, informations or complaints are pending or in which trial is being had shall be responsible for the prisoner and shall also pay all costs of transporting, caring for, keeping and returning the prisoner. The provisions of this paragraph shall govern unless the states concerned shall have entered into a supplementary agreement providing for a different allocation of costs and responsibilities as between or among themselves. Nothing herein contained shall be construed to alter or affect any internal relationship among the departments, agencies and officers of and in the government of a party state, or between a party state and its subdivisions, as to the payment of costs, or responsibilities therefor. ARTICLE VI (a) In determining the duration and expiration dates of the time periods provided in Articles III and IV of this agreement, the running of said time periods shall be tolled whenever and for as long as the prisoner is unable to stand trial, as determined by the court having jurisdiction of the matter. (b) No provision of this agreement, and no remedy made available by this agreement, shall apply to any person who is adjudged to be mentally ill. ARTICLE VII Each state party to this agreement shall designate an officer who, acting jointly with like officers of other party states, shall promulgate rules and regulations to carry out more effectively the terms and provisions of this agreement, and who shall provide, within and without the state, information necessary to the effective operation of this agreement. ARTICLE VIII This agreement shall enter into full force and effect as to a party state when such state has enacted the same into law. A state party to this agreement may withdraw herefrom by enacting a statute repealing the same. However, the withdrawal of any state shall not affect the status of any proceedings already initiated by incarcerated individuals or by state officers at the time such withdrawal takes effect, nor shall it affect their rights in respect thereof. ARTICLE IX 1. This agreement shall be liberally construed so as to effectuate its purposes. The provisions of this agreement shall be severable and if any phrase, clause, sentence or provision of this agreement is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this agreement and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state party hereto, the agreement shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters. 2. The phrase "appropriate court" as used in the agreement on detainers shall, with reference to the courts of this state, mean any court with criminal jurisdiction. 3. All courts, departments, agencies, officers and employees of this state and its political subdivisions are hereby directed to enforce the agreement on detainers and to cooperate with one another and with other party states in enforcing the agreement and effectuating its purposes. 4. Escape from custody while in another state pursuant to the agreement on detainers shall constitute an offense against the laws of this state to the same extent and degree as an escape from the institution in which the prisoner was confined immediately prior to having been sent to another state pursuant to the provisions of the agreement on detainers and shall be punishable in the same manner as an escape from said institution. 5. It shall be lawful and mandatory upon the warden or other official in charge of a penal or correctional institution in this state to give over the person of any incarcerated individual thereof whenever so required by the operation of the agreement on detainers. 6. The governor is hereby authorized and empowered to designate an administrator who shall perform the duties and functions and exercise the powers conferred upon such person by Article VII of the agreement on detainers. 7. In order to implement Article IV(a) of the agreement on detainers, and in furtherance of its purposes, the appropriate authorities having custody of the prisoner shall, promptly upon receipt of the officer's

written request, notify the prisoner and the governor in writing that a request for temporary custody has been made and such notification shall describe the source and contents of said request. The authorities having custody of the prisoner shall also advise him in writing of his rights to counsel, to make representations to the governor within thirty days, and to contest the legality of his delivery.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 580 - Securing Attendance of Defendants Confined as Prisoners in Institutions of Other Jurisdictions of the United States--Rendition to Other J580.30 - Securing Attendance of Defendants Confined in Federal Prisons.

1. A defendant against whom a criminal action is pending in a court of record of this state, and who is confined in a federal prison or custody either within or outside the state, may, with the consent of the attorney general of the United States, be produced in such court for the purpose of criminal prosecution, pursuant to the provisions of:(a) Section four thousand eighty-five of title eighteen of the United States Code; or(b) Subdivision two of this section.2. When such a defendant is in federal custody as specified in subdivision one, a superior court, at a term held in the county in which the criminal action against him is pending, may, upon application of the district attorney of such county, issue a certificate, known as a writ of habeas corpus ad prosequendum, addressed to the attorney general of the United States, certifying that such defendant has been charged by the particular accusatory instrument filed against him in the specified court with the offense or offenses alleged therein, and that attendance of the defendant in such court for the purpose of criminal prosecution thereon is necessary in the interest of justice, and requesting the attorney general of the United States to cause such defendant to be produced in such court, under custody of a federal public servant, upon a designated date and for a period of time necessary to complete the prosecution. Upon issuing such a certificate, the court may deliver it, or cause or authorize it to be delivered, together with a certified copy of the accusatory instrument upon which it is based, to the attorney general of the United States or to his representative authorized to entertain the request. (a) Section four thousand eighty-five of title eighteen of the United States Code; or (b) Subdivision two of this section. 2. When such a defendant is in federal custody as specified in subdivision one, a superior court, at a term held in the county in which the criminal action against him is pending, may, upon application of the district attorney of such county, issue a certificate, known as a writ of habeas corpus ad prosequendum, addressed to the attorney general of the United States, certifying that such defendant has been charged by the particular accusatory instrument filed against him in the specified court with the offense or offenses alleged therein, and that attendance of the defendant in such court for the purpose of criminal prosecution thereon is necessary in the interest of justice, and requesting the attorney general of the United States to cause such defendant to be produced in such court, under custody of a federal public servant, upon a designated date and for a period of time necessary to complete the prosecution. Upon issuing such a certificate, the court may deliver it, or cause or authorize it to be delivered, together with a certified copy of the accusatory instrument upon which it is based, to the attorney general of the United States or to his representative authorized to entertain the request.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 590 - Securing Attendance of Defendants Who Are Outside the United States590.10 - Securing Attendance of Defendants Who Are Outside the United States.

States. 1. When a criminal action for an offense committed in this state is pending in a criminal court of this state against a defendant who is in a foreign country with which the United States has an extradition treaty, and when the accusatory instrument charges an offense which is declared in such treaty to be an extraditable one, the district attorney of the county in which such offense was allegedly committed may make an application to the Governor, requesting him to make an application to the President of the United States to institute extradition proceedings for the return of the defendant to this country and state for the purpose of prosecution of such action. The district attorney's application must comply with rules, regulations and guidelines established by the Governor for such applications and must be accompanied by all the accusatory instruments, affidavits and other documents required by such rules, regulations and guidelines. 2. Upon receipt of the district attorney's application, the Governor, if satisfied that the defendant is in the foreign country in question, that the offense charged is an extraditable one pursuant to the treaty in question, and that there are no factors or impediments which in law preclude such an extradition, may in his discretion make an application, addressed to the secretary of state of the United States, requesting that the President of the United States institute extradition proceedings for the return of the defendant from such foreign country. The Governor's application must comply with rules, regulations and guidelines established by the secretary of state for such applications and must be accompanied by all the accusatory instruments, affidavits and other documents required by such rules, regulations and guidelines. 3. If the Governor's application is granted and the extradition is achieved or attempted, all expenses incurred therein must be borne by the county from which the application emanated. 4. The provisions of this section apply equally to extradition or attempted extradition of a person who is a fugitive following the entry of a judgment of conviction against him in a criminal court of this state.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 600 - Securing Attendance of Corporate Defendants and Related Matters600.10 -

Corporate Defendants; Securing Attendance.

1. The court attendance of a corporation for purposes of commencing or prosecuting a criminal action against it may be accomplished by the issuance and service of a summons or an appearance ticket if such action has been or is about to be commenced in a local criminal court, and by a corporate summons if such action has been commenced in a superior court. Such process must be served upon the corporation by delivery thereof to an officer, director, managing or general agent, or cashier or assistant cashier of such corporation or to any other agent of such corporation authorized by appointment or by law to receive service of process. 2. A "corporate summons" is a process issued by a superior court directing a corporate defendant designated in an indictment to appear before it at a designated future time in connection with such indictment. A corporate summons must be generally in the form of a summons as prescribed in subdivision two of section 130.10. A corporate summons may be served by a public servant designated by the issuing court, and may be served anywhere in the state.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle Q - Procedures for Securing Attendance at Criminal Actions and Proceedings of Defendants Not Securable by Conventional Means--and Related MattersArticle 600 - Securing Attendance of Corporate Defendants and Related Matters600.20 - Corporate Defendants; Prosecution Thereof.

At all stages of a criminal action, from the commencement thereof through sentence, a corporate defendant must appear by counsel. Upon failure of appearance at the time such defendant is required to enter a plea to the accusatory instrument, the court may enter a plea of guilty and impose sentence.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 610 - Securing Attendance of Witnesses by Subpoena610.10 - Securing Attendance of Witnesses by Subpoena; in General.

1. Under circumstances prescribed in this article, a person at liberty within the state may be required to attend a criminal court action or proceeding as a witness by the issuance and service upon him of a subpoena. 2. A "subpoena" is a process of a court directing the person to whom it is addressed to attend and appear as a witness in a designated action or proceeding in such court, on a designated date and any recessed or adjourned date of the action or proceeding. If the witness is given reasonable notice of such recess or adjournment, no further process is required to compel his attendance on the adjourned date. 3. As used in this article, "subpoena" includes a "subpoena duces tecum." A subpoena duces tecum is a subpoena requiring the witness to bring with him and produce specified physical evidence.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 610 - Securing Attendance of Witnesses by Subpoena610.20 - Securing Attendance of Witnesses by Subpoena; When and by Whom Subpoena May Be Issued.

subpoena may be issued. 1. Any criminal court may issue a subpoena for the attendance of a witness in any criminal action or proceeding in such court. 2. A district attorney, or other prosecutor where appropriate, as an officer of a criminal court in which he is conducting the prosecution of a criminal action or proceeding, may issue a subpoena of such court, subscribed by himself, for the attendance in such court or a grand jury thereof of any witness whom the people are entitled to call in such action or proceeding. 3. An attorney for a defendant in a criminal action or proceeding, as an officer of a criminal court, may issue a subpoena of such court, subscribed by himself, for the attendance in such court of any witness whom the defendant is entitled to call in such action or proceeding. An attorney for a defendant may not issue a subpoena duces tecum of the court directed to any department, bureau or agency of the state or of a political subdivision thereof, or to any officer or representative thereof, unless the subpoena is indorsed by the court and provides at least three days for the production of the requested materials. In the case of an emergency, the court may by order dispense with the three-day production period. 4. The showing required to sustain any subpoena under this section is that the testimony or evidence sought is reasonably likely to be relevant and material to the proceedings, and the subpoena is not overbroad or unreasonably burdensome.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 610 - Securing Attendance of Witnesses by Subpoena610.25 - Securing Attendance of Witness by Subpoena; Possession of Physical Evidence.

physical evidence. 1. Where a subpoena duces tecum is issued on reasonable notice to the person subpoenaed, the court or grand jury shall have the right to possession of the subpoenaed evidence. Such evidence may be retained by the court, grand jury or district attorney on behalf of the grand jury. 2. The possession shall be for a period of time, and on terms and conditions, as may reasonably be required for the action or proceeding. The reasonableness of such possession, time, terms, and conditions shall be determined with consideration for, among other things, (a) the good cause shown by the party issuing the subpoena or in whose behalf the subpoena is issued, (b) the rights and legitimate needs of the person subpoenaed and (c) the feasibility and appropriateness of making copies of the evidence. The cost of reproduction and transportation incident thereto shall be borne by the person or party issuing the subpoena unless the court determines otherwise in the interest of justice. Nothing in this article shall be deemed to prohibit the designation of a return date for a subpoena duces tecum prior to trial. Where physical evidence specified to be produced

will be sought to be retained in custody, notice of such fact shall be given the subpoenaed party. In any case where the court receives or retains evidence prior to trial, it may, as may otherwise be authorized by law, grant the issuing party a reasonable opportunity to inspect such evidence.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 610 - Securing Attendance of Witnesses by Subpoena610.30 - Securing Attendance of Witnesses by Subpoena; Where Subpoena May Be Served.

may be served. 1. A subpoena of any criminal court, issued pursuant to section 610.20, may be served anywhere in the county of issuance or anywhere in an adjoining county. 2. A subpoena of a superior court or of a superior court judge sitting as a local criminal court, issued pursuant to section 610.20, may be served anywhere in the state. 3. A subpoena of a district court or of the New York City criminal court, issued pursuant to section 610.20, may be served anywhere in the state; provided that, if such subpoena is issued by a prosecutor or by an attorney for a defendant, it may be served in a county other than the county of issuance or an adjoining county only if such court, upon application of such prosecutor or attorney, endorses upon such subpoena an order for the attendance of the witness. 4. A subpoena of a city court or a town court or a village court, issued pursuant to section 610.20, may be served in a county other than the one of issuance or an adjoining county if a judge of a superior court, upon application of the issuing court or the district attorney or an attorney for the defendant, endorses upon such subpoena an order for the attendance of the witness.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 610 - Securing Attendance of Witnesses by Subpoena610.40 - Securing Attendance of Witnesses by Subpoena; How and by Whom Subpoena May Be Served.

subpoena may be served. A subpoena may be served by any person more than eighteen years old. Service must be made in the manner provided by the civil practice law and rules for the service of subpoenas in civil cases.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 610 - Securing Attendance of Witnesses by Subpoena610.50 - Securing Attendance of Witness by Subpoena; Fees.

1. A witness subpoenaed by the people in a criminal action is entitled to the same fees and mileage as a witness in a civil action, payable by the treasurer of the county upon the certificate of the court or the clerk thereof, stating the number of days the witness actually attended and the number of miles traveled by him in order to attend. In any such action, the court may, by order, direct the county treasurer to pay to such witness a further reasonable sum for expenses, to be specified in the order, and the county treasurer, upon the production of the order or a certified copy thereof, must pay the witness the sum specified therein out of the county treasury. Such certificates shall only be issued by the court or the clerk thereof, upon the production of the affidavit of the witness, stating that he attended as such either on subpoena or request of the district attorney, the number of miles necessarily traveled and the duration of attendance. An officer in any state department who attends as a witness under this section in his official capacity, or in consequence of any official action taken by him, and who receives a fixed sum in lieu of expenses, or who is entitled to receive the actual expenses incurred by him in the discharge of his official duties, is not entitled to the compensation herein provided. 2. A witness subpoenaed by the defendant in a criminal action is not entitled as of right to witness and mileage fees, but the court may in its discretion, by order, direct the county treasurer to pay to such a witness a reasonable sum for expenses, to be specified in the order. Upon the production of the order or a certified copy thereof, the county treasurer must pay the witness the sum specified therein, out of the county treasury.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 620 - Securing Attendance of Witnesses by Material Witness Order620.10 - Material Witness Order; Defined.

A material witness order is a court order (a) adjudging a person a material witness in a pending criminal action and (b) fixing bail to secure his future attendance thereat.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 620 - Securing Attendance of Witnesses by Material Witness Order620.20 - Material Witness Order; When Authorized; by What Courts Issuable; Duration Thereof.

issuable; duration thereof. 1. A material witness order may be issued upon the ground that there is reasonable cause to believe that a person whom the people or the defendant desire to call as a witness in a pending criminal action:(a) Possesses information material to the determination of such action; and(b) Will not be amenable or responsive to a subpoena at a time when his attendance will be sought.2. A material witness order may be issued only when:(a) An indictment has been filed in a superior court and is currently pending therein; or(b) A grand jury proceeding has been commenced and is currently pending; or(c) A felony complaint has been filed with a local criminal court and is currently pending therein.3. The following courts may issue material witness orders under the indicated circumstances:(a) When an indictment has been filed, or a grand jury proceeding has been commenced, or a defendant has been held by a local criminal court for the action of a grand jury, a material witness order may be issued only by the superior court

in which such indictment is pending or by which such grand jury has been or is to be impaneled;(b) When a felony complaint is currently pending in a district court or in the New York City criminal court or before a superior court judge sitting as a local criminal court, a material witness order may be issued either by such court or by the superior court which would have jurisdiction of the case upon a holding of the defendant for the action of the grand jury;(c) When a felony complaint is currently pending in a city court or a town court or a village court, a material witness order may be issued only by the superior court which would have jurisdiction of the case upon a holding of the defendant for the action of the grand jury.4. Unless vacated pursuant to section 620.60, a material witness order remains in effect during the following periods of time under the indicated circumstances:(a) An order issued by a superior court under the circumstances prescribed in paragraph (a) of subdivision three remains in effect during the pendency of the criminal action in such superior court;(b) An order issued by a district court or the New York City criminal court or a superior court judge sitting as a local criminal court, under circumstances prescribed in paragraph (b) of subdivision three, remains in effect (i) until the disposition of the felony complaint pending in such court, and (ii) if the defendant is held for the action of a grand jury, during the pendency of the grand jury proceeding, and (iii) if an indictment results, for a period of ten days following the filing of such indictment, and (iv) if within such ten day period such order is indorsed by the superior court in which the indictment is pending, during the pendency of the action in such superior court. Upon such indorsement, the order is deemed to be that of the superior court.(c) An order issued by a superior court under circumstances prescribed in paragraph (c) of subdivision three remains in effect (i) until the disposition of the felony complaint pending in the city, town or village court, and (ii) if the defendant is held for the action of the grand jury, during the pendency of the action in the superior court. (a) Possesses information material to the determination of such action; and (b) Will not be amenable or responsive to a subpoena at a time when his attendance will be sought. 2. A material witness order may be issued only when: (a) An indictment has been filed in a superior court and is currently pending therein; or (b) A grand jury proceeding has been commenced and is currently pending; or (c) A felony complaint has been filed with a local criminal court and is currently pending therein. 3. The following courts may issue material witness orders under the indicated circumstances: (a) When an indictment has been filed, or a grand jury proceeding has been commenced, or a defendant has been held by a local criminal court for the action of a grand jury, a material witness order may be issued only by the superior court in which such indictment is pending or by which such grand jury has been or is to be impaneled; (b) When a felony complaint is currently pending in a district court or in the New York City criminal court or before a superior court judge sitting as a local criminal court, a material witness order may be issued either by such court or by the superior court which would have jurisdiction of the case upon a holding of the defendant for the action of the grand jury; (c) When a felony complaint is currently pending in a city court or a town court or a village court, a material witness order may be issued only by the superior court which would have jurisdiction of the case upon a holding of the defendant for the action of the grand jury. 4. Unless vacated pursuant to section 620.60, a material witness order remains in effect during the following periods of time under the indicated circumstances: (a) An order issued by a superior court under the circumstances prescribed in paragraph (a) of subdivision three remains in effect during the pendency of the criminal action in such superior court; (b) An order issued by a district court or the New York City criminal court or a superior court judge sitting as a local criminal court, under circumstances prescribed in paragraph (b) of subdivision three, remains in effect (i) until the disposition of the felony complaint pending in such court, and (ii) if the defendant is held for the action of a grand jury, during the pendency of the grand jury proceeding, and (iii) if an indictment results, for a period of ten days following the filing of such indictment, and (iv) if within such ten day period such order is indorsed by the superior court in which the indictment is pending, during the pendency of the action in such superior court. Upon such indorsement, the order is deemed to be that of the superior court. (c) An order issued by a superior court under circumstances prescribed in paragraph (c) of subdivision three remains in effect (i) until the disposition of the felony complaint pending in the city, town or village court, and (ii) if the defendant is held for the action of the grand jury, during the pendency of the action in the superior court.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 620 - Securing Attendance of Witnesses by Material Witness Order620.30 - Material Witness Order; Commencement of Proceeding by Application; Procurement of Appearance of Prospective Witness.

application; procurement of appearance of prospective witness. 1. A proceeding to adjudge a person a material witness must be commenced by application to the appropriate court, made in writing and subscribed and sworn to by the applicant, demonstrating reasonable cause to believe the existence of facts, as specified in subdivision one of section 620.20, warranting the adjudication of such person as a material witness. 2. If the court is satisfied that the application is well founded, the prospective witness may be compelled to appear in response thereto as follows:(a) The court may issue an order directing him to appear therein at a designated time in order that a determination may be made whether he should be adjudged a material witness, and, upon personal service of such order or a copy thereof within the state, he must so appear.(b) If in addition to the allegations specified in subdivision one, the application contains further allegations demonstrating to the satisfaction of the court reasonable cause to believe that (i) the witness would be unlikely to respond to such an order, or (ii) after previously having been served with such an order, he did not respond thereto, the court may issue a warrant addressed to a police officer, directing such officer to take such prospective witness into custody within the state and to bring him before the court forthwith in order that a proceeding may be conducted to determine whether he is to be adjudged a material witness. (a) The court may issue an order directing him to appear therein at a designated time in order that a determination may be made whether he should be adjudged a material witness, and, upon personal service of such order or a copy thereof within the state, he must so appear. (b) If in addition to the allegations specified in subdivision one, the

application contains further allegations demonstrating to the satisfaction of the court reasonable cause to believe that (i) the witness would be unlikely to respond to such an order, or (ii) after previously having been served with such an order, he did not respond thereto, the court may issue a warrant addressed to a police officer, directing such officer to take such prospective witness into custody within the state and to bring him before the court forthwith in order that a proceeding may be conducted to determine whether he is to be adjudged a material witness.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 620 - Securing Attendance of Witnesses by Material Witness Order620.40 - Material Witness Order; Arraignment.

1. When the prospective witness appears before the court, the court must inform him of the nature and purpose of the proceeding, and that he is entitled to a prompt hearing upon the issue of whether he should be adjudged a material witness. The prospective witness possesses all the rights, and is entitled to all the court instructions, with respect to right to counsel, opportunity to obtain counsel and assignment of counsel in case of financial inability to retain such, which, pursuant to subdivisions three through five of section 180.10, accrue to a defendant arraigned upon a felony complaint in a local criminal court. 2. If the proceeding is adjourned at the prospective witness' instance, for the purpose of obtaining counsel or otherwise, the court must order him to appear upon the adjourned date. The court may further fix bail to secure his appearance upon such date or until the proceeding is completed and, upon default thereof, may commit him to the custody of the sheriff for such period.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 620 - Securing Attendance of Witnesses by Material Witness Order620.50 - Material Witness Order; Hearing, Determination and Execution of Order.

order. 1. The hearing upon the application must be conducted as follows:(a) The applicant has the burden of proving by a preponderance of the evidence all facts essential to support a material witness order, and any testimony so adduced must be given under oath;(b) The prospective witness may testify under oath or may make an unsworn statement;(c) The prospective witness may call witnesses in his behalf, and the court must cause process to be issued for any such witness whom he reasonably wishes to call, and any testimony so adduced must be given under oath;(d) Upon the hearing, evidence tending to demonstrate that the prospective witness does or does not possess information material to the criminal action in issue, or that he will or will not be amenable or respond to a subpoena at the time his attendance will be sought, is admissible even though it consists of hearsay.2. If the court is satisfied after such hearing that there is reasonable cause to believe that the prospective witness (a) possesses information material to the pending action or proceeding, and (b) will not be amenable or respond to a subpoena at a time when his attendance will be sought, it may issue a material witness order, adjudging him a material witness and fixing bail to secure his future attendance.3. A material witness order must be executed as follows:(a) If the bail is posted and approved by the court, the witness must, as provided in subdivision two of section 510.40 of this part, be released and be permitted to remain at liberty; provided that, where the bail is posted by a person other than the witness himself, he may not be so released except upon his signed written consent thereto;(b) If the bail is not posted, or if though posted it is not approved by the court, the witness must, as provided in subdivision two of section 510.40 of this part, be committed to the custody of the sheriff. (a) The applicant has the burden of proving by a preponderance of the evidence all facts essential to support a material witness order, and any testimony so adduced must be given under oath; (b) The prospective witness may testify under oath or may make an unsworn statement; (c) The prospective witness may call witnesses in his behalf, and the court must cause process to be issued for any such witness whom he reasonably wishes to call, and any testimony so adduced must be given under oath; (d) Upon the hearing, evidence tending to demonstrate that the prospective witness does or does not possess information material to the criminal action in issue, or that he will or will not be amenable or respond to a subpoena at the time his attendance will be sought, is admissible even though it consists of hearsay. 2. If the court is satisfied after such hearing that there is reasonable cause to believe that the prospective witness (a) possesses information material to the pending action or proceeding, and (b) will not be amenable or respond to a subpoena at a time when his attendance will be sought, it may issue a material witness order, adjudging him a material witness and fixing bail to secure his future attendance. 3. A material witness order must be executed as follows: (a) If the bail is posted and approved by the court, the witness must, as provided in subdivision two of section 510.40 of this part, be released and be permitted to remain at liberty; provided that, where the bail is posted by a person other than the witness himself, he may not be so released except upon his signed written consent thereto; (b) If the bail is not posted, or if though posted it is not approved by the court, the witness must, as provided in subdivision two of section 510.40 of this part, be committed to the custody of the sheriff.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 620 - Securing Attendance of Witnesses by Material Witness Order620.60 - Material Witness Order; Vacation, Modification and Amendment Thereof.

thereof. 1. At any time after a material witness order has been issued the court must, upon application of such witness, with notice to the party upon whose application the order was issued, and with opportunity to be heard, make inquiry whether by reason of new or changed facts or circumstances the material witness order is no longer necessary or warranted, or, if it is, whether the original bail currently appears excessive. Upon making any such determination, the court must vacate the order. If its determination is that the order is no longer necessary or warranted, it must, as the situation requires, either discharge the witness from custody or exonerate

the bail. If its determination is that the bail is excessive, it must issue a new order fixing bail in a lesser amount or on less burdensome terms. 2. At any time when a witness is at liberty upon bail pursuant to a material witness order, the court may, upon application of the party upon whose application the order was issued, with notice to the witness if possible and to his attorney if any and opportunity to be heard, make inquiry whether, by reason of new or changed facts or circumstances, the original bail is no longer sufficient to secure the future attendance of the witness at the pending action. Upon making such a determination, the court must vacate the order and issue a new order fixing bail in a greater amount or on terms more likely to secure the future attendance of the witness.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 620 - Securing Attendance of Witnesses by Material Witness Order620.70 - Material Witness Order; Compelling Attendance of Witness Who Fails to Appear.

fails to appear. If a witness at liberty on bail pursuant to a material witness order cannot be found or notified at the time his appearance as a witness is required, or if after notification he fails to appear in such action or proceeding as required, the court may issue a warrant, addressed to a police officer, directing such officer to take such witness into custody anywhere within the state and to bring him to the court forthwith.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 620 - Securing Attendance of Witnesses by Material Witness Order620.80 - Material Witness Order; Witness Fee.

A witness held in the custody of the sheriff as a result of a material witness order must be paid the sum of three dollars per day for each day of confinement in such custody. Such compensation is a county charge and is payable upon release of such material witness from custody or, in the discretion of the court, at any designated times or intervals during the confinement as the court may deem appropriate.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 630 - Securing Attendance as Witnesses of Persons Confined in Institutions Within the State630.10 - Securing Attendance of Witnesses Confined in Institutions Within the State; in General.

within the state; in general. Under the circumstances prescribed in this article, a person confined in an institution within this state pursuant to a court order may, upon application of a party to a criminal action or proceeding, demonstrating reasonable cause to believe that such person possesses information material thereto, be produced by court order and compelled to attend such action or proceeding as a witness.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 630 - Securing Attendance as Witnesses of Persons Confined in Institutions Within the State630.20 - Securing Attendance of Witnesses Confined in Institutions Within the State; When and by What Courts Order May Be Issued.

within the state; when and by what courts order may be issued. The following courts and judges may, under the indicated circumstances, order production as witnesses of persons confined by court order in institutions within the state. 1. If the criminal action or proceeding is one pending in a superior court or with a superior court judge sitting as a local criminal court, such court may, except as provided in subdivision four, order the production as a witness therein of a person confined in any institution in the state. 2. If the criminal action or proceeding is one pending in a district court or the New York City criminal court, such court may order the production as a witness therein of a person confined in any institution within the state other than a state prison. Production therein of a prospective witness confined in a state prison may, except as provided in subdivision four, be ordered, upon application of the party desiring to call him, by a judge of a superior court holding a term thereof in the county in which the action or proceeding is pending. 3. If the criminal action or proceeding is one pending in a city court or a town court or a village court, such court may order the production as a witness therein of a person confined in a county jail of such county. Production therein of a prospective witness confined in any other institution within the state may, except as provided in subdivision four, be ordered, upon application of the party desiring to call him, by a judge of a superior court holding a term thereof in the county in which the action or proceeding is pending. 4. Regardless of the court in which the criminal action or proceeding is pending, production as a witness therein of a prisoner who has been sentenced to death may be ordered, upon application of the party desiring to call him, only by a justice of the appellate division of the department in which the action or proceeding is pending. The application for such order, if made by the defendant, must be upon notice to the district attorney of the county in which the action or proceeding is pending, and an application made by either party must be based upon a showing that the prisoner's attendance is clearly necessary in the interests of justice. Upon issuing such an order, the appellate division justice may fix and include therein any terms or conditions which he deems appropriate for execution thereof.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 640 - Securing Attendance as Witnesses of

Persons at Liberty Outside the State--Rendition to Other Jurisdictions of Witnesses at Liberty Within640.10 - Securing Attendance of Witnesses From Within and Without the State in Criminal Proceedings.

state in criminal proceedings. 1. As used in this section the following words shall have the following meanings unless the context requires otherwise. "Witness" shall include a person whose testimony is desired in any proceeding or investigation by a grand jury or in a criminal action, prosecution or proceeding. "State" shall include any territory of the United States and the District of Columbia. "Subpoena" shall include a summons in any state where a summons is used in lieu of a subpoena. 2. Subpoenaing witness in this state to testify in another state. If a judge of a court of record in any state which by its laws has made provision for commanding persons within that state to attend and testify in this state certifies under the seal of such court that there is a criminal prosecution pending in such court, or that a grand jury investigation has commenced or is about to commence, that a person being within this state is a material witness in such prosecution, or grand jury investigation, and that his presence will be required for a specified number of days, upon presentation of such certificate to a justice of the supreme court or a county judge in the county in which such person is, such justice or judge shall fix a time and place for a hearing, and shall make an order directing the witness to appear at a time and place certain for the hearing. If at such hearing the justice or judge determines that the witness is material and necessary, that it will not cause undue hardship to the witness to be compelled to attend and testify in the prosecution or a grand jury investigation in the other state, and that the laws of the state in which the prosecution is pending, or grand jury investigation has commenced or is about to commence, will give to him protection from arrest and the service of civil and criminal process, he shall issue a subpoena, with a copy of the certificate attached, directing the witness to attend and testify in the court where the prosecution is pending, or where a grand jury investigation has commenced or is about to commence at a time and place specified in the subpoena. In any such hearing the certificate shall be prima facie evidence of all the facts stated therein. If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of the requesting state to assure his attendance in the requesting state such justice or judge may, in lieu of notification of the hearing, direct that such witness be forthwith brought before him for said hearing; and the justice or judge at the hearing being satisfied of the desirability of such custody and delivery, for which determination the certificate shall be prima facie proof of such desirability may, in lieu of issuing subpoena, order that said witness be forthwith taken into custody and delivered to an officer of the requesting state. If the witness, who is subpoenaed as above provided, after being paid or tendered by some properly authorized person the sum of ten cents a mile for each mile and five dollars for each day that he is required to travel and attend as a witness fails without good cause to attend and testify as directed in the subpoena, he shall be punished in the manner provided for the punishment of any witness who disobeys a subpoena issued from a court of record in this state. 3. Witness from another state subpoenaed to testify in this state. If a person in any state, which by its laws has made provision for commanding persons within its borders to attend and testify in criminal prosecutions, or grand jury investigations commenced or about to commence, in this state, is a material witness in a prosecution pending in a court of record in this state, or in a grand jury investigation which has commenced or is about to commence, a judge of such court may issue a certificate under the seal of the court stating these facts and specifying the number of days the witness will be required. This certificate shall be presented to a judge of a court of record in the county in which the witness is found. If said certificate recommends that the witness be taken into immediate custody and delivered to an officer of this state to assure his attendance in this state, such judge may direct that such witness be forthwith brought before him; and the judge being satisfied of the desirability of such custody and delivery, for which determination said certificate shall be prima facie proof, may order that said witness be forthwith taken into custody and delivered to an officer of this state, which order shall be sufficient authority to such officer to take such witness into custody and hold him unless and until he may be released by bail, recognizance, or order of the judge issuing the certificate. If the witness is summoned to attend and testify in this state he shall be tendered the sum of ten cents a mile for each mile and five dollars for each day that he is required to travel and attend as a witness. Such fees shall be a proper charge upon the county in which such criminal prosecution or grand jury investigation is pending. A witness who has appeared in accordance with the provisions of the subpoena shall not be required to remain within this state a longer period of time than the period mentioned in the certificate, unless otherwise ordered by the court. If such witness fails without good cause to attend and testify as directed in this subpoena, he shall be punished in the manner provided for the punishment of any witness who disobeys a subpoena issued from a court of record in this state. 4. Exemption from arrest and service of process. If a person comes into this state in obedience to a subpoena directing him to attend and testify in this state he shall not while in this state pursuant to such subpoena or order be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this state under the subpoena. If a person passes through this state while going to another state in obedience to a subpoena or order to attend and testify in that state or while returning therefrom, he shall not while so passing through this state be subject to arrest or the service of process, civil or criminal, in connection with matters which arose before his entrance into this state under the subpoena or order. 5. Uniformity of interpretation. This section shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of the states which enact it. 6. Short title. This section may be cited as "Uniform act to secure the attendance of witnesses from without the state in criminal cases." 7. Constitutionality. If any part of this section is for any reason declared void, such invalidity shall not affect the validity of the remaining portions thereof.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 650 - Securing Attendance as Witnesses of Prisoners Confined in Institutions of Other Jurisdictions of the United States-Rendition to Other Jur650.10 - Securing Attendance of Prisoner in This State as Witness in Proceeding Without the State.

proceeding without the state. If a judge of a court of record in any other state, which by its laws has made provision for commanding a prisoner within that state to attend and testify in this state, certifies under the seal of that court that there is a criminal prosecution pending in such court or that a grand jury investigation has commenced, and that a person confined in a New York state correctional institution or prison within the department of corrections and community supervision, other than a person confined as criminally mentally ill, or as a defective delinquent, or confined in the death house awaiting execution, is a material witness in such prosecution or investigation and that his or her presence is required for a specified number of days, upon presentment of such certificate to a judge of a superior court in the county where the person is confined, upon notice to the attorney general, such judge, shall fix a time and place for a hearing and shall make an order directed to the person having custody of the prisoner requiring that such prisoner be produced at the hearing. If at such hearing the judge determines that the prisoner is a material and necessary witness in the requesting state, the judge shall issue an order directing that the prisoner attend in the court where the prosecution or investigation is pending, upon such terms and conditions as the judge prescribes, including among other things, provision for the return of the prisoner at the conclusion of his or her testimony, proper safeguards on his or her custody, and proper financial reimbursement or other payment by the demanding jurisdiction for all expenses incurred in the production and return of the prisoner. The attorney general is authorized as agent for the state of New York, when in his or her judgment it is necessary, to enter into such agreements with the appropriate authorities of the demanding jurisdiction as he or she determines necessary to ensure proper compliance with the order of the court.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 650 - Securing Attendance as Witnesses of Prisoners Confined in Institutions of Other Jurisdictions of the United States-Rendition to Other Jur650.20 - Securing Attendance of Prisoner Outside the State as Witness in Criminal Action in the State.

in criminal action in the state. 1. When (a) a criminal action is pending in a court of record of this state, or a grand jury proceeding has been commenced, and (b) there is reasonable cause to believe that a person confined in a correctional institution or prison of another state, other than a person awaiting execution of a sentence of death or one confined as mentally ill or as a defective delinquent, possesses information material to such criminal action or proceeding, and (c) the attendance of such person as a witness in such action or proceeding is desired by a party thereto, and (d) the state in which such person is confined possesses a statute equivalent to section 650.10, the court in which such action or proceeding is pending may issue a certificate under the seal of such court, certifying all such facts and that the attendance of such person as a witness in such court is required for a specified number of days. 2. Such certificate may be issued upon application, of either the people or a defendant, demonstrating all the facts specified in subdivision one. 3. Upon issuing such a certificate, the court may deliver it, or cause or authorize it to be delivered, to a judge or a court of such other state who or which, pursuant to the laws thereof, is authorized to initiate or undertake legal action for the delivery of such prisoners to this state as witnesses.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle R - Procedures for Securing Attendance of Witnesses in Criminal ActionsArticle 650 - Securing Attendance as Witnesses of Prisoners Confined in Institutions of Other Jurisdictions of the United States-Rendition to Other Jur650.30 - Securing Attendance of Prisoner in Federal Institution as Witness in Criminal Action in the State.

witness in criminal action in the state. 1. When (a) a criminal action is pending in a court of record of this state by reason of the filing therewith of an accusatory instrument, or a grand jury proceeding has been commenced, and (b) there is reasonable cause to believe that a person confined in a federal prison or other federal custody, either within or outside this state, possesses information material to such criminal action or proceeding, and (c) the attendance of such person as a witness in such action or proceeding is desired by a party thereto, a superior court, at a term held in the county in which such action or proceeding is pending, may issue a certificate, known as a writ of habeas corpus ad testificandum, addressed to the attorney general of the United States, certifying all such facts and requesting the attorney general of the United States to cause the attendance of such person as a witness in such court for a specified number of days under custody of a federal public servant. 2. Such a certificate may be issued upon application of either the people or a defendant, demonstrating all the facts specified in subdivision one. 3. Upon issuing such certificate, the court may deliver it, or cause or authorize it to be delivered, to the attorney general of the United States or to his representative authorized to entertain the request.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle S - Procedures for Securing Testimony for Future Use,and for Using Testimony Given in a Prior ProceedingArticle 660 - Securing Testimony for Use in a Subsequent Proceeding--Examination of Witnesses Conditionally660.10 - Examination of Witnesses Conditionally; in General.

After a defendant has been arraigned upon an accusatory instrument, and under circumstances prescribed in this article, a criminal court may, upon application of either the people or a defendant, order that a witness or prospective witness in the action be examined conditionally under oath in order that such testimony may be received into evidence at subsequent proceedings in or related to the action.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle S - Procedures for Securing Testimony for Future Use,and for Using Testimony Given in a Prior ProceedingArticle 660 - Securing Testimony for Use in a Subsequent Proceeding--Examination of Witnesses Conditionally660.20 - Examination of Witnesses Conditionally; Grounds for Order.

An order directing examination of a witness conditionally must be based upon the ground that there is reasonable cause to believe that such witness: 1. Possesses information material to the criminal action or proceeding in issue; and 2. Will not be amenable or responsive to legal process or available as a witness at a time when his testimony will be sought, either because he is:(a) About to leave the state and not return for a substantial period of time; or(b) Physically ill or incapacited. (a) About to leave the state and not return for a substantial period of time; or (b) Physically ill or incapacited.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle S - Procedures for Securing Testimony for Future Use,and for Using Testimony Given in a Prior ProceedingArticle 660 - Securing Testimony for Use in a Subsequent Proceeding--Examination of Witnesses Conditionally660.30 - Examination of Witnesses Conditionally; When and to What Courts Application May Be Made.

courts application may be made. 1. An application to examine a witness conditionally may be made at any time after the defendant has been arraigned upon an accusatory instrument and before termination of the action, or of a proceeding therein or related thereto, in which the witness's testimony is sought. 2. Such application must be made to and determined by the following courts under the indicated circumstances:(a) If the action is pending in a local criminal court as a result of an accusatory instrument filed therewith, the application must be made to and determined by such local criminal court;(b) If the defendant has been held by a local criminal court for the action of a grand jury on the basis of a felony complaint, or if an indictment has been filed against him, the application must be made to and determined by the superior court by which the grand jury was or is to be impaneled or in which the indictment is pending. If the superior court by which the grand jury is to be impaneled is the supreme court, the motion may, in the alternative, be made in the county court of the county in which the action is pending. (a) If the action is pending in a local criminal court as a result of an accusatory instrument filed therewith, the application must be made to and determined by such local criminal court; (b) If the defendant has been held by a local criminal court for the action of a grand jury on the basis of a felony complaint, or if an indictment has been filed against him, the application must be made to and determined by the superior court by which the grand jury was or is to be impaneled or in which the indictment is pending. If the superior court by which the grand jury is to be impaneled is the supreme court, the motion may, in the alternative, be made in the county court of the county in which the action is pending.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle S - Procedures for Securing Testimony for Future Use,and for Using Testimony Given in a Prior ProceedingArticle 660 - Securing Testimony for Use in a Subsequent Proceeding--Examination of Witnesses Conditionally660.40 - Examination of Witnesses Conditionally; Application and Notice.

1. An application to examine a witness conditionally must be made in writing, must be subscribed and sworn to, and must contain:(a) The title of the action, the offense or offenses charged, the nature and status of the action, and the name and residential address of the witness sought to be examined; and(b) A statement that there is reasonable cause to believe that grounds for such an examination, as specified in section 660.20, exist, together with allegations of fact supporting such statement. Such allegations of fact may be those of the applicant, or those of another person in an accompanying deposition, or of both. They may be based either upon personal knowledge of the deponent or upon information and belief, provided that in the latter event the sources of such information and the grounds of such belief are stated.2. The application may also contain a request that the examination, in addition to its being recorded in the same manner as would be required were the witness testifying at trial, also be recorded by videotape or other photographic method approved by and subject to standards and administrative policies promulgated pursuant to section twenty-eight of article six of the constitution.3. A copy of the application, with reasonable notice and opportunity to be heard, must be served upon the other party to the action. If the defendant is the applicant, such service must be upon the district attorney. If the people are the applicant, such service must be upon the defendant and upon his attorney if any. The respondent party may file and serve a sworn written answer to the application. (a) The title of the action, the offense or offenses charged, the nature and status of the action, and the name and residential address of the witness sought to be examined; and (b) A statement that there is reasonable cause to believe that grounds for such an examination, as specified in section 660.20, exist, together with allegations of fact supporting such statement. Such allegations of fact may be those of the applicant, or those of another person in an accompanying deposition, or of both. They may be based either upon personal knowledge of the deponent or upon information and belief, provided that in the latter event the sources of such information and the grounds of such belief are stated. 2. The application may also contain a request that the examination, in addition to its being recorded in the same manner as would be required were the witness testifying at trial, also be recorded by videotape or other photographic method approved by and subject to standards and administrative policies promulgated pursuant to section twenty-eight of article six of the constitution. 3. A copy of the application, with reasonable notice and opportunity to be heard, must be served upon the other party to the action. If the defendant is the applicant, such service must be upon the district attorney. If the people are the applicant, such service must be upon the defendant and upon his attorney if any. The respondent party may file and serve a sworn written answer to the application.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle S - Procedures for Securing Testimony for Future Use,and for Using Testimony Given in a Prior ProceedingArticle 660 - Securing Testimony for Use in a Subsequent Proceeding--Examination of Witnesses Conditionally660.50 - Examination of Witnesses Conditionally; Determination of Application.

application. 1. Before ruling upon the application, the court may, in addition to examining the papers and hearing oral argument, make any inquiry it deems appropriate for the purpose of making findings of fact essential to the determination. For such purpose, it may examine witnesses, under oath or otherwise, subpoena or call witnesses and authorize the attorneys for the parties to do so. 2. If the court is satisfied that grounds for the application exist, it must order an examination of the witness conditionally at a designated time and place. Such examination must be conducted by the same court; except that, if it is to be held in another county, it may be conducted by a designated superior court of such other county. 3. The court must order that the examination be recorded in the same manner as would be required were the witness testifying at trial, and the court may, in addition, order that the examination also be recorded by videotape or other photographic method approved by and subject to standards and administrative policies promulgated pursuant to section twenty-eight of article six of the constitution. 4. Upon ordering the examination, the court must direct the party securing the order of examination to serve a copy of the order upon the respondent party and, if a defendant be such, upon his attorney also, and must either issue a subpoena for the witness' attendance thereat or authorize the applicant party's attorney to do so.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle S - Procedures for Securing Testimony for Future Use,and for Using Testimony Given in a Prior ProceedingArticle 660 - Securing Testimony for Use in a Subsequent Proceeding--Examination of Witnesses Conditionally660.60 - Examination of Witnesses Conditionally; the Examination Proceeding.

proceeding. 1. The examination proceeding must be conducted in the same manner as would be required were the witness testifying at a trial, and must be recorded in such fashion as the court has directed pursuant to subdivision three of section 660.50 of this chapter. The witness must testify under oath. The applicant party must first examine the witness and the respondent party may then cross-examine him, with each party entitled to register objections and to receive rulings of the court thereon. 2. Upon conclusion of the examination, a transcript and any videotape or photographic recording thereof must be certified and filed with the court which ordered the examination.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle S - Procedures for Securing Testimony for Future Use,and for Using Testimony Given in a Prior ProceedingArticle 670 - Use in a Criminal Proceeding of Testimony Given in a Previous Proceeding670.10 - Use in a Criminal Proceeding of Testimony Given in a Previous Proceeding; When Authorized.

proceeding; when authorized. 1. Under circumstances prescribed in this article, testimony given by a witness at (a) a trial of an accusatory instrument, or (b) a hearing upon a felony complaint conducted pursuant to section 180.60, or (c) an examination of such witness conditionally, conducted pursuant to article six hundred sixty, may, where otherwise admissible, be received into evidence at a subsequent proceeding in or relating to the action involved when at the time of such subsequent proceeding the witness is unable to attend the same by reason of death, illness or incapacity, or cannot with due diligence be found, or is outside the state or in federal custody and cannot with due diligence be brought before the court. Upon being received into evidence, such testimony may be read and any videotape or photographic recording thereof played. Where any recording is received into evidence, the stenographic transcript of that examination shall also be received. 2. The subsequent proceedings at which such testimony may be received in evidence consist of:(a) Any proceeding constituting a part of a criminal action based upon the charge or charges which were pending against the defendant at the time of the witness's testimony and to which such testimony related; and(b) Any post-judgment proceeding in which a judgment of conviction upon a charge specified in paragraph (a) is challenged. (a) Any proceeding constituting a part of a criminal action based upon the charge or charges which were pending against the defendant at the time of the witness's testimony and to which such testimony related; and (b) Any post-judgment proceeding in which a judgment of conviction upon a charge specified in paragraph (a) is challenged.

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proceeding; procedure. 1. In any criminal action or proceeding other than a grand jury proceeding, a party thereto who desires to offer in evidence testimony of a witness given in a previous action or proceeding as provided in section 670.10, must so move, either in writing or orally in open court, and must submit to the court, and serve a copy thereof upon the adverse party, an authenticated transcript of the testimony and any videotape or photographic recording thereof sought to be introduced. Such moving party must further state facts showing that personal attendance of the witness in question is precluded by some factor specified in subdivision one of section 670.10. In determining the motion, the court, with opportunity for both parties to be heard, must make inquiry and conduct a hearing to determine whether personal attendance of the witness is so precluded. If the court determines that such is the

case and grants the motion, the moving party may introduce the transcript in evidence and read into evidence the testimony contained therein. In such case, the adverse party may register any objection or protest thereto that he would be entitled to register were the witness testifying in person, and the court must rule thereon. 2. Without obtaining any court order or authorization, a district attorney may introduce in evidence in a grand jury proceeding testimony of a witness given in a previous action or proceeding specified in subdivision one of section 670.10, provided that a foundation for such evidence is laid by other evidence demonstrating that personal attendance of such witness is precluded by some factor specified in subdivision one of section 670.10.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle S - Procedures for Securing Testimony for Future Use,and for Using Testimony Given in a Prior ProceedingArticle 680 - Securing Testimony Outside the State for Use in Proceeding Within the State-Examination of Witnesses on Commission680.10 - Examination of Witnesses on Commission; in General.

1. Under circumstances prescribed in this article, testimony material to a trial or pending trial of an accusatory instrument which charges a crime, may be taken by "examination on a commission" outside the state and received in evidence at such trial. 2. A "commission" is a process issued by a superior court designating one or more persons as commissioners and authorizing them to conduct a recorded examination of a witness or witnesses under oath, primarily on the basis of interrogatories annexed to the commission, and to remit to the issuing court the transcript of such examination.

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issuable; form and content of application. 1. Upon a pre-trial application of a defendant who has pleaded not guilty to an indictment or other accusatory instrument which charges a crime, the superior court in which such indictment is pending, or a superior court in the county in which such other accusatory instrument is pending, may issue a commission for examination of a designated person as a witness in the action, at a designated place outside this state, if it is satisfied that (a) such person possesses information material to the action which in the interest of justice should be disclosed at the trial, and (b) resides outside the state. 2. The application and moving papers must be in writing and must be subscribed and sworn to by the defendant or his attorney. A copy thereof must be served on the district attorney, with reasonable notice and opportunity to be heard. The moving papers must allege:(a) The offense or offenses charged; and(b) The status of the action; and(c) The name of the prospective witness; and(d) A statement that such prospective witness resides outside the state, and his address in the jurisdiction in which the examination sought is to occur; and(e) A statement that he possesses information material to the action which in the interest of justice should be disclosed at the trial, together with a brief summary of the facts supporting such statement.3. An application for issuance of a commission may request examination pursuant thereto of more than one person residing in the particular jurisdiction. In such case, it must contain allegations specified in subdivision two with respect to each such person, and the court must make separate rulings as to each. (a) The offense or offenses charged; and (b) The status of the action; and (c) The name of the prospective witness; and (d) A statement that such prospective witness resides outside the state, and his address in the jurisdiction in which the examination sought is to occur; and (e) A statement that he possesses information material to the action which in the interest of justice should be disclosed at the trial, together with a brief summary of the facts supporting such statement. 3. An application for issuance of a commission may request examination pursuant thereto of more than one person residing in the particular jurisdiction. In such case, it must contain allegations specified in subdivision two with respect to each such person, and the court must make separate rulings as to each.

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for examination of witnesses. 1. Upon granting the defendant's application for issuance of a commission, the court may, upon application of the people, determine that the commission shall also authorize examination of a person or persons designated by the people, who reside in the jurisdiction in which the examination proceeding is to occur, if it is satisfied that such person or persons possess material information, reside outside the state and otherwise meet the standards for examination of witnesses on a commission as prescribed in subdivision one of section 680.20. 2. Such application and the moving papers must be in writing, must be subscribed and sworn to by the district attorney, and copies thereof must be served upon the defendant and his attorney, with reasonable notice and opportunity to be heard. The moving papers must contain all of the allegations required upon a defendant's application, as specified in subdivision two of section 680.20.

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issuable upon application of people. When a commission has been issued upon application of a defendant pursuant to section 680.20, the court may, upon application of the people, issue another commission for examination, either in the same or another jurisdiction, of a person designated by the people, under the same conditions as prescribed in said section 680.20. In such case, the court may, upon application of the defendant, determine, in the manner provided in section 680.30, that such commission shall also authorize examination of a person or persons designated by the defendant.

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1. Following an order for the issuance of a commission and the court's designation of the witnesses to be examined thereon, each party must prepare interrogatories or questions to be asked of each witness who is to be examined upon his or its request, and must submit the same to the court and serve a copy thereof upon the other party. Following such submission and service, such other party may in the same manner submit and serve cross-interrogatories or questions, to be asked of the witness following his examination upon the direct inquiry. 2. After all such interrogatories and cross-interrogatories have been submitted and served, the court may examine them and, with opportunity for counsel to be heard, exclude and strike any question which it considers irrelevant, incompetent or otherwise improper or violative of the rules of evidence which prevail at a criminal trial.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle S - Procedures for Securing Testimony for Future Use,and for Using Testimony Given in a Prior ProceedingArticle 680 - Securing Testimony Outside the State for Use in Proceeding Within the State-Examination of Witnesses on Commission680.60 - Examination of Witnesses on Commission; Form and Content of the Commission.

the commission. 1. The commission must be subscribed by the court and must contain:(a) The name and address of each witness to be examined; and(b) The name, or a descriptive title, of a commissioner or commissioners who, pursuant to subdivision two, are authorized to conduct the examination; and(c) A statement authorizing such commissioner or commissioners to administer the oath to witnesses; and(d) A direction that, upon completion of such examination, such commissioner or commissioners cause it to be transcribed and remit to the court the transcript, the commission, the interrogatories and all other pertinent instruments and documents.2. The following persons may be designated commissioners:(a) If the examination is to occur within the United States or any territory thereof, any attorney authorized to practice law in the specified jurisdiction or any person authorized to administer oaths therein;(b) If the examination is to occur in a foreign country, any diplomatic or consular agent or representative of the United States employed in such capacity in such country, or any commissioned officer of the armed forces.3. The court must cause the commission to be delivered to a commissioner designated therein, together with a copy of this article. (a) The name and address of each witness to be examined; and (b) The name, or a descriptive title, of a commissioner or commissioners who, pursuant to subdivision two, are authorized to conduct the examination; and (c) A statement authorizing such commissioner or commissioners to administer the oath to witnesses; and (d) A direction that, upon completion of such examination, such commissioner or commissioners cause it to be transcribed and remit to the court the transcript, the commission, the interrogatories and all other pertinent instruments and documents. 2. The following persons may be designated commissioners: (a) If the examination is to occur within the United States or any territory thereof, any attorney authorized to practice law in the specified jurisdiction or any person authorized to administer oaths therein; (b) If the examination is to occur in a foreign country, any diplomatic or consular agent or representative of the United States employed in such capacity in such country, or any commissioned officer of the armed forces. 3. The court must cause the commission to be delivered to a commissioner designated therein, together with a copy of this article.

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The examination on the commission must be conducted as follows: 1. Each witness must testify under oath, and the examination must be recorded and transcribed. 2. Each witness must first be asked all the questions contained in the interrogatories submitted by the party requesting his examination. He must then be asked all the questions contained in the cross-interrogatories, if any, submitted by the other party. 3. The defendant has a right to be represented by counsel at the examination, and the district attorney also has a right to be present, but both such rights may be waived. Upon the conclusion of the questioning of a witness upon the written interrogatories, he may be further examined by the attorney or representative of the party who requested his examination, and may then be cross-examined by the attorney or representative of the adverse party. Each such attorney or representative may register objections to the authority or qualifications of the commissioner, to the manner in which the examination is conducted, and to the admissibility of evidence, and all such objections must be recorded and transcribed. 4. Documentary or other physical evidence may be produced and submitted by a witness. Such evidence must be subscribed or otherwise identified by the witness, and certified by a commissioner and annexed to the transcript of the examination as a part of the record. 5. After the examination is transcribed, the commissioner or commissioners must subscribe and certify the transcript as an accurate record of the proceedings, and must then remit such transcript and all other pertinent instruments, documents and evidence to the court which issued the

commission, in accordance with the directions thereof.

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transcript of examination. 1. When the transcript and record of the examination on commission are received by the superior court which issued the commission, they must be filed therewith if such court be the trial court, and, if not, transmitted to the trial court. A copy of the transcript must be delivered by the trial court to each party. 2. Upon the trial of the action, either party may, subject to the provisions of subdivision three, introduce and read into evidence the transcript or that portion thereof containing the testimony of a witness examined on the commission. 3. At any time prior to the introduction of such evidence, the trial court may examine the transcript and, upon according both parties opportunity to be heard and to register objections, may exclude and strike therefrom irrelevant, incompetent or otherwise inadmissible testimony. While the transcript or any portion thereof is being read into evidence at the trial by a party, the other party may register any objection or protest thereto that he would be entitled to register were the witness testifying in person, regardless of whether such protest has previously been raised and passed upon by the court, and the court must rule thereon.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle T - Procedures for Securing Evidence by Means of Court Order and for Suppressing Evidence Unlawfully or Improperly ObtainedArticle 690 - Search Warrants690.05 - Search Warrants; in General; Definition.

1. Under circumstances prescribed in this article, a local criminal court may, upon application of a police officer, a district attorney or other public servant acting in the course of his official duties, issue a search warrant. 2. A search warrant is a court order and process directing a police officer to conduct:(a) a search of designated premises, or of a designated vehicle, or of a designated person, for the purpose of seizing designated property or kinds of property, and to deliver any property so obtained to the court which issued the warrant; or(b) a search of a designated premises for the purpose of searching for and arresting a person who is the subject of: (i) a warrant of arrest issued pursuant to this chapter, a superior court warrant of arrest issued pursuant to this chapter, or a bench warrant for a felony issued pursuant to this chapter, where the designated premises is the dwelling of a third party who is not the subject of the arrest warrant; or(ii) a warrant of arrest issued by any other state or federal court for an offense which would constitute a felony under the laws of this state, where the designated premises is the dwelling of a third party who is not the subject of the arrest warrant. (a) a search of designated premises, or of a designated vehicle, or of a designated person, for the purpose of seizing designated property or kinds of property, and to deliver any property so obtained to the court which issued the warrant; or (b) a search of a designated premises for the purpose of searching for and arresting a person who is the subject of: (i) a warrant of arrest issued pursuant to this chapter, a superior court warrant of arrest issued pursuant to this chapter, or a bench warrant for a felony issued pursuant to this chapter, where the designated premises is the dwelling of a third party who is not the subject of the arrest warrant; or (ii) a warrant of arrest issued by any other state or federal court for an offense which would constitute a felony under the laws of this state, where the designated premises is the dwelling of a third party who is not the subject of the arrest warrant.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle T - Procedures for Securing Evidence by Means of Court Order and for Suppressing Evidence Unlawfully or Improperly ObtainedArticle 690 - Search Warrants690.10 - Search Warrants; Property Subject to Seizure Thereunder.

Personal property is subject to seizure pursuant to a search warrant if there is reasonable cause to believe that it: 1. Is stolen; or 2. Is unlawfully possessed; or 3. Has been used, or is possessed for the purpose of being used, to commit or conceal the commission of an offense against the laws of this state or another state, provided however, that if such offense was against the laws of another state, the court shall only issue a warrant if the conduct comprising such offense would, if occurring in this state, constitute a felony against the laws of this state; or 4. Constitutes evidence or tends to demonstrate that an offense was committed in this state or another state, or that a particular person participated in the commission of an offense in this state or another state, provided however, that if such offense was against the laws of another state, the court shall only issue a warrant if the conduct comprising such offense would, if occurring in this state, constitute a felony against the laws of this state.

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thereunder. 1. A search warrant must direct a search of one or more of the following:(a) A designated or described place or premises;(b) A designated or described vehicle, as that term is defined in section 10.00 of the penal law;(c) A designated or described person.2. A search warrant which directs a search of a designated or described place, premises or vehicle, may also direct a search of any person present thereat or therein. (a) A designated or described place or premises; (b) A designated or described vehicle, as that term is defined in section 10.00 of the penal law; (c) A designated or described person. 2. A search warrant which directs a search of a designated or described place, premises or vehicle, may also direct a search of any person present thereat or

therein.

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1. A search warrant issued by a district court, the New York City criminal court or a superior court judge sitting as a local criminal court may be executed pursuant to its terms anywhere in the state. 2. A search warrant issued by a city court, a town court or a village court may be executed pursuant to its terms only in the county of issuance or an adjoining county.

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1. A search warrant must be addressed to a police officer whose geographical area of employment embraces or is embraced or partially embraced by the county of issuance. The warrant need not be addressed to a specific police officer but may be addressed to any police officer of a designated classification, or to any police officer of any classification employed or having general jurisdiction to act as a police officer in the county. 2. A police officer to whom a search warrant is addressed, as provided in subdivision one, may execute it pursuant to its terms anywhere in the county of issuance or an adjoining county, and he may execute it pursuant to its terms in any other county of the state in which it is executable if (a) his geographical area of employment embraces the entire county of issuance or (b) he is a member of the police department or force of a city located in such county of issuance.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle T - Procedures for Securing Evidence by Means of Court Order and for Suppressing Evidence Unlawfully or Improperly ObtainedArticle 690 - Search Warrants690.30 - Search Warrants; When Executable.

1. A search warrant must be executed not more than ten days after the date of issuance and it must thereafter be returned to the court without unnecessary delay. 2. A search warrant may be executed on any day of the week. It may be executed only between the hours of 6:00 A.M. and 9:00 P.M., unless the warrant expressly authorizes execution thereof at any time of the day or night, as provided in subdivision five of section 690.45.

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1. An application for a search warrant may be in writing or oral. If in writing, it must be made, subscribed and sworn to by a public servant specified in subdivision one of section 690.05. If oral, it must be made by such a public servant and sworn to and recorded in the manner provided in section 690.36. 2. The application shall be made to:(a) A local criminal court, as defined in section 10.10 of this chapter, having preliminary jurisdiction over the underlying offense, or geographical jurisdiction over the location to be searched when the search is to be made for personal property of a kind or character described in section 690.10 of this article except that:(i) if a town court has such jurisdiction but is not available to issue the search warrant, the warrant may be issued by the local criminal court of any village within such town or, any adjoining town, village embraced in whole or in part by such adjoining town, or city of the same county;(ii) if a village court has such jurisdiction but is not available to issue the search warrant, the warrant may be issued by the town court of the town embracing such village or any other village court within such town, or, if such town or village court is not available either, before the local criminal court of any adjoining town, village embraced in whole or in part by such adjoining town, or city of the same county; and(iii) if a city court has such jurisdiction but is not available to issue the search warrant, the warrant may be issued by the local criminal court of any adjoining town or village, or village court embraced by an adjoining town, within the same county as such city.(b) A local criminal court, as defined in section 10.10 of this chapter, with geographical jurisdiction over the location where the premises to be searched is located, or which issued the underlying arrest warrant, when the search warrant is sought pursuant to paragraph (b) of subdivision two of section 690.05 of this article, for the purpose of arresting a wanted person.Any search warrant issued pursuant to this section shall be subject to the territorial limitations provided by section 690.20 of this article.3. The application must contain:(a) The name of the court and the name and title of the applicant; and(b) A statement that there is reasonable cause to believe that property of a kind or character described in section 690.10 may be found in or upon a designated or described place, vehicle or person, or, in the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05, a statement that there is reasonable cause to believe that the person who is the subject of the warrant of arrest may be found in the designated premises; and(c) Allegations of fact supporting such statement. Such allegations of fact may be based upon personal knowledge of the applicant or upon information and belief, provided that in the latter event the sources of such information and the grounds of such belief are stated. The applicant may also submit depositions of other persons containing allegations of fact supporting or tending to support those contained in the application; and(d) A request that the court issue a search warrant directing a search for and seizure of the property or person in question; and(e) In the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05, a copy of the warrant of arrest and the underlying accusatory instrument.4. The application may also contain:(a) A request that the

search warrant be made executable at any time of the day or night, upon the ground that there is reasonable cause to believe that (i) it cannot be executed between the hours of 6:00 A.M. and 9:00 P.M., or (ii) the property sought will be removed or destroyed if not seized forthwith, or (iii) in the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05, the person sought is likely to flee or commit another crime, or may endanger the safety of the executing police officers or another person if not seized forthwith or between the hours of 9:00 P.M. and 6:00 A.M.; and(b) A request that the search warrant authorize the executing police officer to enter premises to be searched without giving notice of his authority and purpose, upon the ground that there is reasonable cause to believe that (i) the property sought may be easily and quickly destroyed or disposed of, or (ii) the giving of such notice may endanger the life or safety of the executing officer or another person, or (iii) in the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05 for the purpose of searching for and arresting a person who is the subject of a warrant for a felony, the person sought is likely to commit another felony, or may endanger the life or safety of the executing officer or another person.Any request made pursuant to this subdivision must be accompanied and supported by allegations of fact of a kind prescribed in paragraph (c) of subdivision two. (a) A local criminal court, as defined in section 10.10 of this chapter, having preliminary jurisdiction over the underlying offense, or geographical jurisdiction over the location to be searched when the search is to be made for personal property of a kind or character described in section 690.10 of this article except that: (i) if a town court has such jurisdiction but is not available to issue the search warrant, the warrant may be issued by the local criminal court of any village within such town or, any adjoining town, village embraced in whole or in part by such adjoining town, or city of the same county; (ii) if a village court has such jurisdiction but is not available to issue the search warrant, the warrant may be issued by the town court of the town embracing such village or any other village court within such town, or, if such town or village court is not available either, before the local criminal court of any adjoining town, village embraced in whole or in part by such adjoining town, or city of the same county; and (iii) if a city court has such jurisdiction but is not available to issue the search warrant, the warrant may be issued by the local criminal court of any adjoining town or village, or village court embraced by an adjoining town, within the same county as such city. (b) A local criminal court, as defined in section 10.10 of this chapter, with geographical jurisdiction over the location where the premises to be searched is located, or which issued the underlying arrest warrant, when the search warrant is sought pursuant to paragraph (b) of subdivision two of section 690.05 of this article, for the purpose of arresting a wanted person. Any search warrant issued pursuant to this section shall be subject to the territorial limitations provided by section 690.20 of this article. 3. The application must contain: (a) The name of the court and the name and title of the applicant; and (b) A statement that there is reasonable cause to believe that property of a kind or character described in section 690.10 may be found in or upon a designated or described place, vehicle or person, or, in the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05, a statement that there is reasonable cause to believe that the person who is the subject of the warrant of arrest may be found in the designated premises; and (c) Allegations of fact supporting such statement. Such allegations of fact may be based upon personal knowledge of the applicant or upon information and belief, provided that in the latter event the sources of such information and the grounds of such belief are stated. The applicant may also submit depositions of other persons containing allegations of fact supporting or tending to support those contained in the application; and (d) A request that the court issue a search warrant directing a search for and seizure of the property or person in question; and (e) In the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05, a copy of the warrant of arrest and the underlying accusatory instrument. 4. The application may also contain: (a) A request that the search warrant be made executable at any time of the day or night, upon the ground that there is reasonable cause to believe that (i) it cannot be executed between the hours of 6:00 A.M. and 9:00 P.M., or (ii) the property sought will be removed or destroyed if not seized forthwith, or (iii) in the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05, the person sought is likely to flee or commit another crime, or may endanger the safety of the executing police officers or another person if not seized forthwith or between the hours of 9:00 P.M. and 6:00 A.M.; and (b) A request that the search warrant authorize the executing police officer to enter premises to be searched without giving notice of his authority and purpose, upon the ground that there is reasonable cause to believe that (i) the property sought may be easily and quickly destroyed or disposed of, or (ii) the giving of such notice may endanger the life or safety of the executing officer or another person, or (iii) in the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05 for the purpose of searching for and arresting a person who is the subject of a warrant for a felony, the person sought is likely to commit another felony, or may endanger the life or safety of the executing officer or another person. Any request made pursuant to this subdivision must be accompanied and supported by allegations of fact of a kind prescribed in paragraph (c) of subdivision two.

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therefor. 1. An oral application for a search warrant may be communicated to a judge by telephone, radio or other means of electronic communication. 2. Where an oral application for a search warrant is made, the applicant therefor must identify himself and the purpose of his communication. After being sworn as provided in subdivision three of this section, the applicant must also make the statement required by paragraph (b) of subdivision two of section 690.35 and provide the same allegations of fact required by paragraph (c) of such subdivision; provided, however, persons, properly identified, other than the applicant may also provide some or all of such allegations of fact directly to the court. Where appropriate, the applicant may also make a request specified in subdivision three of section 690.35. 3. Upon being advised that an oral application for a search warrant is being made, a judge shall

place under oath the applicant and any other person providing information in support of the application. Such oath or oaths and all of the remaining communication must be recorded, either by means of a voice recording device or verbatim stenographic or verbatim longhand notes. If a voice recording device is used or a stenographic record made, the judge must have the record transcribed, certify to the accuracy of the transcription and file the original record and transcription with the court within twenty-four hours of the issuance of a warrant. If longhand notes are taken, the judge shall subscribe a copy and file it with the court within twenty-four hours of the issuance of a warrant.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle T - Procedures for Securing Evidence by Means of Court Order and for Suppressing Evidence Unlawfully or Improperly ObtainedArticle 690 - Search Warrants690.40 - Search Warrants; Determination of Application.

1. In determining an application for a search warrant the court may examine, under oath, any person whom it believes may possess pertinent information. Any such examination must be either recorded or summarized on the record by the court. 2. If the court is satisfied that there is reasonable cause to believe that property of a kind or character referred to in section 690.10, and described in the application, may be found in or upon the place, premises, vehicle or person designated or described in the application, or, in the case of an application for a search warrant as defined in paragraph (b) of subdivision two of section 690.05, that there is reasonable cause to believe that the person who is the subject of a warrant of arrest, a superior court warrant of arrest, or a bench warrant for a felony may be found at the premises designated in the application, it may grant the application and issue a search warrant directing a search of the said place, premises, vehicle or person and a seizure of the described property or the described person. If the court is further satisfied that grounds, described in subdivision four of section 690.35, exist for authorizing the search to be made at any hour of the day or night, or without giving notice of the police officer's authority and purpose, it may make the search warrant executable accordingly. 3. When a judge determines to issue a search warrant based upon an oral application, the applicant therefor shall prepare the warrant in accordance with section 690.45 and shall read it, verbatim, to the judge.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle T - Procedures for Securing Evidence by Means of Court Order and for Suppressing Evidence Unlawfully or Improperly ObtainedArticle 690 - Search Warrants690.45 - Search Warrants; Form and Content.

A search warrant must contain: 1. The name of the issuing court and, except where the search warrant has been obtained on an oral application, the subscription of the issuing judge; and 2. Where the search warrant has been obtained on an oral application, it shall so indicate and shall state the name of the issuing judge and the time and date on which such judge directed its issuance. 3. The name, department or classification of the police officer to whom it is addressed; and 4. A description of the property which is the subject of the search, or, in the case of a search warrant as defined in paragraph (b) of subdivision two of section 690.05, a description of the person to be searched for; and 5. A designation or description of the place, premises or person to be searched, by means of address, ownership, name or any other means essential to identification with certainty; and 6. A direction that the warrant be executed between the hours of 6:00 A.M. and 9:00 P.M., or, where the court has specially so determined, an authorization for execution thereof at any time of the day or night; and 7. An authorization, where the court has specially so determined, that the executing police officer enter the premises to be searched without giving notice of his authority and purpose; and 8. A direction that the warrant and any property seized pursuant thereto be returned and delivered to the court without unnecessary delay; and 9. In the case of a search warrant as defined in paragraph (b) of subdivision two of section 690.05, a copy of the warrant of arrest and the underlying accusatory instrument.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle T - Procedures for Securing Evidence by Means of Court Order and for Suppressing Evidence Unlawfully or Improperly ObtainedArticle 690 - Search Warrants690.50 - Search Warrants; Execution Thereof.

1. In executing a search warrant directing a search of premises or a vehicle, a police officer must, except as provided in subdivision two, give, or make reasonable effort to give, notice of his authority and purpose to an occupant thereof before entry and show him the warrant or a copy thereof upon request. If he is not thereafter admitted, he may forcibly enter such premises or vehicle and may use against any person resisting his entry or search thereof as much physical force, other than deadly physical force, as is necessary to execute the warrant; and he may use deadly physical force if he reasonably believes such to be necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force. 2. In executing a search warrant directing a search of premises or a vehicle, a police officer need not give notice to anyone of his authority and purpose, as prescribed in subdivision one, but may promptly enter the same if:(a) Such premises or vehicle are at the time unoccupied or reasonably believed by the officer to be unoccupied; or(b) The search warrant expressly authorizes entry without notice.3. In executing a search warrant directing or authorizing a search of a person, a police officer must give, or make reasonable effort to give, such person notice of his authority and purpose and show him the warrant or a copy thereof upon request. If such person, or another, thereafter resists or refuses to permit the search, the officer may use as much physical force, other than deadly physical force, as is necessary to execute the warrant; and he may use deadly physical force if he reasonably believes such to be necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force.4. Upon seizing property pursuant to a search warrant, a police officer must write and subscribe a receipt itemizing the property taken and containing the name of the court by which the warrant was issued. If property is taken from a person, such receipt must be given to

such person. If property is taken from premises or a vehicle, such receipt must be given to the owner, tenant or other person in possession thereof if he is present; or if he is not, the officer must leave such a receipt in the premises or vehicle from which the property was taken.5. Upon seizing property pursuant to a search warrant, a police officer must without unnecessary delay return to the court the warrant and the property, and must file therewith a written inventory of such property, subscribed and sworn to by such officer.6. Upon arresting a person during a search for him or her pursuant to a search warrant as defined in paragraph (b) of subdivision two of section 690.05, a police officer shall comply with the terms of the warrant of arrest, superior court warrant of arrest, or bench warrant for a felony, and shall proceed in the manner directed by this chapter. Upon arresting such person, the police officer shall also, without unnecessary delay, file a written statement with the court which issued the search warrant, subscribed and sworn to by such officer, setting forth that the person has been arrested and duly brought before the appropriate court, return to the court the warrant and the property seized in the course of its execution, and file therewith a written inventory of any such property, subscribed and sworn to by such officer. (a) Such premises or vehicle are at the time unoccupied or reasonably believed by the officer to be unoccupied; or (b) The search warrant expressly authorizes entry without notice. 3. In executing a search warrant directing or authorizing a search of a person, a police officer must give, or make reasonable effort to give, such person notice of his authority and purpose and show him the warrant or a copy thereof upon request. If such person, or another, thereafter resists or refuses to permit the search, the officer may use as much physical force, other than deadly physical force, as is necessary to execute the warrant; and he may use deadly physical force if he reasonably believes such to be necessary to defend himself or a third person from what he reasonably believes to be the use or imminent use of deadly physical force. 4. Upon seizing property pursuant to a search warrant, a police officer must write and subscribe a receipt itemizing the property taken and containing the name of the court by which the warrant was issued. If property is taken from a person, such receipt must be given to such person. If property is taken from premises or a vehicle, such receipt must be given to the owner, tenant or other person in possession thereof if he is present; or if he is not, the officer must leave such a receipt in the premises or vehicle from which the property was taken. 5. Upon seizing property pursuant to a search warrant, a police officer must without unnecessary delay return to the court the warrant and the property, and must file therewith a written inventory of such property, subscribed and sworn to by such officer. 6. Upon arresting a person during a search for him or her pursuant to a search warrant as defined in paragraph (b) of subdivision two of section 690.05, a police officer shall comply with the terms of the warrant of arrest, superior court warrant of arrest, or bench warrant for a felony, and shall proceed in the manner directed by this chapter. Upon arresting such person, the police officer shall also, without unnecessary delay, file a written statement with the court which issued the search warrant, subscribed and sworn to by such officer, setting forth that the person has been arrested and duly brought before the appropriate court, return to the court the warrant and the property seized in the course of its execution, and file therewith a written inventory of any such property, subscribed and sworn to by such officer.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle T - Procedures for Securing Evidence by Means of Court Order and for Suppressing Evidence Unlawfully or Improperly ObtainedArticle 690 - Search Warrants690.55 - Search Warrants; Disposition of Seized Property.

1. Upon receiving property seized pursuant to a search warrant, the court must either:(a) Retain it in the custody of the court pending further disposition thereof pursuant to subdivision two or some other provision of law; or(b) Direct that it be held in the custody of the person who applied for the warrant, or of the police officer who executed it, or of the governmental or official agency or department by which either such public servant is employed, upon condition that upon order of such court such property be returned thereto or delivered to another court.2. A local criminal court which retains custody of such property must, upon request of another criminal court in which a criminal action involving or relating to such property is pending, cause it to be delivered thereto. (a) Retain it in the custody of the court pending further disposition thereof pursuant to subdivision two or some other provision of law; or (b) Direct that it be held in the custody of the person who applied for the warrant, or of the police officer who executed it, or of the governmental or official agency or department by which either such public servant is employed, upon condition that upon order of such court such property be returned thereto or delivered to another court. 2. A local criminal court which retains custody of such property must, upon request of another criminal court in which a criminal action involving or relating to such property is pending, cause it to be delivered thereto.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle T - Procedures for Securing Evidence by Means of Court Order and for Suppressing Evidence Unlawfully or Improperly ObtainedArticle 700 - Eavesdropping and Video Surveillance Warrants700.05 - Eavesdropping and Video Surveillance Warrants; Definitions of Terms.

terms. As used in this article, the following terms have the following meanings: 1. "Eavesdropping" means "wiretapping", "mechanical overhearing of conversation," or the "intercepting or accessing of an electronic communication", as those terms are defined in section 250.00 of the penal law, but does not include the use of a pen register or trap and trace device when authorized pursuant to article 705 of this chapter. 2. "Eavesdropping warrant" means an order of a justice authorizing or approving eavesdropping. 3. "Intercepted communication" means (a) a telephonic or telegraphic communication which was intentionally overheard or recorded by a person other than the sender or receiver thereof, without the consent of the sender or receiver, by means of any instrument, device or equipment, or (b) a conversation or discussion which was intentionally overheard or recorded, without the consent of at least one party thereto, by a person not present thereat, by means of any instrument, device or equipment; or (c) an

electronic communication which was intentionally intercepted or accessed, as that term is defined in section 250.00 of the penal law. The term "contents," when used with respect to a communication, includes any information concerning the identity of the parties to such communications, and the existence, substance, purport, or meaning of that communication. The term "communication" includes conversation and discussion. 3-a. "Telephonic communication", "electronic communication", and "intentionally intercepted or accessed" have the meanings given to those terms by subdivisions three, five, and six respectively, of section 250.00 of the penal law. 4. "Justice," except as otherwise provided herein, means any justice of an appellate division of the judicial department in which the eavesdropping warrant is to be executed, or any justice of the supreme court of the judicial district in which the eavesdropping warrant is to be executed, or any county court judge of the county in which the eavesdropping warrant is to be executed. When the eavesdropping warrant is to authorize the interception of oral communications occurring in a vehicle or wire communications occurring over a telephone located in a vehicle, "justice" means any justice of the supreme court of the judicial department or any county court judge of the county in which the eavesdropping device is to be installed or connected or of any judicial department or county in which communications are expected to be intercepted. When such a justice issues such an eavesdropping warrant, such warrant may be executed and such oral or wire communications may be intercepted anywhere in the state. 5. "Applicant" means a district attorney or the attorney general or if authorized by the attorney general, the deputy attorney general in charge of the organized crime task force. If a district attorney or the attorney general is actually absent or disabled, the term "applicant" includes that person designated to act for him and perform his official function in and during his actual absence or disability. 6. "Law enforcement officer" means any public servant who is empowered by law to conduct an investigation of or to make an arrest for a designated offense, and any attorney authorized by law to prosecute or participate in the prosecution of a designated offense. 7. "Exigent circumstances" means conditions requiring the preservation of secrecy, and whereby there is a reasonable likelihood that a continuing investigation would be thwarted by alerting any of the persons subject to surveillance to the fact that such surveillance had occurred. 8. "Designated offense" means any one or more of the following crimes:(a) A conspiracy to commit any offense enumerated in the following paragraphs of this subdivision, or an attempt to commit any felony enumerated in the following paragraphs of this subdivision which attempt would itself constitute a felony;(b) Any of the following felonies: assault in the second degree as defined in section 120.05 of the penal law, assault in the first degree as defined in section 120.10 of the penal law, reckless endangerment in the first degree as defined in section 120.25 of the penal law, promoting a suicide attempt as defined in section 120.30 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law, strangulation in the first degree as defined in section 121.13 of the penal law, criminally negligent homicide as defined in section 125.10 of the penal law, manslaughter in the second degree as defined in section 125.15 of the penal law, manslaughter in the first degree as defined in section 125.20 of the penal law, murder in the second degree as defined in section 125.25 of the penal law, murder in the first degree as defined in section 125.27 of the penal law, rape in the third degree as defined in section 130.25 of the penal law, rape in the second degree as defined in section 130.30 of the penal law, rape in the first degree as defined in section 130.35 of the penal law, a crime formerly defined in section 130.40 of the penal law, a crime formerly defined in section 130.45 of the penal law, a crime formerly defined in section 130.50 of the penal law, sexual abuse in the first degree as defined in section 130.65 of the penal law, unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, kidnapping in the second degree as defined in section 135.20 of the penal law, kidnapping in the first degree as defined in section 135.25 of the penal law, labor trafficking as defined in section 135.35 of the penal law, aggravated labor trafficking as defined in section 135.37 of the penal law, custodial interference in the first degree as defined in section 135.50 of the penal law, coercion in the first degree as defined in section 135.65 of the penal law, criminal trespass in the first degree as defined in section 140.17 of the penal law, burglary in the third degree as defined in section 140.20 of the penal law, burglary in the second degree as defined in section 140.25 of the penal law, burglary in the first degree as defined in section 140.30 of the penal law, criminal mischief in the third degree as defined in section 145.05 of the penal law, criminal mischief in the second degree as defined in section 145.10 of the penal law, criminal mischief in the first degree as defined in section 145.12 of the penal law, criminal tampering in the first degree as defined in section 145.20 of the penal law, arson in the fourth degree as defined in section 150.05 of the penal law, arson in the third degree as defined in section 150.10 of the penal law, arson in the second degree as defined in section 150.15 of the penal law, arson in the first degree as defined in section 150.20 of the penal law, grand larceny in the fourth degree as defined in section 155.30 of the penal law, grand larceny in the third degree as defined in section 155.35 of the penal law, grand larceny in the second degree as defined in section 155.40 of the penal law, grand larceny in the first degree as defined in section 155.42 of the penal law, health care fraud in the fourth degree as defined in section 177.10 of the penal law, health care fraud in the third degree as defined in section 177.15 of the penal law, health care fraud in the second degree as defined in section 177.20 of the penal law, health care fraud in the first degree as defined in section 177.25 of the penal law, robbery in the third degree as defined in section 160.05 of the penal law, robbery in the second degree as defined in section 160.10 of the penal law, robbery in the first degree as defined in section 160.15 of the penal law, unlawful use of secret scientific material as defined in section 165.07 of the penal law, criminal possession of stolen property in the fourth degree as defined in section 165.45 of the penal law, criminal possession of stolen property in the third degree as defined in section 165.50 of the penal law, criminal possession of stolen property in the second degree as defined by section 165.52 of the penal law, criminal possession of stolen property in the first degree as defined by section 165.54 of the penal law, trademark counterfeiting in the second degree as defined in section 165.72 of the penal law, trademark counterfeiting in the first degree as defined in section 165.73 of the penal law, forgery in the second degree as defined in section 170.10 of the penal law, forgery in the first degree as defined in section 170.15 of the penal law, criminal possession of a forged instrument in the second degree as defined in section 170.25 of the penal law, criminal possession of a forged instrument in the first degree as defined in section 170.30 of the penal law, criminal possession

of forgery devices as defined in section 170.40 of the penal law, falsifying business records in the first degree as defined in section 175.10 of the penal law, tampering with public records in the first degree as defined in section 175.25 of the penal law, offering a false instrument for filing in the first degree as defined in section 175.35 of the penal law, issuing a false certificate as defined in section 175.40 of the penal law, criminal diversion of prescription medications and prescriptions in the second degree as defined in section 178.20 of the penal law, criminal diversion of prescription medications and prescriptions in the first degree as defined in section 178.25 of the penal law, residential mortgage fraud in the fourth degree as defined in section 187.10 of the penal law, residential mortgage fraud in the third degree as defined in section 187.15 of the penal law, residential mortgage fraud in the second degree as defined in section 187.20 of the penal law, residential mortgage fraud in the first degree as defined in section 187.25 of the penal law, escape in the second degree as defined in section 205.10 of the penal law, escape in the first degree as defined in section 205.15 of the penal law, absconding from temporary release in the first degree as defined in section 205.17 of the penal law, promoting prison contraband in the first degree as defined in section 205.25 of the penal law, hindering prosecution in the second degree as defined in section 205.60 of the penal law, hindering prosecution in the first degree as defined in section 205.65 of the penal law, sex trafficking as defined in section 230.34 of the penal law, sex trafficking of a child as defined in section 230.34-a of the penal law, criminal possession of a weapon in the third degree as defined in subdivisions two, three and five of section 265.02 of the penal law, criminal possession of a weapon in the second degree as defined in section 265.03 of the penal law, criminal possession of a weapon in the first degree as defined in section 265.04 of the penal law, manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances defined as felonies in subdivisions one, two, and three of section 265.10 of the penal law, sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use of weapons as defined in subdivision two of section 265.35 of the penal law, relating to firearms and other dangerous weapons, criminal manufacture, sale or transport of an undetectable firearm, rifle or shotgun as defined in section 265.50 of the penal law, or failure to disclose the origin of a recording in the first degree as defined in section 275.40 of the penal law;(c) Criminal possession of a controlled substance in the seventh degree as defined in section 220.03 of the penal law, criminal possession of a controlled substance in the fifth degree as defined in section 220.06 of the penal law, criminal possession of a controlled substance in the fourth degree as defined in section 220.09 of the penal law, criminal possession of a controlled substance in the third degree as defined in section 220.16 of the penal law, criminal possession of a controlled substance in the second degree as defined in section 220.18 of the penal law, criminal possession of a controlled substance in the first degree as defined in section 220.21 of the penal law, criminal sale of a controlled substance in the fifth degree as defined in section 220.31 of the penal law, criminal sale of a controlled substance in the fourth degree as defined in section 220.34 of the penal law, criminal sale of a controlled substance in the third degree as defined in section 220.39 of the penal law, criminal sale of a controlled substance in the second degree as defined in section 220.41 of the penal law, criminal sale of a controlled substance in the first degree as defined in section 220.43 of the penal law, criminally possessing a hypodermic instrument as defined in section 220.45 of the penal law, criminal sale of a prescription for a controlled substance or a controlled substance by a practitioner or pharmacist as defined in section 220.65 of the penal law, criminal possession of methamphetamine manufacturing material in the second degree as defined in section 220.70 of the penal law, criminal possession of methamphetamine manufacturing material in the first degree as defined in section 220.71 of the penal law, criminal possession of precursors of methamphetamine as defined in section 220.72 of the penal law, unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of the penal law, unlawful manufacture of methamphetamine in the second degree as defined in section 220.74 of the penal law, unlawful manufacture of methamphetamine in the first degree as defined in section 220.75 of the penal law, unlawful disposal of methamphetamine laboratory material as defined in section 220.76 of the penal law, operating as a major trafficker as defined in section 220.77 of the penal law, promoting gambling in the second degree as defined in section 225.05 of the penal law, promoting gambling in the first degree as defined in section 225.10 of the penal law, possession of gambling records in the second degree as defined in section 225.15 of the penal law, possession of gambling records in the first degree as defined in section 225.20 of the penal law, and possession of a gambling device as defined in section 225.30 of the penal law;(d) Commercial bribing, commercial bribe receiving, bribing a labor official, bribe receiving by a labor official, sports bribing and sports bribe receiving, as defined in article one hundred eighty of the penal law;(e) Criminal usury, as defined in article one hundred ninety of the penal law;(f) Bribery in the third degree, bribery in the second degree, bribery in the first degree, bribe receiving in the third degree, bribe receiving in the second degree, bribe receiving in the first degree, bribe giving for public office, bribe receiving for public office and corrupt use of position or authority, as defined in article two hundred of the penal law;(g) Bribing a witness, bribe receiving by a witness, bribing a juror and bribe receiving by a juror, as defined in article two hundred fifteen of the penal law;(h) Promoting prostitution in the first degree, as defined in section 230.32 of the penal law, promoting prostitution in the second degree, as defined by subdivision one of section 230.30 of the penal law, promoting prostitution in the third degree, as defined in section 230.25 of the penal law;(i) Riot in the first degree and criminal anarchy, as defined in article two hundred forty of the penal law;(j) Eavesdropping, as defined in article two hundred fifty of the penal law;(k) Any of the acts designated as felonies in subdivisions two and four of section four hundred eighty-one of the tax law, which section relates to penalties under the tax on cigarettes imposed by article twenty of such law, and any of the acts designated as felonies in subdivision c of section 11-1317 of the administrative code of the city of New York, which section relates to penalties under the cigarette tax imposed by chapter thirteen of title eleven of such code.(l) Scheme to defraud in the first degree as defined in article one hundred ninety of the penal law.(m) Any of the acts designated as felonies in section three hundred fifty-two-c of the general business law.(n) Any of the acts designated as felonies in title twenty-seven of article seventy-one of the environmental conservation law.(o) Money laundering in the first degree, as defined in section 470.20 of the penal law, money laundering in the second degree as defined in section 470.15 of the penal law, money laundering in the third degree as

defined in section 470.10 of such law, and money laundering in the fourth degree as defined in section 470.05 of such law, where the property involved represents or is represented to be the proceeds of specified criminal conduct which itself constitutes a designated offense within the meaning of this subdivision.(p) Stalking in the second degree as defined in section 120.55 of the penal law, and stalking in the first degree as defined in section 120.60 of the penal law.(q) Soliciting or providing support for an act of terrorism in the second degree as defined in section 490.10 of the penal law, soliciting or providing support for an act of terrorism in the first degree as defined in section 490.15 of the penal law, making a terroristic threat as defined in section 490.20 of the penal law, crime of terrorism as defined in section 490.25 of the penal law, domestic act of terrorism motivated by hate in the second degree as defined in section 490.27 of the penal law, domestic act of terrorism motivated by hate in the first degree as defined in section 490.28 of the penal law, hindering prosecution of terrorism in the second degree as defined in section 490.30 of the penal law, hindering prosecution of terrorism in the first degree as defined in section 490.35 of the penal law, criminal possession of a chemical weapon or biological weapon in the third degree as defined in section 490.37 of the penal law, criminal possession of a chemical weapon or biological weapon in the second degree as defined in section 490.40 of the penal law, criminal possession of a chemical weapon or biological weapon in the first degree as defined in section 490.45 of the penal law, criminal use of a chemical weapon or biological weapon in the third degree as defined in section 490.47 of the penal law, criminal use of a chemical weapon or biological weapon in the second degree as defined in section 490.50 of the penal law, and criminal use of a chemical weapon or biological weapon in the first degree as defined in section 490.55 of the penal law.(r) Falsely reporting an incident in the second degree as defined in section 240.55 of the penal law, falsely reporting an incident in the first degree as defined in section 240.60 of the penal law, placing a false bomb in the second degree as defined in section 240.61 of the penal law, placing a false bomb in the first degree as defined in section 240.62 of the penal law, and placing a false bomb in a sports stadium or arena, mass transportation facility or enclosed shopping mall as defined in section 240.63 of the penal law.(s) Identity theft in the second degree, as defined in section 190.79 of the penal law, identity theft in the first degree, as defined in section 190.80 of the penal law, unlawful possession of personal identification information in the second degree, as defined in section 190.82 of the penal law, and unlawful possession of personal identification information in the first degree, as defined in section 190.83 of the penal law.(t) Menacing a police officer or peace officer as defined in section 120.18 of the penal law; aggravated criminally negligent homicide as defined in section 125.11 of the penal law; aggravated manslaughter in the second degree as defined in section 125.21 of the penal law; aggravated manslaughter in the first degree as defined in section 125.22 of the penal law; aggravated murder as defined in section 125.26 of the penal law.(u) Any felony defined in article four hundred ninety-six of the penal law.(v) Any of the acts designated as felonies in section three hundred fifty-one of the agriculture and markets law.9. "Video surveillance" means the intentional visual observation by law enforcement of a person by means of a television camera or other electronic device that is part of a television transmitting apparatus, whether or not such observation is recorded on film or video tape, without the consent of that person or another person thereat and under circumstances in which such observation in the absence of a video surveillance warrant infringes upon such person's reasonable expectation of privacy under the constitution of this state or of the United States.10. "Video surveillance warrant" means an order of a justice authorizing or approving video surveillance. (a) A conspiracy to commit any offense enumerated in the following paragraphs of this subdivision, or an attempt to commit any felony enumerated in the following paragraphs of this subdivision which attempt would itself constitute a felony; (b) Any of the following felonies: assault in the second degree as defined in section 120.05 of the penal law, assault in the first degree as defined in section 120.10 of the penal law, reckless endangerment in the first degree as defined in section 120.25 of the penal law, promoting a suicide attempt as defined in section 120.30 of the penal law, strangulation in the second degree as defined in section 121.12 of the penal law, strangulation in the first degree as defined in section 121.13 of the penal law, criminally negligent homicide as defined in section 125.10 of the penal law, manslaughter in the second degree as defined in section 125.15 of the penal law, manslaughter in the first degree as defined in section 125.20 of the penal law, murder in the second degree as defined in section 125.25 of the penal law, murder in the first degree as defined in section 125.27 of the penal law, rape in the third degree as defined in section 130.25 of the penal law, rape in the second degree as defined in section 130.30 of the penal law, rape in the first degree as defined in section 130.35 of the penal law, a crime formerly defined in section 130.40 of the penal law, a crime formerly defined in section 130.45 of the penal law, a crime formerly defined in section 130.50 of the penal law, sexual abuse in the first degree as defined in section 130.65 of the penal law, unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, kidnapping in the second degree as defined in section 135.20 of the penal law, kidnapping in the first degree as defined in section 135.25 of the penal law, labor trafficking as defined in section 135.35 of the penal law, aggravated labor trafficking as defined in section 135.37 of the penal law, custodial interference in the first degree as defined in section 135.50 of the penal law, coercion in the first degree as defined in section 135.65 of the penal law, criminal trespass in the first degree as defined in section 140.17 of the penal law, burglary in the third degree as defined in section 140.20 of the penal law, burglary in the second degree as defined in section 140.25 of the penal law, burglary in the first degree as defined in section 140.30 of the penal law, criminal mischief in the third degree as defined in section 145.05 of the penal law, criminal mischief in the second degree as defined in section 145.10 of the penal law, criminal mischief in the first degree as defined in section 145.12 of the penal law, criminal tampering in the first degree as defined in section 145.20 of the penal law, arson in the fourth degree as defined in section 150.05 of the penal law, arson in the third degree as defined in section 150.10 of the penal law, arson in the second degree as defined in section 150.15 of the penal law, arson in the first degree as defined in section 150.20 of the penal law, grand larceny in the fourth degree as defined in section 155.30 of the penal law, grand larceny in the third degree as defined in section 155.35 of the penal law, grand larceny in the second degree as defined in section 155.40 of the penal law, grand larceny in the first degree as defined in section 155.42 of the penal law, health care fraud in the fourth degree as defined in section

177.10 of the penal law, health care fraud in the third degree as defined in section 177.15 of the penal law, health care fraud in the second degree as defined in section 177.20 of the penal law, health care fraud in the first degree as defined in section 177.25 of the penal law, robbery in the third degree as defined in section 160.05 of the penal law, robbery in the second degree as defined in section 160.10 of the penal law, robbery in the first degree as defined in section 160.15 of the penal law, unlawful use of secret scientific material as defined in section 165.07 of the penal law, criminal possession of stolen property in the fourth degree as defined in section 165.45 of the penal law, criminal possession of stolen property in the third degree as defined in section 165.50 of the penal law, criminal possession of stolen property in the second degree as defined by section 165.52 of the penal law, criminal possession of stolen property in the first degree as defined by section 165.54 of the penal law, trademark counterfeiting in the second degree as defined in section 165.72 of the penal law, trademark counterfeiting in the first degree as defined in section 165.73 of the penal law, forgery in the second degree as defined in section 170.10 of the penal law, forgery in the first degree as defined in section 170.15 of the penal law, criminal possession of a forged instrument in the second degree as defined in section 170.25 of the penal law, criminal possession of a forged instrument in the first degree as defined in section 170.30 of the penal law, criminal possession of forgery devices as defined in section 170.40 of the penal law, falsifying business records in the first degree as defined in section 175.10 of the penal law, tampering with public records in the first degree as defined in section 175.25 of the penal law, offering a false instrument for filing in the first degree as defined in section 175.35 of the penal law, issuing a false certificate as defined in section 175.40 of the penal law, criminal diversion of prescription medications and prescriptions in the second degree as defined in section 178.20 of the penal law, criminal diversion of prescription medications and prescriptions in the first degree as defined in section 178.25 of the penal law, residential mortgage fraud in the fourth degree as defined in section 187.10 of the penal law, residential mortgage fraud in the third degree as defined in section 187.15 of the penal law, residential mortgage fraud in the second degree as defined in section 187.20 of the penal law, residential mortgage fraud in the first degree as defined in section 187.25 of the penal law, escape in the second degree as defined in section 205.10 of the penal law, escape in the first degree as defined in section 205.15 of the penal law, absconding from temporary release in the first degree as defined in section 205.17 of the penal law, promoting prison contraband in the first degree as defined in section 205.25 of the penal law, hindering prosecution in the second degree as defined in section 205.60 of the penal law, hindering prosecution in the first degree as defined in section 205.65 of the penal law, sex trafficking as defined in section 230.34 of the penal law, sex trafficking of a child as defined in section 230.34-a of the penal law, criminal possession of a weapon in the third degree as defined in subdivisions two, three and five of section 265.02 of the penal law, criminal possession of a weapon in the second degree as defined in section 265.03 of the penal law, criminal possession of a weapon in the first degree as defined in section 265.04 of the penal law, manufacture, transport, disposition and defacement of weapons and dangerous instruments and appliances defined as felonies in subdivisions one, two, and three of section 265.10 of the penal law, sections 265.11, 265.12 and 265.13 of the penal law, or prohibited use of weapons as defined in subdivision two of section 265.35 of the penal law, relating to firearms and other dangerous weapons, criminal manufacture, sale or transport of an undetectable firearm, rifle or shotgun as defined in section 265.50 of the penal law, or failure to disclose the origin of a recording in the first degree as defined in section 275.40 of the penal law; (c) Criminal possession of a controlled substance in the seventh degree as defined in section 220.03 of the penal law, criminal possession of a controlled substance in the fifth degree as defined in section 220.06 of the penal law, criminal possession of a controlled substance in the fourth degree as defined in section 220.09 of the penal law, criminal possession of a controlled substance in the third degree as defined in section 220.16 of the penal law, criminal possession of a controlled substance in the second degree as defined in section 220.18 of the penal law, criminal possession of a controlled substance in the first degree as defined in section 220.21 of the penal law, criminal sale of a controlled substance in the fifth degree as defined in section 220.31 of the penal law, criminal sale of a controlled substance in the fourth degree as defined in section 220.34 of the penal law, criminal sale of a controlled substance in the third degree as defined in section 220.39 of the penal law, criminal sale of a controlled substance in the second degree as defined in section 220.41 of the penal law, criminal sale of a controlled substance in the first degree as defined in section 220.43 of the penal law, criminally possessing a hypodermic instrument as defined in section 220.45 of the penal law, criminal sale of a prescription for a controlled substance or a controlled substance by a practitioner or pharmacist as defined in section 220.65 of the penal law, criminal possession of methamphetamine manufacturing material in the second degree as defined in section 220.70 of the penal law, criminal possession of methamphetamine manufacturing material in the first degree as defined in section 220.71 of the penal law, criminal possession of precursors of methamphetamine as defined in section 220.72 of the penal law, unlawful manufacture of methamphetamine in the third degree as defined in section 220.73 of the penal law, unlawful manufacture of methamphetamine in the second degree as defined in section 220.74 of the penal law, unlawful manufacture of methamphetamine in the first degree as defined in section 220.75 of the penal law, unlawful disposal of methamphetamine laboratory material as defined in section 220.76 of the penal law, operating as a major trafficker as defined in section 220.77 of the penal law, promoting gambling in the second degree as defined in section 225.05 of the penal law, promoting gambling in the first degree as defined in section 225.10 of the penal law, possession of gambling records in the second degree as defined in section 225.15 of the penal law, possession of gambling records in the first degree as defined in section 225.20 of the penal law, and possession of a gambling device as defined in section 225.30 of the penal law; (d) Commercial bribing, commercial bribe receiving, bribing a labor official, bribe receiving by a labor official, sports bribing and sports bribe receiving, as defined in article one hundred eighty of the penal law; (e) Criminal usury, as defined in article one hundred ninety of the penal law; (f) Bribery in the third degree, bribery in the second degree, bribery in the first degree, bribe receiving in the third degree, bribe receiving in the second degree, bribe receiving in the first degree, bribe giving for public office, bribe receiving for public office and corrupt use of position or authority, as defined in article two hundred of the penal law; (g) Bribing a witness, bribe receiving by a witness, bribing

a juror and bribe receiving by a juror, as defined in article two hundred fifteen of the penal law; (h) Promoting prostitution in the first degree, as defined in section 230.32 of the penal law, promoting prostitution in the second degree, as defined by subdivision one of section 230.30 of the penal law, promoting prostitution in the third degree, as defined in section 230.25 of the penal law; (i) Riot in the first degree and criminal anarchy, as defined in article two hundred forty of the penal law; (j) Eavesdropping, as defined in article two hundred fifty of the penal law; (k) Any of the acts designated as felonies in subdivisions two and four of section four hundred eighty-one of the tax law, which section relates to penalties under the tax on cigarettes imposed by article twenty of such law, and any of the acts designated as felonies in subdivision c of section 11-1317 of the administrative code of the city of New York, which section relates to penalties under the cigarette tax imposed by chapter thirteen of title eleven of such code. (l) Scheme to defraud in the first degree as defined in article one hundred ninety of the penal law. (m) Any of the acts designated as felonies in section three hundred fifty-two-c of the general business law. (n) Any of the acts designated as felonies in title twenty-seven of article seventy-one of the environmental conservation law. (o) Money laundering in the first degree, as defined in section 470.20 of the penal law, money laundering in the second degree as defined in section 470.15 of the penal law, money laundering in the third degree as defined in section 470.10 of such law, and money laundering in the fourth degree as defined in section 470.05 of such law, where the property involved represents or is represented to be the proceeds of specified criminal conduct which itself constitutes a designated offense within the meaning of this subdivision. (p) Stalking in the second degree as defined in section 120.55 of the penal law, and stalking in the first degree as defined in section 120.60 of the penal law. (q) Soliciting or providing support for an act of terrorism in the second degree as defined in section 490.10 of the penal law, soliciting or providing support for an act of terrorism in the first degree as defined in section 490.15 of the penal law, making a terroristic threat as defined in section 490.20 of the penal law, crime of terrorism as defined in section 490.25 of the penal law, domestic act of terrorism motivated by hate in the second degree as defined in section 490.27 of the penal law, domestic act of terrorism motivated by hate in the first degree as defined in section 490.28 of the penal law, hindering prosecution of terrorism in the second degree as defined in section 490.30 of the penal law, hindering prosecution of terrorism in the first degree as defined in section 490.35 of the penal law, criminal possession of a chemical weapon or biological weapon in the third degree as defined in section 490.37 of the penal law, criminal possession of a chemical weapon or biological weapon in the second degree as defined in section 490.40 of the penal law, criminal possession of a chemical weapon or biological weapon in the first degree as defined in section 490.45 of the penal law, criminal use of a chemical weapon or biological weapon in the third degree as defined in section 490.47 of the penal law, criminal use of a chemical weapon or biological weapon in the second degree as defined in section 490.50 of the penal law, and criminal use of a chemical weapon or biological weapon in the first degree as defined in section 490.55 of the penal law. (r) Falsely reporting an incident in the second degree as defined in section 240.55 of the penal law, falsely reporting an incident in the first degree as defined in section 240.60 of the penal law, placing a false bomb in the second degree as defined in section 240.61 of the penal law, placing a false bomb in the first degree as defined in section 240.62 of the penal law, and placing a false bomb in a sports stadium or arena, mass transportation facility or enclosed shopping mall as defined in section 240.63 of the penal law. (s) Identity theft in the second degree, as defined in section 190.79 of the penal law, identity theft in the first degree, as defined in section 190.80 of the penal law, unlawful possession of personal identification information in the second degree, as defined in section 190.82 of the penal law, and unlawful possession of personal identification information in the first degree, as defined in section 190.83 of the penal law. (t) Menacing a police officer or peace officer as defined in section 120.18 of the penal law; aggravated criminally negligent homicide as defined in section 125.11 of the penal law; aggravated manslaughter in the second degree as defined in section 125.21 of the penal law; aggravated manslaughter in the first degree as defined in section 125.22 of the penal law; aggravated murder as defined in section 125.26 of the penal law. (u) Any felony defined in article four hundred ninety-six of the penal law. (v) Any of the acts designated as felonies in section three hundred fifty-one of the agriculture and markets law. 9. "Video surveillance" means the intentional visual observation by law enforcement of a person by means of a television camera or other electronic device that is part of a television transmitting apparatus, whether or not such observation is recorded on film or video tape, without the consent of that person or another person thereat and under circumstances in which such observation in the absence of a video surveillance warrant infringes upon such person's reasonable expectation of privacy under the constitution of this state or of the United States. 10. "Video surveillance warrant" means an order of a justice authorizing or approving video surveillance.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle T - Procedures for Securing Evidence by Means of Court Order and for Suppressing Evidence Unlawfully or Improperly ObtainedArticle 700 - Eavesdropping and Video Surveillance Warrants700.10 - Eavesdropping and Video Surveillance Warrants; in General.

1. Under circumstances prescribed in this article, a justice may issue an eavesdropping warrant or a video surveillance warrant upon ex parte application of an applicant who is authorized by law to investigate, prosecute or participate in the prosecution of the particular designated offense which is the subject of the application. 2. No eavesdropping or video surveillance warrant may authorize or approve the interception of any communication or the conducting of any video surveillance for any period longer than is necessary to achieve the objective of the authorization, or in any event longer than thirty days. Such thirty day period shall begin on the date designated in the warrant as the effective date, which date may be no later than ten days after the warrant is issued.

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ObtainedArticle 700 - Eavesdropping and Video Surveillance Warrants700.15 - Eavesdropping and Video Surveillance Warrants; When Issuable.

An eavesdropping or video surveillance warrant may issue only: 1. Upon an appropriate application made in conformity with this article; and 2. Upon probable cause to believe that a particularly described person is committing, has committed, or is about to commit a particular designated offense; and 3. Upon probable cause to believe that particular communications concerning such offense will be obtained through eavesdropping, or upon probable cause to believe that particular observations concerning such offense will be obtained through video surveillance; and 4. Upon a showing that normal investigative procedures have been tried and have failed, or reasonably appear to be unlikely to succeed if tried, or to be too dangerous to employ; and 5. Upon probable cause to believe that the facilities from which, or the place where, the communications are to be intercepted or the video surveillance is to be conducted, are being used, or are about to be used, in connection with the commission of such offense, or are leased to, listed in the name of, or commonly used by such person.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle T - Procedures for Securing Evidence by Means of Court Order and for Suppressing Evidence Unlawfully or Improperly ObtainedArticle 700 - Eavesdropping and Video Surveillance Warrants700.20 - Eavesdropping and Video Surveillance Warrants; Application.

1. An ex parte application for an eavesdropping or video surveillance warrant must be made to a justice in writing, except as provided in section 700.21 of this article, and must be subscribed and sworn to by an applicant. 2. The application must contain:(a) The identity of the applicant and a statement of the applicant's authority to make such application; and(b) A full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an eavesdropping or video surveillance warrant should be issued, including (i) a statement of facts establishing probable cause to believe that a particular designated offense has been, is being, or is about to be committed, (ii) a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted or the video surveillance is to be conducted, (iii) a particular description of the type of the communications sought to be intercepted or of the observations sought to be made, and (iv) the identity of the person, if known, committing such designated offense and whose communications are to be intercepted or who is to be the subject of the video surveillance; and(c) A statement that such communications or observations are not otherwise legally privileged; and(d) A full and complete statement of facts establishing that normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous to employ, to obtain the evidence sought; and(e) A statement of the period of time for which the eavesdropping or video surveillance is required to be maintained. If the nature of the investigation is such that the authorization for eavesdropping or video surveillance should not automatically terminate when the described type of communication has been first obtained or when the described type of observation has been first made, a particular description of facts establishing probable cause to believe that additional communications or observations of the same type will occur thereafter; and(f) A full and complete statement of the facts concerning all previous applications, known to the applicant, for an eavesdropping or video surveillance warrant involving any of the same persons, facilities or places specified in the application, and the action taken by the justice on each such application.3. Allegations of fact in the application may be based either upon the personal knowledge of the applicant or upon information and belief. If the applicant personally knows the facts alleged, it must be so stated. If the facts stated in the application are derived in whole or part from the statements of persons other than the applicant, the sources of such facts must be either disclosed or described, and the application must contain facts establishing the existence and reliability of the informants or the reliability of the information supplied by them. The application must also state, so far as possible, the basis of the informant's knowledge or belief. Affidavits of persons other than the applicant may be submitted in conjunction with the application if they tend to support any fact or conclusion alleged therein. Such accompanying affidavits may be based either on personal knowledge of the affiant, or information and belief with the source thereof and the reason therefor specified. (a) The identity of the applicant and a statement of the applicant's authority to make such application; and (b) A full and complete statement of the facts and circumstances relied upon by the applicant, to justify his belief that an eavesdropping or video surveillance warrant should be issued, including (i) a statement of facts establishing probable cause to believe that a particular designated offense has been, is being, or is about to be committed, (ii) a particular description of the nature and location of the facilities from which or the place where the communication is to be intercepted or the video surveillance is to be conducted, (iii) a particular description of the type of the communications sought to be intercepted or of the observations sought to be made, and (iv) the identity of the person, if known, committing such designated offense and whose communications are to be intercepted or who is to be the subject of the video surveillance; and (c) A statement that such communications or observations are not otherwise legally privileged; and (d) A full and complete statement of facts establishing that normal investigative procedures have been tried and have failed or reasonably appear to be unlikely to succeed if tried or to be too dangerous to employ, to obtain the evidence sought; and (e) A statement of the period of time for which the eavesdropping or video surveillance is required to be maintained. If the nature of the investigation is such that the authorization for eavesdropping or video surveillance should not automatically terminate when the described type of communication has been first obtained or when the described type of observation has been first made, a particular description of facts establishing probable cause to believe that additional communications or observations of the same type will occur thereafter; and (f) A full and complete statement of the facts concerning all previous applications, known to the applicant, for an eavesdropping or video surveillance warrant involving any of the same persons, facilities or places specified in the application, and the action taken by the

justice on each such application. 3. Allegations of fact in the application may be based either upon the personal knowledge of the applicant or upon information and belief. If the applicant personally knows the facts alleged, it must be so stated. If the facts stated in the application are derived in whole or part from the statements of persons other than the applicant, the sources of such facts must be either disclosed or described, and the application must contain facts establishing the existence and reliability of the informants or the reliability of the information supplied by them. The application must also state, so far as possible, the basis of the informant's knowledge or belief. Affidavits of persons other than the applicant may be submitted in conjunction with the application if they tend to support any fact or conclusion alleged therein. Such accompanying affidavits may be based either on personal knowledge of the affiant, or information and belief with the source thereof and the reason therefor specified.

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in emergency situations. 1. In an emergency situation where imminent danger of death or serious physical injury exists and, under the circumstances, it is impractical for the applicant to prepare a written application without risk of such death or injury occurring, an application for an eavesdropping or video surveillance warrant need not be in writing but may be communicated to a justice by telephone, radio or other means of electronic communication. 2. Where an oral application for an eavesdropping or video surveillance warrant is made, the applicant therefor must identify himself and the purpose of his communication or observation, after being sworn as provided in subdivision three of this section. The application must meet the requirements of section 700.20 of this article and provide the same allegations of fact required by that section. 3. Upon being advised that an oral application for an eavesdropping or video surveillance warrant is being made, a justice shall place under oath the applicant and any other person providing information in support of the application. Such oath or oaths and all of the remaining communication must be recorded, either by means of a voice recording device or verbatim stenographic or verbatim longhand notes. If a voice recording device is used or a stenographic record made, the justice must have the record transcribed, certify to the accuracy of the transcription and file the original record and transcription with the court within twenty-four hours of the issuance of a warrant. If longhand notes are taken, the justice shall subscribe a copy and file it with the court within twenty-four hours of the issuance of a warrant. 4. Upon oral application, the court may, where it finds that an emergency situation exists and that the requirements of section 700.15 of this article have been satisfied, issue a temporary eavesdropping or video surveillance warrant authorizing eavesdropping or video surveillance for a period not to exceed twenty-four hours. Such eavesdropping or video surveillance warrant shall be executed in the manner prescribed by this article. The twenty-four hour period may not be extended nor may a temporary warrant be renewed except by written application in conformity with the requirements of this article.

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1. If the application conforms to section 700.20, the justice may require the applicant to furnish additional testimony or documentary evidence in support of the application. He may examine, under oath, any person for the purpose of determining whether grounds exist for the issuance of the warrant pursuant to section 700.15. Any such examination must be either recorded or summarized in writing. 2. If the justice determines on the basis of the facts submitted by the applicant that grounds exist for the issuance of an eavesdropping warrant pursuant to section 700.15, the justice may grant the application and issue an eavesdropping warrant, in accordance with section 700.30. 3. If the application does not conform to section 700.20, or if the justice is not satisfied that grounds exist for the issuance of an eavesdropping warrant, the application must be denied.

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content. An eavesdropping or video surveillance warrant must contain: 1. The name of the applicant, date of issuance, and the subscription and title of the issuing justice; and 2. The identity of the person, if known, whose communications are to be intercepted or who is to be the subject of video surveillance; and 3. The nature and location of the communications facilities as to which, or the place where, authority to intercept or conduct video surveillance is granted; and 4. A particular description of the type of communications sought to be intercepted or of the type of observations to be made, and a statement of the particular designated offense to which it relates; and 5. The identity of the law enforcement agency authorized to intercept the communications or conduct the video surveillance; and 6. The period of time during which such interception or observation is authorized, including a statement as to whether or not the interception or video surveillance shall automatically terminate when the described communication has been first obtained or the described observation has been first made; and 7. A provision that the authorization to intercept or conduct video surveillance shall be executed as soon as practicable, shall be conducted in such a way as to minimize the interception of communications or the making of observations not otherwise subject to eavesdropping or video surveillance under this article, and

must terminate upon attainment of the authorized objective, or in any event in thirty days; and 8. An express authorization to make secret entry upon a private place or premises to install an eavesdropping or video surveillance device, if such entry is necessary to execute the warrant; and 9. An order authorizing eavesdropping or video surveillance may direct that providers of wire or electronic communication services furnish the applicant information, facilities, or technical assistance necessary to accomplish the interception unobtrusively and with a minimum of interference with the services that the service provider accords the party whose communications are to be intercepted. The order shall not direct the service providers to perform the intercept or use the premises of the service provider for such activity.

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of execution. 1. An eavesdropping or video surveillance warrant must be executed according to its terms by a law enforcement officer who is a member of the law enforcement agency authorized in the warrant to intercept the communications or conduct the video surveillance. 2. Upon termination of the authorization in the warrant, eavesdropping or video surveillance must cease and as soon as practicable thereafter any device installed for such purpose either must be removed or must be permanently inactivated as soon as practicable by any means approved by the issuing justice. Entry upon a private place or premise for the removal or permanent inactivation of such device is deemed to be authorized by the warrant. 3. The contents of any communication intercepted or of any observation made by any means authorized by this article must, if possible, be recorded on tape or wire or other comparable device. The recording of the contents of any such communication or observation must be done in such way as will protect the recording from editing or other alterations. 4. In the event an intercepted communication is in a code or foreign language, and the services of an expert in that foreign language or code cannot reasonably be obtained during the interception period, where the warrant so authorizes and in a manner specified therein, the minimization required by subdivision seven of section 700.30 of this article may be accomplished as soon as practicable after such interception. 5. A good faith reliance by a provider of a wire or electronic communication service upon the validity of a court order issued pursuant to this article is a complete defense against any civil cause of action or criminal action based solely on a failure to comply with this article.

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extension. At any time prior to the expiration of an eavesdropping or video surveillance warrant, the applicant may apply to the issuing justice, or, if he is unavailable, to another justice, for an order of extension. The period of extension shall be no longer than the justice deems necessary to achieve the purposes for which it was granted and in no event longer than thirty days. The application for an order of extension must conform in all respects to the provisions of section 700.20 and, in addition, must contain a statement setting forth the results thus far obtained from the interception, or a reasonable explanation of the failure to obtain such results. The provisions of sections 700.15 and 700.25 are applicable in the determination of such application. The order of extension must conform in all respects to the provisions of section 700.30. In the execution of such order of extension the provisions of section 700.35 are applicable.

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reports and notice. 1. An eavesdropping or video surveillance warrant may require reports to be made to the issuing justice showing what progress has been made toward achievement of the authorized objective and the need for continued eavesdropping or video surveillance. Such reports shall be made at such intervals as the justice may require. 2. Immediately upon the expiration of the period of an eavesdropping or video surveillance warrant, the recordings of communications or observations made pursuant to subdivision three of section 700.35 must be made available to the issuing justice and sealed under his directions. 3. Within a reasonable time, but in no case later than ninety days after termination of an eavesdropping or video surveillance warrant, or expiration of an extension order, except as otherwise provided in subdivision four, written notice of the fact and date of the issuance of the eavesdropping or video surveillance warrant, and of the period of authorized eavesdropping or video surveillance, and of the fact that during such period communications were or were not intercepted or observation were or were not made, must be served upon the person named in the warrant and such other parties to the intercepted communications or subjects of the video surveillance as the justice may determine in his discretion is in the interest of justice. Service reasonably calculated to give affected parties the notice required by this subdivision shall be effected within the time limits provided for herein and in a manner prescribed by the justice. The justice, upon the filing of a motion by any person served with such notice, may in his discretion make available to such person or his counsel for inspection such portions of the intercepted communications or video surveillance, applications and warrants as the justice determines to be in the interest of justice. 4. On a showing of exigent circumstances to the issuing justice, the

service of the notice required by subdivision three may be postponed by order of the justice for a reasonable period of time. Renewals of an order of postponement may be obtained on a new showing of exigent circumstances.

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warrants, applications and recordings. 1. Applications made and warrants issued under this article shall be sealed by the justice. Any eavesdropping or video surveillance warrant, together with a copy of papers upon which the application is based, shall be delivered to and retained by the applicant as authority for the eavesdropping or video surveillance authorized therein. A copy of such eavesdropping or video surveillance warrant, together with all the original papers upon which the application was based, must be retained by the justice issuing the same, and, in the event of the denial of an application for such an eavesdropping or video surveillance warrant, a copy of the papers upon which the application was based must be retained by the justice denying the same. Such applications and warrants may be disclosed only upon a showing of good cause before a court and may not be destroyed except on order of the issuing or denying justice, and in any event must be kept for ten years. 2. Custody of the recordings made pursuant to subdivision three of section 700.35 may be wherever the justice orders. They may not be destroyed except upon an order of the justice who issued the warrant and in any event must be kept for ten years. Duplicate recordings may be made for use or disclosure pursuant to the provisions of subdivisions one and two of section 700.65 for investigations.

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the United States courts. 1. Within thirty days after the termination of an eavesdropping warrant or the expiration of an extension order, the issuing or denying justice must submit such report to the administrative office of the United States courts as is required by federal law. 2. In January of each year, the attorney general and each district attorney must submit such report to the administrative office of the United States courts as is required by federal law.

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use of information; order of amendment. 1. Any law enforcement officer who, by any means authorized by this article, has obtained knowledge of the contents of any intercepted communication or video surveillance, or evidence derived therefrom, may disclose such contents to another law enforcement officer to the extent that such disclosure is appropriate to the proper performance of the official duties of the officer making or receiving the disclosure. 2. Any law enforcement officer who, by any means authorized by this article, has obtained knowledge of the contents of any intercepted communication or video surveillance, or evidence derived therefrom, may use such contents to the extent such use is appropriate to the proper performance of his official duties. 3. Any person who has received, by any means authorized by this article, any information concerning a communication or video surveillance, or evidence derived therefrom, intercepted or conducted in accordance with the provisions of this article, may disclose the contents of that communication or video surveillance, or such derivative evidence, while giving testimony under oath in any criminal proceeding in any court, in any grand jury proceeding or in any action commenced pursuant to article thirteen-A or thirteen-B of the civil practice law and rules; provided, however, that the presence of the seal provided for by subdivision two of section 700.50, or a satisfactory explanation of the absence thereof, shall be a prerequisite for the use or disclosure of the contents of any communication or video surveillance, or evidence derived therefrom; and provided further, however, that where a criminal court of competent jurisdiction has ordered exclusion or suppression of the contents of an intercepted communication or video surveillance, or evidence derived therefrom, such determination shall be binding in an action commenced pursuant to article thirteen-A or thirteen-B of the civil practice law and rules. 4. When a law enforcement officer, while engaged in intercepting communications or conducting video surveillance in the manner authorized by this article, intercepts a communication or makes an observation which was not otherwise sought and which constitutes evidence of any crime that has been, is being or is about to be committed, the contents of such communications or observation, and evidence derived therefrom, may be disclosed or used as provided in subdivisions one and two. Such contents and any evidence derived therefrom may be used under subdivision three when a justice amends the eavesdropping or video surveillance warrant to include such contents. The application for such amendment must be made by the applicant as soon as practicable by giving notice to the court of the interception of the communication or the making of the observation and of the contents of such interception or observation; provided that during the period in which the eavesdropping or video surveillance is continuing, such notice must be given within ten days after probable cause exists to believe that a crime not named in the warrant has been, is being, or is about to be committed, or at the time an application for an order of extension is made pursuant to section 700.40 of this article, if such probable cause then exists, whichever is earlier. If the justice finds that such contents were otherwise intercepted in accordance with the provisions of this article, he may grant the application.

Title: cpl

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The contents of any intercepted communication, or evidence derived therefrom, may not be received in evidence or otherwise disclosed upon a trial of a defendant unless the people, within fifteen days after arraignment and before the commencement of the trial, furnish the defendant with a copy of the eavesdropping warrant, and accompanying application, under which interception was authorized or approved. This fifteen day period may be extended by the trial court upon good cause shown if it finds that the defendant will not be prejudiced by the delay in receiving such papers.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle T - Procedures for Securing Evidence by Means of Court Order and for Suppressing Evidence Unlawfully or Improperly ObtainedArticle 705 - Pen Registers and Trap and Trace Devices705.00 - Definitions.

As used in this article, the following terms have the following meanings: 1. "Pen register" means a device which records or decodes electronic or other impulses which identify the numbers dialed or otherwise transmitted on the telephone line to which such device is attached, but such term does not include any device used by a provider or customer of a wire or electronic communication service for billing, or recording as an incident to billing, for communications services provided by such provider or any device used by a provider or customer of a wire communication service for cost accounting or other like purposes in the ordinary course of its business. 2. "Trap and trace device" means a device which captures the incoming electronic or other impulses which identify the originating number of an instrument or device from which a wire or electronic communication was transmitted. 3. "Applicant" means a district attorney, an assistant district attorney, and when empowered by law to conduct an investigation of or to prosecute or participate in the prosecution of a designated crime, the attorney general, an assistant attorney general, the deputy attorney general in charge of the statewide organized crime task force, or an assistant deputy attorney general of such task force. 4. "Law enforcement agency" means any agency which is empowered by law to conduct an investigation or to make an arrest for a felony, and any agency which is authorized by law to prosecute or participate in the prosecution of a felony. 5. "Designated crime" means any crime included within the definition of a "designated offense" in subdivision eight of section 700.05 of this chapter, any criminal act as defined in subdivision one of section 460.10 of the penal law, bail jumping in the first and second degree as defined in sections 215.57 and 215.56 of such law, or aggravated harassment as defined in subdivisions one and two of section 240.30 of such law. 6. "Justice" means justice as defined in subdivision four of section 700.05 of this chapter.

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Under circumstances prescribed in this article, a justice may issue an order authorizing the use of a pen register or a trap and trace device upon ex parte application of an applicant who is authorized by law to investigate, prosecute or participate in the prosecution of the designated crimes which are the subject of the application.

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trace device; when issuable. An order authorizing the use of a pen register or a trap and trace device may issue only: 1. Upon an appropriate application made in conformity with this article; and 2. Upon a determination that an application sets forth specific, articulable facts, warranting the applicant's reasonable suspicion that a designated crime has been, is being, or is about to be committed and demonstrating that the information likely to be obtained by use of a pen register or trap and trace device is or will be relevant to an ongoing criminal investigation of such designated crime.

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or a trap and trace device. 1. An ex parte application for an order or an extension of an order authorizing the use of a pen register or a trap and trace device must be made to a justice in writing, and must be subscribed and sworn to by the applicant. 2. The application must contain:(a) The identity of the applicant and the identity of the law enforcement agency conducting the investigation; and(b) A statement of facts and circumstances sufficient to justify the applicant's belief that an order authorizing the

use of a pen register or a trap and trace device should be issued, including (i) a statement of the specific facts on the basis of which the applicant reasonably suspects that the designated crime has been, is being, or is about to be committed and demonstrating that the information likely to be obtained by use of a pen register or a trap and trace device is or will be relevant to an ongoing criminal investigation of such designated offense, (ii) the identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached, (iii) the identity, if known, of the person who is the subject of the criminal investigation, (iv) the number and, if known, the physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order, and (v) a statement of the designated crime or crimes to which the information likely to be obtained by the use of the pen register or trap and trace device relates; and(c) A statement of the period of time for which the authorization for the use of a pen register or a trap and trace device is required; and(d) A statement of the facts concerning all previous applications, known to the applicant, for an order authorizing the use of a pen register or a trap and trace device involving any of the same persons or facilities specified in the application, and the action taken by the justice on each such application.3. Allegations of fact in the application may be based either upon the personal knowledge of the applicant or upon information and belief. If the applicant personally knows the facts alleged, it must be so stated. If the facts stated in the application are derived in whole or in part from the statements of persons other than the applicant, the sources of such facts must be either disclosed or described. (a) The identity of the applicant and the identity of the law enforcement agency conducting the investigation; and (b) A statement of facts and circumstances sufficient to justify the applicant's belief that an order authorizing the use of a pen register or a trap and trace device should be issued, including (i) a statement of the specific facts on the basis of which the applicant reasonably suspects that the designated crime has been, is being, or is about to be committed and demonstrating that the information likely to be obtained by use of a pen register or a trap and trace device is or will be relevant to an ongoing criminal investigation of such designated offense, (ii) the identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached, (iii) the identity, if known, of the person who is the subject of the criminal investigation, (iv) the number and, if known, the physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order, and (v) a statement of the designated crime or crimes to which the information likely to be obtained by the use of the pen register or trap and trace device relates; and (c) A statement of the period of time for which the authorization for the use of a pen register or a trap and trace device is required; and (d) A statement of the facts concerning all previous applications, known to the applicant, for an order authorizing the use of a pen register or a trap and trace device involving any of the same persons or facilities specified in the application, and the action taken by the justice on each such application. 3. Allegations of fact in the application may be based either upon the personal knowledge of the applicant or upon information and belief. If the applicant personally knows the facts alleged, it must be so stated. If the facts stated in the application are derived in whole or in part from the statements of persons other than the applicant, the sources of such facts must be either disclosed or described.

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trace device; determination of application. 1. If the justice determines on the basis of the facts submitted by the applicant that grounds exist for the issue of an order authorizing the use of a pen register or a trap and trace device pursuant to section 705.10 of this article, the justice shall grant the application and issue an order authorizing the use of a pen register or a trap and trace device, in accordance with subdivision three of this section. 2. If the application does not conform to section 705.15 of this article, or if the justice is not satisfied that grounds exist for the issuance of an order authorizing the use of a pen register or a trap and trace device, the application must be denied. 3. An order issued under this section must contain:(a) the name of the applicant, date of issuance, and the subscription and title of the issuing justice; and(b) the identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached; and(c) the identity, if known, of the person who is the subject of the criminal investigation; and(d) the number and, if known, the physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order; and(e) a statement of the designated crime or crimes to which the information likely to be obtained by the pen register or trap and trace device relates.4. An order issued under this section shall direct, upon the request of the applicant, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register or trap and trace device under section 705.25 of this article. (a) the name of the applicant, date of issuance, and the subscription and title of the issuing justice; and (b) the identity, if known, of the person to whom is leased or in whose name is listed the telephone line to which the pen register or trap and trace device is to be attached; and (c) the identity, if known, of the person who is the subject of the criminal investigation; and (d) the number and, if known, the physical location of the telephone line to which the pen register or trap and trace device is to be attached and, in the case of a trap and trace device, the geographic limits of the trap and trace order; and (e) a statement of the designated crime or crimes to which the information likely to be obtained by the pen register or trap and trace device relates. 4. An order issued under this section shall direct, upon the request of the applicant, the furnishing of information, facilities, and technical assistance necessary to accomplish the installation of the pen register or trap and trace device under section 705.25 of this article.

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extensions. 1. An order issued under this section shall authorize the installation and use of a pen register or a trap and trace device for a period not to exceed sixty days. 2. Extensions of such an order may be granted, but only upon an application for an order under section 705.05 of this article and upon the judicial finding required by subdivision one of section 705.10 of this article. The period of extension shall be for a period not to exceed sixty days.

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device. An order authorizing or approving the installation and use of a pen register or a trap and trace device shall direct that: 1. the order be sealed until otherwise ordered by the court; and 2. the person owning or leasing the line to which the pen register or a trap and trace device is attached, or who has been ordered by the court to provide assistance to the applicant, not disclose the existence of the pen register or trap and trace device or the existence of the investigation to the listed subscriber, or to any other person, unless or until otherwise ordered by the court.

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and trace device. 1. Upon the request of an applicant authorized to use a pen register under this article, a provider of a wire or electronic communication service, landlord, custodian, or other person shall furnish such applicant, or his agent, forthwith all information, facilities and technical assistance necessary to accomplish the installation of the pen register unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such assistance is directed by a court order as provided in section 705.10 of this article. 2. Upon the request of an applicant authorized to receive the results of a trap and trace device under this article, a provider of a wire or electronic communication service, landlord, custodian, or other person shall install such device forthwith on the appropriate line and shall furnish such applicant forthwith all information, facilities and technical assistance including installation and operation of the device unobtrusively and with a minimum of interference with the services that the person so ordered by the court accords the party with respect to whom the installation and use is to take place, if such installation and assistance is directed by the court order as provided in section 705.10 of this article. Unless otherwise ordered by the court, the results of the trap and trace device shall be furnished to the applicant, or his agent, at reasonable intervals during regular business hours for the duration of the order. 3. A provider of a wire or electronic communication service, landlord, custodian, or other person who furnishes facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance. 4. No cause of action shall lie in any court against any provider of a wire or electronic communication service, its officers, employees, agents or other specified persons for providing information, facilities or assistance in accordance with the terms of a court order under this article. A good faith reliance by a provider of a wire or electronic communication service upon the validity of a court order issued pursuant to this article is a complete defense against any civil cause of action or criminal action based entirely on a failure to comply with this article.

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As used in this article, the following terms have the following meanings: 1. "Defendant" means a person who has been charged by an accusatory instrument with the commission of an offense. 2. "Evidence," when referring to matter in the possession of or available to a prosecutor, means any tangible property or potential testimony which may be offered in evidence in a criminal action. 3. "Potential testimony" means information or factual knowledge of a person who is or may be available as a witness. 4. "Eavesdropping" means "wiretapping", "mechanical overhearing of a conversation," or "intercepting or accessing of an electronic communication", as those terms are defined in section 250.00 of the penal law. 5. "Aggrieved." An "aggrieved person" includes, but is in no wise limited to, an "aggrieved person" as defined in subdivision two of section forty-five hundred six of the civil practice law and rules. 6. "Video surveillance" has the meaning given to that term by section 700.05 of this chapter. 7. "Pen register" and "trap and trace device" have the meanings given to those terms by subdivisions one and two respectively of section 705.00 of this chapter.

Title: cpl

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Upon motion of a defendant who (a) is aggrieved by unlawful or improper acquisition of evidence and has reasonable cause to believe that such may be offered against him in a criminal action, or (b) claims that improper identification testimony may be offered against him in a criminal action, a court may, under circumstances prescribed in this article, order that such evidence be suppressed or excluded upon the ground that it: 1. Consists of tangible property obtained by means of an unlawful search and seizure under circumstances precluding admissibility thereof in a criminal action against such defendant; or 2. Consists of a record or potential testimony reciting or describing declarations, conversations, or other communications overheard, intercepted, accessed, or recorded by means of eavesdropping, or observations made by means of video surveillance, obtained under circumstances precluding admissibility thereof in a criminal action against such defendant; or 3. Consists of a record or potential testimony reciting or describing a statement of such defendant involuntarily made, within the meaning of section 60.45; or 4. Was obtained as a result of other evidence obtained in a manner described in subdivisions one, two and three; or 5. Consists of a chemical test of the defendant's blood administered in violation of the provisions of subdivision three of section eleven hundred ninety-four of the vehicle and traffic law, subdivision eight of section forty-nine-a of the navigation law, subdivision seven of section 25.24 of the parks, recreation and historic preservation law, or any other applicable law; or 6. Consists of potential testimony regarding an observation of the defendant either at the time or place of the commission of the offense or upon some other occasion relevant to the case, which potential testimony would not be admissible upon the prospective trial of such charge owing to an improperly made previous identification of the defendant or of a pictorial, photographic, electronic, filmed or video recorded reproduction of the defendant by the prospective witness. A claim that the previous identification of the defendant or of a pictorial, photographic, electronic, filmed or video recorded reproduction of the defendant by a prospective witness did not comply with paragraph (c) of subdivision one of section 60.25 of this chapter or with the protocol promulgated in accordance with subdivision twenty-one of section eight hundred thirty-seven of the executive law shall not constitute a legal basis to suppress evidence pursuant to this subdivision. A claim that a public servant failed to comply with paragraph (c) of subdivision one of section 60.25 of this chapter or of subdivision twenty-one of section eight hundred thirty-seven of the executive law shall neither expand nor limit the rights an accused person may derive under the constitution of this state or of the United States. 7. Consists of information obtained by means of a pen register or trap and trace device installed or used in violation of the provisions of article seven hundred five of this chapter.

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to offer evidence. 1. Whenever the people intend to offer at a trial (a) evidence of a statement made by a defendant to a public servant, which statement if involuntarily made would render the evidence thereof suppressible upon motion pursuant to subdivision three of section 710.20, or (b) testimony regarding an observation of the defendant either at the time or place of the commission of the offense or upon some other occasion relevant to the case, to be given by a witness who has previously identified him or her or a pictorial, photographic, electronic, filmed or video recorded reproduction of him or her as such, they must serve upon the defendant a notice of such intention, specifying the evidence intended to be offered. 2. Such notice must be served within fifteen days after arraignment and before trial, and upon such service the defendant must be accorded reasonable opportunity to move before trial, pursuant to subdivision one of section 710.40, to suppress the specified evidence. For good cause shown, however, the court may permit the people to serve such notice, thereafter and in such case it must accord the defendant reasonable opportunity thereafter to make a suppression motion. 3. In the absence of service of notice upon a defendant as prescribed in this section, no evidence of a kind specified in subdivision one may be received against him upon trial unless he has, despite the lack of such notice, moved to suppress such evidence and such motion has been denied and the evidence thereby rendered admissible as prescribed in subdivision two of section 710.70.

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1. A motion to suppress evidence must be made after the commencement of the criminal action in which such evidence is allegedly about to be offered, and, except as otherwise provided in section 710.30 and in subdivision two of this section, it must be made within the period provided in subdivision one of section 255.20. 2. The motion may be made for the first time when, owing to unawareness of facts constituting the basis thereof or to other factors, the defendant did not have reasonable opportunity to make the motion previously, or when the evidence which he seeks to suppress is of a kind specified in section 710.30 and he was not served by the people, as provided in said section 710.30, with a pre-trial notice of intention to offer such evidence at the trial. 3. When the motion is made before trial, the trial may not be commenced until determination of the motion. 4. If after a pre-trial determination and denial of the motion the court is satisfied, upon a showing by the defendant, that additional pertinent facts have been discovered

by the defendant which he could not have discovered with reasonable diligence before the determination of the motion, it may permit him to renew the motion before trial or, if such was not possible owing to the time of the discovery of the alleged new facts, during trial.

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1. The particular courts in which motions to suppress evidence must be made are as follows:(a) If an indictment is pending in a superior court, or if the defendant has been held by a local criminal court for the action of a grand jury, the motion must be made in the superior court in which such indictment is pending or which impaneled or will impanel such grand jury. If the superior court which will impanel such grand jury is the supreme court, the motion may, in the alternative, be made in the county court of the county in which the action is pending;(b) If a currently undetermined felony complaint is pending in a local criminal court, the motion must be made in the superior court which would have trial jurisdiction of the offense or offenses charged were an indictment therefor to result;(c) If an information, a simplified information, a prosecutor's information or a misdemeanor complaint is pending in a local criminal court, the motion must be made in such court.2. If after a motion has been made in and determined by a superior court a local criminal court acquires trial jurisdiction of the action by reason of an information, a prosecutor's information or a misdemeanor complaint filed therewith, such superior court's determination is binding upon such local criminal court. If, however, the motion has been made in but not yet determined by the superior court at the time of the filing of such information, prosecutor's information or misdemeanor complaint, the superior court may not determine the motion but must refer it to the local criminal court of trial jurisdiction. (a) If an indictment is pending in a superior court, or if the defendant has been held by a local criminal court for the action of a grand jury, the motion must be made in the superior court in which such indictment is pending or which impaneled or will impanel such grand jury. If the superior court which will impanel such grand jury is the supreme court, the motion may, in the alternative, be made in the county court of the county in which the action is pending; (b) If a currently undetermined felony complaint is pending in a local criminal court, the motion must be made in the superior court which would have trial jurisdiction of the offense or offenses charged were an indictment therefor to result; (c) If an information, a simplified information, a prosecutor's information or a misdemeanor complaint is pending in a local criminal court, the motion must be made in such court. 2. If after a motion has been made in and determined by a superior court a local criminal court acquires trial jurisdiction of the action by reason of an information, a prosecutor's information or a misdemeanor complaint filed therewith, such superior court's determination is binding upon such local criminal court. If, however, the motion has been made in but not yet determined by the superior court at the time of the filing of such information, prosecutor's information or misdemeanor complaint, the superior court may not determine the motion but must refer it to the local criminal court of trial jurisdiction.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle T - Procedures for Securing Evidence by Means of Court Order and for Suppressing Evidence Unlawfully or Improperly ObtainedArticle 710 - Motion to Suppress Evidence710.60 - Motion to Suppress Evidence; Procedure.

1. A motion to suppress evidence made before trial must be in writing and upon reasonable notice to the people and with opportunity to be heard. The motion papers must state the ground or grounds of the motion and must contain sworn allegations of fact, whether of the defendant or of another person or persons, supporting such grounds. Such allegations may be based upon personal knowledge of the deponent or upon information and belief, provided that in the latter event the sources of such information and the grounds of such belief are stated. The people may file with the court, and in such case must serve a copy thereof upon the defendant or his counsel, an answer denying or admitting any or all of the allegations of the moving papers. 2. The court must summarily grant the motion if:(a) The motion papers comply with the requirements of subdivision one and the people concede the truth of allegations of fact therein which support the motion; or(b) The people stipulate that the evidence sought to be suppressed will not be offered in evidence in any criminal action or proceeding against the defendant.3. The court may summarily deny the motion if:(a) The motion papers do not allege a ground constituting legal basis for the motion; or(b) The sworn allegations of fact do not as a matter of law support the ground alleged; except that this paragraph does not apply where the motion is based upon the ground specified in subdivision three or six of section 710.20.4. If the court does not determine the motion pursuant to subdivisions two or three, it must conduct a hearing and make findings of fact essential to the determination thereof. All persons giving factual information at such hearing must testify under oath, except that unsworn evidence pursuant to subdivision two of section 60.20 of this chapter may also be received. Upon such hearing, hearsay evidence is admissible to establish any material fact.5. A motion to suppress evidence made during trial may be in writing and may be litigated and determined on the basis of motion papers as provided in subdivisions one through four, or it may, instead, be made orally in open court. In the latter event, the court must, where necessary, also conduct a hearing as provided in subdivision four, out of the presence of the jury if any, and make findings of fact essential to the determination of the motion.6. Regardless of whether a hearing was conducted, the court, upon determining the motion, must set forth on the record its findings of fact, its conclusions of law and the reasons for its determination. (a) The motion papers comply with the requirements of subdivision one and the people concede the truth of allegations of fact therein which support the motion; or (b) The people stipulate that the evidence sought to be suppressed will not be offered in evidence in any criminal action or proceeding against the defendant. 3. The court may summarily deny the motion if: (a) The motion papers do not allege a ground constituting legal basis for the motion; or (b) The sworn allegations of fact do not as a matter of law support the ground alleged;

except that this paragraph does not apply where the motion is based upon the ground specified in subdivision three or six of section 710.20. 4. If the court does not determine the motion pursuant to subdivisions two or three, it must conduct a hearing and make findings of fact essential to the determination thereof. All persons giving factual information at such hearing must testify under oath, except that unsworn evidence pursuant to subdivision two of section 60.20 of this chapter may also be received. Upon such hearing, hearsay evidence is admissible to establish any material fact. 5. A motion to suppress evidence made during trial may be in writing and may be litigated and determined on the basis of motion papers as provided in subdivisions one through four, or it may, instead, be made orally in open court. In the latter event, the court must, where necessary, also conduct a hearing as provided in subdivision four, out of the presence of the jury if any, and make findings of fact essential to the determination of the motion. 6. Regardless of whether a hearing was conducted, the court, upon determining the motion, must set forth on the record its findings of fact, its conclusions of law and the reasons for its determination.

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orders and of failure to make motion. 1. Upon granting a motion to suppress evidence, the court must order that the evidence in question be excluded in the criminal action pending against the defendant. When the order is based upon the ground specified in subdivision one of section 710.20 and excludes tangible property unlawfully taken from the defendant's possession, and when such property is not otherwise subject to lawful retention, the court may, upon request of the defendant, further order that such property be restored to him. 2. An order finally denying a motion to suppress evidence may be reviewed upon an appeal from an ensuing judgment of conviction notwithstanding the fact that such judgment is entered upon a plea of guilty. 3. A motion to suppress evidence made pursuant to this article is the exclusive method of challenging the admissibility of evidence upon the grounds specified in section 710.20, and a defendant who does not make such a motion before or in the course of a criminal action waives his right to judicial determination of any such contention. Nothing contained in this article, however, precludes a defendant from attempting to establish at a trial that evidence introduced by the people of a pre-trial statement made by him should be disregarded by the jury or other trier of the facts on the ground that such statement was involuntarily made within the meaning of section 60.45. Even though the issue of the admissibility of such evidence was not submitted to the court, or was determined adversely to the defendant upon motion, the defendant may adduce trial evidence and otherwise contend that the statement was involuntarily made. In the case of a jury trial, the court must submit such issue to the jury under instructions to disregard such evidence upon a finding that the statement was involuntarily made.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle T - Procedures for Securing Evidence by Means of Court Order and for Suppressing Evidence Unlawfully or Improperly ObtainedArticle 715 - Destruction of Dangerous Drugs715.05 - Dangerous Drugs; Definition.

"Dangerous drugs" means any substance listed in schedule I, II, III, IV or V of section thirty-three hundred six of the public health law.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle T - Procedures for Securing Evidence by Means of Court Order and for Suppressing Evidence Unlawfully or Improperly ObtainedArticle 715 - Destruction of Dangerous Drugs715.10 - Pretrial Motion to Destroy Dangerous Drugs.

1. Subject to the limitations in paragraph (b) of subdivision two hereof a district attorney may move in a superior court for an order of destruction of the dangerous drugs in felony cases involving the possession or sale of such drugs. 2. A motion for an order of destruction of dangerous drugs shall be in writing, have attached thereto a copy of the report of analysis and shall be made in the following manner:(a) Ex parte; where no defendants have been arrested in connection with the seizure of such drugs and a showing is made upon affidavit that the likelihood of any future arrest in connection therewith is nonexistent; or(b) Upon notice, when a defendant has been arraigned in a superior court upon an indictment charging him with a felony involving the possession or sale of a dangerous drug and the dangerous drugs sought to be destroyed are material to the prosecution of said indictment.3. When such motion is ex parte, the court may order the destruction of all or part of the subject drugs.4. When such motion is upon notice, further proceedings shall be had as provided in section 715.20 hereof. (a) Ex parte; where no defendants have been arrested in connection with the seizure of such drugs and a showing is made upon affidavit that the likelihood of any future arrest in connection therewith is nonexistent; or (b) Upon notice, when a defendant has been arraigned in a superior court upon an indictment charging him with a felony involving the possession or sale of a dangerous drug and the dangerous drugs sought to be destroyed are material to the prosecution of said indictment. 3. When such motion is ex parte, the court may order the destruction of all or part of the subject drugs. 4. When such motion is upon notice, further proceedings shall be had as provided in section 715.20 hereof.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle T - Procedures for Securing Evidence by Means of Court Order and for Suppressing Evidence Unlawfully or Improperly ObtainedArticle 715 - Destruction of Dangerous Drugs715.20 - Proceedings on Motion Upon Notice.

1. When such motion is on notice, a hearing thereon shall be held by the court before which it is returnable not later than thirty days after the return date and the defendant shall be present at such hearing. 2. A hearing held pursuant to this section shall be conducted and recorded in the same manner as would be required were the witnesses testifying at trial. The district attorney shall establish by competent evidence the nature and quantity of the dangerous drugs which are the subject of the motion. Each party shall have the right to call and cross examine witnesses and to register objections and to receive rulings of the court thereon. 3. If the court finds upon the conclusion of the hearing that neither the prosecution nor the defendant will be prejudiced thereby it may grant the motion and may make such order as it may deem appropriate for the destruction of part or all of such drugs. 4. A defendant may waive such hearing and consent to the granting of the motion and entry of an order of destruction either by sworn affidavit or by personal appearance in court and declaration on the record of such waiver and consent.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle T - Procedures for Securing Evidence by Means of Court Order and for Suppressing Evidence Unlawfully or Improperly ObtainedArticle 715 - Destruction of Dangerous Drugs715.30 - Orders of the Court.

1. In any proceeding brought pursuant to this article, the court may grant or deny any motion made hereunder or the relief requested therein in whole or in part and issue any order thereon as it may deem proper and as the interests of justice may require in order to effectuate the provisions of this article. 2. An order of destruction of a dangerous drug issued by the court pursuant to this article shall state the time within which the provisions of such order are to be complied with. It shall direct the person having custody of the drug to make provision for the destruction thereof in the presence of at least two witnesses, at least one of whom shall be a police officer.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle T - Procedures for Securing Evidence by Means of Court Order and for Suppressing Evidence Unlawfully or Improperly ObtainedArticle 715 - Destruction of Dangerous Drugs715.40 - Affidavit of Destruction.

An affidavit attesting to the date, time, place and manner of destruction of a dangerous drug pursuant to an order therefor and identifying the same by reference to the report of analysis or by other identifying number or system and the order of the court issued thereon, shall be filed with the court by the person who destroyed the drugs and by each of the witnesses required to be present by subdivision two of section 715.30 of this article.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle T - Procedures for Securing Evidence by Means of Court Order and for Suppressing Evidence Unlawfully or Improperly ObtainedArticle 715 - Destruction of Dangerous Drugs715.50 - Analysis of Dangerous Drugs.

1. On and after September first, nineteen hundred seventy-three, in every felony case involving the possession or sale of a dangerous drug, the head of the agency charged with custody of such drugs, or his designee, shall within forty-five days after receipt thereof perform or cause to be performed an analysis of such drugs, such analysis to include qualitative identification; weight and quantity where appropriate. 2. Within ten days after the report of such analysis is received by such agency, the head thereof or his designee shall forward a copy thereof to the appropriate district attorney and inform him of the location where the subject drugs are being held. 3. The failure to have an analysis made or to forward a copy thereof within the time specified in subdivisions one and two of this section shall not be deemed or construed to bar the making or granting of a motion pursuant to this article or to the prosecution of a case involving such drugs.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 720 - Youthful Offender Procedure720.10 - Youthful Offender Procedure; Definition of Terms.

As used in this article, the following terms have the following meanings: 1. "Youth" means a person charged with a crime alleged to have been committed when he was at least sixteen years old and less than nineteen years old or a person charged with being a juvenile offender as defined in subdivision forty-two of section 1.20 of this chapter. 2. "Eligible youth" means a youth who is eligible to be found a youthful offender. Every youth is so eligible unless:(a) the conviction to be replaced by a youthful offender finding is for (i) a class A-I or class A-II felony, or (ii) an armed felony as defined in subdivision forty-one of section 1.20, except as provided in subdivision three, or (iii) rape in the first degree, a crime formerly defined in section 130.50 of the penal law, or the crime of aggravated sexual abuse, except as provided in subdivision three, or(b) such youth has previously been convicted and sentenced for a felony, or(c) such youth has previously been adjudicated a youthful offender following conviction of a felony or has been adjudicated on or after September first, nineteen hundred seventy-eight a juvenile delinquent who committed a designated felony act as defined in the family court act.3. Notwithstanding the provisions of subdivision two, a youth who has been convicted of an armed felony offense or of rape in the first degree, criminal sexual act in the first degree, or aggravated sexual abuse is an eligible youth if the court determines that one or more of the following factors exist: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution. Where the court determines that the eligible youth is a youthful offender, the court shall make a statement on the record of the reasons for its

determination, a transcript of which shall be forwarded to the state division of criminal justice services, to be kept in accordance with the provisions of subdivision three of section eight hundred thirty-seven-a of the executive law.4. "Youthful offender finding" means a finding, substituted for the conviction of an eligible youth, pursuant to a determination that the eligible youth is a youthful offender.5. "Youthful offender sentence" means the sentence imposed upon a youthful offender finding.6. "Youthful offender adjudication". A youthful offender adjudication is comprised of a youthful offender finding and the youthful offender sentence imposed thereon and is completed by imposition and entry of the youthful offender sentence. (a) the conviction to be replaced by a youthful offender finding is for (i) a class A-I or class A-II felony, or (ii) an armed felony as defined in subdivision forty-one of section 1.20, except as provided in subdivision three, or (iii) rape in the first degree, a crime formerly defined in section 130.50 of the penal law, or the crime of aggravated sexual abuse, except as provided in subdivision three, or (b) such youth has previously been convicted and sentenced for a felony, or (c) such youth has previously been adjudicated a youthful offender following conviction of a felony or has been adjudicated on or after September first, nineteen hundred seventy-eight a juvenile delinquent who committed a designated felony act as defined in the family court act. 3. Notwithstanding the provisions of subdivision two, a youth who has been convicted of an armed felony offense or of rape in the first degree, criminal sexual act in the first degree, or aggravated sexual abuse is an eligible youth if the court determines that one or more of the following factors exist: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution. Where the court determines that the eligible youth is a youthful offender, the court shall make a statement on the record of the reasons for its determination, a transcript of which shall be forwarded to the state division of criminal justice services, to be kept in accordance with the provisions of subdivision three of section eight hundred thirty-seven-a of the executive law. 4. "Youthful offender finding" means a finding, substituted for the conviction of an eligible youth, pursuant to a determination that the eligible youth is a youthful offender. 5. "Youthful offender sentence" means the sentence imposed upon a youthful offender finding. 6. "Youthful offender adjudication". A youthful offender adjudication is comprised of a youthful offender finding and the youthful offender sentence imposed thereon and is completed by imposition and entry of the youthful offender sentence.

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privacy of proceedings; preliminary instructions to jury. 1. When an accusatory instrument against an apparently eligible youth is filed with a court, it shall be filed as a sealed instrument, though only with respect to the public. 2. When a youth is initially arraigned upon an accusatory instrument, such arraignment and all proceedings in the action thereafter may, in the discretion of the court and with the defendant's consent, be conducted in private. 3. The provisions of subdivisions one and two of this section requiring or authorizing the accusatory instrument filed against a youth to be sealed, and the arraignment and all proceedings in the action to be conducted in private shall not apply in connection with a pending charge of committing any felony offense as defined in the penal law. The provisions of subdivision one requiring the accusatory instrument filed against a youth to be sealed shall not apply where such youth has previously been adjudicated a youthful offender or convicted of a crime. 4. Notwithstanding any provision in this article, a person charged with prostitution as defined in section 230.00 of the penal law regardless of whether such person (i) had prior to commencement of trial or entry of a plea of guilty been convicted of a crime or found a youthful offender, or (ii) subsequent to such conviction for prostitution is convicted of a crime or found a youthful offender, the provisions of subdivisions one and two of this section requiring or authorizing the accusatory instrument filed against a youth to be sealed, and the arraignment and all proceedings in the action to be conducted in private shall apply.

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thereupon. 1. Upon conviction of an eligible youth, the court must order a pre-sentence investigation of the defendant. After receipt of a written report of the investigation and at the time of pronouncing sentence the court must determine whether or not the eligible youth is a youthful offender. Such determination shall be in accordance with the following criteria:(a) If in the opinion of the court the interest of justice would be served by relieving the eligible youth from the onus of a criminal record and by not imposing an indeterminate term of imprisonment of more than four years, the court may, in its discretion, find the eligible youth is a youthful offender; and(b) Where the conviction is had in a local criminal court and the eligible youth had not prior to commencement of trial or entry of a plea of guilty been convicted of a crime or found a youthful offender, the court must find he is a youthful offender.2. Where an eligible youth is convicted of two or more crimes set forth in separate counts of an accusatory instrument or set forth in two or more accusatory instruments consolidated for trial purposes, the court must not find him a youthful offender with respect to any such conviction pursuant to subdivision one of this section unless it finds him a youthful offender with respect to all such convictions.3. Upon determining that an eligible youth is a youthful offender, the court must direct that the conviction be deemed vacated and replaced by a youthful offender finding; and the court must sentence the defendant pursuant to section 60.02 of the penal law.4. Upon determining that an eligible youth is not a youthful offender, the court must order the accusatory instrument unsealed and continue the action to judgment pursuant to the ordinary rules governing criminal prosecutions.5. (a) An individual who was an eligible youth who was not determined to be a youthful offender by the sentencing court may apply to the sentencing

court for a new determination after at least five years have passed since the imposition of the sentence for which such individual was not determined to be a youthful offender, or, if the individual was sentenced to a period of incarceration, including a period of incarceration imposed in conjunction with a sentence of probation, the individual's latest release from incarceration, provided that such individual has not been convicted of any new crime since the imposition of such sentence.(b) In considering whether such individual should be determined to be a youthful offender pursuant to paragraph (a) of this subdivision, the court shall consider the following factors:(i) whether relieving the individual from the onus of a criminal record would facilitate rehabilitation and successful reentry and reintegration into society;(ii) the manner in which the crime was committed;(iii) the role of the individual in the crime which resulted in the conviction;(iv) the individual's age at the time of the crime;(v) the length of time since the crime was committed;(vi) any mitigating circumstances at the time the crime was committed;(vii) the individual's criminal record;(viii) the individual's attitude toward society and respect for the law; and(ix) evidence of rehabilitation and demonstration of living a productive life including, but not limited to participation in educational and vocational programs, employment history, alcohol and substance abuse treatment, and family and community involvement.(c) A copy of an application filed under this subdivision shall be served upon the district attorney of the county in which the individual was convicted. The district attorney shall notify the court within forty-five days if he or she objects to the application for sealing. The court may hold a hearing on the application on its own motion or on motion of the district attorney or the individual filing the application. If the district attorney does not file a timely objection, the court shall proceed forthwith. (a) If in the opinion of the court the interest of justice would be served by relieving the eligible youth from the onus of a criminal record and by not imposing an indeterminate term of imprisonment of more than four years, the court may, in its discretion, find the eligible youth is a youthful offender; and (b) Where the conviction is had in a local criminal court and the eligible youth had not prior to commencement of trial or entry of a plea of guilty been convicted of a crime or found a youthful offender, the court must find he is a youthful offender. 2. Where an eligible youth is convicted of two or more crimes set forth in separate counts of an accusatory instrument or set forth in two or more accusatory instruments consolidated for trial purposes, the court must not find him a youthful offender with respect to any such conviction pursuant to subdivision one of this section unless it finds him a youthful offender with respect to all such convictions. 3. Upon determining that an eligible youth is a youthful offender, the court must direct that the conviction be deemed vacated and replaced by a youthful offender finding; and the court must sentence the defendant pursuant to section 60.02 of the penal law. 4. Upon determining that an eligible youth is not a youthful offender, the court must order the accusatory instrument unsealed and continue the action to judgment pursuant to the ordinary rules governing criminal prosecutions. 5. (a) An individual who was an eligible youth who was not determined to be a youthful offender by the sentencing court may apply to the sentencing court for a new determination after at least five years have passed since the imposition of the sentence for which such individual was not determined to be a youthful offender, or, if the individual was sentenced to a period of incarceration, including a period of incarceration imposed in conjunction with a sentence of probation, the individual's latest release from incarceration, provided that such individual has not been convicted of any new crime since the imposition of such sentence. (b) In considering whether such individual should be determined to be a youthful offender pursuant to paragraph (a) of this subdivision, the court shall consider the following factors: (i) whether relieving the individual from the onus of a criminal record would facilitate rehabilitation and successful reentry and reintegration into society; (ii) the manner in which the crime was committed; (iii) the role of the individual in the crime which resulted in the conviction; (iv) the individual's age at the time of the crime; (v) the length of time since the crime was committed; (vi) any mitigating circumstances at the time the crime was committed; (vii) the individual's criminal record; (viii) the individual's attitude toward society and respect for the law; and (ix) evidence of rehabilitation and demonstration of living a productive life including, but not limited to participation in educational and vocational programs, employment history, alcohol and substance abuse treatment, and family and community involvement. (c) A copy of an application filed under this subdivision shall be served upon the district attorney of the county in which the individual was convicted. The district attorney shall notify the court within forty-five days if he or she objects to the application for sealing. The court may hold a hearing on the application on its own motion or on motion of the district attorney or the individual filing the application. If the district attorney does not file a timely objection, the court shall proceed forthwith.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 720 - Youthful Offender Procedure720.25 - Youthful Offender Adjudication; Certain Exemptions.

Notwithstanding any inconsistent provisions of law: 1. where the court is required to find that a person is a youthful offender pursuant to section 170.80 of this chapter, the fact that such person has previously been convicted of a crime or adjudicated a youthful offender shall not prevent such person from being adjudicated a youthful offender as required by such section; and 2. a youthful offender adjudication pursuant to section 170.80 of this chapter shall not be considered in determining whether a person is an eligible youth, or in determining whether to find a person a youthful offender, in any subsequent youthful offender adjudication.

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appeal. The provisions of this chapter, governing the making and determination of post-judgment motions and the taking and determination of appeals in criminal cases, apply to post-judgment motions and appeals with respect to youthful offender adjudications wherever such provisions can reasonably be so applied.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 720 - Youthful Offender Procedure720.35 - Youthful Offender Adjudication; Effect Thereof; Records.

1. A youthful offender adjudication is not a judgment of conviction for a crime or any other offense, and does not operate as a disqualification of any person so adjudged to hold public office or public employment or to receive any license granted by public authority but shall be deemed a conviction only for the purposes of transfer of supervision and custody pursuant to section two hundred fifty-nine-m of the executive law. A defendant for whom a youthful offender adjudication was substituted, who was originally charged with prostitution as defined in section 230.00 of the penal law, shall be deemed a "sexually exploited child" as defined in subdivision one of section four hundred forty-seven-a of the social services law and therefore shall not be considered an adult for purposes related to the charges in the youthful offender proceeding or a proceeding under section 170.80 of this chapter. 2. Except where specifically required or permitted by statute or upon specific authorization of the court, all official records and papers, whether on file with the court, a police agency or the division of criminal justice services, relating to a case involving a youth who has been adjudicated a youthful offender, are confidential and may not be made available to any person or public or private agency, other than the designated educational official of the public or private elementary or secondary school in which the youth is enrolled as a student provided that such local educational official shall only have made available a notice of such adjudication and shall not have access to any other official records and papers, such youth or such youth's designated agent (but only where the official records and papers sought are on file with a court and request therefor is made to that court or to a clerk thereof), an institution to which such youth has been committed, the department of corrections and community supervision and a probation department of this state that requires such official records and papers for the purpose of carrying out duties specifically authorized by law; provided, however, that information regarding an order of protection or temporary order of protection issued pursuant to section 530.12 of this chapter or a warrant issued in connection therewith may be maintained on the statewide automated order of protection and warrant registry established pursuant to section two hundred twenty-one-a of the executive law during the period that such order of protection or temporary order of protection is in full force and effect or during which such warrant may be executed. Such confidential information may be made available pursuant to law only for purposes of adjudicating or enforcing such order of protection or temporary order of protection and, where provided to a designated educational official, as defined in section 380.90 of this chapter, for purposes related to the execution of the student's educational plan, where applicable, successful school adjustment and reentry into the community. Such notification shall be kept separate and apart from such student's school records and shall be accessible only by the designated educational official. Such notification shall not be part of such student's permanent school record and shall not be appended to or included in any documentation regarding such student and shall be destroyed at such time as such student is no longer enrolled in the school district. At no time shall such notification be used for any purpose other than those specified in this subdivision. 3. If a youth who has been adjudicated a youthful offender is enrolled as a student in a public or private elementary or secondary school the court that has adjudicated the youth as a youthful offender shall provide notification of such adjudication to the designated educational official of the school in which such youth is enrolled as a student. Such notification shall be used by the designated educational official only for purposes related to the execution of the student's educational plan, where applicable, successful school adjustment and reentry into the community. Such notification shall be kept separate and apart from such student's school records and shall be accessible only by the designated educational official. Such notification shall not be part of such student's permanent school record and shall not be appended to or included in any documentation regarding such student and shall be destroyed at such time as such student is no longer enrolled in the school district. At no time shall such notification be used for any purpose other than those specified in this subdivision. 4. Notwithstanding subdivision two of this section, whenever a person is adjudicated a youthful offender and the conviction that was vacated and replaced by the youthful offender finding was for a sex offense as that term is defined in article ten of the mental hygiene law, all records pertaining to the youthful offender adjudication shall be included in those records and reports that may be obtained by the commissioner of mental health or the commissioner of developmental disabilities, as appropriate; the case review panel; and the attorney general pursuant to section 10.05 of the mental hygiene law.

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1. All juvenile offenders and adolescent offenders shall be notified of the availability of services through the local probation department. Such services shall include the ability of the probation department to conduct a risk and needs assessment, utilizing a validated risk assessment tool, in order to help determine suitable and individualized programming and referrals. Participation in such risk and needs assessment shall be voluntary and the adolescent offender or juvenile offender may be accompanied by counsel during any such assessment. Based upon the assessment findings, the probation department shall refer the adolescent offender or juvenile offender to available and appropriate services. 2. Nothing shall preclude the probation department and the adolescent offender or juvenile offender from entering into a voluntary service plan which may include alcohol, substance use and mental health treatment and services. To the extent practicable, such services shall continue through the pendency of the action and shall further continue where such action is removed in accordance with this article. 3. When preparing a pre-sentence investigation report

of any such adolescent offender or juvenile offender, the probation department shall incorporate a summary of any assessment findings, referrals and progress with respect to mitigating risk and addressing any identified needs. 4. The probation service shall not transmit or otherwise communicate to the district attorney or the youth part any statement made by the juvenile or adolescent offender to a probation officer. However, the probation service may make a recommendation regarding the completion of his or her case plan to the youth part and provide such information as it shall deem relevant. 5. No statement made to the probation service may be admitted into evidence at a fact-finding hearing at any time prior to a conviction.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 722 - Proceedings Against Juvenile Offenders and Adolescent Offenders; Establishment of Youth Part And Related Procedures722.10 - Youth Part of the Superior Court Established.

1. The chief administrator of the courts is hereby directed to establish, in a superior court in each county of the state, a part of the court to be known as the youth part of the superior court for the county in which such court presides. Judges presiding in the youth part shall be family court judges, as described in article six, section one of the constitution. To aid in their work, such judges shall receive training in specialized areas, including, but not limited to, juvenile justice, adolescent development, custody and care of youths and effective treatment methods for reducing unlawful conduct by youths, and shall be authorized to make appropriate determinations within the power of such superior court with respect to the cases of youths assigned to such part. The youth part shall have exclusive jurisdiction in all proceedings in relation to juvenile offenders and adolescent offenders, except as provided in this article or article seven hundred twenty-five of this chapter. 2. The chief administrator of the courts shall also direct the presiding justice of the appellate division, in each judicial department of the state, to designate judges authorized by law to exercise criminal jurisdiction to serve as accessible magistrates, for the purpose of acting in place of the youth part for certain first appearance proceedings involving youths, as provided by law. When designating such magistrates, the presiding justice shall ensure that all areas of a county are within a reasonable distance of a designated magistrate. A judge authorized to preside as such a magistrate shall have received training in specialized areas, including, but not limited to, juvenile justice, adolescent development, custody and care of youths and effective treatment methods for reducing unlawful conduct by youths.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 722 - Proceedings Against Juvenile Offenders and Adolescent Offenders; Establishment of Youth Part And Related Procedures722.20 - Proceedings Upon Felony Complaint; Juvenile Offender.

1. When a juvenile offender is arraigned before a youth part, the provisions of this section shall apply. If the youth part is not in session, the defendant shall be brought before the most accessible magistrate designated by the appellate division of the supreme court to act as a youth part for the purpose of making a determination whether such juvenile shall be detained or, with the consent of the district attorney, immediately removed to family court. If the defendant is ordered to be detained, he or she shall be brought before the next session of the youth part. If the defendant is not detained, he or she shall be ordered to appear at the next session of the youth part or the family court. 2. If the defendant waives a hearing upon the felony complaint, the court must order that the defendant be held for the action of the grand jury with respect to the charge or charges contained in the felony complaint. 3. If there be a hearing, then at the conclusion of the hearing, the youth part court must dispose of the felony complaint as follows:(a) If there is reasonable cause to believe that the defendant committed a crime for which a person under the age of sixteen is criminally responsible, the court must order that the defendant be held for the action of a grand jury; or(b) If there is not reasonable cause to believe that the defendant committed a crime for which a person under the age of sixteen is criminally responsible but there is reasonable cause to believe that the defendant is a "juvenile delinquent" as defined in subdivision one of section 301.2 of the family court act, the court must specify the act or acts it found reasonable cause to believe the defendant did and direct that the action be removed to the family court in accordance with the provisions of article seven hundred twenty-five of this title; or(c) If there is not reasonable cause to believe that the defendant committed any criminal act, the court must dismiss the felony complaint and discharge the defendant from custody if he is in custody, or if he is at liberty on bail, it must exonerate the bail.4. Notwithstanding the provisions of subdivisions two and three of this section, the court shall, at the request of the district attorney, order removal of an action against a juvenile offender to the family court pursuant to the provisions of article seven hundred twenty-five of this title if, upon consideration of the criteria specified in subdivision two of section 722.22 of this article, it is determined that to do so would be in the interests of justice. Where, however, the felony complaint charges the juvenile offender with murder in the second degree as defined in section 125.25 of the penal law, rape in the first degree as defined in paragraph (a) of subdivision one, paragraph (a) of subdivision two and paragraph (a) of subdivision three of section 130.35 of the penal law, rape in the first degree as formerly defined in subdivision one of section 130.35 of the penal law; a crime formerly defined in subdivision one of section 130.50 of the penal law, or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter, a determination that such action be removed to the family court shall, in addition, be based upon a finding of one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in proof of the crime.5. Notwithstanding the provisions of subdivision two, three, or four of this section, if a currently undetermined felony complaint against a juvenile offender is pending, and the defendant has not

waived a hearing pursuant to subdivision two of this section and a hearing pursuant to subdivision three of this section has not commenced, the defendant may move to remove the action to family court pursuant to 722.22 of this article. The procedural rules of subdivisions one and two of section 210.45 of this chapter are applicable to a motion pursuant to this subdivision. Upon such motion, the court shall proceed and determine the motion as provided in section 722.22 of this article; provided, however, that the exception provisions of paragraph (b) of subdivision one of section 722.22 of this article shall not apply when there is not reasonable cause to believe that the juvenile offender committed one or more of the crimes enumerated therein, and in such event the provisions of paragraph (a) thereof shall apply.6. (a) If the court orders removal of the action to family court, it shall state on the record the factor or factors upon which its determination is based, and the court shall give its reasons for removal in detail and not in conclusory terms.(b) The district attorney shall state upon the record the reasons for his consent to removal of the action to the family court where such consent is required. The reasons shall be stated in detail and not in conclusory terms.(c) For the purpose of making a determination pursuant to subdivision four or five of this section, the court may make such inquiry as it deems necessary. Any evidence which is not legally privileged may be introduced. If the defendant testifies, his testimony may not be introduced against him in any future proceeding, except to impeach his testimony at such future proceeding as inconsistent prior testimony.(d) Where a motion for removal by the defendant pursuant to subdivision five of this section has been denied, no further motion pursuant to this section or section 722.22 of this article may be made by the juvenile offender with respect to the same offense or offenses.(e) Except as provided by paragraph (f) of this subdivision, this section shall not be construed to limit the powers of the grand jury.(f) Where a motion by the defendant pursuant to subdivision five of this section has been granted, there shall be no further proceedings against the juvenile offender in any local or superior criminal court including the youth part of the superior court for the offense or offenses which were the subject of the removal order. (a) If there is reasonable cause to believe that the defendant committed a crime for which a person under the age of sixteen is criminally responsible, the court must order that the defendant be held for the action of a grand jury; or (b) If there is not reasonable cause to believe that the defendant committed a crime for which a person under the age of sixteen is criminally responsible but there is reasonable cause to believe that the defendant is a "juvenile delinquent" as defined in subdivision one of section 301.2 of the family court act, the court must specify the act or acts it found reasonable cause to believe the defendant did and direct that the action be removed to the family court in accordance with the provisions of article seven hundred twenty-five of this title; or (c) If there is not reasonable cause to believe that the defendant committed any criminal act, the court must dismiss the felony complaint and discharge the defendant from custody if he is in custody, or if he is at liberty on bail, it must exonerate the bail. 4. Notwithstanding the provisions of subdivisions two and three of this section, the court shall, at the request of the district attorney, order removal of an action against a juvenile offender to the family court pursuant to the provisions of article seven hundred twenty-five of this title if, upon consideration of the criteria specified in subdivision two of section 722.22 of this article, it is determined that to do so would be in the interests of justice. Where, however, the felony complaint charges the juvenile offender with murder in the second degree as defined in section 125.25 of the penal law, rape in the first degree as defined in paragraph (a) of subdivision one, paragraph (a) of subdivision two and paragraph (a) of subdivision three of section 130.35 of the penal law, rape in the first degree as formerly defined in subdivision one of section 130.35 of the penal law; a crime formerly defined in subdivision one of section 130.50 of the penal law, or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter, a determination that such action be removed to the family court shall, in addition, be based upon a finding of one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in proof of the crime. 5. Notwithstanding the provisions of subdivision two, three, or four of this section, if a currently undetermined felony complaint against a juvenile offender is pending, and the defendant has not waived a hearing pursuant to subdivision two of this section and a hearing pursuant to subdivision three of this section has not commenced, the defendant may move to remove the action to family court pursuant to 722.22 of this article. The procedural rules of subdivisions one and two of section 210.45 of this chapter are applicable to a motion pursuant to this subdivision. Upon such motion, the court shall proceed and determine the motion as provided in section 722.22 of this article; provided, however, that the exception provisions of paragraph (b) of subdivision one of section 722.22 of this article shall not apply when there is not reasonable cause to believe that the juvenile offender committed one or more of the crimes enumerated therein, and in such event the provisions of paragraph (a) thereof shall apply. 6. (a) If the court orders removal of the action to family court, it shall state on the record the factor or factors upon which its determination is based, and the court shall give its reasons for removal in detail and not in conclusory terms. (b) The district attorney shall state upon the record the reasons for his consent to removal of the action to the family court where such consent is required. The reasons shall be stated in detail and not in conclusory terms. (c) For the purpose of making a determination pursuant to subdivision four or five of this section, the court may make such inquiry as it deems necessary. Any evidence which is not legally privileged may be introduced. If the defendant testifies, his testimony may not be introduced against him in any future proceeding, except to impeach his testimony at such future proceeding as inconsistent prior testimony. (d) Where a motion for removal by the defendant pursuant to subdivision five of this section has been denied, no further motion pursuant to this section or section 722.22 of this article may be made by the juvenile offender with respect to the same offense or offenses. (e) Except as provided by paragraph (f) of this subdivision, this section shall not be construed to limit the powers of the grand jury. (f) Where a motion by the defendant pursuant to subdivision five of this section has been granted, there shall be no further proceedings against the juvenile offender in any local or superior criminal court including the youth part of the superior court for the offense or offenses which were the subject of the removal order.

Title: cpl

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 722 - Proceedings Against Juvenile Offenders and Adolescent Offenders; Establishment of Youth Part And Related Procedures722.21 - Proceedings Upon Felony Complaint; Adolescent Offender.

1. When an adolescent offender is arraigned before a youth part, the provisions of this section shall apply. If the youth part is not in session, the defendant shall be brought before the most accessible magistrate designated by the appellate division of the supreme court to act as a youth part for the purpose of making a determination whether such adolescent offender shall be detained or, with the consent of the district attorney, immediately removed to family court. If the defendant is ordered to be detained, he or she shall be brought before the next session of the youth part. If the defendant is not detained, he or she shall be ordered to appear at the next session of the youth part, family court or the local probation department. 2. If the defendant waives a hearing upon the felony complaint, the court must order that the defendant be held for the action of the grand jury with respect to the charge or charges contained in the felony complaint. 3. If there be a hearing, then at the conclusion of the hearing, the youth part court must dispose of the felony complaint as follows:(a) If there is reasonable cause to believe that the defendant committed a felony, the court must order that the defendant be held for the action of a grand jury; or(b) If there is not reasonable cause to believe that the defendant committed a felony but there is reasonable cause to believe that the defendant is a "juvenile delinquent" as defined in subdivision one of section 301.2 of the family court act, the court must specify the act or acts it found reasonable cause to believe the defendant did and direct that the action be transferred to the family court in accordance with the provisions of article seven hundred twenty-five of this title, provided, however, notwithstanding any other provision of law, section 308.1 of the family court act shall apply to actions transferred pursuant to this subdivision and such actions shall not be considered removals subject to subdivision thirteen of such section 308.1; or(c) If there is not reasonable cause to believe that the defendant committed any criminal act, the court must dismiss the felony complaint and discharge the defendant from custody if he is in custody, or if he is at liberty on bail, it must exonerate the bail.4. Notwithstanding the provisions of subdivisions two and three of this section, where the defendant is charged with a felony, other than a class A felony defined outside article two hundred twenty of the penal law, a violent felony defined in section 70.02 of the penal law or a felony listed in paragraph one or two of subdivision forty-two of section 1.20 of this chapter, except as provided in paragraph (c) of subdivision two of section 722.23 of this article, the court shall, upon notice from the district attorney that he or she will not file a motion to prevent removal pursuant to section 722.23 of this article, order transfer of an action against an adolescent offender to the family court pursuant to the provisions of article seven hundred twenty-five of this title, provided, however, notwithstanding any other provision of law, section 308.1 of the family court act shall apply to actions transferred pursuant to this subdivision and such actions shall not be considered removals subject to subdivision thirteen of such section 308.1.5. Notwithstanding subdivisions two and three of this section, at the request of the district attorney, the court shall order removal of an action against an adolescent offender charged with an offense listed in paragraph (a) of subdivision two of section 722.23 of this article, to the family court pursuant to the provisions of article seven hundred twenty-five of this title and upon consideration of the criteria specified in subdivision two of section 722.22 of this article, it is determined that to do so would be in the interests of justice. Where, however, the felony complaint charges the adolescent offender with murder in the second degree as defined in section 125.25 of the penal law, rape in the first degree as defined in paragraph (a) of subdivision one, paragraph (a) of subdivision two and paragraph (a) of subdivision three of section 130.35 of the penal law, rape in the first degree as formerly defined in subdivision one of section 130.35 of the penal law, a crime formerly defined in subdivision one of section 130.50 of the penal law, or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter, a determination that such action be removed to the family court shall, in addition, be based upon a finding of one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in proof of the crime.6. (a) If the court orders removal of the action to family court pursuant to subdivision five of this section, it shall state on the record the factor or factors upon which its determination is based, and the court shall give its reasons for removal in detail and not in conclusory terms.(b) The district attorney shall state upon the record the reasons for his consent to removal of the action to the family court where such consent is required. The reasons shall be stated in detail and not in conclusory terms.(c) For the purpose of making a determination pursuant to subdivision five the court may make such inquiry as it deems necessary. Any evidence which is not legally privileged may be introduced. If the defendant testifies, his testimony may not be introduced against him in any future proceeding, except to impeach his testimony at such future proceeding as inconsistent prior testimony.(d) Except as provided by paragraph (e), this section shall not be construed to limit the powers of the grand jury.(e) Where an action against a defendant has been removed to the family court pursuant to this section, there shall be no further proceedings against the adolescent offender in any local or superior criminal court including the youth part of the superior court for the offense or offenses which were the subject of the removal order. (a) If there is reasonable cause to believe that the defendant committed a felony, the court must order that the defendant be held for the action of a grand jury; or (b) If there is not reasonable cause to believe that the defendant committed a felony but there is reasonable cause to believe that the defendant is a "juvenile delinquent" as defined in subdivision one of section 301.2 of the family court act, the court must specify the act or acts it found reasonable cause to believe the defendant did and direct that the action be transferred to the family court in accordance with the provisions of article seven hundred twenty-five of this title, provided, however, notwithstanding any other provision of law,

section 308.1 of the family court act shall apply to actions transferred pursuant to this subdivision and such actions shall not be considered removals subject to subdivision thirteen of such section 308.1; or (c) If there is not reasonable cause to believe that the defendant committed any criminal act, the court must dismiss the felony complaint and discharge the defendant from custody if he is in custody, or if he is at liberty on bail, it must exonerate the bail. 4. Notwithstanding the provisions of subdivisions two and three of this section, where the defendant is charged with a felony, other than a class A felony defined outside article two hundred twenty of the penal law, a violent felony defined in section 70.02 of the penal law or a felony listed in paragraph one or two of subdivision forty-two of section 1.20 of this chapter, except as provided in paragraph (c) of subdivision two of section 722.23 of this article, the court shall, upon notice from the district attorney that he or she will not file a motion to prevent removal pursuant to section 722.23 of this article, order transfer of an action against an adolescent offender to the family court pursuant to the provisions of article seven hundred twenty-five of this title, provided, however, notwithstanding any other provision of law, section 308.1 of the family court act shall apply to actions transferred pursuant to this subdivision and such actions shall not be considered removals subject to subdivision thirteen of such section 308.1. 5. Notwithstanding subdivisions two and three of this section, at the request of the district attorney, the court shall order removal of an action against an adolescent offender charged with an offense listed in paragraph (a) of subdivision two of section 722.23 of this article, to the family court pursuant to the provisions of article seven hundred twenty-five of this title and upon consideration of the criteria specified in subdivision two of section 722.22 of this article, it is determined that to do so would be in the interests of justice. Where, however, the felony complaint charges the adolescent offender with murder in the second degree as defined in section 125.25 of the penal law, rape in the first degree as defined in paragraph (a) of subdivision one, paragraph (a) of subdivision two and paragraph (a) of subdivision three of section 130.35 of the penal law, rape in the first degree as formerly defined in subdivision one of section 130.35 of the penal law, a crime formerly defined in subdivision one of section 130.50 of the penal law, or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter, a determination that such action be removed to the family court shall, in addition, be based upon a finding of one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; or (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in proof of the crime. 6. (a) If the court orders removal of the action to family court pursuant to subdivision five of this section, it shall state on the record the factor or factors upon which its determination is based, and the court shall give its reasons for removal in detail and not in conclusory terms. (b) The district attorney shall state upon the record the reasons for his consent to removal of the action to the family court where such consent is required. The reasons shall be stated in detail and not in conclusory terms. (c) For the purpose of making a determination pursuant to subdivision five the court may make such inquiry as it deems necessary. Any evidence which is not legally privileged may be introduced. If the defendant testifies, his testimony may not be introduced against him in any future proceeding, except to impeach his testimony at such future proceeding as inconsistent prior testimony. (d) Except as provided by paragraph (e), this section shall not be construed to limit the powers of the grand jury. (e) Where an action against a defendant has been removed to the family court pursuant to this section, there shall be no further proceedings against the adolescent offender in any local or superior criminal court including the youth part of the superior court for the offense or offenses which were the subject of the removal order.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 722 - Proceedings Against Juvenile Offenders and Adolescent Offenders; Establishment of Youth Part And Related Procedures722.22 - Motion to Remove Juvenile Offender to Family Court.

1. After a motion by a juvenile offender, pursuant to subdivision five of section 722.20 of this article, or after arraignment of a juvenile offender upon an indictment, the court may, on motion of any party or on its own motion:(a) except as otherwise provided by paragraph (b) of this subdivision, order removal of the action to the family court pursuant to the provisions of article seven hundred twenty-five of this title, if, after consideration of the factors set forth in subdivision two of this section, the court determines that to do so would be in the interests of justice; or(b) with the consent of the district attorney, order removal of an action involving an indictment charging a juvenile offender with murder in the second degree as defined in section 125.25 of the penal law; rape in the first degree, as defined in paragraph (a) of subdivision one, paragraph (a) of subdivision two and paragraph (a) of subdivision three of section 130.35 of the penal law; rape in the first degree as formerly defined in subdivision one of section 130.35 of the penal law; a crime formerly defined in subdivision one of section 130.50 of the penal law; or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter, to the family court pursuant to the provisions of article seven hundred twenty-five of this title if the court finds one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in the proof of the crime, and, after consideration of the factors set forth in subdivision two of this section, the court determined that removal of the action to the family court would be in the interests of justice.2. In making its determination pursuant to subdivision one of this section the court shall, to the extent applicable, examine individually and collectively, the following:(a) the seriousness and circumstances of the offense;(b) the extent of harm caused by the offense;(c) the evidence of guilt, whether admissible or inadmissible at trial;(d) the history, character and condition of the defendant;(e) the purpose and effect of imposing upon the defendant a sentence authorized for the offense;(f) the impact of a removal of the case to the family court on the safety or welfare of the community;(g) the impact of a removal of the case to the family court upon the confidence of the public in the criminal justice

system;(h) where the court deems it appropriate, the attitude of the complainant or victim with respect to the motion; and(i) any other relevant fact indicating that a judgment of conviction in the criminal court would serve no useful purpose.3. The procedure for bringing on a motion pursuant to subdivision one of this section, shall accord with the procedure prescribed in subdivisions one and two of section 210.45 of this chapter. After all papers of both parties have been filed and after all documentary evidence, if any, has been submitted, the court must consider the same for the purpose of determining whether the motion is determinable on the motion papers submitted and, if not, may make such inquiry as it deems necessary for the purpose of making a determination.4. For the purpose of making a determination pursuant to this section, any evidence which is not legally privileged may be introduced. If the defendant testifies, his testimony may not be introduced against him in any future proceeding, except to impeach his testimony at such future proceeding as inconsistent prior testimony.5. a. If the court orders removal of the action to family court, it shall state on the record the factor or factors upon which its determination is based, and, the court shall give its reasons for removal in detail and not in conclusory terms.b. The district attorney shall state upon the record the reasons for his consent to removal of the action to the family court. The reasons shall be stated in detail and not in conclusory terms. (a) except as otherwise provided by paragraph (b) of this subdivision, order removal of the action to the family court pursuant to the provisions of article seven hundred twenty-five of this title, if, after consideration of the factors set forth in subdivision two of this section, the court determines that to do so would be in the interests of justice; or (b) with the consent of the district attorney, order removal of an action involving an indictment charging a juvenile offender with murder in the second degree as defined in section 125.25 of the penal law; rape in the first degree, as defined in paragraph (a) of subdivision one, paragraph (a) of subdivision two and paragraph (a) of subdivision three of section 130.35 of the penal law; rape in the first degree as formerly defined in subdivision one of section 130.35 of the penal law; a crime formerly defined in subdivision one of section 130.50 of the penal law; or an armed felony as defined in paragraph (a) of subdivision forty-one of section 1.20 of this chapter, to the family court pursuant to the provisions of article seven hundred twenty-five of this title if the court finds one or more of the following factors: (i) mitigating circumstances that bear directly upon the manner in which the crime was committed; (ii) where the defendant was not the sole participant in the crime, the defendant's participation was relatively minor although not so minor as to constitute a defense to the prosecution; or (iii) possible deficiencies in the proof of the crime, and, after consideration of the factors set forth in subdivision two of this section, the court determined that removal of the action to the family court would be in the interests of justice. 2. In making its determination pursuant to subdivision one of this section the court shall, to the extent applicable, examine individually and collectively, the following: (a) the seriousness and circumstances of the offense; (b) the extent of harm caused by the offense; (c) the evidence of guilt, whether admissible or inadmissible at trial; (d) the history, character and condition of the defendant; (e) the purpose and effect of imposing upon the defendant a sentence authorized for the offense; (f) the impact of a removal of the case to the family court on the safety or welfare of the community; (g) the impact of a removal of the case to the family court upon the confidence of the public in the criminal justice system; (h) where the court deems it appropriate, the attitude of the complainant or victim with respect to the motion; and (i) any other relevant fact indicating that a judgment of conviction in the criminal court would serve no useful purpose. 3. The procedure for bringing on a motion pursuant to subdivision one of this section, shall accord with the procedure prescribed in subdivisions one and two of section 210.45 of this chapter. After all papers of both parties have been filed and after all documentary evidence, if any, has been submitted, the court must consider the same for the purpose of determining whether the motion is determinable on the motion papers submitted and, if not, may make such inquiry as it deems necessary for the purpose of making a determination. 4. For the purpose of making a determination pursuant to this section, any evidence which is not legally privileged may be introduced. If the defendant testifies, his testimony may not be introduced against him in any future proceeding, except to impeach his testimony at such future proceeding as inconsistent prior testimony. 5. a. If the court orders removal of the action to family court, it shall state on the record the factor or factors upon which its determination is based, and, the court shall give its reasons for removal in detail and not in conclusory terms. b. The district attorney shall state upon the record the reasons for his consent to removal of the action to the family court. The reasons shall be stated in detail and not in conclusory terms.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 722 - Proceedings Against Juvenile Offenders and Adolescent Offenders; Establishment of Youth Part And Related Procedures722.23 - Removal of Adolescent Offenders to Family Court.

1. (a) Following the arraignment of a defendant charged with a crime committed when he or she was sixteen, or commencing October first, two thousand nineteen, seventeen years of age, other than any class A felony except for those defined in article two hundred twenty of the penal law, a violent felony defined in section 70.02 of the penal law or a felony listed in paragraph one or two of subdivision forty-two of section 1.20 of this chapter, or an offense set forth in the vehicle and traffic law, the court shall order the removal of the action to the family court in accordance with the applicable provisions of article seven hundred twenty-five of this title unless, within thirty calendar days of such arraignment, the district attorney makes a motion to prevent removal of the action pursuant to this subdivision. If the defendant fails to report to the probation department as directed, the thirty day time period shall be tolled until such time as he or she reports to the probation department.(b) A motion to prevent removal of an action in youth part shall be made in writing and upon prompt notice to the defendant. The motion shall contain allegations of sworn fact based upon personal knowledge of the affiant, and shall indicate if the district attorney is requesting a hearing. The motion shall be noticed to be heard promptly.(c) The defendant shall be given an opportunity to reply. The defendant shall be granted any reasonable request for a delay. Either party may request a hearing on the facts alleged in the motion to prevent removal of the action. The hearing shall be

held expeditiously.(d) The court shall deny the motion to prevent removal of the action in youth part unless the court makes a determination upon such motion by the district attorney that extraordinary circumstances exist that should prevent the transfer of the action to family court.(e) The court shall make a determination in writing or on the record within five days of the conclusion of the hearing or submission by the defense, whichever is later. Such determination shall include findings of fact and to the extent practicable conclusions of law.(f) For the purposes of this section, there shall be a presumption against custody and case planning services shall be made available to the defendant.(g) Notwithstanding any other provision of law, section 308.1 of the family court act shall apply to all actions transferred pursuant to this section provided, however, such cases shall not be considered removals subject to subdivision thirteen of such section 308.1.(h) Nothing in this subdivision shall preclude, and a court may order, the removal of an action to family court where all parties agree or pursuant to this chapter.2. (a) Upon the arraignment of a defendant charged with a crime committed when he or she was sixteen or, commencing October first, two thousand nineteen, seventeen years of age on a class A felony, other than those defined in article 220 of the penal law, or a violent felony defined in section 70.02 of the penal law, the court shall schedule an appearance no later than six calendar days from such arraignment for the purpose of reviewing the accusatory instrument pursuant to this subdivision. The court shall notify the district attorney and defendant regarding the purpose of such appearance.(b) Upon such appearance, the court shall review the accusatory instrument and any other relevant facts for the purpose of making a determination pursuant to paragraph (c) of this subdivision. Both parties may be heard and submit information relevant to the determination.(c) The court shall order the action to proceed in accordance with subdivision one of this section unless, after reviewing the papers and hearing from the parties, the court determines in writing that the district attorney proved by a preponderance of the evidence one or more of the following as set forth in the accusatory instrument:(i) the defendant caused significant physical injury to a person other than a participant in the offense; or(ii) the defendant displayed a firearm, shotgun, rifle or deadly weapon as defined in the penal law in furtherance of such offense; or(iii) the defendant unlawfully engaged in vaginal sexual contact, oral sexual contact, anal sexual contact, or sexual contact as defined in section 130.00 of the penal law.(d) Where the court makes a determination that the action shall not proceed in accordance with subdivision one of this section, such determination shall be made in writing or on the record and shall include findings of fact and to the extent practicable conclusions of law.(e) Nothing in this subdivision shall preclude, and the court may order, the removal of an action to family court where all parties agree or pursuant to this chapter.3. Notwithstanding the provisions of any other law, if at any time one or more charges in the accusatory instrument are reduced, such that the elements of the highest remaining charge would be removable pursuant to subdivisions one or two of this section, then the court, sua sponte or in response to a motion pursuant to subdivisions one or two of this section by the defendant, shall promptly notify the parties and direct that the matter proceed in accordance with subdivision one of this section, provided, however, that in such instance, the district attorney must file any motion to prevent removal within thirty days of effecting or receiving notice of such reduction.4. A defendant may waive review of the accusatory instrument by the court and the opportunity for removal in accordance with this section, provided that such waiver is made by the defendant knowingly, voluntarily and in open court, in the presence of and with the approval of his or her counsel and the court. An earlier waiver shall not constitute a waiver of review and the opportunity for removal under this section. (b) A motion to prevent removal of an action in youth part shall be made in writing and upon prompt notice to the defendant. The motion shall contain allegations of sworn fact based upon personal knowledge of the affiant, and shall indicate if the district attorney is requesting a hearing. The motion shall be noticed to be heard promptly. (c) The defendant shall be given an opportunity to reply. The defendant shall be granted any reasonable request for a delay. Either party may request a hearing on the facts alleged in the motion to prevent removal of the action. The hearing shall be held expeditiously. (d) The court shall deny the motion to prevent removal of the action in youth part unless the court makes a determination upon such motion by the district attorney that extraordinary circumstances exist that should prevent the transfer of the action to family court. (e) The court shall make a determination in writing or on the record within five days of the conclusion of the hearing or submission by the defense, whichever is later. Such determination shall include findings of fact and to the extent practicable conclusions of law. (f) For the purposes of this section, there shall be a presumption against custody and case planning services shall be made available to the defendant. (g) Notwithstanding any other provision of law, section 308.1 of the family court act shall apply to all actions transferred pursuant to this section provided, however, such cases shall not be considered removals subject to subdivision thirteen of such section 308.1. (h) Nothing in this subdivision shall preclude, and a court may order, the removal of an action to family court where all parties agree or pursuant to this chapter. 2. (a) Upon the arraignment of a defendant charged with a crime committed when he or she was sixteen or, commencing October first, two thousand nineteen, seventeen years of age on a class A felony, other than those defined in article 220 of the penal law, or a violent felony defined in section 70.02 of the penal law, the court shall schedule an appearance no later than six calendar days from such arraignment for the purpose of reviewing the accusatory instrument pursuant to this subdivision. The court shall notify the district attorney and defendant regarding the purpose of such appearance. (b) Upon such appearance, the court shall review the accusatory instrument and any other relevant facts for the purpose of making a determination pursuant to paragraph (c) of this subdivision. Both parties may be heard and submit information relevant to the determination. (c) The court shall order the action to proceed in accordance with subdivision one of this section unless, after reviewing the papers and hearing from the parties, the court determines in writing that the district attorney proved by a preponderance of the evidence one or more of the following as set forth in the accusatory instrument: (i) the defendant caused significant physical injury to a person other than a participant in the offense; or (ii) the defendant displayed a firearm, shotgun, rifle or deadly weapon as defined in the penal law in furtherance of such offense; or (iii) the defendant unlawfully engaged in vaginal sexual contact, oral sexual contact, anal sexual contact, or sexual contact as defined in section 130.00 of the penal law. (d) Where the court makes a determination that the action shall not proceed in accordance with

subdivision one of this section, such determination shall be made in writing or on the record and shall include findings of fact and to the extent practicable conclusions of law. (e) Nothing in this subdivision shall preclude, and the court may order, the removal of an action to family court where all parties agree or pursuant to this chapter. 3. Notwithstanding the provisions of any other law, if at any time one or more charges in the accusatory instrument are reduced, such that the elements of the highest remaining charge would be removable pursuant to subdivisions one or two of this section, then the court, sua sponte or in response to a motion pursuant to subdivisions one or two of this section by the defendant, shall promptly notify the parties and direct that the matter proceed in accordance with subdivision one of this section, provided, however, that in such instance, the district attorney must file any motion to prevent removal within thirty days of effecting or receiving notice of such reduction. 4. A defendant may waive review of the accusatory instrument by the court and the opportunity for removal in accordance with this section, provided that such waiver is made by the defendant knowingly, voluntarily and in open court, in the presence of and with the approval of his or her counsel and the court. An earlier waiver shall not constitute a waiver of review and the opportunity for removal under this section.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 722 - Proceedings Against Juvenile Offenders and Adolescent Offenders; Establishment of Youth Part And Related Procedures722.24 - Applicability of Chapter to Actions and Matters Involving Juvenile Offenders or Adolescent Offenders.

juvenile offenders or adolescent offenders. Except where inconsistent with this article, all provisions of this chapter shall apply to all criminal actions and proceedings, and all appeals and post-judgment motions relating or attached thereto, involving a juvenile offender or adolescent offender.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 725 - Removal of Proceeding Against Juvenile Offender to Family Court725.00 - Applicability.

The provisions of this article apply in any case where a court directs that an action or charge is to be removed to the family court under section 180.75, 190.71, 210.43, 220.10, 310.85 or 330.25 of this chapter.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 725 - Removal of Proceeding Against Juvenile Offender to Family Court725.05 - Order of Removal.

When a youth part directs that an action or charge is to be removed to the family court the youth part must issue an order of removal in accordance with this section. Such order must be as follows: 1. It must provide that the action or charge is to be removed to the family court of the county in which such action or charge was pending, and it must specify the section pursuant to which the removal is authorized. 2. Where the direction is authorized pursuant to paragraph (b) of subdivision three of sections 722.20 or 722.21 of this title, it must specify the act or acts it found reasonable cause to believe the defendant did. 3. Where the direction is authorized pursuant to subdivision four of section 722.20 or section 722.21 of this title, it must specify the act or acts it found reasonable cause to allege. 4. Where the direction is authorized pursuant to section 190.71 of this chapter, the court shall annex to the order as part thereof a certified copy of the grand jury request. 4-a. Where the direction is authorized pursuant to subdivision seven of section 210.30 of this chapter, it must specify the act or acts for which there was sufficient evidence to believe that defendant did. 5. Where the direction is authorized pursuant to section 220.10, 310.85 or 330.25 of this chapter, it must specify the act or acts for which a plea or verdict of guilty was rendered or accepted and entered. 6. Where a securing order has not been made, the order of removal must provide that the police officer or peace officer who made the arrest or some other proper officer forthwith and with all reasonable speed take the juvenile to the designated family court or, where that cannot be done, it must provide for release or detention in the same manner as provided for a family court proceeding pursuant to section 320.5 of the family court act. 7. Whether or not a securing order has been made, the order of removal must specify a date certain within ten days from the date of the order of removal for the defendant's appearance in the family court and where the defendant is in detention or in the custody of the sheriff that date must be not later than the next day the family court is in session. Unless the defendant is in detention or is in the custody of the sheriff or unless the order of removal specifies a juvenile or adolescent offense for which the defendant is not eligible for consideration for adjustment under subdivision thirteen or fourteen of section 308.1 of the family court act, the order of removal shall direct the defendant to appear at the family court intake office of the county department of probation for adjustment consideration; provided, however, that pursuant to subdivision three of section 308.1 of the family court act, the fact that the defendant is in detention or is in the custody of the sheriff shall not preclude the probation service from adjusting the case if the defendant is otherwise eligible for adjustment. 8. The order of removal must direct that all of the pleadings and proceedings in the action, or a certified copy of same be transferred to the designated family court and be delivered to and filed with the clerk of that court. For the purposes of this subdivision the term "pleadings and proceedings" includes the minutes of any hearing inquiry or trial held in the action, the minutes of any grand jury proceeding and the minutes of any plea accepted and entered. 9. The order of removal must be signed by a judge or justice of the court that directed the removal.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 725 - Removal of Proceeding Against Juvenile

Offender to Family Court725.10 - Removal of Action.

1. Unless the defendant is an adolescent offender who has been directed to appear at the family court intake office of the county department of probation for adjustment consideration in accordance with subdivision seven of section 725.05 of this article, when an order of removal is filed with the family court, a proceeding pursuant to article three of the family court act must be originated. The family court thereupon must assume jurisdiction and proceed to render such judgment as the circumstances require, in the manner and to the extent provided by law. 2. Upon the filing of an order of removal in a criminal court the criminal action upon which the order is based shall be terminated, and there shall be no further criminal proceedings in any criminal court as defined in section 10.10 of this chapter with respect to the offense or offenses charged in the accusatory instrument which was the subject of removal. All further proceedings including motions and appeals shall be in accordance with laws appertaining to the family court and for this purpose all findings, determinations, verdicts and orders other than the order of removal, shall be deemed to have been made by the family court.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 725 - Removal of Proceeding Against Juvenile Offender to Family Court725.15 - Sealing of Records.

Except where specifically required or permitted by statute or upon specific authorization of the court that directed removal of an action to the family court all official records and papers of the action up to and including the order of removal, whether on file with the court, a police agency or the division of criminal justice services, are confidential and must not be made available to any person or public or private agency, provided however that availability of copies of any such records and papers on file with the family court shall be governed by provisions that apply to family court records, and further provided that all official records and papers of the action shall be included in those records and reports that may be obtained upon request by the commissioner of mental health or commissioner of the office for people with developmental disabilities, as appropriate; the case review panel; and the attorney general pursuant to section 10.05 of the mental hygiene law.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 725 - Removal of Proceeding Against Juvenile Offender to Family Court725.20 - Record of Certain Actions Removed.

1. The provisions of this section shall apply in any case where an order of removal to the family court is entered pursuant to a direction authorized by article 722 of this title, or subparagraph (iii) of paragraph (g) of subdivision five of section 220.10 of this chapter, or section 330.25 of this chapter. 2. When such an action is removed the court that directed the removal must cause the following additional records to be filed with the clerk of the county court or in the city of New York with the clerk of the supreme court of the county wherein the action was pending and with the division of criminal justice services:(a) A certified copy of the order of removal;(b) Where the direction is one authorized by subparagraph (iii) of paragraph (g) of subdivision five of section 220.10 or section 330.25 of this chapter, a copy of the minutes of the plea of guilty, including the minutes of the memorandum submitted by the district attorney and the court; and(c) In addition to the records specified in this subdivision, such further statement or submission of additional information pertaining to the proceeding in criminal court in accordance with standards established by the commissioner of the division of criminal justice services, subject to the provisions of subdivision three of this section.3. It shall be the duty of said clerk to maintain a separate file for copies of orders and minutes filed pursuant to this section. Upon receipt of such orders and minutes the clerk must promptly delete such portions as would identify the defendant, but the clerk shall nevertheless maintain a separate confidential system to enable correlation of the documents so filed with identification of the defendant. After making such deletions the orders and minutes shall be placed within the file and must be available for public inspection. Information permitting correlation of any such record with the identity of any defendant shall not be divulged to any person except upon order of a justice of the supreme court based upon a finding that the public interest or the interests of justice warrant disclosure in a particular cause for a particular case or for a particular purpose or use. (a) A certified copy of the order of removal; (b) Where the direction is one authorized by subparagraph (iii) of paragraph (g) of subdivision five of section 220.10 or section 330.25 of this chapter, a copy of the minutes of the plea of guilty, including the minutes of the memorandum submitted by the district attorney and the court; and (c) In addition to the records specified in this subdivision, such further statement or submission of additional information pertaining to the proceeding in criminal court in accordance with standards established by the commissioner of the division of criminal justice services, subject to the provisions of subdivision three of this section. 3. It shall be the duty of said clerk to maintain a separate file for copies of orders and minutes filed pursuant to this section. Upon receipt of such orders and minutes the clerk must promptly delete such portions as would identify the defendant, but the clerk shall nevertheless maintain a separate confidential system to enable correlation of the documents so filed with identification of the defendant. After making such deletions the orders and minutes shall be placed within the file and must be available for public inspection. Information permitting correlation of any such record with the identity of any defendant shall not be divulged to any person except upon order of a justice of the supreme court based upon a finding that the public interest or the interests of justice warrant disclosure in a particular cause for a particular case or for a particular purpose or use.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 730 - Mental Disease or Defect Excluding Fitness to

Proceed730.10 - Fitness to Proceed; Definitions.

As used in this article, the following terms have the following meanings: 1. "Incapacitated person" means a defendant who as a result of mental disease or defect lacks capacity to understand the proceedings against him or to assist in his own defense. 2. "Order of examination" means an order issued to an appropriate director by a criminal court wherein a criminal action is pending against a defendant or by a court evaluating the capacity of an alleged violator in a parole revocation proceeding pursuant to subparagraph (xii) of paragraph (f) of subdivision three of section two hundred fifty-nine-i of the executive law, or by a family court pursuant to section 322.1 of the family court act wherein a juvenile delinquency proceeding is pending against a juvenile, directing that such person be examined for the purpose of determining if he is an incapacitated person. 3. "Commissioner" means the state commissioner of mental health or the state commissioner of the office for people with developmental disabilities. 4. "Director" means (a) the director of a state hospital operated by the office of mental health or the director of a developmental center operated by the office for people with developmental disabilities, or (b) the director of a hospital operated by any local government of the state that has been certified by the commissioner as having adequate facilities to examine a defendant to determine if he is an incapacitated person, or (c) the director of community mental health services. 5. "Qualified psychiatrist" means a physician who:(a) is a diplomate of the American board of psychiatry and neurology or is eligible to be certified by that board; or,(b) is certified by the American osteopathic board of neurology and psychiatry or is eligible to be certified by that board.6. "Certified psychologist" means a person who is registered as a certified psychologist under article one hundred fifty-three of the education law.7. "Psychiatric examiner" means a qualified psychiatrist or a certified psychologist who has been designated by a director to examine a defendant pursuant to an order of examination.8. "Examination report" means a report made by a psychiatric examiner wherein he sets forth his opinion as to whether the defendant is or is not an incapacitated person, the nature and extent of his examination and, if he finds that the defendant is an incapacitated person, his diagnosis and prognosis and a detailed statement of the reasons for his opinion by making particular reference to those aspects of the proceedings wherein the defendant lacks capacity to understand or to assist in his own defense. The state administrator and the commissioner must jointly adopt the form of the examination report; and the state administrator shall prescribe the number of copies thereof that must be submitted to the court by the director.9. "Appropriate institution" means: (a) a hospital operated by the office of mental health or a developmental center operated by the office for people with developmental disabilities; or (b) a hospital licensed by the department of health which operates a psychiatric unit licensed by the office of mental health, as determined by the commissioner provided, however, that any such hospital that is not operated by the state shall qualify as an "appropriate institution" only pursuant to the terms of an agreement between the commissioner and the hospital. Nothing in this article shall be construed as requiring a hospital to consent to providing care and treatment to an incapacitated person at such hospital. (a) is a diplomate of the American board of psychiatry and neurology or is eligible to be certified by that board; or, (b) is certified by the American osteopathic board of neurology and psychiatry or is eligible to be certified by that board. 6. "Certified psychologist" means a person who is registered as a certified psychologist under article one hundred fifty-three of the education law. 7. "Psychiatric examiner" means a qualified psychiatrist or a certified psychologist who has been designated by a director to examine a defendant pursuant to an order of examination. 8. "Examination report" means a report made by a psychiatric examiner wherein he sets forth his opinion as to whether the defendant is or is not an incapacitated person, the nature and extent of his examination and, if he finds that the defendant is an incapacitated person, his diagnosis and prognosis and a detailed statement of the reasons for his opinion by making particular reference to those aspects of the proceedings wherein the defendant lacks capacity to understand or to assist in his own defense. The state administrator and the commissioner must jointly adopt the form of the examination report; and the state administrator shall prescribe the number of copies thereof that must be submitted to the court by the director. 9. "Appropriate institution" means: (a) a hospital operated by the office of mental health or a developmental center operated by the office for people with developmental disabilities; or (b) a hospital licensed by the department of health which operates a psychiatric unit licensed by the office of mental health, as determined by the commissioner provided, however, that any such hospital that is not operated by the state shall qualify as an "appropriate institution" only pursuant to the terms of an agreement between the commissioner and the hospital. Nothing in this article shall be construed as requiring a hospital to consent to providing care and treatment to an incapacitated person at such hospital.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 730 - Mental Disease or Defect Excluding Fitness to Proceed730.20 - Fitness to Proceed; Generally.

1. The appropriate director to whom a criminal court issues an order of examination must be determined in accordance with rules jointly adopted by the judicial conference and the commissioner. Upon receipt of an examination order, the director must designate two qualified psychiatric examiners, of whom he may be one, to examine the defendant to determine if he is an incapacitated person. In conducting their examination, the psychiatric examiners may employ any method which is accepted by the medical profession for the examination of persons alleged to be mentally ill or mentally defective. The court may authorize a psychiatrist or psychologist retained by the defendant to be present at such examination. 2. When the defendant is not in custody at the time a court issues an order of examination, because he was theretofore released on bail or on his own recognizance, the court may direct that the examination be conducted on an out-patient basis, and at such time and place as the director shall designate. If, however, the director informs the court that hospital confinement of the defendant is necessary for an effective examination, the court may direct that the defendant be confined in a hospital designated by the director until the examination is completed. 3. When the defendant is in

custody at the time a court issues an order of examination, the examination must be conducted at the place where the defendant is being held in custody. If, however, the director determines that hospital confinement of the defendant is necessary for an effective examination, the sheriff must deliver the defendant to a hospital designated by the director and hold him in custody therein, under sufficient guard, until the examination is completed. 4. Hospital confinement under subdivisions two and three shall be for a period not exceeding thirty days, except that, upon application of the director, the court may authorize confinement for an additional period not exceeding thirty days if it is satisfied that a longer period is necessary to complete the examination. During the period of hospital confinement, the physician in charge of the hospital may administer or cause to be administered to the defendant such emergency psychiatric, medical or other therapeutic treatment as in his judgment should be administered. 5. Each psychiatric examiner, after he has completed his examination of the defendant, must promptly prepare an examination report and submit it to the director. If the psychiatric examiners are not unanimous in their opinion as to whether the defendant is or is not an incapacitated person, the director must designate another qualified psychiatric examiner to examine the defendant to determine if he is an incapacitated person. Upon receipt of the examination reports, the director must submit them to the court that issued the order of examination. The court must furnish a copy of the reports to counsel for the defendant and to the district attorney. 6. When a defendant is subjected to examination pursuant to an order issued by a criminal court in accordance with this article, any statement made by him for the purpose of the examination or treatment shall be inadmissible in evidence against him in any criminal action on any issue other than that of his mental condition, but such statement is admissible upon that issue whether or not it would otherwise be deemed a privileged communication. 7. A psychiatric examiner is entitled to his reasonable traveling expenses, a fee of fifty dollars for each examination of a defendant and a fee of fifty dollars for each appearance at a court hearing or trial but not exceeding two hundred dollars in fees for examination and testimony in any one case; except that if such psychiatric examiner be an employee of the state of New York he shall be entitled only to reasonable traveling expenses, unless such psychiatric examiner makes the examination or appears at a court hearing or trial outside his hours of state employment in a county in which the director of community mental health services certifies to the fiscal officer thereof that there is a shortage of qualified psychiatrists available to conduct examinations under the criminal procedure law in such county, in which event he shall be entitled to the foregoing fees and reasonable traveling expenses. Such fees and traveling expenses and the costs of sending a defendant to another place of detention or to a hospital for examination, of his maintenance therein and of returning him shall, when approved by the court, be a charge of the county in which the defendant is being tried.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 730 - Mental Disease or Defect Excluding Fitness to Proceed730.30 - Fitness to Proceed; Order of Examination.

1. At any time after a defendant is arraigned upon an accusatory instrument other than a felony complaint and before the imposition of sentence, or at any time after a defendant is arraigned upon a felony complaint and before he is held for the action of the grand jury, the court wherein the criminal action is pending must issue an order of examination when it is of the opinion that the defendant may be an incapacitated person. 2. When the examination reports submitted to the court show that each psychiatric examiner is of the opinion that the defendant is not an incapacitated person, the court may, on its own motion, conduct a hearing to determine the issue of capacity, and it must conduct a hearing upon motion therefor by the defendant or by the district attorney. If no motion for a hearing is made, the criminal action against the defendant must proceed. If, following a hearing, the court is satisfied that the defendant is not an incapacitated person, the criminal action against him must proceed; if the court is not so satisfied, it must issue a further order of examination directing that the defendant be examined by different psychiatric examiners designated by the director. 3. When the examination reports submitted to the court show that each psychiatric examiner is of the opinion that the defendant is an incapacitated person, the court may, on its own motion, conduct a hearing to determine the issue of capacity and it must conduct such hearing upon motion therefor by the defendant or by the district attorney. 4. When the examination reports submitted to the court show that the psychiatric examiners are not unanimous in their opinion as to whether the defendant is or is not an incapacitated person, or when the examination reports submitted to the superior court show that the psychiatric examiners are not unanimous in their opinion as to whether the defendant is or is not a dangerous incapacitated person, the court must conduct a hearing to determine the issue of capacity or dangerousness.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 730 - Mental Disease or Defect Excluding Fitness to Proceed730.40 - Fitness to Proceed; Local Criminal Court Accusatory Instrument.

1. When a local criminal court, following a hearing conducted pursuant to subdivision three or four of section 730.30 of this article, is satisfied that the defendant is not an incapacitated person, the criminal action against him or her must proceed. If it is satisfied that the defendant is an incapacitated person, or if no motion for such a hearing is made, such court must issue a final or temporary order of observation committing him or her to the custody of the commissioner for care and treatment in an appropriate institution for a period not to exceed ninety days from the date of the order, provided, however, that the commissioner may designate an appropriate hospital for placement of a defendant for whom a final order of observation has been issued, where such hospital is licensed by the office of mental health and has agreed to accept, upon referral by the commissioner, defendants subject to final orders of observation issued under this subdivision. When a local criminal court accusatory instrument other than a felony complaint has been filed against the defendant, such court must issue a final order of observation. When a felony complaint has been filed against the

defendant, such court must issue a temporary order of observation committing him or her to the custody of the commissioner for care and treatment in an appropriate institution or, upon the consent of the district attorney, committing him or her to the custody of the commissioner for care and treatment on an out-patient basis, for a period not to exceed ninety days from the date of such order, except that, with the consent of the district attorney, it may issue a final order of observation. Upon the issuance of a final order of observation, the district attorney shall immediately transmit to the commissioner, in a manner intended to protect the confidentiality of the information, a list of names and contact information of persons who may reasonably be expected to be the victim of any assault or any violent felony offense, as defined in the penal law, or any offense listed in section 530.11 of this chapter which would be carried out by the committed person; provided that the person who reasonably may be expected to be a victim does not need to be a member of the same family or household as the committed person. 2. When a local criminal court has issued a final order of observation, it must dismiss the accusatory instrument filed in such court against the defendant and such dismissal constitutes a bar to any further prosecution of the charge or charges contained in such accusatory instrument. When the defendant is in the custody of the commissioner pursuant to a final order of observation, the commissioner or his or her designee, which may include the director of an appropriate institution, immediately upon the discharge of the defendant, must certify to such court that he or she has complied with the notice provisions set forth in paragraph (a) of subdivision six of section 730.60 of this article. When the defendant is in the custody of the commissioner at the expiration of the period prescribed in a temporary order of observation, the proceedings in the local criminal court that issued such order shall terminate for all purposes and the commissioner must promptly certify to such court and to the appropriate district attorney that the defendant was in his or her custody on such expiration date. Upon receipt of such certification, the court must dismiss the felony complaint filed against the defendant. 3. When a local criminal court has issued an order of examination or a temporary order of observation, and when the charge or charges contained in the accusatory instrument are subsequently presented to a grand jury, such grand jury need not hear the defendant pursuant to section 190.50 unless, upon application by defendant to the superior court that impaneled such grand jury, the superior court determines that the defendant is not an incapacitated person. 4. When an indictment is filed against a defendant after a local criminal court has issued an order of examination and before it has issued a final or temporary order of observation, the defendant must be promptly arraigned upon the indictment, and the proceedings in the local criminal court shall thereupon terminate for all purposes. The district attorney must notify the local criminal court of such arraignment, and such court must thereupon dismiss the accusatory instrument filed in such court against the defendant. If the director has submitted the examination reports to the local criminal court, such court must forward them to the superior court in which the indictment was filed. If the director has not submitted such reports to the local criminal court, he must submit them to the superior court in which the indictment was filed. 5. When an indictment is timely filed against the defendant after the issuance of a temporary order of observation or after the expiration of the period prescribed in such order, the superior court in which such indictment is filed must direct the sheriff to take custody of the defendant at the institution in which he is confined and bring him before the court for arraignment upon the indictment. After the defendant is arraigned upon the indictment, such temporary order of observation or any order issued pursuant to the mental hygiene law after the expiration of the period prescribed in the temporary order of observation shall be deemed nullified. Notwithstanding any other provision of law, an indictment filed in a superior court against a defendant for a crime charged in the felony complaint is not timely for the purpose of this subdivision if it is filed more than six months after the expiration of the period prescribed in a temporary order of observation issued by a local criminal court wherein such felony complaint was pending. An untimely indictment must be dismissed by the superior court unless such court is satisfied that there was good cause for the delay in filing such indictment.

2024 New York LawsCPL - Criminal ProcedurePart 3 - Special Proceedings and Miscellaneous ProceduresTitle U - Special Proceedings Which Replace,suspend or Abate Criminal ActionsArticle 730 - Mental Disease or Defect Excluding Fitness to Proceed730.50 - Fitness to Proceed; Indictment.

1. When a superior court, following a hearing conducted pursuant to subdivision three or four of section 730.30 of this article, is satisfied that the defendant is not an incapacitated person, the criminal action against him or her must proceed. If it is satisfied that the defendant is an incapacitated person, or if no motion for such a hearing is made, it must adjudicate him or her an incapacitated person, and must issue a final order of observation or an order of commitment. When the indictment does not charge a felony or when the defendant has been convicted of an offense other than a felony, such court (a) must issue a final order of observation committing the defendant to the custody of the commissioner for care and treatment in an appropriate institution for a period not to exceed ninety days from the date of such order, provided, however, that the commissioner may designate an appropriate hospital for placement of a defendant for whom a final order of observation has been issued, where such hospital is licensed by the office of mental health and has agreed to accept, upon referral by the commissioner, defendants subject to final orders of observation issued under this subdivision, and (b) must dismiss the indictment filed in such court against the defendant, and such dismissal constitutes a bar to any further prosecution of the charge or charges contained in such indictment. Upon the issuance of a final order of observation, the district attorney shall immediately transmit to the commissioner, in a manner intended to protect the confidentiality of the information, a list of names and contact information of persons who may reasonably be expected to be the victim of any assault or any violent felony offense, as defined in the penal law, or any offense listed in section 530.11 of this chapter which would be carried out by the committed person; provided that the person who reasonably may be expected to be a victim does not need to be a member of the same family or household as the committed person. When the indictment charges a felony or when the defendant has been convicted of a felony, it must issue an order of commitment committing the defendant to the custody of the commissioner for care and treatment in an appropriate institution or, upon the consent of the district attorney, committing him or her to the custody

of the commissioner for care and treatment on an out-patient basis, for a period not to exceed one year from the date of such order. Upon the issuance of an order of commitment, the court must exonerate the defendant's bail if he or she was previously at liberty on bail; provided, however, that exoneration of bail is not required when a defendant is committed to the custody of the commissioner for care and treatment on an out-patient basis. When the defendant is in the custody of the commissioner pursuant to a final order of observation, the commissioner or his or her designee, which may include the director of an appropriate institution, immediately upon the discharge of the defendant, must certify to such court that he or she has complied with the notice provisions set forth in paragraph (a) of subdivision six of section 730.60 of this article. 2. When a defendant is in the custody of the commissioner immediately prior to the expiration of the period prescribed in a temporary order of commitment and the superintendent of the institution wherein the defendant is confined is of the opinion that the defendant continues to be an incapacitated person, such superintendent must apply to the court that issued such order for an order of retention. Such application must be made within sixty days prior to the expiration of such period on forms that have been jointly adopted by the judicial conference and the commissioner. The superintendent must give written notice of the application to the defendant and to the mental hygiene legal service. Upon receipt of such application, the court may, on its own motion, conduct a hearing to determine the issue of capacity, and it must conduct such hearing if a demand therefor is made by the defendant or the mental hygiene legal service within ten days from the date that notice of the application was given them. If, at the conclusion of a hearing conducted pursuant to this subdivision, the court is satisfied that the defendant is no longer an incapacitated person, the criminal action against him must proceed. If it is satisfied that the defendant continues to be an incapacitated person, or if no demand for a hearing is made, the court must adjudicate him an incapacitated person and must issue an order of retention which shall authorize continued custody of the defendant by the commissioner for a period not to exceed one year. 3. When a defendant is in the custody of the commissioner immediately prior to the expiration of the period prescribed in the first order of retention, the procedure set forth in subdivision two shall govern the application for and the issuance of any subsequent order of retention, except that any subsequent orders of retention must be for periods not to exceed two years each; provided, however, that the aggregate of the periods prescribed in the temporary order of commitment, the first order of retention and all subsequent orders of retention must not exceed two-thirds of the authorized maximum term of imprisonment for the highest class felony charged in the indictment or for the highest class felony of which he was convicted. 4. When a defendant is in the custody of the commissioner at the expiration of the authorized period prescribed in the last order of retention, the criminal action pending against him in the superior court that issued such order shall terminate for all purposes, and the commissioner must promptly certify to such court and to the appropriate district attorney that the defendant was in his custody on such expiration date. Upon receipt of such certification, the court must dismiss the indictment, and such dismissal constitutes a bar to any further prosecution of the charge or charges contained in such indictment. 5. When, on the effective date of this subdivision, any defendant remains in the custody of the commissioner pursuant to an order issued under former code of criminal procedure section six hundred sixty-two-b, the superintendent or director of the institution where such defendant is confined shall, if he believes that the defendant continues to be an incapacitated person, apply forthwith to a court of record in the county where the institution is located for an order of retention. The procedures for obtaining any order pursuant to this subdivision shall be in accordance with the provisions of subdivisions two, three and four of this section, except that the period of retention pursuant to the first order obtained under this subdivision shall be for not more than one year and any subsequent orders of retention must be for periods not to exceed two years each; provided, however, that the aggregate of the time spent in the custody of the commissioner pursuant to any order issued in accordance with the provisions of former code of criminal procedure section six hundred sixty-two-b and the periods prescribed by the first order obtained under this subdivision and all subsequent orders of retention must not exceed two-thirds of the authorized maximum term of imprisonment for the highest class felony charged in the indictment or the highest class felony of which he was convicted.

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commissioner. 1. When a local criminal court issues a final or temporary order of observation or an order of commitment, it must forward such order and a copy of the examination reports and the accusatory instrument to the commissioner, and, if available, a copy of the pre-sentence report. Upon receipt thereof, the commissioner must designate an appropriate institution operated by the department of mental hygiene in which the defendant is to be placed, provided, however, that the commissioner may designate an appropriate hospital for placement of a defendant for whom a final order of observation has been issued, where such hospital is licensed by the office of mental health and has agreed to accept, upon referral by the commissioner, defendants subject to final orders of observation issued under this subdivision. The sheriff must hold the defendant in custody pending such designation by the commissioner, and when notified of the designation, the sheriff must deliver the defendant to the superintendent of such institution. The superintendent must promptly inform the appropriate director of the mental hygiene legal service of the defendant's admission to such institution. If a defendant escapes from the custody of the commissioner, the escape shall interrupt the period prescribed in any order of observation, commitment or retention, and such interruption shall continue until the defendant is returned to the custody of the commissioner. 2. Except as otherwise provided in subdivisions four and five, when a defendant is in the custody of the commissioner pursuant to a temporary order of observation or an order of commitment or an order of retention, the criminal action pending against the defendant in the court that issued such order is suspended until the superintendent of the institution in which the defendant is confined determines that he is no longer an incapacitated person. In that event, the court that issued such order and the

appropriate district attorney must be notified, in writing, by the superintendent of his determination. The court must thereupon proceed in accordance with the provisions of subdivision two of section 730.30 of this chapter; provided, however, if the court is satisfied that the defendant remains an incapacitated person, and upon consent of all parties, the court may order the return of the defendant to the institution in which he had been confined for such period of time as was authorized by the prior order of commitment or order of retention. Upon such return, the defendant shall have all rights and privileges accorded by the provisions of this article. 3. When a defendant is in the custody of the commissioner pursuant to an order issued in accordance with this article, the commissioner may transfer him to any appropriate institution operated by the department of mental hygiene, provided, however, that the commissioner may designate an appropriate hospital for placement of a defendant for whom a final order of observation has been issued, where such hospital is licensed by the office of mental health and has agreed to accept, upon referral by the commissioner, defendants subject to final orders of observation issued under this section. The commissioner may discharge a defendant in his custody under a final order of observation at any time prior to the expiration date of such order, or otherwise treat or transfer such defendant in the same manner as if he were a patient not in confinement under a criminal court order. 4. When a defendant is in the custody of the commissioner pursuant to an order of commitment or an order of retention, he may make any motion authorized by this chapter which is susceptible of fair determination without his personal participation. If the court denies any such motion it must be without prejudice to a renewal thereof after the criminal action against the defendant has been ordered to proceed. If the court enters an order dismissing the indictment and does not direct that the charge or charges be resubmitted to a grand jury, the court must direct that such order of dismissal be served upon the commissioner. 5. When a defendant is in the custody of the commissioner pursuant to an order of commitment or an order of retention, the superior court that issued such order may, upon motion of the defendant, and with the consent of the district attorney, dismiss the indictment when the court is satisfied that (a) the defendant is a resident or citizen of another state or country and that he will be removed thereto upon dismissal of the indictment, or (b) the defendant has been continuously confined in the custody of the commissioner for a period of more than two years. Before granting a motion under this subdivision, the court must be further satisfied that dismissal of the indictment is consistent with the ends of justice and that custody of the defendant by the commissioner pursuant to an order of commitment or an order of retention is not necessary for the protection of the public and that care and treatment can be effectively administered to the defendant without the necessity of such order. If the court enters an order of dismissal under this subdivision, it must set forth in the record the reasons for such action, and must direct that such order of dismissal be served upon the commissioner. The dismissal of an indictment pursuant to this subdivision constitutes a bar to any further prosecution of the charge or charges contained in such indictment. 6. (a) Notwithstanding any other provision of law, no person committed to the custody of the commissioner pursuant to this article, or continuously thereafter retained in such custody, shall be discharged, released on condition or placed in any less secure facility or on any less restrictive status, including, but not limited to vacations, furloughs and temporary passes, unless the commissioner or his or her designee, which may include the director of an appropriate institution, shall deliver written notice, at least four days, excluding Saturdays, Sundays and holidays, in advance of the change of such committed person's facility or status, or in the case of a person committed pursuant to a final order of observation written notice upon discharge of such committed person, to all of the following:(1) The district attorney of the county from which such person was committed;(2) The superintendent of state police;(3) The sheriff of the county where the facility is located;(4) The police department having jurisdiction of the area where the facility is located;(5) Any person who may reasonably be expected to be the victim of any assault or any violent felony offense, as defined in the penal law, or any offense listed in section 530.11 of this part which would be carried out by the committed person; provided that the person who reasonably may be expected to be a victim does not need to be a member of the same family or household as the committed person; and(6) Any other person the court may designate.Said notice may be given by any means reasonably calculated to give prompt actual notice.(b) The notice required by this subdivision shall also be given immediately upon the departure of such committed person from the actual custody of the commissioner or an appropriate institution, without proper authorization. Nothing in this subdivision shall be construed to impair any other right or duty regarding any notice or hearing contained in any other provision of law.(c) Whenever a district attorney has received the notice described in this subdivision, and the defendant is in the custody of the commissioner pursuant to a final order of observation or an order of commitment, he may apply within three days of receipt of such notice to a superior court, for an order directing a hearing to be held to determine whether such committed person is a danger to himself or others. Such hearing shall be held within ten days following the issuance of such order. Such order may provide that there shall be no further change in the committed person's facility or status until the hearing. Upon a finding that the committed person is a danger to himself or others, the court shall issue an order to the commissioner authorizing retention of the committed person in the status existing at the time notice was given hereunder, for a specified period, not to exceed six months. The district attorney and the committed person's attorney shall be entitled to the committed person's clinical records in the commissioner's custody, upon the issuance of an order directing a hearing to be held.(d) Nothing in this subdivision shall be construed to impair any other right or duty regarding any notice or hearing contained in any other provision of law. (1) The district attorney of the county from which such person was committed; (2) The superintendent of state police; (3) The sheriff of the county where the facility is located; (4) The police department having jurisdiction of the area where the facility is located; (5) Any person who may reasonably be expected to be the victim of any assault or any violent felony offense, as defined in the penal law, or any offense listed in section 530.11 of this part which would be carried out by the committed person; provided that the person who reasonably may be expected to be a victim does not need to be a member of the same family or household as the committed person; and (6) Any other person the court may designate. Said notice may be given by any means reasonably calculated to give prompt actual notice. (b) The notice required by this subdivision shall also be given immediately upon the departure of such committed

person from the actual custody of the commissioner or an appropriate institution, without proper authorization. Nothing in this subdivision shall be construed to impair any other right or duty regarding any notice or hearing contained in any other provision of law. (c) Whenever a district attorney has received the notice described in this subdivision, and the defendant is in the custody of the commissioner pursuant to a final order of observation or an order of commitment, he may apply within three days of receipt of such notice to a superior court, for an order directing a hearing to be held to determine whether such committed person is a danger to himself or others. Such hearing shall be held within ten days following the issuance of such order. Such order may provide that there shall be no further change in the committed person's facility or status until the hearing. Upon a finding that the committed person is a danger to himself or others, the court shall issue an order to the commissioner authorizing retention of the committed person in the status existing at the time notice was given hereunder, for a specified period, not to exceed six months. The district attorney and the committed person's attorney shall be entitled to the committed person's clinical records in the commissioner's custody, upon the issuance of an order directing a hearing to be held. (d) Nothing in this subdivision shall be construed to impair any other right or duty regarding any notice or hearing contained in any other provision of law.

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by commissioner. When a defendant is in the custody of the commissioner on the expiration date of a final or temporary order of observation or an order of commitment, or on the expiration date of the last order of retention, or on the date an order dismissing an indictment is served upon the commissioner, the superintendent of the institution in which the defendant is confined may retain him for care and treatment for a period of thirty days from such date. If the superintendent determines that the defendant is so mentally ill or mentally defective as to require continued care and treatment in an institution, he may, before the expiration of such thirty day period, apply for an order of certification in the manner prescribed in section 31.33 of the mental hygiene law.